

## Meeting Minutes - DRAFT

### Meeting of the California Water Commission

Wednesday, June 17, 2015

Santa Clara Valley Water District

5750 Almaden Expressway

Main Boardroom (Morning) and Conference Room A-143 (Afternoon)

San Jose, CA 95118

Beginning at 9:30 a.m.

#### 1. Call to Order

The meeting was called to order at 9:46 a.m.

#### 2. Roll Call

Executive Officer Paula Landis called roll. Commission members Andrew Ball, Daniel Curtin, Joe Del Bosque, David Orth, and Armando Quintero were present, constituting a quorum. Commission member Paula Daniels came in a shortly after roll call, and Commission members Joe Byrne and Maria Herrera were absent.

#### 3. Approval of May 2015 Meeting Minutes

A motion was made to approve the May 19 and 20, 2015 meeting minutes. A vote was taken and the motion passed unanimously.

#### 4. Executive Officer's Report

Paula Landis provided the Executive Officer's Report. Ms. Landis noted that the Commission was provided with a draft regulation for the updated Model Water Efficient Landscape Ordinance, which will come before the Commission for approval.

Ms. Landis is assessing the Commission's staffing needs. She is planning to move forward with hiring a full time attorney and a Program Manager.

#### 5. Welcome by Commission Members and CommissionMember Reports

Mr. Ball thanked the Santa Clara Valley Water District (SCVWD) for hosting the meeting, noting that he is active in the Silicon Valley Leadership Group as the chair of the water policy committee. He recently took a tour of the SCVWD water treatment facility in south San Jose and complimented the innovation and technology he saw being used to recycle and repurpose water. Mr. Quintero added that he also took a tour of the facility and met with district officials from SCVWD. He stated that SCVWD represents a wonderful model for California's water districts and irrigation districts.

#### 7. Presentation by Santa Clara Valley Water District

This item was taken out of order. Gary Kremen, Chair of SCVWD Board of Directors, stated that the mission of SCVWD is to provide the Silicon Valley clean and safe water, provide flood protection, and be the steward for healthy creeks and ecosystems. They serve more than two million people over fifteen cities, including well owners and water retailers.

Dave Cortese, Santa Clara County Supervisor, stated that the area served by SCVWD contains over 15,000 agricultural employees, and that the Santa Clara County Board of Supervisors is committed to look not only at water purification, but other technologies, such as desalination. He stated that there are large desalination facilities in the state that have already passed the California Environmental Quality Act (CEQA) approval process.

Beau Goldie, CEO of SCVWD, stated that SCVWD engages in flood protection with the help of federal funding and the U.S. Army Corps of Engineers. They have eight major projects underway; one of these is a shoreline project that will provide tidal flood protection and restore South Bay ponds and marshes.

The Santa Clara Valley is home to a diverse water portfolio. SCVWD imports 55% of its water supply from the Central Valley Project, State Water Project, and Hetch Hetchy; 30% of SCVWD's water is from local sources, and 15% is from recycling and conservation. The water is mostly used for residential and business needs with about 15% being used for agriculture and "dedicated meter" (large campuses, such as business headquarters) landscapes. The Santa Clara Valley has an integrated system containing reservoirs, pump stations, treatment plants, recharge ponds, and an advanced water purification center.

Mr. Goldie gave a brief history of groundwater management in Santa Clara County going back to the year 1900. With the passage of time, overuse of water combined with a booming population has caused the ground to sink by 13 feet over a century. This phenomenon, known as subsidence, will begin to catastrophically change the infrastructure of Santa Clara, affecting the buildings above and pipes and water lines below. This is a priority, and the amount of conservation achieved will impact on the amount of damage done. SCVWD's planned expansion of indirect potable reuse would increase groundwater storage by 35,000 acre feet each year.

