

## Meeting Minutes

### Meeting of the California Water Commission

Wednesday, March 19, 2014

State of California, Resources Building

1416 Ninth Street, First Floor Auditorium

Sacramento, California 95814

Beginning at 9:30 a.m.

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

The meeting was called to order at 9:32 a.m.

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

Executive Officer Sue Sims called roll. Commission members Danny Curtin, Joe Del Bosque, Kim Delfino, Lu Hintz, Adán Ortega, David Orth, and Anthony Saracino were present, constituting a quorum. Andy Ball and Joe Byrne were absent.

#### 3. **Approval of February 2014 Meeting Minutes**

A motion was made and seconded to approve the February 19, 2014 meeting minutes. A vote was taken and the motion passed unanimously.

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

Sue Sims provided the Executive Officer's Report. Commission staff has been coordinating with the Central Valley Flood Protection Board and the Mountain Counties Water Resources Association (MCWRA). The MCWRA has invited the Commission to hold its May meeting in Auburn as follow-up to the Commission's Small Systems Workshop. The Commission's joint water projects survey with the Association of California Water Agencies and the Delta Stewardship Council has been released.

Staff Counsel Maureen King reported on recent litigation pertaining to eminent domain proceedings. The Commission previously considered Resolutions of Necessity (RONs) as part of eminent domain proceedings that would have given Department of Water Resources (DWR) access to properties to do geological studies as well as environmental, cultural, and mapping studies. The landowners challenged DWR's use of pre-condemnation statutes to gain access to properties. A lower court held that DWR would have to use formal eminent domain proceedings for geological borings; however, for less invasive studies, pre-condemnation proceedings were deemed sufficient. That ruling was appealed, and the appellate court recently ruled that geological borings, ecological and cultural studies, and mapping all require formal eminent

domain proceedings. There are two possible routes of appeal: DWR may request a hearing with a full panel of appellate court judges, or may appeal the ruling to the California Supreme Court.

Commissioner Hintz asked if the ruling has stopped DWR activities. Ms. King said that pending eminent domain proceedings have been dismissed. Ms. Sims added that DWR said that they will return to the Commission for additional decision-making regarding eminent domain.

Commissioner Curtin asked if DWR was already operating as if the appellate court ruling was in place. Ms. King stated that the lower court stated that DWR was able to do studies other than geological borings, but that was challenged by the landowners. The RONS the Commission approved were the beginning of the formal condemnation process for geological borings. Commissioner Delfino pointed out that if the appellate court ruling is upheld, DWR will also have to come to the Commission for any environmental studies, rather than just the geological borings. Commissioner Saracino asked if the Commission will have to re-do its previous RONS. Ms. King said yes, because the previous legal proceedings have been dismissed.

#### 5. **Public Comments**

Joseph Rizzi, a member of the public representing Natural Desalination, said that natural desalination uses reverse osmosis, like traditional desalination, but requires no power. Natural desalination facilities must be located offshore, a half mile below the ocean's surface. Mr. Rizzi said natural desalination could provide for all of California's freshwater needs at a much lower cost and with far fewer complications than traditional desalination.

#### 6. **Action Item: Review and Consideration of Public Comments Received on Staff Draft Regulations and Guidelines for the Quantification and Management of Public Benefits of Water Storage Projects**

Ajay Goyal, Chief of DWR's Statewide Infrastructure Investigations Branch, reported that in November 2013, the Commission released working drafts of its regulations and guidelines for informal public review. Five comment letters were received. After reviewing, staff determined the comments fall into three broad categories: requires no change, change suggested, and requires discussion. Some that require no change are not consistent with SBX7-2, request additional details that are not typically included in regulations and guidelines, or are not pertinent to the topics discussed in the regulation. Comments that can be incorporated are consistent with legislation, though some need discussion with the California Department of Fish and Wildlife (CDFW) and State Water Resources Control Board (State Board). Comments that require discussion include the role of the expert panel, composition of the panel, how the panel will evaluate applications, how the priorities given by the State Board and CDFW will be weighed, and how non-monetized benefits will be considered. Mr. Goyal suggested the Commission wait until there is a final water bond before proceeding with changes to the regulations and guidelines.

Roger Mann, economic consultant to DWR, reviewed the comments that were received during the public comment period which will likely be applicable in a water bond and which the Commission may wish to discuss further at this meeting. Some of these comments deal with the composition of the expert panel and how the panel will be selected. Mr. Mann suggested that no additional detail should be added to the regulations or guidelines at this time, however, there are several alternatives for the specific role of the panel. For example, the panel could provide only qualitative information, provide scoring for each criterion but not weighting, or could provide both scoring and ranking. In any case, the Commission would make the final decisions. Mr. Mann noted that SBX7-2 requires the Commission to consider both CDFW and State Board priorities and relative environmental values, and estimation of return to public investment, but it is unclear how this information will be weighed and considered together in selecting projects. Some comments discussed the public benefits categories and how to consider non-monetized benefits. The Commission could wait to address these issues since the varying bond proposals contain different public benefits categories.

