

Meeting Minutes

Meeting of the California Water Commission – Day 1

Wednesday, August 17, 2016

State of California, Resources Building

1416 Ninth Street, First Floor Auditorium

Sacramento, CA 95814

Beginning at 1:00 p.m.

1. Call to Order

The meeting was called to order at 1:05 p.m.

2. Roll Call

Acting Executive Officer Rachel Ballanti called roll. Commission members Carol Baker, Daniel Curtin, Paula Daniels, Joe Del Bosque, Maria Herrera, and Armando Quintero were present, constituting a quorum. Commission member Joe Byrne arrived during item 9. Commission members Andy Ball and Dave Orth were absent.

3. Approval of July 2016 Meeting Minutes

A motion was made to approve the July 21, 2016 meeting minutes. Commission members Baker, Curtin, Del Bosque, Herrera, and Quintero voted to approve the minutes, and the motion passed. Commission member Daniels abstained from voting, due to her absence from the July meeting.

4. Executive Officer's Report

Acting Executive Officer Rachel Ballanti gave the report. She discussed the agenda for the meeting and advised the Commission that staff will be seeking direction on several topics. This direction will help shape the current version of the Water Storage Investment Program (WSIP) draft regulations, scheduled to be published on August 29. The draft Technical Reference Document for the WSIP was published on August 16. Public briefings on the document will be held on August 23, August 25, and August 30.

5. Commission Member Reports

Commissioner Herrera met with representatives from the San Joaquin Valley Water Infrastructure Authority to discuss the WSIP.

6. Public Testimony

Steve Chedester, Executive Director of the San Joaquin River Exchange Contractors Water Authority, introduced himself to the Commission. He is a board member for the San Joaquin Valley Water Infrastructure Authority, whose primary focus is the Temperance Flat Dam Project. The Authority looks forward to working with the Commission.

7. Update on Adjustments to DWR's 2016 Draft Basin Boundary Modifications

During the July meeting, DWR staff briefed the Commission on DWR's 2016 draft basin boundary modifications. At this meeting, DWR presented adjustments made to the basin boundary modifications based on Commission comment, public comment, and additional work with applicants.

Upon publication of the draft modifications, staff received feedback and appeals from several local agencies requesting reconsideration. They held detailed discussions with those local agencies, and as a result, have overturned five of their initial denials. In total, 39 requests were approved; 15 were denied or incomplete. A list of all of DWR's basin boundary decisions, including the recently overturned decisions, will be posted on their website in September. This information will also be used to update Bulletin 118.

A Commission member asked if the current list of request denials is final. Staff responded that the list is final and denied requests will be eligible for reconsideration in 2018.

The Commission took public comments. A representative of Templeton Community Services District thanked DWR and the Commission for their cooperation and reconsideration of their initial denial.

8. Update on Best Management Practices under the Sustainable Groundwater Management Act

DWR staff gave the presentation. Per Water Code §10729, DWR is required to publish best management practices (BMPs) for the sustainable management of groundwater on their website by January 1, 2017. They are also required to discuss these BMPs in four specified public meetings. Staff discussed the different types of BMPs and provided the preliminary results of their recently concluded BMP survey which was intended to gather input on the scope and content of BMPs. The survey responses indicated a strong interest in establishing measurable objectives, assessment of undesirable results, and ways to assess sustainability and monitor basin conditions. DWR will hold all of its required public meetings by October 2016 and will publish BMPs by December 2016.

A Commission member asked if the survey was still open, and if staff will be developing BMPs for all of the areas in which survey-takers expressed interest. Staff stated that the survey would remain open through August 19, and that they will develop as many BMPs as is feasible before year-end. A Commission member asked how DWR chose its survey participants. Staff responded that the survey was distributed via DWR's Sustainable Groundwater Management Act listerv, DWR's website, and several participating agencies including the Association of California Water Agencies and the Groundwater Resources Association.

The Commission took public comments. A commenter stated that their organization participated in the survey. They felt that BMPs for data system requirements would create a foundation for areas such as assessing undesirable results, setting minimum thresholds and measurable objectives, and managing uncertainty.

9. WSIP Technical Presentation: Relative Environmental Values

Staff from the California Department of Fish and Wildlife (CDFW) and the State Water Resources Control Board (State Board) staff gave the presentation. Proposition 1 requires that the Commission's regulations for the WSIP include priorities and Relative Environmental Values (REVs) for ecosystem benefits as provided by CDFW and water quality benefits as provided by the State Board. Staff updated the Commission on the changes made to their ecosystem and water quality priorities and REVs since their last presentation.

Staff described how they will determine the relative environmental value score for each project. Based on the with- and without-project condition, staff will assign a score for each priority based on how well it meets each Relative Environmental Value criteria. The projects will only be evaluated based on the priorities they claim to meet. The scores assigned in the priority/criteria matrix will be used to determine the projects' overall Relative Environmental Value.

