

California  
**WATER COMMISSION**

**2011**

# Summary of Activities



California Water Commission  
December 2011

## Introduction

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The California Water Commission consists of nine members appointed by the Governor and confirmed by the Senate. The Commission advises the Director of the Department of Water Resources on matters within the Department's jurisdiction, approves rules and regulations, and monitors and reports on the construction and operation of the State Water Project. Additionally, California's comprehensive water legislation, enacted in 2009, gave the Commission new responsibilities regarding the distribution of public funds set aside for the public benefits of water storage projects, and developing regulations for the quantification and management of those benefits, if voters approve the Safe, Clean, and Reliable, Drinking Water Act of 2012. The full commission meets one day per month and members participate in workshops, committee meetings, and other business as needed.

This document is intended to provide an overview of the Commission's activities and achievements during the 2011 calendar year. For more detailed accounts of the events at each Commission meeting, please refer to the meeting minutes or the webcast archives available on the Commission's website at [www.cwc.ca.gov/meetings](http://www.cwc.ca.gov/meetings).

## Highlights

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- Adopted emergency and permanent regulations for Industrial Process Water
- Adopted emergency and permanent regulations for Agricultural Water Measurement
- Investigated the status of the construction and operation of the State Water Project and sent an annual review to the Administration and Legislature
- Made recommendations to Congress on federal appropriations for California water and flood projects
- Hosted two public workshops exploring the future of water storage in California
- Renamed the Hyatt-Thermalito Pumping-Generating Plant in honor of Ronald B. Robie
- Adopted a procedure for eminent domain proceedings, extending landowner notifications and protections beyond those required by law
- Approved Resolutions of Necessity, allowing the Department of Water Resources to proceed with geotechnical investigations in the Delta
- Commissioned report on potential tools and methods to evaluate the public benefits of water storage projects
- Appointed an Executive Officer. (In addition, the Commission employs two full-time staff members and legal counsel as needed.)

## **Summary of Activities**

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January 19, 2011

### ***Action items***

- **Election of a Commission Chair and Vice-Chair (Pass)**  
The Commission adopted guidelines governing the election and terms of the Commission Chair and Vice-Chair. Mr. Anthony Saracino was elected to the position of Chair and Mr. Paul Kelley to Vice-Chair.
- **Update on the status of Emergency Process Water Regulations and initial approval to begin regular rulemaking process (Fail- Held Over)**  
The Commission received information on the Department of Water Resources' (DWR) Emergency Process Water Regulations. The Commission decided to postpone action on this item until all related documents were complete, and made this an action item for the February Commission meeting.

### ***Other Business***

Additionally, the Commission heard briefings on the Bay Delta Conservation Plan; the State Water Project current issues and challenges; and emergency regulations for agricultural water measurement.

February 16, 2011

### ***Action Items***

- **Adoption of Internal Rules and Guidelines for Activities of the Commission (Pass)**  
The Commission adopted Internal Rules and Guidelines of the Activities of the Commission.
- **Approval of submission of rulemaking calendar for Agricultural Water Measurement and Industrial Process Water Regulations to Office of Administrative Law (Pass)**  
The Commission approved the DWR's rulemaking calendar which provides information to the Office of Administrative Law (OAL) on DWR's planned rulemaking activities for the rest of the year.
- **Approval to begin regular rulemaking process for Permanent Industrial Process Water Regulations (Pass)**  
The Commission approved the Permanent Industrial Process Water Regulations as presented by DWR for initial submittal to the OAL.

- **Adoption of subcommittees (Pass)**

Four committees were created: Annual Review of the State Water Project, Rules and Regulations, Quantification of Public Benefits of Storage Projects, and Federal Appropriations.

***Other Business***

The Commission heard informational briefings on DWR Flood Management Program activities; a report titled *California Agricultural Vision: Strategies for Sustainability*; DWR legislative and budget activities; the economic quantification of public benefits of storage projects and consideration of a contract to support Commission work; the Delta Stewardship Council and the Delta Plan; an update on current issues for the State Water Project; and proposed legislation to create the California Water Financing Reform Act.

March 10, 2011

On March 10, 2011, Members Luther Hintz and Dave Cogdill toured the Irrigation Training and Research Center at California Polytechnic State University in San Luis Obispo. DWR and Commission staff also attended. Information was gathered related to DWR's Agricultural Water Measurement Regulations.

March 16, 2011

***Action Items***

- **Letter from the Commission to the Legislature and Administration on State Water Project operational issues and challenges (Pass)**

The Commission approved a letter to Secretary Laird and DPA Director Yank urging resolution of critical personnel issues.

- **Proposed committee assignments (Pass)**

The Commission approved committee assignments as proposed by Mr. Saracino.

***Other Business***

The Commission heard informational reports on information obtained during the tour of Cal Poly's Irrigation Training and Research Center on March 10; DWR's legislative activities; the Commission's authority to develop methods for quantifying public benefits of water storage; the California Water Plan Update 2013 and possible areas for coordination; the Department of Fish and Game and State Water Resources Control Board's role related to quantification of public benefits; a task order for consultant to assist with the quantification of public benefits of storage projects; and the Los Vaqueros Dam expansion project.

April 20, 2011

**Action Items**

- **Update on federal appropriations for flood control projects and consideration of letter from CWC in support of appropriations (Pass)**

The Commission reviewed and approved a letter to Congress supporting DWR's federal appropriations requests for Fiscal Year 2012.