The district's drought awareness and education campaign is stronger than it has ever been before, with 98% of Santa Clara Valley citizens aware of the drought in California. The comprehensive SCVWD drought response recommends solutions in the areas of water supply and operations, water use reduction, drought response, and administration and financial management. At the local level, watering days have been coordinated so that consumers are aware of when they can water. Conservation innovations, such as research grants and rebate programs for turf replacement and greywater systems, have been implemented. There is also an effort to expand purified recycled water, with \$800 million being spent on advanced water purification centers and recharge ponds.

Ms. Daniels asked if SCVWD had any input on greywater use in commercial buildings. Mr. Goldie responded that the program is currently focused mainly on single-family residences, and while there is no current plan to increase greywater use in industrial buildings, they are doing their part via increased funding for industrial conservation. Ms. Daniels also mentioned that the Sustainable Silicon Valley project had a plan for increasing indoor greywater use for toilets in commercial buildings, and Mr. Goldie said that on-site treatment systems are something that SCVWD is discussing with other cities as a task force has been created to focus in this project.

Ms. Daniels asked about the timeline for direct potable reuse. Mr. Goldie said the current method is indirect due to current regulations, but SCVWD is aiming for direct. Once direct potable reuse can be attained, it will be easy to make the switch by modifying the existing infrastructure.

Rainwater is being collected via reservoirs and streams, but there is not currently a more aggressive approach, since cities in the area have relied on individual policies rather than a comprehensive approach to rainwater capture. SCVWD will be seeking bond funding for multiple projects that span several different chapters of the bond. They are currently looking at groundwater, habitat restoration and water conservation projects and programs.

Mr. Curtin asked if the district anticipates CEQA relief. Mr. Goldie responded that the CEQA process and the permit process take time. SCVWD hopes to streamline those processes as quickly as possible, since there is no end to the drought in sight and subsidence is already happening. There is also a strong public swell of interest and support, and hopefully that support will push the relief process through sooner rather than later.

Mr. Quintero asked if there are projects similar to Santa Clara Valley's Advanced Metering Infrastructure (AMI) facilities elsewhere in the area. Mr. Goldie responded that at present, there are a limited number of AMI facilities; these facilities are being scrutinized for effectiveness. If they work, their design and techniques will be promoted as projects that are illustrative of what should be promoted for future funding.

#### **6. Public Testimony**

There were no public comments at this time.

#### **8. Update on Implementation of the Sustainable Groundwater Management Act**

Steven Springhorn, one of DWR's Sustainable Groundwater Management Act (SGMA) implementation team leads, updated the Commission on the Basin Boundary Revision Regulations. He also introduced the Groundwater Sustainability Plan & Alternative (GSP/ALT) Regulations and gave an informational update on the status of Groundwater Sustainability Agencies (GSA). He presented the estimated project timeline, highlighting the three important upcoming deadlines: January 2016 for the adoption of boundary revision regulations, June 2016 for GSP regulations, and June 2017 for the establishment of GSAs.

Mr. Springhorn then provided an overview and definitions of California groundwater basins and sub-basins as defined in Bulletin 118. The most recent update to Bulletin 118 was in 2003, and this document is the source of current basin boundaries. He also gave a local example, providing a map of the Santa Clara Valley Basin and its sub-basins and borders.

There are specific requirements that SGMA will need to fulfill in order to make the January 2016 deadline for the Basin Boundary Revision Regulations. The regulations will include instructions to local agencies on submittal of information required for basin boundary revisions, including demonstrating how the proposed basin can be sustainably managed, technical information on boundaries and conditions in the proposed basin, consultation with interested parties in affected basins, and details on any other information DWR deems necessary to justify revision. The regulations will also establish methodology and criteria for assessing proposed revisions. Criteria will include likelihood of sustainable management, whether the proposed basin adjustment would limit the management of an adjacent basin, and whether there is a history of sustainable management of groundwater levels in the proposed basin.

