

Meeting Minutes - Draft

Meeting of the California Water Commission

Wednesday, June 22, 2016

State of California, Resources Building

1416 Ninth Street, First Floor Auditorium

Sacramento, CA 95814

Beginning at 9:30 a.m.

1. Call to Order

The meeting was called to order at 9:34 a.m.

2. Roll Call

Executive Officer Paula J. Landis called roll. Commission members Carol Baker, Andy Ball, Joe Byrne, Daniel Curtin, Paula Daniels, David Orth, and Armando Quintero were present, constituting a quorum. Commission members Joe Del Bosque and Maria Herrera were absent.

3. Approval of May 2016 Meeting Minutes

A motion was made and seconded to approve the May 18, 2016 minutes. A vote was taken and the motion passed unanimously.

4. Executive Officer's Report

Commission staff is continuing to refine the Water Storage Investment Program (WSIP) quantification regulations. The revised draft regulations will be published after additional changes are incorporated.

Jenny Marr, who has served as the WSIP Project Manager for the past year, is stepping down from her position. Her role will be assumed by Joe Yun until a permanent Project Manager is selected. Interim WSIP Project Manager Joe Yun will speak at the Delta Stewardship Council on June 23, where he will present an update on Commission activities.

Executive Officer Landis will also be leaving her position; she is retiring effective July 1, 2016.

5. Commission Member Reports

Commissioner Ball met with representatives of the Bay Area Council Water Committee to discuss groundwater regulations. Commissioner Baker attended a briefing with staff and representatives from CH2M Hill to discuss the state water system. Commissioner Orth discussed the WSIP with a member of the San Joaquin Valley Water Infrastructure Authority Board. Commissioners Orth and Byrne each met separately with representatives from the Delta Stewardship Council to discuss the WSIP and how it relates to planning processes for the Delta.

6. Public Testimony

There were no public comments at this time.

7. Briefing on California EcoRestore by California Natural Resources Agency (CNRA) Director of Ecosystem Restoration David Okita

Mr. Okita provided a brief history of the program and discussed its goals and objectives. The EcoRestore program includes habitat restoration, science and adaptive management, and long term planning. Mr. Okita also discussed some of the challenges facing the restoration projects, such as permitting and contracting, the incorporation of current science through adaptive management, and funding issues.

A Commission member asked how CNRA is incorporating climate change and sea level rise into their projects. Mr. Okita confirmed that the planning horizon for climate change is 100 years. A Commission member asked if CNRA will be acquiring property to implement EcoRestore projects. Mr. Okita replied that CNRA will be issuing requests for proposals from private entities for restoration projects where the state could become a project partner.

8. Briefing on Yolo Bypass and Wallace Weir Projects by California Natural Resources Agency (CNRA) Special Assistant for Water Policy Kris Tjernell

Mr. Tjernell discussed several California EcoRestore Projects that are being implemented in the Yolo Bypass. The Yolo Bypass is a focal point for both habitat restoration and flood management investments. During peak flood periods, the bypass draws water from the Sacramento River and conveys up to four times more water than remains in the river. The Wallace Weir Fish Rescue Project will prevent fish from entering and becoming stranded in local agricultural water systems. The Fremont Weir Adult Fish Passage Modification Project will widen and deepen an existing fish ladder in order to ease passage for sturgeon and salmon. The Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project is intended to increase the frequency and duration of shallow inundation, increase the amount of juvenile and adult fish migrating through the bypass, and incorporate existing flood management, agriculture, hunting, wildlife areas, and local water supply.

A Commission member asked if there are recharge opportunities for groundwater basins in the area. Mr. Tjernell confirmed that there are. In response to a question, Mr. Tjernell stated that the projects will be operated when there is excess water in the system.

9. Briefing on California Infrastructure and Economic Development Bank (IBank) Funding Programs for Infrastructure Projects

Representatives from the IBank gave the presentation. IBank was created in 1994 to finance public infrastructure and private development projects. IBank's four primary financing programs are the Infrastructure State Revolving Fund Program, California Lending for Energy and Environmental Needs Center, Small Business Finance Center, and Bond Financing Program.

Eligible applicants are any subdivision of a local government, special districts, Joint Power Authorities, and nonprofit corporations with eligible sponsorship. There is no scoring or competitive process. The representatives also discussed the different types of eligible projects, basic underwriting guidelines, and some of their success stories.

A Commission member and the IBank representatives discussed how IBank financing may be used in conjunction with WSIP funding. Several Commission members asked detailed questions about how IBank funding functions.