**Other Business**

The Commission heard informational items including a report from Mr. Kelley on his presentation to the Delta Stewardship Council; a legislative update; a briefing on Association of California Water Agency (ACWA) Policy Framework for Groundwater Management; a briefing on Water Plan Update 2013's Finance Plan; an update on status of DWR's Agricultural Water Measurement Regulations; and an update on status of DWR's Industrial Process Water Regulations.

May 11, 2011

The Rules and Regulations Committee met to review DWR's Agricultural Water Measurement Regulations and the Industrial Process Water regulations. The Committee recommended approval of the Industrial Process Water Regulation, and refrained from making a recommendation on the Agricultural Water Measurement Regulations.

May 18, 2011

**Action Items**

- **Approval of Agricultural Water Measurement Regulations developed under SBX7-7, Water Conservation Bill of 2009 (Fail)**

The Commission postponed the issue to the June meeting and directed staff to address a number of outstanding issues.

- **Approval of Final Industrial Process Water Regulations developed under SBX7-7, Water Conservation Bill of 2009 (Pass)**

The Commission approved the Industrial Process Water Regulations.

**Other Items**

The Commission heard an update on the Delta Plan by the Delta Stewardship Council and discussed the possibility of holding hearings on water storage.

June 7, 2011

The Rules and Regulations Committee met to review the Agricultural Water Measurement Regulations. The Committee made recommendations to the full Commission on several of the outstanding issues.

June 15, 2011

***Action Items***

- **Approval of Agricultural Water Measurement Regulations developed under SBX7-7, Water Conservation Bill of 2009 (Pass)**

The Commission made decisions on six specific issues within the regulation. The final regulation package was adopted by the Commission with a vote of 8-1.

***Other Business***

The Commission heard a legislative update; agreed on a proposal to hold Water Storage Workshops; heard a briefing on the statutory responsibilities of the Water Commission including naming of State Water Project facilities and eminent domain; and heard an update on work related to Quantification of Public Benefits.

August 8, 2011

The Federal Appropriations Committee met to discuss federal crediting issues for flood and water management projects and programs, the U.S. Army Corps of Engineers policy of removing vegetation from levees, and federal appropriations for California water and flood projects.

August 17, 2011

***Action Items***

- **Procedure for naming facilities of the State Water Project (Pass)**  
The Commission adopted a procedure for naming facilities of the State Water Project.
- **Procedure for Eminent Domain (Pass)**  
The Commission adopted a procedure for eminent domain, clarifying the steps the Commission will take before adopting a resolution of necessity.

***Other Business***

The Commission heard additional items including a report on the Federal Appropriations Committee meeting; a briefing from the DWR's Legal Office on Agricultural Water Measurement Regulations; an update on the Delta Plan; and an update on the Water Storage Workshops.

September 14, 2011

**The Future of Water Storage in California: Workshop 1**

The Commission hosted a public workshop to examine the needs, options and outlook for water storage in California. The event brought together 12 speakers and panelists, as well as more than 170 members of the public to hold a dialogue on water storage. The workshop informed the Commission of existing and planned storage projects in California and described and discussed the benefits, costs and consequences of additional system operation; groundwater storage and conjunctive water management; regional, state and federal surface storage in light of future uncertainties like climate change.

September 21, 2011

**Action Items**

- **Consideration of Resolution No. 2011-03 regarding the renaming of the Thermalito Pumping-Generating Plant in Honor of Ronald B. Robie (Pass)**  
The Commission adopted a resolution to name the Thermalito Pumping-Generating Plant in Honor of Justice Ronald B. Robie.
- **Update on Agricultural Water Measurement Regulations and Consideration of any proposed changes (Pass)**  
The commission approved the regulation with two changes proposed by staff, beginning a 15-day public comment period. The motion passed 6-2.

**Other Business**

- **DWR staff update on Resolution of Necessity Process; Initial Consideration of Evidence for Resolution of Necessity (RON) No. 2011-04 through 2011-31 (Information only)**  
The Commission heard staff reports and public comments regarding potential Resolutions of Necessity for 25 properties. The RONs would allow DWR access to the properties to conduct geotechnical investigations in support of the Bay Delta Conservation Plan. This was the first consideration of these properties consistent with the Commission's Procedure for Eminent Domain.

October 19, 2011

***Action Items***

- **Consideration of Agricultural Water Measurement Regulations (Pass)**  
Based on comments received during the previous 15-day public comment period, staff recommended clarifying changes to the regulation. The Commission voted to delete the recommended staff changes and reinsert paragraph (i) which had been deleted at the previous meeting. A motion to approve the changes to the regulations and begin another 15-day public comment period passed 6-3.
- **Consideration of Resolutions of Necessity for properties in Sacramento, Yolo, and Solano Counties (Fail- Held Over)**  
24 Properties were noticed for consideration in the Commission's Meeting Agenda. Prior to the meeting, 15 of the 24 properties scheduled for consideration at this meeting were postponed by DWR. The Commission heard testimony regarding the first property, Islands, Inc (RON 2011-05). Based on the staff update and the testimony regarding this agenda item, the Commission determined there was insufficient data to proceed with this or any Resolution of Necessity at this meeting and the Commission voted to postpone all Resolutions of Necessity to a future meeting with an 8-1 vote. The Commission then heard testimony regarding the postponed properties from landowners who were present.