Commissioner Ortega said AB 2554 (Rendon) would create a Natural Resources Bond Accountability Commission and add two members to the Water Commission. Mr. Ortega asked if the legislation would require reporting, and what the Commission might consider with respect to transparency in decision-making. Mr. Mann said the Commission has discussed the monitoring and reporting of public benefits, what assurances should be provided, and what the consequences might be if benefits are not provided. Many benefits are difficult to measure; however, operations can be monitored so there is a requirement for an operations plan. Mr. Ortega that the quantification of public benefits does not incorporate impacts to disadvantaged communities (DACs). It is difficult to determine how DACs may fit in, but some projects could create cost shifting or shifting of burdens, and the state would have to provide additional resources to alleviate additional burdens on DACs. Mr. Mann said there has not been much discussion about incorporating DACs or the human right to water in the regulations or guidelines because they are not discussed in SBX7-2. Ms. Sims pointed out that Rachel Ballanti, the Commission's Assistant Executive Office, analyzed the impacts of the current bond proposals on DACs. Many proposals being considered in the legislature have specified funding for DACs. Mr. Ortega clarified his question with an example. There are current proposals which would result in diversions from the San Gabriel River which would create a public recreation benefit, but could reduce groundwater upon which DACs rely. There needs to be accounting for such reduction in reliability. Mr. Mann said hydrologic accounting is an issue for water projects. That analysis is a major obstacle from a technical perspective, but once it is overcome, such impacts can be determined.

Commissioner Del Bosque asked if there is a reference to the expert panel and its role in the statute. Mr. Mann said the statute states that the Commission may receive help from experts.

Ms. Delfino pointed out that there are uncertainties due to the number of bond proposals, and asked what is recommended to move forward. Mr. Mann said that as long as the Commission has a decision-making role, help from experts will be needed. Ms. Delfino said some of the CDFW and State Board priorities are vague, so it might be helpful to ask them for additional feedback based on some of the comments that were raised since it will probably remain an issue regardless of bond language. Mr. Mann said there will continue to be questions about how to weigh those priorities against the economic analysis.

Mr. Saracino asked for clarification on staff's recommendation regarding whether or not the Commission should wait for a final bond. Mr. Goyal said it is up to the discretion of the Commission. Mr. Saracino said it might be worth considering options for the panel and proposing that to the legislature. Mr. Curtin pointed out that the Commission does not have a clear understanding of what the panel should be and there is no sense in presenting a plan that is not fully formulated. Mr. Saracino clarified that he meant criteria for the panel selection. Ms. Delfino said it would be helpful to be proactive in providing guidance on the panel and answer some of the questions about what the panel will do once they are appointed. Without guidance, the legislature might not address issues identified by the Commission. Mr. Ortega said the ambiguity surrounding the panel's composition gives the Commission the opportunity to amplify particular issues of accountability and the human right to water.

Commissioner Orth stated that it is important to further flesh out the details of the expert panel. He also suggested thinking about how the state's human right to water law may specifically apply to the regulations for quantifying public benefits, not necessarily within the context of the water bond. Mr. Mann said the five public benefit categories in the existing bond do not include water supply, regardless of whom the supply is for. The way to incorporate the human right to water would be to specify that there is a public benefit to providing public funding for water supply. Ms. Delfino said water quality benefits can be related to the human right to water. She suggested the Commission wait for final bond language because they have been directed to address water quality, but other issues may be beyond their scope. She also suggested that DWR could give the Commission guidance to interpret the legislation. Mr. Ortega said the human right to water is not well defined, but the Commission should be mindful of how it impacts the regulations and guidelines. Mr. Goyal noted that there is funding for water supply related to remediation of contaminated groundwater basins. For the issues pertaining to the expert panel, Mr. Goyal offered to prepare several suggestions to present at the Commission's April meeting. Mr. Saracino agreed with the suggestion and said the role of the panel should be limited to technical expertise. Mr. Mann noted that in some bond proposals, water quality benefits are limited to ecosystem purposes, so there would have to be a separate category for the right to a clean water supply. The types of benefits funded would impact the composition of the expert panel. It may be difficult to determine the composition of the expert panel now, but its function is likely to remain the same regardless of the content of the final bond.

