California
WATER COMMISSION

DRAFT Meeting Minutes

Meeting of the California Water Commission
Tuesday, May 8, 2012

State of California, Resources Building
1416 Ninth Street, Room 1131
Sacramento, CA 95814
Beginning at 9:30 a.m.

Two members of the Commission participated in this meeting by teleconference from the following locations. Teleconference locations were open to the public.

Commission Member Joe Byrne
Department of Water Resources
Southern Region Office, Conference Room
770 Fairmont Ave
Glendale, CA 91203

Commission Member Joe Del Bosque
Department of Parks and Recreation
Four Rivers District Office, East Building
31426 Gonzaga Road
Gustine, CA 95322

1. **Welcome and Introductions**
   Chairman Anthony Saracino called the meeting to order at 9:31 a.m.

2. **Roll Call**
   Executive Officer Sue Sims called roll. Joe Byrne, Danny Curtin, Joe Del Bosque, Kim Delfino, Luther Hintz, and Anthony Saracino were present, constituting a quorum. Joe Byrne and Joe Del Bosque participated via teleconference. Andrew Ball was absent.

3. **Approval of minutes**
   A motion was made and seconded to approve the draft minutes from the April 18, 2012 meeting. A vote was taken and the motion passed unanimously.

4. **Action Item: Consideration of Final Agricultural Water Measurement Regulations**
   Dr. Manucher Alemi provided an update on this topic. After the April Commission meeting, the regulations went out for the fifth 15-day public comment period. Three

comments were received in support of the regulations and two more were in opposition. No modifications have been made to the text of the regulations in response to the comments, and only one word was changed in the Supplement to the Initial Statement of Reasons. In Section 7 the word, "measured" was changed to "delivered." Dr. Alemi addressed several issues that were submitted during the public comment period.

The first comment stated the regulations do not meet the clarity standard. This comment was in regards to Section B, which has already been modified. Dr. Alemi believes the clarity standard has now been met.

Secondly, the commenter stated that the Department of Water Resources (DWR) has not established necessity. OAL previously raised this issue, stating that the regulations explain what needs to be done, but they fail to state why. The necessity of each part of the regulation has now been explained in the Supplement to the Initial Statement of Reasons. This reasoning has been made available to the public, as required by OAL.

A comment stated that this regulation eliminates a range of options. DWR does not agree and rejected that comment.

The next comment provided qualified support for the changes to the regulations, stating they are consistent with SBX7-7.

A comment stated that DWR must document in the Statement of Reasons how these regulations, in and of themselves, will decrease water use or increase water efficiency. Dr. Alemi stated water measurement is a precedent for pricing water based on quantity measured. It has been established that measurement coupled with pricing will lead to water efficiency.

Another comment stated that DWR's regulation equates a range of options with a range of accuracies. Dr. Alemi confirmed DWR does not have a range of accuracies; there are required accuracies for different conditions. There is a clear range of options in the regulations. These include the types of devices, inspection options, and alternatives to the farm gate measurement location.

The next comment said that cost effectiveness cannot be used to guide the establishment of this regulation. In response, and consideration of the statute, DWR has modified the regulation and taken cost effectiveness measures and references out.

The next comment suggested instead of using accuracy standards at each individual farm gate, an aggregated standard should be used, measuring the suppliers overall accuracy. In this approach, suppliers would determine how much water is delivered

using a water balance approach and compare that amount to the billing records. Dr. Alemi stated this approach will not work if there is a discrepancy due to measurement errors or system losses.

Another comment stated the Department should allow time for compliance, similar to the process of urban water meter installation. Dr. Alemi said the statute states efficient water management practices shall be implemented by July 2012. DWR does not have the authority to phased implementation. However, as long as a supplier details their plan for implementation and their progress towards that goal they will still be eligible for state grants and loans.

Another comment was in regards to the economical and fiscal impact of the regulations. It stated that DWR's fiscal impact analysis was outdated and costs would be higher than initially anticipated. Dr. Alemi provided updated cost estimates under three different scenarios and agreed the costs may go up to water agencies and customers.

Dr. Alemi also provided a table compiling federal water suppliers' compliance with federal water measurement requirements, in response to comments that stated DWR's accuracy standards are too burdensome and difficult to achieve. Several rice growing districts reported measurement accuracies between plus or minus 2-7%. This was shown in comparison to DWR's regulations, which requires in field accuracy of plus or minus 10% for new or replacement devices.

Dr. Alemi addressed a comment that stated DWR must meet the requirements of Government Code Section 11340.1 which states regulations should use performance standards and not prescriptive standards. He stated that the regulation's accuracy standards are in fact performance standards. DWR is not requiring any specific device or equipment.

Mr. Hintz asked if DWR's requirements for Agricultural Water Management Plans have been articulated in any documents. Dr. Alemi said that information is in the guidebook, which is in the process of being modified. When the regulations are approved, they will be incorporated in the guidebook as well.

Mr. Del Bosque asked about a phrase in Section 7 of the Supplement to the Initial Statement of Reasons which stated "adopt a pricing structure for water customers based at least in part on quantity delivered." He asked what other basis would be used to determine price. Dr. Alemi said that this phrase came from the statute. It was included with the understanding that that the cost of water can include additional assessments or fees. Spencer Kenner, Counsel to the Commission, agreed and said there is some flexibility in pricing although the primary factor will be measurement and quantity.

Public Comment
There were no public comments.

A motion was made and seconded to approve the regulations for submittal to OAL. A vote was taken and the motion passed.

Ayes: 6 Noes: 0 Absent: 1

Dr. Alemi said the regulations would be submitted to OAL in the next couple of weeks and OAL will have 30 calendar days to respond.

5. **Consideration of items for next California Water Commission meeting**
Topics for the June Commission meeting include a Delta Levees Special Projects presentation, environmental justice presentation, update on the strategic plan, update on State Water Project (SWP) encroachment permits, a SWP funding overview, an overview of an Office of Water Use Efficiency Loans and Grants program, and an overview of a proposed methodology for quantifying agricultural water use efficiency.

6. **Public Comments**
None.

Mr. Saracino adjourned the meeting at 10:16 a.m.