***Other Business***

The Commission heard informational updates and discussed subjects including DWR's activities related to Proposed Resolutions of Necessity; the Commercial, Industrial and Institutional Task Force Report; the State Water Project Annual Report; the draft Central Valley Flood Protection Plan; and DWR's activities regarding Quantification of Public Benefits of Storage Projects

October 25, 2011

**The Future of Water Storage in California: Workshop 2**

The Commission hosted a workshop to examine the needs, options and outlook for water storage in California. The event brought together 25 speakers and panelists, as well as 170+ members of the public to inform the CWC of existing, planned and needed storage projects in California, describe and discuss the benefits, costs and consequences of additional system operation; groundwater storage and conjunctive water management; regional, state and federal surface storage in light of future

uncertainties like climate change; and describe and discuss public benefits of storage projects, and the criteria and methods to evaluate them.

November 16, 2011

**Action Items**

• **Set meeting schedule for 2012 (Pass)**

The Commission will continue to meet on the third Wednesday of the month in 2012 with the following exception: the commission will meet the second Wednesday in November 2012.

• **Appointment of Executive Officer (Pass)**

The Commission appointed Sue Sims to the position of Executive Officer. She has served as the Interim Executive Officer since September 2010.

• **Consideration of Resolutions of Necessity for properties in Sacramento, Yolo, and Solano Counties**

- Marc & Kelly Ariza, RON 2011-23 (Pass)
- The Douglas and Patricia Allen Trust, RON 2011-29 (Pass)
- The Fahn Family, et al; Michael Fahn, RON 2011-10 (Pass)
- Robert Hilarides and Sharon Hilarides, RON 2011-19 (Removed from Agenda)
- Steve & Ann Mello Family Trust, RON 2011-11 (Pass)
- Donna L. Reed, RON 2011-25 (Pass)
- Melvin E. Seebeck, Jr. and Lois A. Seebeck; William G. Seebeck; The Seebeck Family Trust; Cynthia K. Seebeck, et al, RON 2011-13 (Pass)
- Melvin Edward Seebeck, Jr., Trustee; Lois Arlene Seebeck, Trustee; Seebeck Family Trust, RON 2011-09 (Pass)
- Trustees of the Arch Revocable Living Trust, RON 2011-31
- The Backer Family Trust; John A. Backer, Trustee; Alice A. Backer, Trustee, RON 2011-17
- River Maid Land Company; Attn: Chiles R. Wilson, Agent of Service, RON 2011-12
- River Maid Land Co., RON 2011-14 (Fail - Held Over)
- Amistad Ranches, Inc.; Attn: Russell E. Van Loben Sels, Agent of Service, RON 2011-20 (Pass)
- Steven S. and Susan M. Oates; John W. and Rosalia Fernandez-Merwin; Alison L. Merwin-Eyster, RON 2011-06 (Pass)
- Peter & Karen Stone, RON 2011-21 (Pass)
- J.H. Jonson & Sons, Inc., RON 2011-27 (Pass)
- Borges Ranch, LLC; Joseph M. Borges; Gina Borges-Valdez; Mark George Scribner, Jr. and Lorraine G. Scribner; Henrietta J. Brown, RON 2011-24 (Pass)
- Mahinder Singh Dhaliwal and Tawnya M. Dhaliwal, RON 2011-26 (Pass)
- George and Elizabeth Smith Trust, RON 2011-18 (Pass)
- W R Cave Ranch, LLC; Attn: Margaret Cave Baum, RON 2011-30 (Pass)

- The Michael G. Leary Trust; Michael G. Leary, Trustee; Dennis Leary, Trustee, RON 2011-28 (Pass)
- Zehnder Family Trust, RON 2011-22 (Pass)
  
- **Approval of the State Water Project Annual Report (Pass)**  
The Commission approved the State Water Project Annual Review.
  
- **Consideration of Agricultural Water Measurement regulations (Pass)**  
The Commission adopted the final Agricultural Water Measurement Regulations with no changes from the version approved on October 19. This action sent the regulations to the Office of Administrative Law for final approval.

## **Attachments**

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### **1. Selected Correspondence**

- A. Letter to the Legislature and Administration regarding State Water Project Critical Issues
- B. Letter to the Appropriations Committees of Congress in support of DWR's requests for Federal Appropriations
- C. Letter to California Roundtable on Water and Food Supply support of its report, "Agricultural Water Stewardship: Recommendations to Optimize Outcomes for Specialty Crop Growers and the Public in California."
- D. Letter to the Delta Stewardship Council regarding the Delta Plan 5<sup>th</sup> Staff Draft

### **2. Policies and Procedures**

- A. Internal Rules and Guidelines for Activities of the Commission
- B. 2011 Committee Assignments
- C. Procedure for naming facilities of the State Water Project
- D. Procedure for Eminent Domain

### **3. 2011 Resolutions**

### **4. Activities by Subject**

DEPARTMENT OF WATER RESOURCES  
**CALIFORNIA WATER COMMISSION**  
901 P STREET, P.O. BOX 942836  
SACRAMENTO, CA 95836-0001  
(916) 653-5791



MAR 29 2011

Honorable John Laird  
Secretary for Natural Resources  
California Natural Resources Agency  
1416 Ninth Street, Room 1311  
Sacramento, California 95814

Ronald Yank, Director  
Department of Personnel Administration  
1515 S Street, North Building, Suite 400  
Sacramento, California 95811-7258

The California Water Commission is deeply concerned about a workforce recruitment and retention crisis that is impacting the State Water Project (SWP), and its ability to safely operate and maintain critical facilities and provide reliable water supplies to 25 million Californians and over 700,000 acres of farmland.

At our January 19 meeting, the Department of Water Resources (DWR) provided information to the Commission on its inability to recruit and retain necessary numbers of qualified personnel, particularly in the highly specialized hydroelectric power trades and crafts classifications which are responsible for performing the daily operations and maintenance of the SWP infrastructure. Despite a statewide unemployment rate of 12 percent, qualified workers are not applying for these DWR positions, underscoring both the limited talent pool and DWR's non-competitive salaries for these classifications.