Mr. Del Bosque asked if the expert panel will simply review proposals, but not make decisions. Mr. Goyal said the panel will consist of various subject matter experts to help evaluate technical aspects of proposals and inform the Commission of issues. Mr. Saracino asked for recommendations on the composition of the panel, but suggested the Commission make decisions about the function of the panel later. Ms. Sims suggested that Commission may be interested in how DWR is currently interpreting the human right to water in its other programs. Ms. Delfino asked staff to also contact CDFW and the State Board regarding priority lists.

**7. Presentations on the Impact of Water Quality Standards on State and Local Water Supplies**

Mr. Ortega introduced the item and noted that he has been following the issue for several years. He said that as groundwater basins are drawn lower in a drought and the concentrations of contaminants in the water increase as a result, it becomes more difficult and expensive to pump and treat water. The public must be informed of how water quality, supply, and rates are impacted. Mr. Ortega introduced speakers Richard Atwater, Executive Director of the Southern California Water Committee, Dr. Tim Worley, Executive Director of the California-Nevada Section of the American Water Works Association (AWWA), and Omar Carrillo, Policy Analyst for the Community Water Center.

Dr. Tim Worley said AWWA dates back to 1881, when the connections between drinking water and public health were first being understood. AWWA still focuses on protecting public health by protecting drinking water supplies. Dr. Worley focused on Chromium-6 (Cr6), which occurs naturally in groundwater. California's proposed new drinking water regulations for Cr6 would reduce the maximum contaminant level (MCL) to 10 parts per billion (ppb). At this level, there is an extreme cost to treat water to remove Cr6. Because of the costs, water agencies will likely avoid wells with high Cr6 concentrations, and may shift to surface water. Cr6 is a carcinogen when inhaled, but its impacts when ingested are less clear. It occurs widely in groundwater supplies in California, but is uncommon in surface water. The current MCL for total chromium has been the proxy for regulating Cr6 because Chromium-3 is not considered a public health threat. The federal total chromium standard is 100 ppb, and the current MCL in California is 50 ppb. The California Department of Public Health (CDPH) is required to adopt a final regulation for Cr6 by April 15, 2014. The U.S. Environmental Protection Agency is still reviewing federal chromium regulations.

According to Dr. Worley, CDPH estimated in the proposed regulation that 311 water sources will be impacted by the MCL change, but that technical analysis left out important considerations, which he outlined. The analysis did not use the most current data, and did not review data for total chromium, which is almost always associated with Cr6. CDPH did not extrapolate the impact to small water systems because there is not good data on the occurrence of Cr6 in small systems. The analysis did not address the fact that it is standard practice to operate under a 20% margin of

error for safety, so systems would actually be treating for 8 ppb. A technical review of the proposed regulation found that far more systems would be impacted than CDPH estimated.

In order to set a drinking water standard, CDPH needs a Public Health Goal (PHG) and must set the MCL as close to the PHG as feasible. The Office of Environmental Health Hazard Assessment (OEHHA) set the PHG in 2011 which is the basis for setting a drinking water standard. Feasibility is based on the technical and economic feasibility of treating a particular contaminant. The proposed regulation estimated the annual costs of treating for Cr6, but very small systems face the biggest challenge because costs are spread over few customers. Treating for the proposed MCL may not be affordable for such systems. Dr. Worley outlined shortcomings that should be addressed in the final regulation. CDPH underestimated the occurrence of Cr6. Agencies must size facilities to meet peak demand, which increases cost. CDPH based its calculations on a misstated per capita use rate. Treating Cr6 often requires new facilities, but the analysis includes no allowance for land acquisition or building construction costs. When factoring in those additional costs, CDPH underestimated the cost of compliance. In order to avoid costs, agencies may avoid wells below the MCL, blend water high in Cr6 with water from other sources, and switch to surface water.

Watsonville may face a possible 78% rate increase to deal with treatment costs for Cr6 because the city relies almost entirely on groundwater and most of their wells will be impacted. The Santa Ynez River Water Conservation District gets 48% of its supply from the State Water Project (SWP), and 52% from groundwater. It is not expecting an increase in its SWP allotment, and may have limited options for new sources of supply. Rates in the district may increase by 21-60%. All wells in the city of Woodland exceed the proposed MCL, but Woodland and Davis are shifting from groundwater to an intake on the Sacramento River. Dr. Worley believes the State Revolving Fund for safe drinking water will be underfunded due to the cost of changing regulations. He suggested that the Commission could discuss water quality regulations' impacts on supply with the Governor's office.