The Commission took public comments. Comments included:

- Because CDFW and the State Board's criteria overlap significantly in places, it will be important to identify and separate the subtle differences in specific criteria that may be incongruous or in opposition.
- It will be important that staff provide clarity on how to score quality as well as quantity.
- More information is needed on how CDFW and the State Board intend to score environmental benefits that do not fit easily into the scoring matrix.
- It is important for staff to have a comprehensive understanding of project operations in order to score the projects.

10. WSIP Outstanding Issue Overview: Early Funding for Environmental Documentation and Permitting

Commission staff discussed their proposal for implementing early funding for environmental documentation and permitting. Per California Water Code §79755(c), early funding may be made available for the completion of environmental documents and permitting of a project. Staff proposed criteria for early funding including, a per-project funding cap and implementation risk threshold. Any funds awarded early will be distributed as a part of, not in addition to, the total WSIP funding request.

A Commission member expressed concern about providing early funding for projects that may not reach completion, or projects that are seeking reimbursement for past costs. Several Commission members asked how implementation risk will be determined. Staff replied that the methodology behind determining implementation risk would be discussed in detail the following day, adding that they are seeking Commission input on acceptable thresholds. A Commission member stated that early funding should not be guaranteed. Several Commission members stated that WSIP funds should be primarily reserved for infrastructure, so early funding should be focused on

smaller projects. A Commission member suggested adding a needs assessment requirement for applicants requesting early funding.

The Commission took public comments. Comments included:

- The statute states that early funding can only be provided for the completion of environmental documentation and permits.
- Larger projects also need early funding; providing early funding will reduce costs for all parties involved.
- Applicants requesting early funding should be required to provide documentation tracing how much they have spent on their project so far.
- Applicants requesting early funding should be required to provide feasibility reports to demonstrate risk mitigation and viability.

11. WSIP Technical Presentation: Framework for Quantifying Benefits

Stephen Hatchett, Consulting Economist with CH2M Hill, gave the presentation. He provided a high-level summary of the process that applicants will use to quantify benefits. He used a simple example project to demonstrate the steps in the framework: 1) define the without-project future conditions, 2) define the with-project future conditions, 3) calculate the physical changes, 4) monetize the value of the project benefits, 5) estimate project costs, 6) compare benefits to costs, and 7) allocate the costs to beneficiaries.

A Commission member asked why non-public benefits are being incorporated into the calculation. Mr. Hatchett explained that an understanding of public and non-public benefits is needed to fairly allocate the costs to public and non-public beneficiaries. In response to commission member questions, Mr. Hatchett explained a value-per-unit approach is one way to quantify benefits, and that there are other methods available to applicants. The TRD provides a range of methods and recommended unit values, and technical experts on staff will provide guidance and verify the figures that are provided by applicants. Commission members discussed the risks and benefits of funding project benefits at lower rate than requested and a Commission member stated that applicants should be required to disclose up front if their project will become unfeasible if the Commission provides less than the requested funding amount. A Commission member stated that they would like to see a more in-depth exploration of project resilience in extreme conditions.

The Commission took public comments. Comments included:

- The Commission should build uncertainty into the models provided in order to gauge a conservative return on investment versus an optimistic one.
- The example provided does not include unintentional negative impacts.
- The TRD appears to discount the value of groundwater and conjunctive use projects because it does not account for extreme conditions.

- The Commission should fund the least cost alternative for providing the public benefits of a project.
- Clarity is needed regarding how to account for uncertainties in the amount of physical benefits that may be provided as well as for flexibility in projects' operations and ability to provide benefits.
- More explanation is needed regarding how to account for capital costs from existing facilities associated with reservoir reoperation projects. There is also a lack of information about incorporating operating costs into the cost analysis.
- When quantifying the value of fish, it may be advisable to base calculations on dollars per habitat unit rather than dollars per individual fish.
- Staff may want to consider reviewing the U.S. Bureau of Reclamation's Separable Costs-Remaining Benefits method for allocating costs.
- The Commission may want to consider partnering with federal agencies on projects that may prove mutually advantageous in order to improve the return on investment for public benefits.

In response to public comments, staff replied that the example provided is purposefully simplistic and does not account for negative impacts or extreme scenarios, but in a real project would need to account for impacts. Many of the commenters' concerns are addressed in detail in the TRD.

Commissioner Byrne adjourned the meeting at 4:28 p.m.

Meeting Minutes

Meeting of the California Water Commission – Day 2

Thursday, August 18, 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 9:37 a.m.

2. Roll Call

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

Before item 3 began, the Commission took general public comments.

City of Avenal Mayor Pro Tem Alvaro Preciado spoke on behalf of his city and similar disadvantaged communities. He described Avenal's struggles as it deals with water that is scarce and not reliably potable. He urged the Commission to make decisions that will positively impact his community and similar disadvantaged communities in Kings County.

3. WSIP Outstanding Issue Overview: Major Regulation Sections and Articles

4. WSIP Outstanding Issue Overview: Evaluation Criteria

5. WSIP Outstanding Issue Overview: Administration of Public Benefits

6. Next Steps on Development of Draft WSIP Regulations

Agenda items 3 through 6 were all addressed in a continuous discussion between the Commission and staff.