Mr. Springhorn went over the phases of implementation (scoping, draft framework, draft emergency regulations, and adoption of emergency regulations) and timeline for the Basin Boundary Regulations process. Outreach efforts so far have been a success, and DWR has

received input from members of the public and stakeholders. Stakeholder input centered on topics such as local flexibility, size of basins and sub-basins, scientific vs. governance justification, and the problems stemming from the inaccuracy of existing boundaries due to outdated source material. This input can be found in the Basin Boundary Regulation Discussion Paper, available on the DWR website. The DWR website also hosts all GSA formation notifications and has a searchable table of GSAs.

Mr. Springhorn provided a timeline for Basin Boundary revisions. He noted each proposed basing boundary revision will be submitted to the Commission for a 60 day comment period and Commission hearing, during which the Commission and the public will have the opportunity to discuss the item and provide feedback.

The phases of implementation for the GSP/ALT Regulations process are similar to those of the Basin Boundary Regulations process, but are more detailed because the draft framework has been broken into topic-based segments. There are ten topics, covering items such as land use, water budgets and coordination, and adaptive management and focus. The topics will be discussed in batches. DWR plans to submit the GSP/ALT Regulations to the Office of Administrative Law by May 2016.

SGMA also offers Facilitation Support Services to help local agencies comply with requirements, and interested parties can learn more by going to the Facilitation Support Services page at [http://water.ca.gov/irwm/partnership/facilitation\\_services.cfm](http://water.ca.gov/irwm/partnership/facilitation_services.cfm).

Mr. Orth brought stated that the outdated boundaries in Bulletin 118 may not aligned with the alluvium. Mr. Springhorn responded that with the regulations will include the process for updating boundaries as new information is made available. Mr. Orth also noted that the timeline for the boundary adjustment did not appear to provide enough time for the necessary science and field studies to be completed.

Mr. Orth also asked if there will be opportunities for governance based adjustments to basin boundaries. Mr. Springhorn said that when approaching the Basin boundaries and how to adjust them, the decision takes into account technical, scientific, and governance input, and there is no simple formula to reconcile them. Technical information can be both scientific and governmental; the external boundaries have always been defined by scientific information while the internal ones have traditionally been flexible per Bulletin 118. Scientific information is important, but if there are strong governance issues that will promote a positive impact, then those governance issues may supersede the scientific ones.

Mr. Del Bosque asked what specifically is changed when there is an update to Bulletin 118. Mr. Springhorn replied that most of the updates are Geographic Information Systems (GIS) updates and written descriptions. Boundaries are drawn and modified by a wide range of criteria such as waterways, city and county lines, and governmental jurisdiction dictates. The fact that there is no central governing body over these boundaries is one of the biggest challenges that the implementation team is facing.

Ms. Landis asked if the next update to the Commission will be formatted as an action item. Mr. Springhorn replied that the July meeting will be informational. There may be action items brought forth around October and November 2015 for the adoption of the emergency Basin Boundary regulations. DWR will conduct public meetings, and the comments received by the

public and stakeholders will be archived and summarized by DWR and presented to the Commission.

**9. Update on Program and Administrative Activities for Water Storage Investment Program (Proposition 1)**

Tracie Billington, Chief of DWR's Financial Assistance Branch, briefed the Commission on the activities of the various Water Storage Investment Program (WSIP) workgroups. The Regulations Workgroup is continuing to work on the draft guidelines, review process, and priorities, while the agency team is focusing on draft priorities and relative environmental values. The Technical and Environmental Workgroups are defining how to measure physical changes and aquatic benefits. The Economics Workgroup is currently discussing and defining discount factors, interest rates, and cost projections, and will be establishing rules for economic analyses. The teams are currently on-schedule according to the WSIP timeline.

Ms. Landis noted that at in the previous meeting, Mr. Curtin requested staff develop a draft resolution that supported synergistic approaches to project applications. Ms. Landis and worked with Mr. Curtin and decided that the most appropriate was to incorporate this language would be by placing it in the *Goals, Objectives, and Principles* document. The completed document will be resubmitted for Commission review at the July meeting. Ms. Landis also outlined the specific WSIP topics that will be covered at the July Commission meeting.