10. Update on Program and Administrative Activities for the Water Storage Investment Program (WSIP) and Briefing on Revised Draft WSIP Quantification Regulations and Commission Direction

Commission staff provided an updated timeline for the WSIP, along with a summary of administrative activities and technical work. Staff then presented six proposed changes to the WSIP quantification regulations. These changes were primarily based on comments received during the 45-day comment period.

The substantive changes discussed were:¹

Removal of the mandatory pre-application: Staff recommended removal of the pre-application process and explained why they believed it is no longer necessary.

The Commission members and staff discussed the anticipated timeframes for acceptance of applications and discussed the potential benefits of having an open or rolling application period. Staff Counsel noted that an application deadline is necessary to allow for the statutorily-mandated competitive funding process.

Removal of the formal peer review process: Staff recommended removal of the formal peer review and explained why they believed it is no longer necessary.

One Commission member stated that peer reviewers are important because neutral parties can provide valuable input on specific topics. A few Commission members stated that the peer review process could be removed as long as the Commission retains the option to seek out a third party opinion if necessary.

Combining of agency priority review and technical review with an Agreement in Principle process: Staff recommended combining agency priority review and technical review with a new Agreement in Principle process. Staff described the Agreement in Principle concept and explained why the change was recommended.

A Commission member stated that this proposal may work if the participating parties are committed and agreeable; however, the work involved may cause an undue burden on staff. A Commission member stated that it is unclear how the Agreements in Principle will relate to the Relative Environmental Values and priorities provided by the State Water Resources Control Board and Department of Fish and Wildlife.

Addition of Commission review of staff's determination of benefits: Staff recommended adding a process that would allow applicants to request Commission review if they disagree with any staff modifications to the quantification of the proposed project's public benefits.

Removal of the 60-day "ask": Staff recommended removal of the 60-day "ask," a period where staff could request additional information from applicants, and explained why it was no longer necessary.

¹ For more detailed description of the proposed revisions see the [summary document](#) presented at the meeting.

Provision for funding environmental documentation: Staff recommended that the Commission consider providing early funding for environmental documents to project proponents, consistent with Proposition 1.

A Commission member stated that the Commission should primarily fund construction rather than environmental documentation. Staff Counsel clarified that a publicly available draft environmental document must be available at the time of application, but those documents will need to be finalized before applicants can receive funding.

The Commission took public comments. Comments included:

- Independent peer review is a vital and necessary component of scientific processes. Other departments have an ongoing contract with the University of California system for peer review of regulations, and the Commission may wish to consider following their lead.
- If the Commission contracts for outside review of applications, contractors should not have conflicts of interest with project proponents or groups lobbying against proposed projects.
- Project proponents would like to have more information about what the Agreements in Principle will entail.
- Removing the pre-application process may unintentionally cause smaller projects to have a more difficult time developing their projects and applications.
- Independent peer reviews are important because it is a conflict of interest for DWR to score projects in which they are also involved in advising.
- The Agreements in Principle will be fundamentally important to how public benefits will be managed, measured, and enforced.
- Any member of the public should be able to request Commission review of staff modifications to benefit quantifications.
- Funds should be allocated primarily to construction costs, not to preliminary “soft costs” such as permits and environmental documentation.
- Funds should be provided for the completion of environmental documentation, since projects will need that assistance to move forward through the preliminary phases as efficiently as possible.
- Staff’s efforts to streamline the process are appreciated so projects can receive funding as soon as possible. However, if the application requirements are too time-consuming, project proponents will have difficulty meeting the new timeline.
- Removal of the pre-application is a good idea, because most of an applicant’s necessary information can be taken from their concept papers.
- Assembling an independent peer review panel is a time-consuming process that is not needed and may interfere with the Commission’s statutory deadlines.
- It is crucial that the Commission retain discretion and not delegate their authority to other state agencies or a peer review panel.

11. Action Item: Designation of an Acting Executive Officer

Ms. Landis will be leaving her position as Executive Officer effective June 30, 2016. She proposed that the Commission designate an Acting Executive Officer until a new permanent Executive Officer is chosen. A motion was made and seconded to designate Assistant Executive Officer Rachel Ballanti as Acting Executive Officer. A vote was taken and the motion passed unanimously.

12. Closed Session

No closed session was held.

13. Consideration of Items for the Next California Water Commission Meeting

The next Commission meeting will take place on Thursday, July 21. Commission staff will provide an update on the WSIP quantification regulations. DWR staff will present a list of Draft Basin Boundary Revisions. DWR staff will also provide a legislative update.

Commissioner Byrne adjourned the meeting at 12:46 p.m.