



Meeting Minutes

Meeting of the California Water Commission

Wednesday, June 16, 2021

Remote Meeting

Beginning at 9:30 a.m.

1. Call to Order

Chairperson Alvarado called the meeting to order at 9:30 a.m.

2. Roll Call

Assistant Executive Officer Laura Jensen called the roll. Commissioners Alvarado, Arthur, Cordalis, Curtin, Gallagher, Makler, Solorio, Steiner and Swanson were present, constituting a quorum.

3. Closed Session

The Commission did not hold a closed session.

4. Approval of May 19, 2021 Meeting Minutes

Commissioner Solorio motioned to approve the May 19, 2021 meeting minutes. Commissioner Curtin seconded the motion. All Commission members voted in favor.

5. Executive Officer's Report

Executive Officer Joseph Yun talked about the move back to in-person Commission meetings. The provision for virtual meetings was extended to the end of September. Staff will likely move back into the office at the end of July.

6. Commission Member Reports

There were no Commission member reports.

7. Public Testimony

Mark Smith asked if the Commission could switch to gallery view so public can see the Commission members. He was told that his view was determined by a setting on his computer.

8. Assessing a State Role in Financing Conveyance: Presentation of White Paper (Action Item)

Assistant Executive Officer Jensen presented the final white paper containing findings and conclusions from the Commission's ongoing work assessing a state role in financing resilient conveyance projects. Revisions made to the draft paper reflected both public comments and those made by Commission members at the May meeting.

Commissioners Arthur, Cordalis, and Solorio thanked Commission staff for their work on the white paper, saying it was great to see final product, it set a good tone in how we can use conveyance to better manage water policy, and it provided a good basis for the current work on groundwater markets.

Commissioner Steiner motioned to approve the white paper. Commissioner Arthur seconded the motion. All Commission members voted in favor.

9. Eminent Domain Process Overview

Commission Counsel Holly Stout provided an overview of the Commission's process for making resolutions of necessity for eminent domain proceedings, which is one of the Commission's statutory responsibilities. The Department of Water Resources (DWR) has the authority to acquire property for constructing, maintaining, and/or operating SWP facilities via the process of eminent domain, but DWR cannot commence an eminent domain proceeding until the Commission has adopted a resolution of necessity. Counsel Stout explained DWR's role and the Commission's role in the process, and that the first meeting is educational, and the second meeting includes an action item to adopt a resolution. Included was information on public participation and a landowner's right to testify. Adopting a resolution of necessity requires six Commission members to vote in favor.

10. Water Storage Investment Program: Sites Project Update

Jerry Brown, Executive Director of the Sites Project Authority, provided an overview of the proposed Sites Reservoir Project, which has received a Maximum Conditional Eligibility Determination (MCED) from the Commission's Water Storage Investment Program (WSIP), and updated the Commission on the project's current status and progress. He said the project has broad statewide participation, and a recent value planning effort resulted in a smaller project that is more affordable, permissible, and buildable while still delivering the public benefits promised in the initial application. The smaller footprint has less environmental effect and has eliminated a controversial piece of conveyance infrastructure. The project provides climate change resiliency by capturing excess rain flows instead of snow melt, provides storage for water management flexibility, and allows other reservoirs to optimize cold water pools for environmental purposes. The project is nine years from operational completion. During the next two years, the project team will be focused on permits and water rights. The team is currently working to meet the January 1, 2022 WSIP deadline requirements, and continuing to engage with landowners, tribes, NGOs, and local communities.

Commissioner Cordalis asked about the project's impact on the salmon population on the Klamath and Sacramento rivers, and how diversions for this project would impact water temperature in the Trinity River, which would impact migrating salmon in the Klamath. Mr. Brown said that the smaller project cut diversions in half and adjusted diversion criteria so that all aquatic effects are less than significant. The program is very protective of salmon and all fisheries, adding an adaptive management program with fish monitoring. They will only be diverting water coming in downstream with no effect on flows into the Trinity River system or movement of water by the U.S. Bureau of Reclamation (USBR) from the Trinity Reservoir to the Sacramento system. It is isolated and independent of the Klamath system, and everything will be addressed in the Environmental Impact Report (EIR).