*Some public comment on the Water Storage Investment Program was taken out of order.*

Tim Stroshane, Policy Analyst with Restore the Delta provided public comment on the Water Storage Investment Program. On the subject of definitions of the Delta and its tributaries, the question of whether tributaries to the Delta should include Tulare Lake Basin is of interest to the members of Restore the Delta. DWR's unimpaired flow report shows that Tulare Lake Basin drainage to the Delta occurs half of the time in recorded history, but only eight years out of twenty in the most recent period included in the report. The current average is no longer statistically significant. It is the view of Restore the Delta that the Tulare Lake Basin should not be considered a tributary to the Delta. Mr. Orth agreed, commenting that an argument can be made that investments in the Kings or Kern Watersheds do not offer direct benefits to the Delta as much making in-Delta investments would.

**10. Update on Stakeholder Process for Water Storage Investment Program**

Ms. Landis provided an update on the meetings and public outreach efforts. The WSIP scoping survey was closed at the end of May. The Commission held a public workshop in Sacramento on project eligibility criteria and quantifying public benefits that hosted around 40 attendees. There was also a Stakeholder Advisory Committee meeting on June 3<sup>rd</sup>, featuring a presentation by Debbie Davis-Franco on the Human Right to Water. An attorney with the State Water Resources Control Board (State Board) has done an analysis and it was concluded that the Human Right to Water does not fit the definition of "Public Trust Recourses" but is still relevant for applicants and the Commission to consider as they are forming the guidelines. The Department of Fish and Wildlife and State Board also distributed a draft list of their priorities.

The Commission participated in a joint Tribal Consultation event on June 9<sup>th</sup> and 10<sup>th</sup>, which was well-attended with over 100 attendees representing around 80 tribes. The goal of the event was to discuss the relationship between Proposition 1 and the Governor's Water Action Plan,

opportunities for agency alignment, and details of Proposition 1 funding programs. The reaction was mixed, with many tribal representatives expressing the opinion that the meeting was informative, but did not serve as true tribal consultation. For individuals who wanted more information, there will be opportunities for follow-up. Ms. Daniels represented the Commission; she offered an opportunity for a dialogue with tribes seeking more information. Ms. Daniels stated that these dialogues would be treated as roundtable discussions rather than purely informational. As a k̄anaka maoli (indigenous Polynesian person of the Hawaiian Islands or their descendants), Ms. Daniels has personal experience that she felt could help her speak to some of the concerns expressed by Tribal members seeking input and discussion.

Ms. Landis also stated that there will be a Stakeholder Advisory Committee meeting in July and three public information meetings in July and August. At the July meeting, the Commission will be will present the written letters and comments from the Stakeholder Advisory Group.

Tracie Billington spent a few minutes going over the topics that will be discussed later in the afternoon.

#### **11. Water Storage Investment Program Issue Working Session: Grant Program, CEQA**

Tracie Billington began the presentation before the Commission broke for lunch and provided an outline the WSIP guidelines and Proposal Solicitation Package (PSP). The guidelines and PSP may be combined into a single document because there will likely only be one solicitation. The guidelines will include an introduction and overview, eligibility requirements, general program requirements, information on proposal selection, and appendices. The PSP will include an introduction, application instructions, an application checklist, attachments for the application, review and ranking criteria, and exhibits.

*The Commission took a break for lunch and reconvened in room A-143.*

Following lunch, Ms. Billington discussed grant program constraints, and funding options for environmental documentation and permits. Because the grant program only has a fixed amount of funds, the Commission must discuss how best to allocate them. The Commission must consider how to best balance their funding decisions so that both large and smaller projects can be considered awarded in ways that are fair and proportionate, and that can provide a maximum Return on Investment (ROI) based on their magnitude of public benefits. The grant awards must provide sufficient funding so that projects remain viable and can be expected to justify the investment. The grant must also be enough so that the project does not have to be reformulated after the funding decision.