The skills required to run the country's largest state-owned water and power utility - such as purchasing power, scheduling water and power deliveries, and operating and maintaining the SWP's complex infrastructure - are in great demand from private and other public utilities. This is especially true since deregulation of California's energy market in the mid-1990s. However, DWR's civil service pay scales simply have not kept pace with other utilities to attract and retain employees with these highly specialized skills. According to recent salary surveys, DWR's total compensation packages for employees in these classifications are by far the lowest among comparable water and power utilities in California. This problem has been compounded in recent years by numerous administrative actions including furloughs, salary cuts, overtime restrictions, and hiring freezes in response to the State's ongoing General Fund deficit, despite the fact that 100 percent of the SWP operations and maintenance costs are borne by the SWP contractors and their ratepayers, not the General Fund. The need for these highly-skilled employees continues to grow, and yet DWR continues to lose people to similar jobs in higher paying utilities.

Honorable John Laird  
Ronald Yank, Director

MAR 29 2011

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DWR conducts an extensive apprentice training program for its hydroelectric trades and crafts classifications. Through the program, apprentices complete three to four years of on-the-job training to reach the journey level. This training represents a significant financial investment for the State, yet many of these employees leave DWR shortly after graduation for significantly higher paying jobs at other utilities.

DWR has been seeking resolution of the pay parity issue with previous administrations for more than 10 years, without success. In the absence of resolution, DWR has been forced to rely heavily on overtime to conduct necessary maintenance and on contracting out millions of dollars of work. The impacts of the recruitment and retention crisis are evident and, if not addressed, will certainly become more severe, perhaps even catastrophic. Staff shortages and inexperience have resulted in a serious backlog of deferred maintenance and increase the probability of operational errors and equipment malfunctions that jeopardize public safety and SWP reliability. For the first time in its 50-year history, the SWP missed water deliveries last fall. Critical equipment was out of service due to the lack of staff needed to perform necessary maintenance and repairs. DWR reported to the Commission that the SWP was unable to export tens of thousands of acre feet from November 2010 through January 2011 due to forced outages at its Delta pumping facilities, increasing the risk that these water supplies may not be available to farms, families and communities later this year. This could result in higher costs passed on to ratepayers for replacement water supplies.

In addition, the decline in operational reliability is increasing the cost of water for SWP customers through higher costs to meet the SWP's electrical power demands. The SWP is the largest single consumer of electricity in California. To reduce energy costs, pumping is generally scheduled "off peak" when energy demands and prices are lowest. However, limited pumping capacity due to the shortage of operations and maintenance staff is restricting the ability to manage power uses efficiently, forcing more pumping loads into the higher priced "on-peak" electricity market. DWR estimates that SWP energy costs will increase between \$25-30 million for 2011 without the ability to optimize the pumping schedules.

DWR has outlined the issues in a letter to the Department of Personnel Administration dated February 18, 2011 (attached). In the last several months, both the Little Hoover Commission and the Public Policy Institute of California have recommended reorganizing SWP governance as a long-term solution to a number of issues. While this may represent a long-term solution, the Commission sees the need for more immediate action on compensation and labor relations issues by the Administration and the Legislature and to address the current recruitment and retention issues and reverse the troubling decline in SWP operational reliability.

Honorable John Laird  
Ronald Yank, Director

MAR 29 2011

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Consistent with its statutory authority to review the operation of the SWP and report to the Legislature, the Commission is asking Legislature and the Administration to quickly resolve this recruitment and retention crisis. The present situation is not sustainable. California owes its economic development to the forward-thinking leaders of the 1950's and 1960's, and to the employees who operate and maintain the SWP. Yet these workforce issues continue to impact the reliability of California's water system, the state's economy, its farms, and its people.

Sincerely,



Anthony Saracino, Chair  
California Water Commission

California Water Commission Members:

Andrew Ball  
Joseph Byrne  
Dave Cogdill  
Daniel Curtin  
Joe Del Bosque  
Kimberley Delfino  
Luther Hintz  
Paul Kelley  
Sue Sims, Executive Officer

Attachment

DEPARTMENT OF WATER RESOURCES  
**CALIFORNIA WATER COMMISSION**  
901 P STREET, P.O. BOX 942836  
SACRAMENTO, CA 95836-0001  
(916) 653-5791



The Honorable Dianne Feinstein  
Chair, Senate Subcommittee on Energy and Water Development  
SD-186 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Lamar Alexander  
Member of the Senate Subcommittee on Energy and Water Development  
SD-186 Dirksen Senate Office Building  
Washington, DC 20510

The California Water Commission, which has statutory responsibility to coordinate federal flood appropriations requests on behalf of the State of California, respectfully urges your support of federal funding in the Fiscal Year 2012 budget to improve flood management and raise the level of flood protection in our State.

In recent years, the State of California, local agencies and the federal government have begun to make significant progress to improve integrated flood management and improve facilities that protect communities, especially within the Sacramento-San Joaquin Valley a region which has one of the highest flood risks in the country. This work has included site assessments, urgent repairs and State and local flood system project improvements. Key to success in these efforts has been, and will continue to be, a strong partnership between the federal, State and local agencies, and sustained investments to finance these improvements.