Commissioner Makler asked for more details regarding permits, the agencies they are interacting with on the state and federal level, and sources of federal funding. Mr. Brown said they work with the State Water Resources Control Board (SWRCB) on water rights, as well as with water rights holders DWR and USBR. Two critical permits are the Biological Opinion issued by U.S. Fish and Wildlife and National Marine Fisheries Services, and the Incidental Take Permit issued by the California Department of Fish and Wildlife (CDFW). They have received \$24 million in funding so far from the Water Infrastructure Improvements for the Nation (WIIN) Act program.

Commissioner Curtin assured Commissioners there was extremely robust discussion on impacts to fish species during allocation process for this project, and there was a substantial reduction from the original request based on some of these issues. He liked the idea of coordination with Shasta and Oroville and potentially Folsom, so cold water can be used more effectively to protect fish species. Commissioner Curtin expressed his concern about the effect the pandemic has had on the water agencies that make up the Sites project team, and asked if any thought was being given to utilizing a pumped hydro program for energy. Mr. Brown said the pandemic and drought have affected local agencies, mostly on the agricultural side. The early funding agreement specifies a \$40 million cap and they are projecting to have spent that by mid-2022. Mr. Brown asked if the Commission would consider increasing that cap. Pumped hydro was in the original project plan, with a billion-dollar cost, and was cut during the value planning effort.

Commissioner Steiner asked if all water agencies participating in the project have a commitment to a storage amount and if there is a requirement that every agency put in water for storage each year. Mr. Brown said each of the 23 agencies is allocated an amount of storage space and water proportionate to their investment in the project, and there will be a trading system among the participants.

Commissioner Arthur asked what he meant by “continuing to support the state’s MCED,” and how are the public benefit contracts going. Mr. Brown said the smaller project will fully meet the MCED benefits and values awarded to them, providing \$816 million worth of public benefits. They are in the early stages of public benefit contract discussions with CDFW and DWR. They expect agreements to come together by mid-2023, and the final EIR will help inform them. They are trying to figure out how to pay for operations and maintenance costs.

Commissioner Solorio asked how they might raise the non-public benefit dollars. Mr. Brown said they are doing current funding through cash advances from local agencies, are engaged in discussions for local cost share commitments as a financing plan, and looking to secure low-interest loans from the federal government, like U. S. Department of Agriculture and Water Infrastructure Finance and Innovation Act. Ultimately, the private financing will be long-term bonds.

Vice Chair Swanson said these projects speak to flexibility and without it, nothing changes or gets better, and encouraged Mr. Brown to continue to look to technology to inform how they

can operate in the future and mitigate concerns. Mr. Brown said flexibility is to the 21st century as yield was to the 20th century when it comes to our water infrastructure.

Chair Alvarado asked Mr. Brown if the infrastructure bill would help with operations and maintenance costs, and asked Commission staff how the Sites timeline matches up with the program's timeline for January 1, 2022 and beyond. Mr. Brown said they are actively engaged with their congressional delegation to address operations and maintenance costs. Executive Officer Yun said that all applicants are currently focused on getting Commission staff what staff needs to meet the statutory deadline. The Sites draft EIR is timed so they can meet the deadline. After January there will be a big push from applicants to fulfill the statutory requirements for the final award hearing.

