



## **Meeting Minutes DRAFT**

### **Meeting of the California Water Commission**

**Wednesday, March 20, 2013**

State of California, Resources Building

1416 Ninth Street, First Floor Auditorium

Sacramento, California 95814

Beginning at 9:30 a.m.

#### **1. Call to Order**

Chairman Joe Byrne called the meeting to order at 9:36 am.

#### **2. Roll Call**

Executive Officer Sue Sims called roll. Andy Ball, Joe Byrne, Joe Del Bosque, Luther Hintz, and Anthony Saracino were present, constituting a quorum. Danny Curtin and Kim Delfino arrived at 9:40 am.

#### **3. Approval of Meeting Minutes**

A motion was made and seconded to approve the February 20, 2013 meeting minutes. A vote was taken and the motion passed unanimously.

#### **4. Executive Officer's Report**

No report given.

#### **5. Briefing on the Bay Delta Conservation Plan (BDCP) by California Natural Resources Agency Deputy Secretary, Dr. Jerry Meral**

Dr. Jerry Meral provided an update on the BDCP process. The administrative draft of the Plan will be released in three parts, each followed by a public meeting. The final draft of the BDCP and the EIR/EIS will be released in July. A statewide benefits study is being conducted by Professor David Sunding and ICF International, which will show benefits to various water users who rely on the Delta. That study will be available in June.

Dr. Meral addressed some of the issues in the alternative portfolio approach (alternative) which was presented to the Commission by the Natural Resources Defense Council in February 2013. The alternative supports investing more in water conservation, waste water reclamation, storage, and improved water transfers, all of

which are widely supported by several agencies. The alternative suggests decreasing the funding for habitat projects and reducing the size of a water conveyance facility from 9,000 cfs to 3,000 cfs, which Dr. Meral stated will be a fully considered option as part of the BDCP process. Given future changes to the Delta, including natural disasters and sea level rise, salt water intrusion may make it impossible to export large amounts of water from the Delta times other than flood season. For that and other reasons, the size of the facility will be important. Dr. Meral said the evaluation will consider a range of conveyance facility sizes from zero to 15,000 cfs.

Mr. Saracino and asked for the rationale behind reducing the amount of habitat funding in the conceptual alternative. Ms. Delfino said the speculative nature of the scale of restoration is concerning and the BDCP must show adequate funding. Given the cost, there is a concern that other habitat restoration programs could suffer. The alternative looks at generating local water supply, new storage south of the Delta, and projects that would decrease demand of the Delta in the long term.

#### **6. Public Benefits Workshop: Strategies for Future State Investments in the Public Benefits of Water Projects**

Sue Sims reiterated Director Cowin's comments on public benefits from the November 2012 Commission meeting. California's water system is aging. Additional storage would reduce constraints and improve flexibility. The purpose of the water storage section of the proposed bond is to provide funding for broad public benefits. Cowin urged the Commission take the broadest possible viewpoint on the definition of public benefits and the role of public funding. Having a quantifiable definition and framework for public benefits will be important for water storage projects as well as general water infrastructure.

Dale Hoffman-Floerke, DWR's Chief Deputy Director, provided opening remarks for the workshop. Public benefits are an important aspect of the BDCP and other DWR activities. It is increasingly important to develop projects with multiple benefits. The Commission has the opportunity to establish flexibility and leverage public investments.

Ajay Goyal, Chief of DWR's Surface Storage Investigations Branch, provided a summary of the Commission's progress on the quantification of public benefits of water storage projects. SBX7-2 authorized a bond that would provide \$3 billion to fund public benefits of water storage projects if approved by voters. Project applicants would need to complete feasibility studies and environmental documentation. The projects will be ranked and funding awarded accordingly. The

public benefit categories include ecosystem, water quality, flood control, emergency response, and recreation.

A report on the tools and methods for quantification of public benefits has been developed, along with initial draft language for regulations and procedural guidelines. As part of the process, the Department of Fish and Wildlife (DFW) created a list of ecosystem priorities and the State Water Resources Control Board developed priorities for water quality. In order to finalize the language for the regulation, certain issues would still need to be addressed.

Dr. Steve Piper, Economics Team Lead for U.S. Bureau of Reclamation, presented the federal approach for defining and measuring public benefits. Evaluation of water projects is based on application of economic and environmental principles and guidelines (P&Gs). National Economic Development (NED) refers to the measure of economic benefits and is based on willingness to pay. Regional Economic Development (RED) represents economic impacts. Public good refers to a non-reimbursable cost or benefit, as it is a general good provided to many people at once.