Rich Atwater discussed impacts of the proposed Cr6 regulation on statewide water supplies and costs. The proposed 10 ppb MCL for Cr6 is far lower than federal standard of 100 ppb. Many communities that rely on groundwater will not have alternatives to costly treatment. Removing Cr6 takes specialized operators for equipment, which most small systems cannot afford. There will be concentrated residual from treating water which may require shipping to a disposal site, but CDPH did not address disposal. CDPH estimated that about \$1 billion will be required in capital costs statewide to comply with a 10 ppb Cr6 standard. The Association of California Water Agencies estimated that capital costs will be closer to \$4 billion. Treating groundwater has become more expensive. When facilities to remove salt and nitrates from groundwater were installed in Chino, water rates were doubled, according to Mr. Atwater. Despite reductions in consumption, Los Angeles is extremely dependent on imported water, in part because local

groundwater sources are contaminated. The city of Los Angeles has considered options such as a special allocation in the water bond for groundwater treatment, but the state cannot fund all necessary groundwater cleanup. There are industrial sources of chromium, but most chromium is naturally occurring. Mr. Atwater pointed out that Californians are expected to increase reliance on local water supplies, but that is made difficult by increasingly stringent standards such as Cr6. He also noted that there has been a significant amount of research on Cr6, but the health impacts of Cr6 at low concentrations are unclear.

Omar Carrillo said the Community Water Center is a Central Valley based organization which works directly with communities, most of which lack basic water and sanitation. Residents in some communities spend much of their income on water and wastewater resources. Many communities must buy bottled water in order to have clean water. The Community Water Center is working to address such issues in the state legislature. Poor water quality causes illness, and many communities lack the infrastructure and resources to address contaminants such as Cr6, nitrates, arsenic, trichloropropane (1,2,3-TCP), and pesticides. The Community Water Center works with communities of various sizes, none of which have clean, safe drinking water. The center also advocates for the transition of the state's drinking water program to the State Board so there can be a more comprehensive approach to addressing many water quality issues. Once problems are identified, it is vital to ensure that resources are actually directed to needy communities. Discussion about adjusting regulations must include both proper science and the perspectives of impacted communities.

Mr. Hintz asked why CDPH wants to reduce the Cr6 MCL. Mr. Atwater said the Natural Resources Defense Council and other environmental groups sued the state, resulting in a court order which requires the CDPH to set a standard for Cr6. Mr. Carrillo said the Community Water Center signed a letter to ensure a standard was established in a timely manner and that the proposal has been discussed for many years. Ms. Delfino said CDPH, OEHHA, and NRDC should be present for any in-depth discussion of the Cr6 regulation. She also pointed out that the decision to lower the MCL is probably related to studies showing increased cancer risk with exposure to higher concentrations.

Mr. Ortega asked about the program to manage nitrates that Mr. Carrillo mentioned. Mr. Carrillo said the regional water boards are working on that program. The Irrigated Lands Regulatory Program is a state program for Best Management Practices to reduce nitrate contamination. Mr. Ortega expressed interest in the regulation of non-stormwater discharges, which are currently managed regionally. There is an effort to create a uniform state stormwater discharge permit which could have an impact on water supply. Regulating water quality can impact access to water in some communities. Dr. Worley noted that the impacts of regulations vary from region to region, but meeting the requirements of multiple regulations is a dilemma for many water providers.

Mr. Orth reiterated that it would be helpful to have more information why the MCL for Cr6 is being lowered and asked how the Commission might weigh in to address these issues. Mr. Ortega expects that many water agencies will shift their sources of supply as a result of the new requirements. The Commission has been focusing on small systems and Mr. Ortega believes a better understanding of water quality impacts is important. The Commission can make clear the interconnection between water quality and supply to fully understand the implications of regulations. Mr. Orth noted that drinking water quality issues are not handled by the Commission, but the Commission could consider the California Water Plan Update and how it succeeds and fails in making the connection between various topics like water quality regulations and water supply. Ms. Delfino agreed and added that one of the Commission's roles does involve groundwater cleanup. The Commission can try to find the best approaches to cleaning water to enhance water supply and also meet the state's human right to water policy. Dr. Worley agreed that the California Water Plan is the nexus for addressing these issues. There must be a connection on a broad level between water quality and the ability to meet California's needs.

Mr. Del Bosque pointed out that most water is not used for drinking water and asked if a dual distribution system has been considered to treat only drinking water. Dr. Worley said point-of-use treatment is being considered in the Coachella Valley. Drinking water regulations currently only allow such treatment on an emergency basis. At this point, a dual distribution system does not seem to be a near term solution. Mr. Carrillo pointed out that some contaminants can be absorbed without ingestion, but dual distribution systems are being discussed in the legislature.

(Please note that a public comment on this item was made following Agenda Item 8.)