11. Water Storage Investment Program: Los Vaqueros Reservoir Expansion Project Update

Marguerite Patil, Assistant General Manager, Policy and External Affairs with the Contra Costa Water District (CCWD), provided an overview of the Los Vaqueros Reservoir Expansion Project and updated the Commission on the project's current status and progress. The project is an off-stream earth-filled dam, and all water comes from the Delta. Project components include expanding the reservoir, upgrades to the transfer facility, enhancing the conveyance pipeline and pump station, and adding recreational trails, a marina, and an interpretive center. The project team is updating and expanding on existing permits, not starting from scratch. CCWD holds the water rights already. The project will increase water supply and water reliability. Public benefits include increased water supply for wildlife refuges and improved survival of migrating salmonids, emergency response, and enhanced recreational opportunities. CCWD and local agency partners are forming a JPA whose role is to enter into public benefit contracts and the WSIP final funding agreement. The final EIS/EIR was completed in 2020. The final feasibility report met federal requirements. CCWD is updating existing state and federal permits. Ninety percent design has been submitted for the Division of Safety of Dams' review. Actively pursuing federal funding through the WIIN Act and infrastructure bill. CCWD will meet the January 1, 2022 deadline by September and expect a final award in summer 2022.

Commissioner Cordalis asked about the project's impact on the Delta environment and Sacramento River salmon, and their contractual discretion to facilitate flexibility. She was told that extensive analysis of their operations has exceeded expectations and they have a good track record of not impacting protected species. They work with state and federal agencies to schedule the timing of their deliveries to avoid impacts.

Commissioner Makler asked about the JPA formation, and if they see this as facilitative of other storage projects down the road. He was told that they do see this as linked to other partnerships; the future is regional and there is a lot of untapped potential out there.

Commission took a lunch break at 12:15.

12. Water Storage Investment Program: Eligibility Requirements

This item was deferred to a future meeting.

13. Water Trading: Panel Discussion on Markets and Groundwater Trading

As part of the Commission's consideration of well-managed groundwater trading programs to support Water Resilience Portfolio Action 3.6, a panel of speakers discussed why markets may be considered by Groundwater Sustainability Agencies (GSAs), what groundwater trading entails, and how it is connected to water accounting, allocations, and sustainable groundwater management. Assistant Executive Officer Jensen said the Commission's work will be future looking and not timely for the current drought, will focus on groundwater trading within basins, will help inform the data tool, and will produce a white paper.

Dr. Newsha Ajami, Director of Urban Water Policy and Senior Research Scholar at the Stanford Woods Institute for the Environment, talked about the need for innovative management approaches and governance strategies to enable the water sector's equitable and climate resilient transition, described how the acid rain cap and trade model works, and explained water quality trading on a more local scale, and how to design an effective policy framework to increase regional resiliency. She described how the Water Diversification Standard virtual credit trading model can improve access and equity across regions while reducing reliance on a common source of water. Trading of diversification credits is more effective than inflexible regulations. Coordination leads to cost-savings and more effective planning than independent decisions. Keys to success are regional caps, limited credits, flexibility to develop local solutions, credit banking option, active monitoring system, and penalty or fine to guarantee action by all.

Steven Springhorn, DWR's Acting Deputy Director of Statewide Groundwater Management, talked about safeguarding groundwater interests in water trading, including agriculture, drinking water, businesses, and the environment. The Sustainable Groundwater Management Act (SGMA) provides for a framework for groundwater trading by establishing local control for managing groundwater and sustainability indicators for measuring sustainable groundwater use. Groundwater Sustainability Plans (GSPs) provide a foundation for trading by establishing sound water budgets. Trading will need good data, well registration, water use and accounting, water allocation, equitable opportunities, and verifiable trades. SGMA activities that support water trading include outreach, guidance, and technical data and tools. DWR supports development of a transparent groundwater accounting platform and helpful tools for local control and standardization. Markets may be helpful for managing groundwater sustainably, but are not required.

Dr. Christina Babbitt, Senior Manager of the California Groundwater Program at Environmental Defense Fund, said water accounting is the foundation of sustainable groundwater management. Overdraft conditions will require GSAs to impose reductions in pumping and establish groundwater allocations. Trading is one important strategy for more flexibility for managing scarce water resources. Well-designed water trading programs are only as good as their governance systems. She described the accounting platform they developed with Rosedale-Rio Bravo District and a modeling scenario that shows how a water trading program can affect groundwater levels, and said there are some ecological communities or species that

depend on groundwater and must be accounted for. She proposed considerations including the role of the state, stakeholder engagement, protection of wildlife, and oversight of programs.

