



Meeting Minutes

Meeting of the California Water Commission
Wednesday, August 17, 2011
State of California, Resources Building
1416 Ninth Street, First Floor Auditorium
Sacramento, California 95814

1. Welcome and Introductions

The meeting of the California Water Commission was called to order by Chair Anthony Saracino at 1:01 p.m.

2. Roll Call

Interim Executive Officer Sue Sims called roll. The following members were present: Dave Cogdill, Danny Curtin, Kim Delfino, Luther Hintz, Paul Kelley, and Anthony Saracino. Joe Del Bosque arrived at 1:38 p.m. Members Andrew Ball and Joe Byrne were absent.

3. Approval of minutes

A motion was made and seconded to approve the meeting minutes from the July 20, 2011 meeting. A vote was taken and the motion passed unanimously.

4. Executive Officer's Update

Ms. Sims updated the Commission on three issues. First, she let the Commission know that she had sent a letter on behalf of the Commission to Leo Winternitz of the California Roundtable on Water and Food Supply in support of their recent report on Agricultural Water Stewardship, as directed by the Commission.

Second, she provided an update on the staff work on the Quantification of Public Benefits of water storage projects. Staff are currently meeting bi-weekly, and staff has worked to clarify the deliverables from other agencies. A letter was sent to economists asking them to provide input on the methodologies used in the Technical memorandum currently being drafted by the contractor.

Third, as a set of regulations, clarifying and implementing AB 1788 and redefining the "economically disadvantaged areas" in regards to state cost sharing for flood control

projects, will come to the commission for adoption some time before the end of the year.

5. Federal Appropriations Committee report

Commission Vice-Chair and Chair of the Federal Appropriations Committee, Paul Kelley, reported back to the Commission on his committee meeting held August 8, 2011. Mr. Kelley summarized the issues considered at the meeting including the Corps' levee vegetation policy, and Section 104 and 408 crediting. Ms. Delfino asked if there would be any specific follow-up on the Levee Vegetation Policy, noting that Defenders of Wildlife filed litigation challenging the policy. Mr. Kelley said a new draft variance is due out in the beginning of September and recommended the Commission wait until fall to make any comments. Mr. Curtin noted a link between the crediting issues and high speed rail. Ms. Sims noted that many of these issues are being dealt with by the Central Valley Flood Control Board and that the Commission will coordinate work on these issues with the Board.

6. Action Item: Procedure for naming facilities of the State Water Project

Ms. Sims noted that it was suggested that the Commission name a facility of the SWP for Justice Ronald B. Robie at a previous meeting. To date there has been unanimous support for this action. At the previous meeting, Ms. Sims was asked to draft a formal procedure for the naming of SWP facilities, which she did and presented to the Commission. Mr. Curtin asked if there was a process for notifying local entities that might be affected by the name change. Ms. Sims responded that local agencies would be identified and contacted with the help of DWR staff. A motion was made and seconded to adopt the procedure. The motion passed unanimously.

7. Briefing from Department of Water Resources Legal Office on Agricultural Water Measurement Regulations

Commission Council Spencer Kenner provided an update on the status of the Agricultural Water Measurement Regulations that were passed at the June meeting. He noted that the regulations are currently in the middle of the 45 day public comment period and that few public comments have been received so far, but he expected an increase towards the end of the comment period. He noted any material change will trigger an additional 15-day public comment period; however, staff would brief the full commission or the rules and regulations committee before noticing any changes.

8. Action Item: Procedure for Eminent Domain including public comment

DWR Supervising Land Agent Allan Davis, DWR Senior Geologist Mark Pagenkopp and DWR Assistant Chief Council Ward Tabor provided further clarification about the Commission's authority and role in the eminent domain process, as well the proposed geotechnical activities that the Commission will consider at the next meeting. Mr. Tabor provided information on DWR's authority to undertake projects to manage the state's water resources and assured the Commission that DWR does have the authority to undertake geotechnical explorations in support of the Bay Delta Conservation Plan (BDCP). Mr. Saracino asked if they knew exactly how this project would be funded. Mr. Tabor did not have specific details on funding but noted it would be from a variety of sources including direct billing of the Water Contractors, reclamation, and an agreement with the San Luis Delta–Mendota Water Authority, and the total cost is approximately \$4.5 million. Ms. Delfino asked for another example of a project that was similar to this one in that it is a smaller piece of a larger project. Mr. Tabor did not have any other examples, but agreed to do some research. Discussion also included whether or not these easements need to be permanent, and if the land would be usable for agricultural purposes after drilling is completed. Mr. Pagenkopp then explained the geotechnical activities in detail.

Commission members then reviewed the proposed process for considering eminent domain proceedings. Ms. Sims explained the process, including the 21 day notification period and the two-meeting, two-step process. The Commission discussed and then took public comment.

Mr. George Hartman, an attorney for the Delta Reclamation Districts Joint Powers Authority and a participant in the Temporary Entry Permit litigation explained the Temporary Entry Permit Litigation and suggested the Commission should be careful not to act without knowledge of the court proceedings on this matter. He also warned the Commission against segmenting of CEQA documentation. He suggested that DWR should have done a programmatic EIR for the BDCP from the beginning.

Melinda Terry, General Manager of the North Delta Water Agency, commended the Commission and staff for creating a process that goes above and beyond the requirements of the statute and asked for clarification on certain sections. She agreed with the previous speaker that the underlying project is the Bay Delta Conservation plan, which is not authorized and funded. She also suggested the Commission get additional legal advice regarding DWR's authority for the BDCP.

Eric Grindelberg, a biologist representing local reclamation districts in the Delta said the process is heading in the right direction. He requested landowners be notified they have an opportunity to comment at Water Commission proceedings with 45-days notification. He also questioned the appropriateness of DWR bringing these issues to the Commission when certain pieces are currently in litigation. He suggested that the staff make a finding of the facts in a staff report, and not simply “check the box” for DWR.

After further discussion, a motion was made and seconded to adopt the procedure with the minor modifications including changes to the content of the staff report and a clarification of the “finding of the facts.” The motion passed unanimously.

9. Update on Delta Plan

Ms. Sims updated the Commission on the Delta Stewardship Council’s release of Fifth Draft of the Delta Plan. She provided suggested comments from the Commission to the Council regarding the Fifth Draft of the plan as well as the Environmental Impact Report. The Commission directed Ms. Sims to send the draft comments to the Council.

10. Update on Water Storage Workshops

California Water Commission Policy Analyst Rachel Ballanti provided an update on the planning for the upcoming Water Storage Workshops. She reported that speakers and panelists have been invited and that there has been a good response; invitations were sent to the public in July; staff is currently developing questions for the panelists; and staff is working with other organizations to increase publicity.

11. Consideration of items for next California Water Commission meeting

Items for the next meeting include: the initial staff reports for approximately 22 to 28 potential resolutions of necessity, the renaming of the Thermalito Pumping-Generating Plant after Ron Robie, an update on the Agricultural Water Measurement Regulations and an update on the Quantification of the Public Benefits of storage projects.

12. Public Comments

There were no additional public comments.

13. Adjourn

Chair Saracino adjourned the meeting at 3:27 p.m.

Further information regarding this meeting will be available at www.cwc.ca.gov. A webcast of this meeting will be available on demand at the following URL:
<http://cawater.rmxpres.com/webcast/data/dwr08172011/main.htm>