**8. Update on CASGEM and Other Groundwater Issues and Activities**

Dan McManus, with DWR's Regional Planning Office, provided an overview of DWR's groundwater activities and the connection to the California Water Action Plan and recent drought legislation. Many of DWR's groundwater activities are related to Integrated Regional Water Management (IRWM). Long-term baseline data collection and management is necessary for resource management. Governor Brown's drought proclamation provides near-term response actions, two of which are specific to groundwater. Action 11 calls on DWR to evaluate subsidence and agricultural land fallowing. Action 12 asks DWR to work with counties to ensure groundwater well logs are submitted. The California Water Action Plan contains longer term groundwater-related actions. As with other emergencies, DWR responds to drought using the Incident Command System, which provides standardized roles and organization. The groundwater team within DWR's drought organizational structure is specifically responding to groundwater items in the drought proclamation. Actions include developing groundwater level data, identifying gaps in groundwater monitoring, identifying shortages in basins, updating the list of all licensed drillers, and reminding drillers to submit well logs. State agencies are currently coordinating interagency response to the California Water Action Plan.

Mr. Curtin asked if DWR's groundwater programs also examine groundwater contamination. Mr. McManus said DWR does not address contamination issues, but shares data on groundwater use and reliance with other agencies including the State Board.

Mr. Orth expressed concern that some communities could lose their primary water supply due to decreasing groundwater levels, but the state lacks a good understanding of which communities are at risk. Mr. McManus said DWR is trying to provide data so communities can assess their supply with respect to groundwater, but many smaller systems lack monitoring. In areas with good reporting, it is easy to identify communities with potential groundwater depth issues.

Mr. Ortega said the practices of some adjudicated basins throughout the state help identify trigger points that could impact supply and asked if such practices can be incorporated into overall state modeling. Mr. McManus said there are requirements for basin management objectives. DWR tries to encourage local agencies to set their own objectives, but those objectives are not being acted upon in all basins.

Mr. Saracino pointed out that DWR is promoting sustainable groundwater management, but the response to drought in many places is to drill more wells. Mr. McManus stated that well permitting is done at the local level. One suggestion for better groundwater management has been to incorporate land use planning into resource management. It is difficult to say that wells cannot be used in a drought, but the impacts of current drilling may have to be addressed later. Other than providing recommendations for sustainable management, DWR does not manage wells at a local level.

Ms. Delfino asked if there is information on the significance of gaps in groundwater monitoring and if DWR has plans to address the gaps. Mr. McManus said groundwater monitoring is much better now than during the 2009 drought. CASGEM has helped provide current and historic data. There is good coverage throughout the state, but there are areas in high use basins that need better coverage. Local agencies may have additional data for inclusion in statewide analysis. Ms. Delfino noted that that California Water Action Plan includes a prioritization of groundwater cleanup and asked which agency is in charge of that effort. Mr. McManus said he was unsure, but the State Board generally deals with clean drinking water needs.

Mr. Del Bosque asked if DWR has information on groundwater recharge. Mr. McManus said DWR is getting maps of recharge areas. The state is encouraging recharge activities, but there are institutional obstacles. DWR wants to develop a map of available storage in aquifers to identify how much water can be recharged.

Mary Scruggs provided an update on CASGEM. The California Water Action Plan prioritizes CASGEM and an update to Bulletin 118. CASGEM primarily includes groundwater monitoring but there are other requirements, including prioritizing groundwater basins. CASGEM data is collected collaboratively with local agencies. As of February 13, 2014, CASGEM has added over 4,400 new wells to the water data library. There are 76 agencies acting as designated monitoring entities covering all or part of 167 basins or sub-basins. Alluvial groundwater basin prioritization is required by the Water Code. The prioritization process is based on groundwater reliance. The data was normalized for comparison. According to the draft results, the Central Valley and large basins in Southern California are the high priority basins. There are 126 medium and high priority basins, which comprise 92% of groundwater use and 89% of population in California. DWR is using prioritization to focus resources on high and medium priority basins on a statewide scale, but groundwater could be a higher priority at the local level. Prioritization can be used for informed decision making and resource prioritization. The next goal of CASGEM will be to finalize the basin prioritization and identify high and medium priority basins without a designated monitoring authority. Those basins will not be eligible for grant funding.

Ms. Scruggs outlined future CASGEM efforts. DWR is evaluating how to best use drought funds to advance CASGEM and address drought impacts. There is \$1 million in emergency drought funding for CASGEM and the well completion report submission system. There are many activities DWR can fund with emergency funding, including creating dot maps for groundwater elevation changes and groundwater storage, identifying areas where groundwater elevation is at or below historic levels, and developing criteria to quickly identify overdrafted basins. DWR is also evaluating the extent of groundwater monitoring and updating regional hydrographs.