Dr. Piper reviewed several methods for measuring benefits that are used in evaluating water projects. These include revealed preference which is based on observed behavior, benefits transfer which is based on previous studies, alternative cost which is based on damages avoided, stated preference methods which use surveys, and methods generally coinciding with DWR's draft report. Factors that determine methods used to evaluate public benefits include budget and time constraints, type of planning study, relative importance of public benefits compared to other benefit categories and data availability. Additional factors influencing the approach used for evaluating public benefits include comparability of project alternatives, likelihood of other project alternatives, and mandated requirements.

Mr. Curtin asked if evaluation of a project should be in the form of a cost-benefit analysis because not all benefits can be quantified. Dr. Piper said evaluation becomes very difficult if you look strictly at cost effectiveness without an understanding of the relationship between the actions themselves and the consequences of the benefits.

Tim Quinn, Executive Director of the Association of California Water Agencies (ACWA), presented options for future strategies for the financing of water projects that will be given to the ACWA Board. Dr. Quinn stated that it is important to find a way to deal with public values and benefits. The 2009 bond may need to change, the question is how. He also stated that ACWA will not support a bond without continuous appropriated funding for storage.

There are three bond bills in the legislature right now and more are expected. ACWA formed a task force to explore prospects for the 2014 water bond. The task force will recommend principles and actions for moving forward, and consider what changes are acceptable.

Overarching principles of ACWA recommendations include preserving comprehensive solutions, supporting the beneficiary pays principle, agreeing on what the public should pay for, and recognizing the need for varying finance strategies. An investment category should not be overlooked in an effort to reduce the size of the general obligation fund. If size of the bond is reduced, replacement funding should be sought, therefore allowing the investments to move forward. ACWA looked to the existing bond as guidelines in deciding what the public should pay for including ecosystem restoration beyond mitigation obligations, watershed protection and restoration, local water resources projects and public benefits of water storage. Projects which benefit rural or disadvantaged communities, or have broad, statewide public benefits could be financed by general obligation funds.

ACWA is discussing several concepts including pursuing low-cost mechanisms to help finance local infrastructure projects and engaging a broader range of entities that could contribute revenue. Exploration of regional finance approaches for local resources development and avoiding earmarks are also being discussed. The other concepts under discussion are the use of general obligation bonds for statewide public benefits and rejection of statewide fees on water to pay for statewide public benefits.

In conclusion, Dr. Quinn said the bond must be downsized and alternative strategies must be developed to hold the 2009 package together. As long as there is sufficient alternative funding, ACWA is not averse to reducing the size of the bond. They are using principles to figure out how to arrive at that result. Mr. Ball requested a follow up discussion of this issue.

Ms. Delfino asked about the local resource projects being paid for by the public or regional mechanisms. Dr. Quinn discussed a stewardship fee such the one used by Metropolitan Water District of Southern California.

Dave Cogdill, Stanislaus County Assessor and former California State Senator who authored SBx7-2, provided the Commission with his perspective on the definition of public benefits. The bond was designed to improve the ecosystem in the Delta. The first requirement of the bond, is that only 50% of a project's cost is eligible for funding. The second requirement is that it must improve the Delta's ecosystem. The

first step in evaluating a proposed project is to evaluate the Delta ecosystem benefits. He would like to see the Commission take a broad view on determining what the public benefits are and how to quantify them.

Mr. Cogdill stated that up to 50% of the total project may be funded by the proposed bond and 50% of the funding money must go to Delta restoration.

Ms. Delfino interpreted the bond to be that no project may be funded, unless ecosystem improvements account for at least 50% of the total amount of public benefits.

Mr. Cogdill stated that ecosystem improvements to the Delta must exist to some degree, in order for the project to be considered for funding. However, the benefit must represent 50% of the total grant. The project with the most benefit to the Delta ecosystem would be awarded the funding.

Mr. Saracino said that a project may have little public benefit, but half of those benefits must go towards the ecosystem, whether or not they are in the Delta. Some of the benefits will have to contribute to the Delta. He stated that: 1) The project must provide a measurable improvement to the Delta, but there is no threshold on how much. 2) The public benefit cost share can be up to 50% of the project. It does not need to be 50%. 3) Of the public benefits, at least half of that must go to the ecosystem improvements, without regard to the Delta.

Ms. Delfino said the written language is inconsistent with what Mr. Saracino was saying. It can be read two different ways. Ecosystem improvements can consist of 50% of the total amount of public benefits or as 50% of the total project in order to be considered for funding. Mr. Byrne invited Staff Counsel input and requested this item be on the April agenda.