Aaron Fukuda, interim General Manager for the Mid-Kaweah Sub Basin Groundwater Sustainability Agency, described their Water Marketing Strategy. Kaweah Sub Basin is critically over drafted; they submitted their GSP in January 2020. Mr. Fukuda explained that their water accounting framework is used as a basis for allocations and that their groundwater management actions include groundwater recharge basins, on-farm recharge, surface water storage projects, and groundwater markets, all of which are dependent upon surface water. Trading is localized such that it will not impact local groundwater levels. The market is for Kaweah Sub Basin, not to monetize water for investment by outside interests. Groundwater markets will not solve all problems; each GSA will determine their interest to implement a market as a management action of the GSP.

Eddie Ocampo, Director of Community Sustainability at Self-Help Enterprises, offered considerations and suggestions for water markets, including key steps to implementing them, such as understanding baseline conditions; setting equitable and fair allocations; establishing trading rules, incentives, and best practices; developing a monitoring protocol and system of triggers; and establishing a transparent trading platform. Possible actions include establishing a pumping cap and set-aside amount of groundwater for drinking water, subsidizing market rates for unanticipated needs, incentivizing groundwater recharge projects, and building mechanisms into the system that allow for flexibility to adjust over time to changing climatic conditions.

Commissioner Makler asked about the purpose of groundwater trading markets and if they can create a price signal for investment decisions. Dr. Ajami said that, if thought of as an economic market, then price is the only signal that drives movement, but a trading platform has other opportunities in place. Local realities sometimes overpower the economic value; think of it as collaborative, coordinating actions. Commissioner Makler then asked Mr. Fukuda if they are allowing financial interests to participate and how are they valuing future allocations. He was told that localization is the primary principle; monetizing water is not the goal. Allocations are misleading; SGMA only cares about groundwater levels. GSAs and the SWRCB can ultimately hold everybody accountable.

Vice Chair Swanson said that we are here to solve the problem, and we want to be careful along the way to not create a purely financialization model around the situation. The state has regulated surface water for 130 years, but has never regulated groundwater until now.

Commissioner Arthur said that safeguards need emphasis, and asked where within SGMA are there missing triggers, and where do we not have appropriate safeguards. Mr. Springhorn said SGMA is very outcome based, and the outcome is sustainability and avoidance of undesirable results. Sustainable management criteria provides a warning light and triggers when an undesirable result occurs in-basin. Mr. Ocampo was not sure if those safeguards are there. Dr. Babbitt said you need to have robust monitoring systems in place and monitor levels regularly to understand cumulative impacts.

Commissioner Steiner voiced concern over the potential for monetizing groundwater. Dr. Babbitt did not think the goal of this program is to monetize, it is more about sustainability. Dr. Ajami said the idea is not to bring water from outside but be all-inclusive within the same basin. It is critical to not augment with outside water, but to make the basin self-sustainable. Transparency and data are key, and everyone should be monitored.

Commissioner Gallagher asked about those that do not want to be monitored. Mr. Fukuda said SGMA changed the culture. If you cannot meter, the market is not available to you.

Commissioner Solorio said regarding safeguards, data needs to be consistent, must be easy to understand, and readily available and usable by lay people.

Chair Alvarado mentioned the distrust in government and industry because of inequitable treatment to disadvantaged communities, how we must change our behavior to get to sustainability and resilience, and good data and monitoring will ensure and enforce appropriate management, and not result in a free-for-all for trading groundwater. Dr. Ajami said one problem is the use of different baselines and climate projections. We do not have very good measures in place currently to make sure everyone has access to clean water.

Commissioner Makler said the social goal is important and described a potential trading scenario within a basin.

14. Consideration of Items for Next California Water Commission Meeting

The next meeting of the Water Commission is scheduled for July 21, 2021, when the Commission will hear a State Water Project briefing on storage and conveyance infrastructure, asset management, and dam safety; learn the results from a small-group discussion on water trading; hear updates on the SB 49 emissions reduction study; and discuss WSIP eligibility requirements.

15. Adjourn

The Commission adjourned at 3:46 p.m.