Mr. Orth asked if there is a process for periodically re-prioritizing the groundwater basins. Ms. Scruggs said the system is set up so changes can be made to the prioritization.

Mr. Ortega mentioned an article about lower crop yields due to salinity and asked if the California Department of Food and Agriculture or the University of California Extension are at all involved in DWR's groundwater data. Ms. Scruggs said the data would help those entities but DWR is not communicating with them specifically.

*Public Comment Regarding Agenda Item 7*

Mark Rentz, with Integrated Natural Resource Management, provided public comment on water quality regulations. Mr. Rentz pointed out that changing water quality regulations is a complex process and said it would be helpful for the Commission to have an understanding of how regulatory agencies and water purveyors perform risk analysis. He said regulatory agencies address standards in isolation, but water purveyors deal with the cumulative impacts of all water quality standards.

*Commission Discussion Regarding Agenda Item 10*

Mr. Curtin said he would be unable to stay for the whole meeting, but wanted to discuss the Commission's workshop on small water systems. He noted that governance structure is a major issue for small communities, which are often not organized enough to take advantage of available resources. There seems to be consensus that disadvantaged communities (DACs) need funding, but there has not been enough discussion of governance issues and obstacles to funding. Distribution of funding to these communities may require more involvement from state agencies. DWR may be helpful in determining how to put funding to use in DACs.

Mr. Ortega said that DACs are often only considered after a program is already formed. He also noted that updating small systems could improve statewide efficiency because outdated infrastructure is inefficient.

Mr. Orth said that in 2012, the Governor formed a drinking water stakeholder group whose charge was addressing funding for DACs. That group found that poor governance capacity often disconnects communities in need from funding sources, and identified a need for transitional funding and capacity building. IRWM is the foundation of California water resource management, but DACs and small systems often don't have access or the ability to position themselves within that decision making structure. Ms. Delfino said there seems to be an understanding of the problems and range of solutions, but it is unclear what the Commission should do next. It would be unhelpful for another water bond to pass with funding that DACs cannot effectively access. Mr. Orth said the Commission can provide benefits by identifying the gaps between the communities and funding. The Commission should consider how to more effectively engage DACs in the IRWM process.

Mr. Curtin suggested that since the Commission is overseeing the public benefits of water storage section of the bond there may be a role for the Commission to work with the IRWM program to identify the needs of DACs and small communities. Mr. Del Bosque said there will be a great need for outreach to small systems. Small communities in need often do not have the ability to apply for grants, so Mr. Del Bosque suggested that DWR start an outreach program.

Mr. Curtin asked for further discussion of IRWM and DACs to be added to the Commission's April agenda. Ms. Sims said she already spoke with IRWM staff about discussing emergency drought funding and the next round of IRWM grants at the April meeting. One issue is the challenge of expediting funding decisions and, at the same time, expanding outreach to communities and other groups who have not previously been involved in the funding processes. Mr. Curtin said there are communities who cannot participate in the IRWM process. Mr. Ortega outlined several issues that should be included in the Commission's discussion in April. Assemblymember Perea is sponsoring a bill pertaining to voluntary consolidation of small systems, and there may be a

transfer of the state's safe drinking water program to the State Board. There is a transition plan for the drinking water program which incorporates outreach to small systems.

(Please note additional discussion of this issue is located under Agenda Item 10.)

**9. Update on Key Salton Sea Issues and Activities**

Keali'i Bright, California Natural Resources Agency (CNRA) Deputy Secretary for Legislation, has been coordinating many of the efforts at the Salton Sea. Mr. Bright said many people ask why the Salton Sea is not simply allowed to dry up. The Salton Sea is roughly twice the size of Lake Tahoe in area, and its floor contains high levels of toxicity. Exposure of the Salton Sea floor is a large public health risk, and wind storms in the area exacerbate those issues. In addition, the natural resources provided by the sea are irreplaceable. It is of acute importance to migratory birds and populations of shore birds and fish. As salinity increases, the sea will no longer be able to provide the same benefits. The Salton Sea is iconic in California and is important to the people who live around it. Respect for its regional importance must be met by action, resources, and achievable plans. Mr. Bright said that funding is often suggested as a solution, but he does not believe that is the primary barrier. The first step to a solution must be a comprehensive plan with local support. When the Qualification Settlement Agreement (QSA) for the Salton Sea was first developed, there were mixed expectations for restoration. Those mixed expectations drove the paralysis regarding how to move forward. The last major barrier is funding; there is not a substantial amount of funding to achieve sustainable conditions at the sea. CNRA is prioritizing committed state funds and examining federal and local funding options. Mr. Bright said the first and most important action is to break the paralysis of inaction.