Historically, one of the most important charges of the Water Commission has been to present its views to Congress on appropriations for flood control projects planned or constructed in California under the jurisdiction of the United States Army Corps of Engineers or reclamation projects being planned by the Bureau of Reclamation, U.S. Department of the Interior. Consistent with that role, the Commission supports the attached project list, which was prepared by the California Department of Water Resources and submitted to Senator Dianne Feinstein, Senator Barbara Boxer, and members of the House of Representatives earlier this year. The list identifies 23 critical flood control projects and studies for the FY 2012 budget that will help meet some of the immediate and long-term flood protection priorities for the State of California.

The Honorable Dianne Feinstein  
The Honorable Lamar Alexander  
April 25, 2011  
Page Two

Although the Commission is well aware of the extreme pressures on federal funding this year, it is certainly in the best interests of our State and country to provide funding that reflects the project implementation capability of the U.S. Army Corps of Engineers and which will enable work to proceed on projects that are urgently needed to protect public safety and reduce the potential for flood damage to communities in our State.

Thank you for your consideration of the requests. If you have any questions, please contact the California Water Commission's Executive Officer, Sue Sims, at (916) 653-6055.

Sincerely,

A handwritten signature in cursive script that reads "Paul Kelley". The signature is written in black ink and is positioned above the typed name and title.

Paul Kelley  
Vice-Chair, California Water Commission  
Chair, Federal Appropriations Committee

Attachment

## DWR FY 2012 Appropriations Request Project List

1. American River Watershed (Folsom Dam Modifications), CA \$28,000,000  
Construction
2. American River Watershed (Common Features), CA \$37,000,000 (\$32,000,000  
Construction and \$5,000,000 GRR)
3. Sacramento River Bank Protection Project, CA \$18,800,000 Construction
4. South Sacramento County Streams, CA \$5,000,000 Construction
5. West Sacramento, CA \$1,000,000 GRR
6. Yuba River Basin, CA \$5,000,000 (\$4,600,000 Construction and \$400,000  
GRR)
7. Central Valley Integrated Flood Management Study, CA \$1,000,000  
Investigations
8. Sacramento River Flood Control (GRR), CA (System Evaluation) \$1,200,000  
Investigations
9. Mid-Valley Area Levee Reconstruction, CA \$11,000,000 Construction
10. CALFED Levee Stability Program, CA \$22,350,000 Construction
11. Sac-San Joaquin Delta, Delta Islands and Levees, CA \$2,624,000  
Investigations
12. Sutter County, CA \$339,000 Investigations
13. San Joaquin River Basin, Lower San Joaquin River, CA \$2,000,000  
Investigations
14. American River Watershed (Folsom Dam Raise & Bridge), CA \$1,000,000  
Construction
15. Hamilton City, CA \$15,000,000 Construction
16. Middle Creek, CA \$1,200,000 Investigations
17. Pajaro River, CA \$4,617,000 Investigations
18. Napa River, CA \$36,500,000 Construction
19. Lower Cache Creek, Yolo County, Woodland and Vicinity, CA \$500,000  
Investigations
20. San Joaquin River Basin, West Stanislaus County, Orestimba Creek, CA  
\$222,550 Investigations
21. Merced County Streams, CA \$500,000 (FCSA/GRR)
22. San Joaquin River Basin, White River and Deer Creek, CA \$300,000  
Investigations
23. San Joaquin River Basin, Frazier Creek, CA \$300,000 Investigations



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August 18, 2011

Chairman Phil Isenberg and Members of the Council  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, California 95814

RE: Fifth Draft of the Delta

The California Water Commission appreciates the opportunity to comment on the Fifth Draft Delta Plan (Delta Plan), dated August 2, 2011. Please consider these comments for the Environmental Impact Report as well.

We commend the Council for its excellent work on issues that are critical to California's water supply reliability and protecting, restoring, and enhancing the Delta ecosystem. Consistent with earlier discussions between the Water Commission and Delta Stewardship Council Chairman Isenberg, this draft of the Delta Plan outlines a role for our agencies to work together to expand existing surface and groundwater storage facilities, improve operation of existing Delta conveyance facilities, and enhance opportunities for conjunctive use programs and water transfers (Chapter 4, WR R7). This recommendation is consistent with our statutory responsibilities as well as with our current activities on water storage.

The California Water Commission is holding two public workshops this fall to examine the needs, options and outlook for water storage in California. The purpose of the workshops is to inform the California Water Commission of existing, planned and needed storage projects to ensure reliable and sustainable water supplies; help address water quality issues; and provide for a healthy environment. The workshops will also provide a forum to discuss the benefits, costs, and consequences of a broad array of surface and groundwater storage projects and operational changes, particularly in light of climate change impacts, as well as a discussion of public benefits of storage. These workshops will contribute greatly to the recommendation in the Delta Plan that agencies and stakeholders collaborate to identify projects and strategies that can be implemented over the next decade to benefit the Delta and water management statewide, and to use this approach to make decisions about public funding for projects.

The California Water Commission strongly supports recommendation WR R7 and is committed to working with the Council as a partner in furthering the co-equal goals of water supply reliability and ecosystem restoration. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Saracino".

Anthony Saracino  
Chair, California Water Commission

Approved: February 16, 2011

## **Rules and Guidelines for Activities of the California Water Commission**

Statutory provisions for the appointment, compensation, and general activities of the California Water Commission are found in sections of the California Water Code, sections of the Government Code, the "Bagley-Keene Open Meeting Act" which is also part of the Government Code, and in sections of the Code of Civil Procedure.