Mr. Curtin and Mr. Ball stated that projects that have more independent financing capabilities may appear more attractive from a funding viewpoint, but it will be important not to automatically assign them more weight than other projects that may offer more benefits but will also need more funds. Mr. Quintero added that he was interested in projects that reflected innovation. Ms. Billington cautioned that individual perception of what constitutes innovation may not be universally agreed upon. Ms. King added that Chapter 4 of the bond does have language that speaks to rewarding innovation.

Mr. Orth stated that when it comes to the calculation of how to determine the ROI of a particular project, the formula states that if an investment is less than the maximum necessary, then the

return will be higher. It may be in the best interest to fund less than 50% when possible, so long as it does not hinder the project.

Mr. Curtin noted that when the funds are allocated, the grantors are essentially paying for the public benefits; the return on public investment calculation should reflect a full return on their investments in the form of public benefits (if the Commission invests 20%, there will be an expectation of a 20% public benefit, and so on). Other considerations include how effectively a project can leverage other dollars and what effect it will ultimately have on the statewide water system. He added that there will not be as many dollars to spread around if everyone receives the maximum allowable amount, and that it is important to remind applicants that the 50% funding number is a maximum and should not be viewed as a foregone conclusion. Mr. Orth observed that using ROI calculations that emphasize the public benefits output, the amount that is funded may not be proportional amount of benefits obtained; a 50% grant that yields a 60% benefit is not as beneficial as 20% grant that yields a 40% benefit.

Ms. King said that she would research the language of the statute and provide clarity on how to consider leveraging the return for public investment with regard to overall cost or public benefit cost.

Ms. Billington continued with her presentation, stating that because the Commission may award less than the maximum funding amount to many projects, it will be crucial to understand the maximum and minimum amount that can be granted. Ostensibly, asking project applicants to provide maximums and minimums up front will assist in providing the Commission an up-front snapshot of what will truly be needed, and what the minimum will be in order to keep a project from folding.

Ms. Billington next discussed the possibility of funding completion of environmental documentation and permitting. Language in Chapter 4 describes limits funding for planning and monitoring to 10% of bond funding. This means that for the WSIP funding for environmental documentation and permitting is limited to \$270 million. Staff recommended that this funding only be provided to project to which the Commission offers a soft funding commitment, that funding would be part of the overall award amount, , and that the cost share is proportional to the public/non-public benefit ratio. There is some risk that a project that accepts permit funding could later fall through, but the risk will be minimized by using these proposed recommendations.

Mr. Curtin and Ms. Daniels expressed concern that funding environmental documents for larger scale projects would pose a greater risk of loss. Mr. Curtin noted that from a risk mitigation perspective, it would be wiser to focus on smaller, possibly conjunctive projects (including those for disadvantaged communities or Tribal governments) than for single, large-scale ones. Ms. Daniels requested staff develop specific criteria for this funding. Ms. Billington responded that it was important to remember that the 10% was for only the completion of the documentation and permitting, and only after the Commission has made a soft commitment and other funding sources have already been secured. Ms. King pointed out that if the funding is not additive; this would change the timing of funding, but not the total amount received.

Mr. Ball was of the opinion that, when specifically talking about infrastructure, there should be an expectation that the preparation of environmental documentation up to the permitting stage be done before any funding is expected. He stated that a soft cost, such as permitting, was a better

and less risky use of funds than environmental documentation. He stated that the non-refundable hard costs should be primarily funded from other sources and should not rely on grant funds.

Mr. Curtin asked if there are other sources of funding available for the documentation and permits for small-scale projects. Ms. Billington said that generally speaking there were not. There is some language in Chapter 5 relevant to smaller projects, but that language was specifically focused on disadvantaged communities. Several Commission members stated that the parameters for environmental documentation and permitting funding should be as precise as possible, and that precision does not necessarily equate to limiting.