The state's program is now at a point where results can be seen in the region. The state's approach is to fund a diversified portfolio of projects by taking water available from neighboring sources to manage the sea for different outcomes. The spectrum of management approaches has different benefits and different costs. The small projects the state has been funding are ways to test options for large-scale solutions. Previous efforts were brought together in a plan that was not economically feasible, but not all the work that went into it was a waste. The state is using that work as a foundation to move forward. Last year's budget provided \$2 million for a feasibility plan for the Salton Sea. That plan is being used to reprioritize and determine what is realistic, affordable, and achievable. In order for projects to be successful, there must be a general alignment of expectations amongst all the stakeholders. There is currently a high level of cooperation and coordination amongst the various entities.

Mr. Bright provided an overview of the Species Conservation Habitat Project. As elevation decreases and salinity increases, the sea will no longer be able to sustain life; projects must be developed before that time. The Species Conservation Habitat Project will create a habitat for fish and wildlife. The project is developed like a salt pond with different expandable areas managed

for different outcomes. One of the primary goals of the work is to take steps that bridge to future projects. Two sources of freshwater for the sea were examined, and the New River was selected. The project was also designed around where geothermal activity might be greatest. The project will cover 640 acres of habitat, but is permitted for up to 3,000 acres of habitat. There are small scale geothermal facilities in the area which mostly provide for regional demand. One current question is whether the state wants to invest in geothermal facilities. Mr. Bright pointed out that building a project on land that has been wet for a long time has challenges. There is currently funding for about one third of the project and funding that comes in will go directly to the field. Roughly 90% of the project design is completed, once it is 100% complete construction can move forward. Imperial Irrigation District will be the project manager. Mr. Bright said construction is planned for September 2014 and DWR is confident in the draft schedule.

Ms. Delfino asked for details on recent meetings on federal funding and asked whether the state is waiting for a feasibility study on bringing water to the sea. Mr. Bright said CNRA has always had a plan for how to deploy immediate resources. The feasibility study is being used to define the bigger picture. Ms. Delfino asked if there is a plan to deal with the land that will be exposed due to the rapid drop in elevation. Mr. Bright said there is not funding for projects other than the Red Hill Bay project and the Species Conservation Habitat Project, which are in areas where many dust issues have occurred. Situations that require immediate decisions on project expenditure due to receding shoreline will be handled as they arise. Vic Nguyen, with DWR's Salton Sea Office, said the Species Conservation Habitat Project is expandable. DWR hopes to attain additional funding to expand the project and combat the receding shoreline. Mr. Bright said it is challenging to find state and federal funding. In recent meetings on federal funding, Mr. Bright witnessed engagement from the Department of the Interior and the U.S. Army Corps of Engineers (USACE). There is not a clear understanding of where federal funding may come from, but there seems to be an opportunity for funding.

Mr. Ortega asked if the Salton Sea is a candidate for cap and trade funding. He also noted that there has been discussion of a public benefits charge for water as an alternative to the water bond. Mr. Bright said cap and trade can be stretched over a lot of issues, but projects would need to demonstrate a carbon benefit, not just an adaptation benefit. In relation to the public benefits charge, Mr. Bright said a surcharge for water could be a component of funding. Similar structures are being considered for energy, which drives ratepayer funds toward different types of infrastructure projects.

Phil Rosenstrater, Deputy Director of the Salton Sea Authority, briefed the Commission on opportunities at the Salton Sea. The Salton Sea Authority is a Joint Powers Authority established by the state in 1993 to oversee restoration activities. The restoration reconfigures the sea so the inflows exceed the evaporation rate and salinity can be controlled. There is no source for the necessary funding, so the sea will recede in 2017. Habitat must be built before that time to allow

existing species to survive. The goal is to maintain the existing habitat, as well as mitigate problems as the Sea recedes. Mitigation is part of the responsibility of the state. Restoration should harness the resources available locally to restore the economy. Local economic development can provide the financial means by which the Sea is restored.

The Salton Sea Authority led an initiative to create a local commission in order to reach a local consensus on plans for the Salton Sea. Local cohesion is integral to successful restoration. The locals agree that the most immediate need is to save habitat. The locals plan to coordinate with the state to identify local resources, evaluate the area's capacity for renewable energy, and evaluate what is necessary for financial sustainability. There is a need to integrate financial sustainability into environmental concerns. It was suggested that there should be a stronger working relationship with federal government at the local level. The Salton Sea Authority, Department of the Interior, and other agencies signed a memorandum of understanding (MOU) to cooperate.