#### Public Comments

Mario Santoyo said there must be clarification among the Commissioners regarding the ecosystem threshold as it is critical in order to move forward.

Robert Shibatani referred to previous correspondence to the Commission about the need to establish a uniform hydrologic platform that will serve as the basis for public benefits. Mr. Curtin requested Mr. Shibatani's materials be distributed again to the Commission members.

Charles Gardiner, Executive Director of the Delta Vision Foundation, thanked the Commission for their support of water storage projects and requested the work on this subject be accelerated.

The Commission took a break for lunch at 12:35pm and reconvened at 1:35pm.

## **7. Update on CALFED Surface Storage Projects**

Ajay Goyal provided an update on the CALFED surface storage investigations of the Shasta Lake enlargement, North of the Delta Offstream Storage, the Los Vaqueros Expansion, and the Upper San Joaquin Basin River Storage project. Mr. Goyal noted that DWR stopped working on In-Delta Storage in 2006 and it has been taken over by Delta Wetlands and the Semitropic Water District. All four projects provide all of the public benefits that could be funded by the proposed water bond.

The Shasta Enlargement has three options to consider for size. The largest would add 634,000 acre-feet and would result in an average supply yield of 76 Thousand Acre-Feet (TAF). It would increase the cool water pool and cost \$1.1 billion.

North of Delta Offstream Storage (NODOS) will be filled by water diverted from the Sacramento River. DWR is proposing a new intake structure on the Sacramento River. There are two sizes for consideration. It will operate in conjunction with other north of Delta reservoirs and allow some upstream reservoirs to hold back some of the water. NODOS will increase the coldwater pool and send water to the Delta to improve water quality. The project includes three pumping-generating plants and will cost \$3.3 to \$3.9 billion, however that cost will decrease by half with cost saving measures.

The Upper San Joaquin Basin River storage at Temperance Flat is upstream of Millerton Lake. The dam will be built within the lake and will hold an additional 1.2 Million Acre-Feet (MAF). This will provide water supply benefits, improve flows, and aid in San Joaquin River restoration. A powerhouse has been proposed, which will result in major energy production and recreational benefits. The new dam will inundate two existing powerhouses.

The Los Vaqueros Reservoir was recently expanded to hold 160 TAF. The next phase would expand the reservoir to 275 TAF or 500 TAF. The estimated cost of the next phase is \$840 million.

## **8. Overview of Process to Amend Resolutions of Necessity**

Maureen King, Commission Counsel, introduced the agenda item for initial consideration of amendments to the Resolutions of Necessity. Last month, DWR attorney Chris Martin noted that certain parcels have public use interests, requiring the Commission to amend existing resolutions to make additional findings related to those public uses. DWR staff will present information about the amendments, but the Commission will not make its decisions until at least second hearing on these parcels. Alan Davis, DWR Supervising Land Agent, presented evidence as it relates to public use entities.

## **9. - 26. Initial Consideration of Amendments to Resolutions of Necessity in Sacramento and Contra Costa counties (No final action will be taken on these Resolutions of Necessity at this meeting; this item will begin no earlier than 2:00 pm)**

### **9. The Douglas and Patricia Allen Trust, 2011-29**

Public use interests holders for this property include Reclamation District (RD) 563, Pacific Gas and Electric (PG&E), and Sacramento County. No representative for the property was present.

### **10. Mahinder Singh Dhaliwal and Tawnya M. Dhaliwal, 2011-26**

Public use interest holders for this property include PG&E, Sacramento Municipal Utility District (SMUD), Sacramento and San Joaquin Drainage District, and possibly Caltrans for a public highway. No representative for the property was present.

### **11. The Fahn Family, et al; Michael Fahn, 2011-10**

Public use interest holders for this property include PG&E, General Telephone Company of California, and Benton Oil and Gas. Thomas Keeling represented this property. He also represented RD 551, RD 556, and RD 744.

Mr. Keeling provided a summary of DWR activities on these properties. He stated DWR filed Resolutions of Necessity, naming only the fee interest holders and moved for an order of prejudgment possession, which was denied in three courts and withdrawn from the fourth court. DWR has now filed amended complaints naming all additional interested parties of the properties. He said DWR has approached doing so as a "check the box" procedure and has not contacted the public interest holders to conclude if the proposed use would be compatible or more necessary than the

current use. California law requires this finding be included in the resolution and in the complaint. Ms. Delfino asked DWR to respond to the points being raised by Mr. Keeling.

