



Overview of Process to Amend Resolutions of Necessity*

**No final action will be taken on these Resolutions of Necessity at this Meeting*

Background

In November 2011, and January, February, and March 2012, the California Water Commission approved Resolutions of Necessity authorizing the State of California to acquire property for geotechnical explorations in support of the proposed Bay Delta Conservation Plan and the proposed Delta Habitat Conservation and Conveyance Program.

Last fall, at court hearings on DWR's motions for early possession, judges in three of the four counties where resolutions were filed ruled that DWR's eminent domain complaints failed to name all holders of recorded interests in the property as defendants, as required by the Code of Civil Procedure. DWR amended its complaints to include the additional property interests, some of which were public agencies that had preexisting public uses on those properties. Under the Code of Civil Procedure, when the Water Commission considers Resolutions of Necessity addressing preexisting public uses, it must make determinations that the proposed use is either compatible with or more necessary than the existing public use. Accordingly, in February 2013, the California Water Commission amended its procedures to require the additional determinations when considering Resolutions of Necessity involving pre-existing public uses.

The Commission will consider amendments to the Resolutions of Necessity in a two step process, beginning at the March 2013 meeting. The Commission may not adopt the amended Resolutions of Necessity until at least its second public meeting on which the agenda item is noticed. All property interests were notified of the Commission meeting in letters sent on February 27, 2013. The agenda was mailed to all property interests on March 8, 2013.

Attachments

DWR Report to Commission on Proposed Amendments

Required Findings Listing

Revised Procedures for Resolutions of Necessity and Eminent Domain, adopted February 2013

Revised Graphic on Water Commission Process for Considering Resolutions of Necessity

Contact

Sue Sims

Executive Officer

California Water Commission

(916) 653-5544