DWR staff discussed the structure of the Water Storage Investment Program (WSIP) regulations and proposed evaluation criteria.

The evaluation criteria and methodology consists of two sections: a review of completeness and eligibility, which will be on a pass/fail basis, and a technical review, which will be used to rank and score each project.

The basic eligibility review will include simple requirements, such as project and applicant type. The secondary eligibility review will address more nuanced criteria, such as cost effectiveness and benefits to the Delta or its tributaries. Applications will then move to the technical review, during which staff will evaluate return on investment for public benefits, Relative Environmental Value, water system improvement, implementation risk, benefit resiliency, and non-monetized benefits. Staff discussed how each of these criteria will be used to evaluate applications during the technical review. Staff presented proposed weighting for each component of the evaluation. Staff also briefly discussed work that is progressing to determine how state agencies will administer the public benefits of projects.

A Commission member asked how State requirements for advancing the objectives of the Sustainable Groundwater Management Act will fit into the evaluation criteria. Staff responded that Groundwater Sustainability Plans (GSPs) are not expected until 2020; anticipated improvements from GSP implementation may be included in some benefit calculations, but may also be captured in the evaluation of non-monetized benefits. A Commission member stated that water system improvements should be more heavily weighted than the staff suggestion. A Commission member expressed concern that monetized benefits will be too heavily weighted in the evaluation. A Commission member stated that criteria such as improvements to the state water system should be secondary in the evaluation to the return on investment for monetized benefits. A Commission member suggested separating resiliency from non-monetized benefits in the scoring and incorporating non-public benefits as a factor.

The Commission took public comments. Comments included:

- The metrics for water system improvement should account for the fact that ideal storage amounts may depend on a project's objectives.
- There are metrics that can be used to evaluate many non-monetized benefits.
- When assigning weight to scoring criteria, more value should be attributed to statewide water system improvements.
- There should be a method to score benefits not included in the five public benefit categories.
- The administration of public benefits is an important topic that belongs in the regulations.
- The statute is very specific when describing the process by which projects are ranked according to magnitude of public benefits. It is important that the Commission keep this in mind when making their decisions.
- Funding for projects must not be used to meet existing environmental obligations.
- Water system improvements that provide private benefits are not an appropriate consideration for ranking.
- The magnitude of improvements to the Delta ecosystem should be considered in project ranking, not as an eligibility requirement.
- The incorporation by reference of the Technical Reference Document in the regulations may be too confusing.
- Evaluation criteria should incorporate policies laid out in California's Delta Reform Act of 2009.
- Implementation risk should include a factor for local community support.
- There should be a mechanism for the Commission to evaluate the Relative Environmental Value scores provided by the Department of Fish and Wildlife and State Water Resources Control Board.

A Commission member stated that further discussion is needed on how to quantify benefits. A Commission member asked how applicants should apply the information in the Technical Reference Document. Staff replied that they will provide an executive summary of the Technical Reference Document.

Next, staff presented discussed the approach for administering public benefits. A Commission member stated that a single master contract with multiple administering agencies for each project would be more efficient than individual contracts with each agency. A Commission member stated that it may be difficult to enforce and monitor benefits if there is a single contract with multiple agencies. A Commission member asked how staff will assign scores for emergency response and flood control. Staff replied that many of those benefits can be monetized and incorporated into the return on investment calculation. However, others will be incorporated into the non-monetized benefits category.

Staff summarized the discussions that took place over the two day meeting and requested Commission direction on those subjects:

- The Commission directed staff to proceed with their current approach two-step scoring system (a pass/fail component followed by a ranking system).
- The Commission directed staff to proceed with the evaluation criteria categories, clarify the public return on investment component, and separate the resiliency and non-monetized benefits component.
- On the subject of weighting the evaluation criteria, staff acknowledged remarks by the Commission and members of the public that some criteria, such as water system improvements, are not being given adequate weight in proportion to other criteria. They also acknowledged that there is a perceived overlap in areas where proposed benefits may be ranked by more than one agency between return on public investment and Relative Environmental Value. No specific direction was given, but staff will work to clarify and respond to the issues.
- The Commission directed staff to include applicant need as a consideration in early funding decisions.

Additionally, several Commission members stated that implementation risk should be included in the pass/fail criteria since high risk projects may not be feasible. The Commission members expressed individual opinions about the importance of water system improvements in the evaluation. A Commission member suggested replacing the term “secondary” with “additional” when referring to eligibility criteria, in order to avoid a perception that one criterion is more important than another.

A Commission member asked if the newly revised regulations will contain details on the formation and execution of contracts. Staff replied that those details are still under development. A few Commission members stated that they would like to see more detailed staff responses on topics such as contracts and scoring of overlapping evaluation criteria.

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

The next Commission meeting will take place on Monday, August 29 via conference call. At this meeting, the Commission will vote to direct staff to begin a formal public comment period on the WSIP Draft Regulations.

At the September 16 meeting, staff will update the Commission on program and administrative activities for the WSIP, and there will be a public meeting on WSIP Revised Draft Regulations.

Commissioner Byrne adjourned the meeting at 12:02 p.m.