For the purpose of defining and clarifying the relationships, responsibilities, privileges, and obligations of the members, the members of the Commission hereby adopt these administrative rules and guidelines to be effective until changed by a majority vote of its members or superseded by legislative enactment or judicial interpretation:

### **1. Commission Officers**

- a. Shall consist of a Chairperson and Vice Chairperson each of whom shall be elected by a majority of the members to serve a one-year term to begin in January.
- b. The Chairperson shall have all the usual and customary authority and prerogatives of a presiding officer in addition to such as are provided by statute.
- c. The Vice Chairperson shall act in the absence or unavailability of the Chairperson and, when so acting, shall have the same authority and prerogatives as the Chairperson.
- d. In the absence of both the Chairperson and Vice Chairperson from any meeting, the members present, if constituting a quorum, shall elect a temporary chairperson who shall preside at that meeting.
- e. Should a vacancy occur in either office prior to the expiration of a term, a successor will be selected by a majority vote to fill the unexpired term.

### **2. Meetings**

- a. Regular monthly meetings will be held on the third Wednesday of each month. The Chairperson, with the consent of a majority of the commissioners, may change the place, date and time of any meeting.
- b. Special meetings may be called and held, for certain defined purposes, when delay of such meeting to comply with the normal 10-day notice period would impose a substantial hardship on the Commission or where immediate action is required to protect the public interest, provided that at least a majority is present. Notice of such special meeting shall be given consistent with the Bagley-Keene Open meeting act at least 48 hours in advance. (Government Code Section 11125.4)
- c. Any regular or special meeting may be adjourned or postponed to a later date by a majority of the members present.

Approved: February 16, 2011

### 3. Committees

- a. The Commission may form committees to consider specific matters and report back to the full Commission.
- b. Any member of the Commission, whether appointed to such committee or not, is authorized to attend such proceedings and participate therein. Such attendance shall be in performance of the member's official duties.
- c. Members shall be appointed annually to serve on committees at the time of the election of the chair and vice chair
- d. There are currently four committees:

#### State Water Project Review

This Committee conducts an annual review of the construction, operation and maintenance of the State Water Project. The Commission submits the review annually to the Legislature and the Department of Water Resources. The committee could also receive input, hold hearings and make appropriate recommendations to the Commission on other SWP issues, including the adoption of a resolution of necessity before the Department of Water Resources could commence an eminent domain proceeding or with regard to naming facilities.

#### Rules and Regulations

This committee meets as necessary to consider requests by Department of Water Resources to approve regulations or take action on other significant issues. The committee could also make recommendations on the Commission's administrative and operational matters.

#### Water Storage Projects

This committee investigates, receives public input, and makes recommendations to the full Commission regarding the regulations on the public benefits of water storage projects as required by SBX7-2, the Safe, Clean and Reliable Drinking Water Act. The committee may also gather information on various proposed storage projects.

#### Federal Appropriations for California Water and Flood Control Projects

This committee considers information on matters of planning, construction and operation of federal water development and flood control projects in California. As part of its duties, the committee or its members may consult with federal and local agencies and officials, and participate in conferences and hearings. The committee is responsible for making recommendations to the full Commission, which advises the Department and the Governor, and present its views to Congressional committees hearing requests for appropriations for flood control projects. (WC § 12602, 12604.3)

Approved: February 16, 2011

4. Compensation, Expenses

- a. Members of the Commission shall receive compensation and reimbursement of necessary expenses incurred as provided by law and the administrative regulations of the State of California, when attending meetings of the Commission or of any of its committees or when engaged in the performance of their official duties.

These internal rules and guidelines can be changed on approval of a majority of the members of the Commission.

Agenda Item: 13  
Meeting Date: March 16, 2011  
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**Action Item:** Proposed Committee Assignments

**Background**

California Water Commission Chairman Anthony Saracino will propose the following assignments to the four Committees of the Commission, which were agreed upon at the February 16 meeting:

**State Water Project Committee**

Andrew Ball – Chair  
Paul Kelley  
Joe Byrne  
Kim Delfino

**Rules and Regulations Committee**

Joe Byrne – Chair  
Daniel Curtin  
Luther Hintz  
Joe Del Bosque

**Public Benefits of Storage Committee**

Dave Cogdill – Chair  
Andrew Ball  
Kim Delfino  
Anthony Saracino

**Federal Appropriations Committee**

Paul Kelley – Chair  
Dave Cogdill  
Luther Hintz  
Daniel Curtin



**California Water Commission Procedures for Naming State Water Project Facilities  
(adopted August 17, 2011)**

The California Water Code gives the Water Commission the power to name or rename State Water Project facilities.

*§ 161.5 Naming Facilities*

*The California Water Commission shall have the power to name all facilities of the State Water Resources Development System owned by the state. The commission may receive testimony from the public on matters involving its responsibilities under this section, and, after public hearing for the purpose of considering all proposed names for such facilities, may, by resolution, express its decision regarding the naming of specific facilities of the State Water Resources Development System.*

The Commission will take the following steps when considering naming State Water Project facilities:

1. The Commission or any individual Commissioner may make a proposal to name a State Water Project facility, or the Commission may receive recommendations from the public.
2. Upon receipt of such a request, the Commission will consider the proposal and may direct staff to further research the proposal. This research will include such factors as:
  - Description of the facility including location, function and history.
  - Information about the individual for whom the name change has been proposed, including biographical information, contribution to the State Water Resources Development System, California water policy, or water management in general in California.
  - Input from the Director of the Department of Water Resources; DWR State Water Project Deputy Director and staff; and other DWR programs.
  - Fiscal, operational and implementation impacts for making the name change
  - Identification and notify community-based interests, other potentially impacted or interested agencies (e.g. local, state, federal, regulatory).
3. Staff will present its findings at a Commission meeting for discussion and consideration.