Mr. Rosenstrater outlined the steps he believes are necessary to move forward. He discussed the need for support for the Salton Sea Renewable Energy Initiative, a map of opportunities and constraints, and an Infrastructure Finance District. The Financial Feasibility Action Plan and the water bond are the key sources of funding and guidance at the state level. The Salton Sea will suffer if the state does not work with locals. At the federal level, one of the outcomes of recent work has been a relationship with USACE; the Salton Sea is now in their workplan. There is an existing authorization of \$3 million in the Water Resources Development Act (WRDA) which the Salton Sea Authority has not had access to because investigative work was never completed. The new funding from USACE will take care of that necessary step. The recent MOU with the Department of the Interior will help better align the properties surrounding the Sea.

Despite federal cooperation, locals should be engaged in leadership positions. Investment of public money should provide multiple benefits that lower risk and liability. Geothermal sites have the capacity to provide vast amounts of power which should be added to the energy market. Royalties from the Salton Sea Renewable Energy Initiative could be applied to restoration activities, but a reliable customer base and a transmission corridor are necessary. The planned Infrastructure Finance District may also be a source of local funding and formal approval from the Salton Sea Authority is expected soon. The Desert Renewable Energy Conservation Plan involves cooperation among local, state, and federal agencies. One goal is to streamline processes to get power to the market. State actions include a \$3 million Financial Assistance Program, a \$2 million Financial Feasibility Action Plan, and a stronger state role codified in Assembly Bill 71. The Salton Sea Authority wants to ensure that investments provide multiple benefits.

Mr. Rosenstrater said Salton Sea locals want action and projects, not additional studies and delays. The workplan for the Financial Feasibility Action Plan is approved and there is a contract

with the state which will use funding to evaluate options and cost assumptions. The restoration plan will be reevaluated to fit within a realistic financial frame. The Salton Sea can be a renewable energy powerhouse for geothermal energy, mineral extraction, solar power, and biofuels. One of the most difficult operation and maintenance challenges for geothermal power has been the high mineral content of the groundwater. The groundwater around the Salton Sea is high in lithium, which is necessary for many modern technologies. The Sea also has immense potential for solar energy production. Many fish deaths in the Salton Sea are the result of an abundance of algae, which can be used in ethanol conversion. Salt management can provide resources and fund dust mitigation. In moving forward, the first step is to stabilize the habitat, then determine financial feasibility, create certainty for the private sector, and develop local financial resources to integrate environmental restoration.

Mr. Hintz asked where the lithium around the Salton Sea came from. Mr. Rosenstrater said lithium is present in the groundwater at the Salton Sea, but he is not sure how it came to be there.

Mr. Del Bosque asked if there is funding for the Salton Sea in the existing water bond. Mr. Roseanstrater said there is existing funding from Propositions 13, 50, and 84 that was designated to the Salton Sea Restoration Fund, which is controlled by CNRA. The Species Habitat Conservation Project was funded by Proposition 84. Ms. Delfino said the current water bond contains \$100 million specifically targeted at the Salton Sea. The bond proposals by Assemblymember Rendon (AB 1331) and Senator Wolk (SB 848) create a \$500 million fund to fulfill state obligations, which would include the Salton Sea. Mr. Bright said most bond money has been appropriated, but there are small pots of money that the state is trying to coordinate toward priorities.

#### **10. Discussion of Potential Next Steps regarding Small Water Systems Workshop**

(Please see Agenda Item 8 for additional discussion on this topic.) Rachel Ballanti, Commission Assistant Executive Officer, said the Commission has been invited to do a workshop similar to the Southern California Small Water Systems Workshop with the Mountain Counties Water Resources Association in Auburn in May. She also called attention to two documents prepared by staff. One document identifies opportunities and challenges for small and disadvantaged communities in the proposed water bonds. Each bond bill handles the issue differently. Most funding for DACs is for safe drinking water infrastructure, wastewater treatment projects, and groundwater cleanup. The funding cited in the analysis includes only dedicated funding for DACs. There are also other spot bills that will likely include funding for DACs. The second document is a summary of the Commission's previous workshop which includes an executive summary, highlights, and a summary of recommendations made at the workshop.

**11. Consideration of Items for Next California Water Commission Meeting**

Items for the next meeting will include staff recommendations and options for the expert panel related to the Commission's Regulations for Quantifying the Public Benefits of Water Storage Projects, discussion of how DWR is currently incorporating the human right to water in its programs, final approval of State Water Project Encroachment Regulations, a drought update in the context of IRWM grants, discussion with DWR staff regarding obstacles for small and disadvantaged communities in the IRWM process, and an update from DWR's legal office on eminent domain litigation.

Mr. Del Bosque adjourned the meeting at 2:19 p.m.