

Meeting Minutes - Draft

Meeting of the California Water Commission

Thursday, July 21, 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 9:33 a.m.

2. Roll Call

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

3. Approval of June 2016 Meeting Minutes

A motion was made and seconded to approve the June 22, 2016 meeting minutes. A vote was taken and the motion passed unanimously.

4. Executive Officer's Report

Acting Executive Officer Rachel Ballanti gave the report and introduced members of the interim team for the Water Storage Investment Program (WSIP), including Department of Water Resources (DWR) Deputy Director for Special Initiatives Taryn Ravazzini and Executive Program Manager of DWR's Sustainable Groundwater Management Program Dave Gutierrez.

The Commission meeting dates for the remainder of 2016 may change. Staff will update the website and send a Listserv notification once the meeting dates are finalized.

5. Commission Member Reports

Commissioner Herrera met with a representative from the San Joaquin Valley Water Infrastructure Authority to discuss the Temperance Flat Dam Project. Commissioners Baker and Byrne each spoke separately with representatives from the San Luis Obispo Department of Public Works to discuss DWR's denial of the Los Osos Valley Groundwater Basin boundary modification request.

6. Public Testimony

City of Orange Cove Mayor Victor Lopez spoke on behalf of his city and similar disadvantaged communities. He described Orange Cove's water struggles and urged the Commission to fund the Temperance Flat Dam Project.

7. Legislative Update

DWR's Assistant Director for Legislative Affairs provided an overview of the legislative calendar and current legislation relevant to the Commission and DWR. The list included legislation on water conservation, storage, groundwater, desalination, and other water-related issues. As of the meeting date, several water-related bills have been submitted and are awaiting an approval or

veto by the Governor; bills must be signed or vetoed by September 30. The Legislature is currently in recess and will resume the first week in August.

8. Update on Program and Administrative Activities for the Water Storage Investment Program (WSIP) and Discussion of Outstanding WSIP Issues

The Acting Executive Officer provided an updated timeline for the WSIP quantification regulation. At the July and August meetings, staff will seek Commission direction on key issues. In August, staff will release drafts of the regulation text and Technical Reference Document. In September, the Commission will seek direction to proceed with a formal public comment period. The Commission will direct staff to make any additional changes in October and November and, after an additional comment period, the Commission may adopt the final regulations in December 2016. Several public workshops and briefings are built into the revised schedule.

Climate Change

DWR staff presented a recommended approach for considering climate change in the WSIP regulations. Staff has developed a climate change approach that is technically sound and responsive to needs. The draft regulations will require applicants to analyze climate change based on projected climate scenarios at 2030 and 2070. DWR staff will provide scenarios and the necessary modeling tools. This approach will help to ensure fair and consistent comparisons between projects.

Staff described the methodologies used to develop future scenarios, sources of uncertainty, and explained how applicants will use the information that will be provided.

The Commission took public comments. Comments included:

- The Commission should focus on the resiliency of projects as defined by the WSIP: flexibility under a wide variety of climate conditions.
- Not all project proponents have the staff necessary to perform the proposed analyses.
- Staff should establish baseline monetary standards for calculating public benefits similar to the standards being established for climate change.
- Staff's approach in calculating long-term averages dismisses wet and dry years over a long term. The Commission should factor in extreme weather conditions.
- Applicants should have the ability to modify staff's tools by factoring in the unique characteristics of their individual projects.
- The years used to guide climate change analysis need to be consistent with the years being used to determine public benefits.
- There are existing methodologies that can assist project proponents in their climate change analyses.

A Commission member expressed concern about establishing a baseline from which to calculate benefits given future uncertainties. Staff responded that the importance of a universal baseline lies in the ability to compare projects. A Commission member stated that smaller projects may have difficulty with their climate change analyses. Several Commission members expressed concern about the timeframe applicants will have to complete the required climate change analysis. The Commission generally supported staff moving forward with the proposed approach in developing the draft regulations.

Peer Review

At a previous meeting, staff had recommended removal of the formal peer review process. At that meeting the Commission received suggestions for a potential model for a peer review process. Staff researched the proposed model and determined it was not equivalent and could not be adapted to the WSIP. Staff continues to recommend removal of the peer review process; a formal peer review is not required by statute and the Commission's public review process allows all interested parties to review applications. The Commission may use existing contracts to call on technical experts on an as-needed basis.

The Commission took public comments. Comments included:

- 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.
- Assembling an independent peer review panel is a time-consuming process that is not needed. Additionally it is crucial that the Commission retain discretion and look to their own expertise in addition to that of the participating stakeholders, water experts, and partnering agencies.
- Contractors should not have conflicts of interest with project proponents or groups lobbying against proposed projects.

The Commission directed staff to develop the revised draft regulations based on the staff recommendation. Some Commission members agreed that it is important that the public be given ample time to read and comment on applications in lieu of a formal third-party peer review.