Cathy Hallinan, attorney for DWR, noted the Attorney General's office is also representing DWR in these proceedings. Ms. Hallinan said DWR will continue to try to contact all public use interest holders and provide that evidence to the Commission. Mr. Davis stated the Attorney General's Office has also contacted some of the property interests and DWR will receive that information and pass it on to the Commission.

**12. Donna L. Reed, 2011-2**

Public use interest holders for this property include Sacramento County, PG&E, Sacramento and San Joaquin Drainage District, and SMUD. Thomas Keeling represented this property and his comments were incorporated by reference.

**13. W R Cave Ranch, LLC, 2011-30**

Public use interest holders for this property include RD 744, PG&E, Delta Telephone and Telegraph Company, and SMUD. Thomas Keeling represented this property and his comments were incorporated by reference. Additionally, Mr. Keeling reminded the Commission that Carol Cave Beck submitted correspondence in regards to this property.

**15. Lucille J. Christesen Family Trust; Lorraine Croup 1992 Trust, 2012-25**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

**16. Steve & Ann Mello Family Trust, 2011-11**

The Commission reviewed the record for this property. Steve Mello, property owner and President of RD 563, represented this property. Mr. Mello has granted access to DWR and worked with them to adjust plans. He has not heard of DWR attempting to coordinate with RD 563. The proposed pipeline crosses their levee in three different places. He still has concerns in regards to his private property rights. He said Sacramento County has a provision which states any drilling that perforates an aquifer is required to be cased and expressed concern about the aquifer which he uses. RD 563 needs to provide input on how the pipeline will be inserted under the levee. DWR

recently bore holes on the waterside of the levee, contending it was navigable water. Mr. Mello contended the water may be private property and he has not received a satisfactory response to this concern. Mr. Davis said he would meet with the Reclamation District and continue the process with Mr. Mello.

**17. The Dennis Leary Trust, Dennis Leary, Trustee; The Michael G. Leary Trust, Michael G. Leary, Trustee, 2011-28**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

**18. Mark G. Scribner, Jr., Successor Trustee; Grace M. Scribner Living Trust, 2012-24**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

**19. Joseph M. Borges, Borges Ranch, LLC; Gina Borges-Valdez; Mark George Scribner, Jr. and Lorraine G. Scribner, Henrietta J. Brown, 2011-24**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

**20. River Maid Land Company; Attn: Chiles R. Wilson, Agent of Service, 2011-12**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

**21. River Maid Land Company, a California Limited Partnership, 2011-14**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

**22. The Elliot Family Revocable Trust, 2012-07**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

**23. Tsakopoulos Family Trust, 2012-23**

The Commission reviewed the record. Peter Dwelley represented this property. He concurs with the previous statements by Mr. Keeling and noted two letters previously filed on behalf of this property in opposition to the resolutions. He reiterated concerns raised in those letters as an adequate response has not been received.

**14. Melvin E. Seebeck, Jr. and Lois A. Seebeck; William G. Seebeck; Cynthia K. Seebeck, et al, 2011-13 (Taken out of order)**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

**24. Coney Island Farms, Inc., 2012-10**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

**25. The Norman J. & Katherine A. Marks Trust, 2012-03**

The Commission reviewed the record for this property. A representative for this property was not present.

**26. Wurster Ranches, L.P., 2012-04**

The Commission reviewed the record for this property. Thomas Keeling represented this property and his comments were incorporated by reference.

Additionally, an email was received on behalf of this property.

**28. Public Comments (Taken out of order)**

Michael Phillips, Towne Exploration Company and Three Rivers Pipeline Company, has gas lines and rights to the parcels. Ms. Hallinan noted Mr. Phillips' companies are not a public use. Mr. Byrne requested DWR follow up with Mr. Phillips.

Mr. Ball asked about the oil and gas leases. Even though they may be private, there should be assurance that no conflict will arise from the drilling. Mr. Davis said they will investigate the gas and oil lines on the properties. Mr. Byrne suggested DWR contact the companies that maintain private gas lines on the property and would like a future status report on this issue.

**27. Consideration of items for next California Water Commission meeting**

The April meeting may include potential action on the amendments of resolutions of necessity, public benefits and ecosystem language, State Water Project recruitment and retention, Thermalito Pumping-Generating Plant, Encroachment regulations, legislative and budget update, Salton Sea, and a presentation by the Biodiversity Council.

Mr. Del Bosque adjourned the meeting at 3:27 p.m.