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4. Following review of the staff report, the Commission will hold a public hearing to receive comment and testimony on the proposed name change. The hearing may be part of a regularly-scheduled Commission meeting or may be a separate, publicly-noticed meeting at the Commission's headquarters in Sacramento or in the community in which the facility is located.
5. After receiving public testimony, the Commission will vote on a resolution regarding the naming of the specific facility. If the resolution is approved by a majority of the Commission members, the Commission will direct its staff to inform DWR to proceed with the name change.

Adopted: August 17, 2011

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## Procedure for Eminent Domain

### **Overview**

The Department of Water Resources (DWR) may acquire property for constructing, maintaining, or operating State Water Project facilities but it may not commence an eminent domain proceeding until its governing body has adopted a resolution of necessity. The governing body is the California Water Commission. Code of Civil Procedure section 1245.210.

California Water Code Section 11575 gives DWR the authority to acquire land for the purpose of constructing, maintaining or operating the State Water Project.

*CWC §11575. For the purpose of constructing, maintaining, and operating the project and for the purpose of providing and substituting new facilities for facilities to be taken or destroyed, the department may acquire for and in the name of the state, by gift, exchange, purchase, or eminent domain proceedings, within or without the state, any and all water, water rights, rights-of-way, easements, land, electric power, power resources and facilities, and property or appurtenances thereto of every kind and description and any appurtenances to any such property as the department determines to be required and necessary for the proper construction, maintenance, and operation of the project and for effectuating the purposes and objects to be accomplished by the construction, maintenance, and operation of the project, and for providing and substituting new facilities for facilities taken or destroyed.*

Water Code Section 11580 gives DWR the ability to exercise the power of eminent domain if DWR cannot acquire the necessary property through an agreement with the owner and if the project for which the property is being acquired has been authorized and funds are available.

*CWC §11580. When the department cannot acquire any necessary property by agreement with the owner, the department may exercise the power of eminent domain to acquire the property in the name of the state if the project for which the property is being acquired has been authorized and funds are available therefore.*

Before DWR may commence any eminent domain proceeding, it must obtain a resolution of necessity from the California Water Commission:

*CCP 1245.220. A public entity may not commence an eminent domain proceeding until its governing body has adopted a resolution of necessity that meets the requirements of this article.*

*CCP 1245.210. As used in this article, "governing body" means: (h) In the case of a taking by the Department of Water Resources, the California Water Commission.*

## California Water Commission Procedure for Eminent Domain

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**Procedures for Consideration of Resolution of Necessity**

This document describes the California Water Commission's procedures for considering a resolution of necessity. It is the intent of the Commission to provide a transparent and well-defined process in order to ensure all legal requirements have been met, and affected and interested parties are provided due process.

**1. Notification of Commission Consideration of a Resolution of Necessity**

DWR shall inform the Commission it intends to request a resolution of necessity. The Commission will notice the item on its meeting agenda and send a notice to the landowner of the property for which the resolution of necessity is being considered at least 21 days prior to the meeting. The notification to the landowner will include the date, time, and location of the Commission meeting, information about the proposed resolution of necessity, a copy of the Commission's procedures, and an explanation of opportunities to provide written and oral public comments.

**2. Consideration of Evidence in support of Resolution of Necessity**

At a public meeting, the Commission will consider evidence in support of the specific findings required for a resolution of necessity pursuant to Section 1245.230, which states:

*In addition to other requirements imposed by law, the resolution of necessity shall contain all of the following:*

*(a) A general statement of the public use for which the property is to be taken and a reference to the statute that authorizes the public entity to acquire the property by eminent domain.*

*(b) A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification.*

*(c) A declaration that the governing body of the public entity has found and determined each of the following:*

*(1) The public interest and necessity require the proposed project.*

*(2) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.*

*(3) The property described in the resolution is necessary for the proposed project.*

*(4) That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.*

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DWR will prepare and provide a Staff Report to the Commission for the agenda that includes the information necessary in order ensure that all four requirements for a resolution of necessity have been met (CCP 1245.230). The report shall include the following:

- A description of the project.
  - An explanation of why the project is necessary and in the public interest.
  - An explanation of the legal authority for the project and the availability of funds for the project.
  - The status of other parcels required for the project: Total parcels; number of parcels acquired; number or parcels under right of entry; number of other owners expected to request appearance before the Commission.
  - Detailed Parcel Description.
  - Maps (index map, project title sheet, appropriate plan sheets and parcel maps) covering the project and its relationship to the full parcel must be provided.
  - A listing of the owner's primary concerns (compensation, design features, timing of the acquisition, lack of replacement housing, etc.).
  - A description of any design or right of way modifications suggested by the owner, including DWR's opinion on the feasibility of these suggestions and the basis for DWR's opinion (why they are or are not feasible).
  - A description of alternatives to the proposed taking that have been considered by DWR.
  - A description of official contacts or attempted contacts with the property owner (or representative) involving acquisition and formal offers, as well as a summary of each of the owner's concerns.
  - Identification of the appropriate contact persons within DWR that can provide additional detailed information.
- Copy of Notice to Landowner
  - Copy of CEQA Compliance
  - Copy of correspondence between the Department of Water Resources and the landowner only if provided by the landowner to the Commission

All affected landowners and any other members of the public may appear and speak to the Commission. Written comments may also be submitted to the Commission prior to the meeting or at the meeting.

The Commission will consider all information and comment provided. The Commission will not take action on the proposed resolution of necessity at this meeting, but will schedule potential action for a subsequent meeting as described in No. 5 below. The Commission may also request additional evidence or information from DWR for consideration.