Ms. Billington also briefly discussed the some alternative for funding environmental documentation and permitting. Several Commission members agreed that funding should be available, and discussed the possibility of only funding permitting. Some members also discussed adding language that is specifically inclusive of disadvantaged communities and other communities with special considerations. Ms. King pointed out that some considerations of the Human Right to Water doctrine are already embedded into the statute.

Ms. King provided an overview of on the Commission's role as a responsible agency under the California Environmental Quality Act (CEQA) in the implementation of the WSIP. One of the hallmarks that the project applicant will have to meet before they will be eligible for a soft commitment is to have their draft environmental documentation out for public review. Grant applicants must comply with CEQA, and the Commission will have a role to play in the decision-making process.

CEQA applies to projects undertaken, funded, or requiring issuance of a permit by a public agency. Project analyses can be in the form of an Environmental Impact Report (EIR), Negative Declaration (ND), or Mitigated Negative Declaration (MND). For any project, there must be a lead agency and a responsible agency. The lead agency will carry out the project and is responsible for preparation of the reports, review and analysis of the environmental documentation, and making findings that the environmental document reflects independent judgment.

Lead agencies must be public agencies. In the event that a project sponsor is not a public agency, the project sponsor will need to find a public agency that is willing to undertake the lead agency responsibility. Non-public agencies that are eligible for WSIP funding are non-profit organizations, mutual water companies, and tribal governments.

The Commission will likely be a responsible agency because it has discretionary approval authority over projects funded by the WSIP. The responsible agency is legally obligated to review and comment on projects' draft CEQA documents and come up with their own conclusions on whether to approve projects. The Commission will need to make a decision on every project. If the Commission approves funding for a project, the next legal step is to prepare a Notice of Determination. The filing of this item begins the 30-day process for challenging the determinations; after the 30 days has passed, it cannot be challenged. The Commission also has the discretion to choose not to fund a project if they disagree with the conclusions of an applicant's EIR. Support is available from the DWR Division of Environmental Services and regional offices.

Mr. Ball read a part of the statute about the timing of the events leading up to and following the funding and requested an explanation on how the Commission's review of the EIRs will impact the

timeline. Ms. Billington clarified: as part of the application package the applicant will include a draft EIR. The Commission will review it and decide if they are willing to fund the applicant. The applicant will receive a tentative funding offer, but they will not actually receive any monies until they have their final documents and non-public funding. Using the draft documentation rather than waiting for it to be finalized will allow the Commission to make funding decisions earlier.

Ms. Daniels expressed concern for the workload that DWR staff would be taking on as they prepare reports on each project that needs to be presented for Commission review. Ms. Landis responded that DWR regional offices are there to provide assistance and that the review process is anticipated to take a few years.

Ms. Landis pointed the Commission to an issue paper on the definition of the Delta and its tributaries. After careful consideration and feedback from stakeholders, staff has refined its definitions, and Ms. Landis recommended that the Commission agree to use the following language:

Waterways that are “tributaries to the Delta” include all river systems that make up the Sacramento River watershed and the San Joaquin River watershed (i.e., the natural/topographic hydrologic basins).

Mr. Orth noted that the Tulare Lake Basin will not be included in this definition and that his constituents in that area are aware of this decision and understand why it was excluded.

The Commission tentatively approved use of this definition.

## **12. Consideration of Items for the Next California Water Commission Meeting**

The next meeting is going to be a two-day meeting on Wednesday and Thursday, July 15-16. There will be an issue working session featuring a discussion of eligibility criteria, definitions and quantification of public benefits and eligible project types, and applying priorities and relative environmental values in the application review process. There will also be a legislative update, an update on the Sustainable Groundwater Management Act, and a briefing on DFW and State Board priorities and relative environmental values. There will be one action item wherein the Commission will vote on the Model Water Efficient Landscape Ordinance Regulation, and one wherein the Commission will approve the final draft of the *WSIP Goals, Objectives, and Principles* document.

Mr. Del Bosque adjourned the meeting at 2:34 p.m.