9. Overview of the WSIP Technical Reference Document

Staff provided an overview of the content of the Technical Reference Document. Technical Reference supports applicants' project analysis and quantification of public benefits and assists applicants in producing competitive, technically sound applications. It provides specific information to applicants about what a sound analysis of without-project and with-project conditions, benefits, and impacts includes and describes some models and methods that could be employed to meet the requirements of the WSIP.

The draft Technical Reference Document will be released in mid-August. Formal public comments on the Technical Reference Document will be taken during the public comment period on the revised regulations in mid-September. Additionally, the Commission will hold three public meetings on the Technical Reference Document in late August.

The Commission took public comments. Commenters stated that a 15-day comment period is an inadequate amount of time to thoroughly review the entire Technical Reference Document and formulate a thoughtful response. Staff Counsel responded that all relevant documents, including the most current version of the draft Regulations and the Technical Reference Document, will be released in August and the 15-day comment period will not begin until after the Commission meeting in September. This timeline complies with all requirements of the Administrative Procedure Act and provides time for public review before the formal comment period begins.

10. Briefing on DWR's 2016 Draft Basin Boundary Modifications

Commissioner Orth recused himself before this item.

SGMA gives the Commission the opportunity to review and comment on DWR's Draft approved basin boundary modifications. DWR staff provided an overview of their process for accepting and reviewing modification requests. DWR received basin boundary modification requests from 54 local agencies and published a list of draft approved modifications. The most common modification requests were proposals to move basin boundaries from geographic to county lines. Another common request was to join smaller adjacent basins into one consolidated basin. Of the 54 requests that were received, 16 were denied or incomplete. Those requests will be eligible for reconsideration in 2018.

Criteria for evaluating modification requests include: the likelihood that the proposed basin can be sustainably managed, whether the proposed basin would limit the sustainable management of adjacent basins, and whether there is a history of sustainable management of groundwater levels in the proposed basin. Information on DWR's basin boundary decisions can be viewed online on the [DWR Basin Boundary Modification Website](#) and [DWR Basin Boundary Assessment Tool](#).

The Commission took public comments. There were 12 commenters representing local agencies and tribes. Many of the commenters described the unique characteristics, such as hydrogeological anomalies and unorthodox lines of adjudication within their basins, which called for special consideration.

The commenters were:

- o Edward Roybal, representing the Pala Band of Mission Indians¹
- o Bo Mazzetti, Chairman of the Rincon Band of Luiseño Indians and President of the San Luis Rey Indian Water Authority²
- o Bob Harrington, Director of the Inyo County Water Department^{3, 4}
- o Terry Schmidtbauer, Assistant Director of Resource Management for Solano County
- o Steven Inn, Manager of Water Resources for Alameda County Water District
- o Wade Horton, Public Works Director for the County of San Luis Obispo⁵
- o Carolyn Berg, Senior Water Resource Engineer for the County of San Luis Obispo⁵
- o Ryan Bezerra, representing Templeton Community Services District⁶
- o Jennifer Clary, representing Clean Water Action and speaking on behalf of the NGO Groundwater Collaborative
- o Dave Bolland, Special Projects Manager for the Association of California Water Agencies
- o Kristin Sicke, representing Yolo County Flood Control & Water Conservation District
- o Steve Kerins, Deputy Counsel for Mono County on behalf of the Tri-Valley Groundwater Management District

A Commission member stated that it would be helpful if DWR could provide some 3-D images of some of the more complicated basins. A Commission member asked what DWR is doing to ensure that Tribal Governments and disadvantaged communities are being kept informed and involved. DWR's Tribal Policy Advisor responded that the responsibility for outreach falls on the local level. DWR plans to do outreach to local agencies to improve local understanding of Tribal Consultation.

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

The next Commission meeting will take place on Wednesday and Thursday, August 17-18. Staff will brief the Commission on the outstanding concepts for WSIP Quantification Regulations. DWR

staff will also provide updates on the Basin Boundary Modifications and Best Management Practices under SGMA.

The meeting was adjourned at 2:48 p.m.

Note: The following letters were presented directly to the Commission during and prior to the meeting. These letters do not include correspondence that was submitted separately to DWR staff.

¹https://cwc.ca.gov/Documents/2016/2016_Correspondence/072116_PalaIndians_BasinBoundaryMod.pdf

²https://cwc.ca.gov/Documents/2016/2016_Correspondence/072116_Mazzetti_BasinBoundaryMod.pdf

³https://cwc.ca.gov/Documents/2016/2016_Correspondence/071916_InyoCounty_BasinBoundaryMod.pdf

⁴https://cwc.ca.gov/Documents/2016/2016_Correspondence/072816_InyoWaterDept_BasinBoundaryMod.pdf

⁵https://cwc.ca.gov/Documents/2016/2016_Correspondence/071816_SLOSupervisors_BasinBoundaryMod.pdf

⁶https://cwc.ca.gov/Documents/2016/2016_Correspondence/071816_TempletonCSD_BasinBoundaryMod.pdf