### **3. Consideration of Authority**

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As part of its deliberations, the Commission shall consider the authority of DWR to exercise eminent domain for the project, as specified in California Water Code Section 11580. If the Commission determines that DWR has not provided sufficient information to make a finding of the facts, it may request further evidence or legal analysis.

#### **4. Site Visit**

Commission staff may contact the landowner to request a site visit for one or more members of the Commission to view the property in question. This visit will only take place if agreed to by the landowner. However, a site visit is not required prior to Commission consideration of the matter or prior to action on the resolution of necessity.

#### **5. Consideration of Action on Resolution of Necessity**

The Commission will schedule action on the proposed resolution of necessity for a subsequent Commission meeting and will notify the affected landowner at least 21 calendar days prior to the meeting. Code of Civil Procedure §1245.235. The Commission will consider additional information, if any, and determine if there is enough evidence to satisfy section 1245.230.

At this Commission meeting, DWR staff will provide responses to questions and review the Staff Report. Staff will provide the following additional materials in the agenda packet:

- Copy of Proposed Resolution
- Deed
- Proposed Commission Notice of Determination
- Relevant CEQA Document

The Commission will accept public testimony from the landowner and any other member of the public who appears at the hearing.

The Commission may choose to take action at this meeting. To adopt a resolution of necessity requires a two-thirds vote of all members, which is a minimum of six votes in favor of the resolution of necessity regardless of the number of Commission members present at the meeting.

**California Water Commission  
Signed Resolutions 2011**

<b>Number</b>	<b>Subject</b>	<b>Adopted</b>
2011-01	Adopt the permanent industrial process water regulations	May 18, 2011
2011-02	Adopt the emergency agricultural water measurement regulations	June 16, 2011
2011-03	Name Thermalito pumping generating plant for Ron Robie	September 21, 2011
2011-04	Adopt the permanent agricultural water measurement regulations	November 16, 2011
2011-06	Resolution of Necessity; Oates: DCAW-140	November 16, 2011
2011-09	Resolution of Necessity; Seebeck: DCAP-113	November 16, 2011
2011-10	Resolution of Necessity; Fahn: DCAP-190	November 16, 2011
2011-11	Resolution of Necessity; Mello: DCAP-207	November 16, 2011
2011-12	Resolution of Necessity; River Maid: DCAP-210	November 16, 2011
2011-13	Resolution of Necessity; Seebeck: DCAP-222	November 16, 2011
2011-17	Resolution of Necessity; Backer: DCAP-163	November 16, 2011
2011-18	Resolution of Necessity; Smith: DCAP-600	November 16, 2011
2011-19	Resolution of Necessity; Hilarides: DCAS-301	November 16, 2011
2011-20	Resolution of Necessity; Amistad: DCAP-171	November 16, 2011
2011-21	Resolution of Necessity; Stone: DCAP-110	November 16, 2011
2011-22	Resolution of Necessity; Zehnder: DCAP-111	November 16, 2011
2011-23	Resolution of Necessity; Ariza: DCAP-115	November 16, 2011
2011-24	Resolution of Necessity; Borges: DCAP-119	November 16, 2011
2011-25	Resolution of Necessity; Reed: DCAP-154	November 16, 2011
2011-26	Resolution of Necessity; Dhaliwal: DCAP-155	November 16, 2011
2011-27	Resolution of Necessity; Jonson: DCAP-161	November 16, 2011
2011-28	Resolution of Necessity; Leary: DCAP-191	November 16, 2011
2011-29	Resolution of Necessity; Allen: DCAP-213	November 16, 2011
2011-30	Resolution of Necessity; Cave: DCAP-225	November 16, 2011
2011-31	Resolution of Necessity; Arch: DCAP-282	November 16, 2011

## Commission Activities by Subject

### Administration

- Adoption of Internal Rules and Guidelines - February 16, 2011
- Adoption of Subcommittees - February 16, 2011
- Committee Assignments - March 16, 2011
- Appointment of Executive Officer - November 16, 2011

### Agricultural Water Measurement Regulations

- Tour of Cal Poly's Irrigation Training and Research Center - March 10, 2011
- Consideration of Regulations - May 18, 2011
- Approval of Regulations - June 15, 2011
- Approval of Changes to Regulations - September 21, 2011
- Approval of Changes to Regulations - October 19, 2011
- Final Approval of Regulations - November 16, 2011

### Eminent Domain/Resolutions of Necessity

- Approval of Procedure for Eminent Domain - August 17, 2011
- Initial Consideration of Evidence for Resolutions of Necessity for properties in Sacramento, Yolo, and Solano Counties - September 21, 2011
- Consideration of Resolutions of Necessity for properties in Sacramento, Yolo, and Solano Counties - October 19, 2011
- Approval of Resolutions of Necessity for properties in Sacramento, Yolo, and Solano Counties - November 16, 2011

### Federal Appropriations

- Approval of Letter in support of Appropriations - April 20, 2011
- Meeting of the Federal Appropriations Committee - August 8, 2011

### Industrial Process Water Regulations

- Approval to Begin Permanent Rulemaking Process - February 16, 2011
- Approval of Final Regulations - May 18, 2011

### State Water Project (SWP)

- Approval of Letter to the Legislature and Administration - March 16, 2011
- Approval of Procedure for naming SWP Facilities - August 17, 2011
- Renaming of the Thermalito Pumping Generating Plant in honor of Ronald. B Robie - September 21, 2011
- Approval of State Water Project Annual Report - November 16, 2011

### Water Storage

- The Future of Water Storage in California: Workshop 1 - September 14, 2011
- The Future of Water Storage in California: Workshop 2 - October 25, 2011