



Meeting Minutes

Meeting of the California Water Commission

Wednesday, December 15, 2021

Remote Meeting

Beginning at 9:30 a.m.

1. Call to Order

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

2. Roll Call

Executive Secretary Kimberly Muljat called the roll. Commissioners Alvarado, Arthur, 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 November 17, 2021 Meeting Minutes

Commissioner Gallagher motioned to approve the November 17, 2021 meeting minutes. Commissioner Solorio seconded motion. All Commission members voted in favor.

5. Executive Officer's Report

Executive Officer Joseph Yun said the Commission received many comment letters for this meeting and staff was able to post most of them on the website yesterday. Those that came in late were forwarded to Commission members and will be posted after this meeting. Staff will present the 2022 workplan at the January meeting. Staff will present the draft State Water Project (SWP) 2021 Review in February. Staff will present the draft Groundwater Trading White Paper in January, allow a month for public comment, and finalize it in March. The Department of Water Resources (DWR) was given money through the budget process and opened their subsidence of existing infrastructure program, which is consistent with conclusions from the Commission's Conveyance White Paper. The Commission received a letter from the Secretaries of Food and Agriculture, Environmental Protection, and Natural Resources asking the Commission to assist with Water Portfolio action 26.3, related to developing long-term strategies to protect communities and wildlife that could be used in a sustained drought scenario. This will be part of the January workplan discussion. Staff is making plans for in-person meetings beginning in February.

6. Commission Member Reports

Commissioner Makler, in his day job capacity, attended two Bay Area Council meetings, the November 30 update on the Bay Delta Plan and the December 3 Water and Climate Resilience subcommittee meeting, where proponents of the Water Infrastructure Funding Act of 2022 solicited support. Commissioner Arthur was part of a panel at the Association of California

Water Agencies (ACWA) fall conference and discussed the Commission's role in groundwater trading.

7. Public Testimony

Public comment from Malinalli Calli who said we need to save the Del Puerto Canyon, it is not feasible to build a dam there, a dam will ruin the ecosystem and harm Native American burial grounds and will not bring any jobs or money to the area.

Public comment from Isaac Kinney who would like the Commission to include more indigenous-led research programs, partnerships, and institutions on infrastructure projects.

Chair Alvarado reminded attendees that items 8 through 11 relate to Water Storage Investment Program projects that received Maximum Conditional Eligibility Determinations (MCEDs) in 2018 and the current Commission is not awarding any funding today; the projects must all meet multiple additional statutory requirements first. Public comment will be limited to three minutes. If it appears many people will be commenting on the same item, the Commission may shorten the comment time to two minutes after a substantial number of commenters have gone.

8. Water Storage Investment Program: Kern Fan Groundwater Storage Project Continuing Eligibility and Feasibility Determination (Action item)

Water Storage Investment Program (WSIP) Program Manager Amy Young presented the staff recommendation regarding the Kern Fan Groundwater Storage Project feasibility consistent with WSIP regulations, and as required by Water Code §79757, for the Commission's consideration. This project is promoted by its applicant, the Groundwater Banking Joint Powers Authority. By January 1, 2022, feasibility studies must be complete, draft environmental documentation must be available for public review, the DWR Director must receive commitments for not less than 75% of the non-public benefit cost share of the project, and the Commission must find the project is feasible and will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta. The five categories of feasibility are technical, environmental, economic, financial and constructability. A review of project operations, engineering designs, costs and construction methods found the project can be technically and physically constructed and operated. A review found that potentially significant impacts of the project will be mitigated, a Mitigation Monitoring and Reporting Program was adopted in 2020, and documentation shows environmental feasibility. A review of all benefits and costs found the benefits exceed costs, showing the benefit to cost ratio is greater than one, showing economic feasibility. A review found funds from all sources are sufficient to cover all costs, costs allocated to non-public beneficiaries are consistent and do not exceed benefits received, and documentation shows financial feasibility. Both draft and final environmental impact reports (EIR) were released in 2020. The Director of DWR received a letter of commitment and supporting documentation for 75 percent of the non-public benefit funding on November 5, 2021. Statutory requirements were met. Based on review of documents received, staff recommended the Commission find the project feasible.

Public comment from Sydney who asked if this project captures water by rain harvesting. Kern Fan Program Manager Fiona Sanchez said they capture water that would otherwise not be able to be stored in reservoirs that are filled to capacity in wet years, divert it into recharge basins, and make it available in dry years.

Commissioner Curtin asked how long the percolation process takes after a heavy flow capture and how many acre-feet are captured. Dan Bartel, Rosedale-Rio Bravo Water Storage District Engineer-Manager, said three to nine months, and about 100,000 acre-feet.

Commissioner Steiner asked if there was acceptance of the incremental cost of providing takeaway water to Irvine Ranch. Ms. Sanchez said Metropolitan Water District (MWD) provides them a credit, so \$150 is not always necessarily applied.

Chair Alvarado entertained a motion to find the project feasible and adopt a supporting resolution to that effect. Commissioner Solorio moved to accept the motion and Commissioner Steiner seconded the motion. All Commission members voted in favor.

9. Water Storage Investment Program: Willow Springs Water Bank Conjunctive Use Project Continuing Eligibility and Feasibility Determination (Action item)

WSIP Program Manager Amy Young presented the staff recommendation regarding the Willow Springs Water Bank (WSWB) Conjunctive Use Project feasibility consistent with WSIP regulations, and as required by Water Code §79757, for the Commission's consideration. This project is promoted by its applicant, the Southern California Water Bank Authority. A review of project operations, engineering designs, costs and construction methods found the project can be technically and physically constructed and operated. A review found that the EIR and Addendum identified significant impacts, additional California Environmental Quality Act (CEQA) documents for Antelope Valley-East Kern Water Agency (AVEK) facilities indicated no significant impacts, and a Mitigation Monitoring and Reporting Plan was adopted, showing environmental feasibility. The project's facilities, costs, and water source have changed since application. In a review that included staff-adjusted calculations, benefits exceed costs showing the benefit to cost ratio is greater than one, showing economic feasibility. A review found project costs are much less for the current project and the applicant's commitment to pay its cost share shows financial feasibility. A draft EIR was released in 2006, an Addendum to the EIR was released in 2018, initial studies and mitigated negative declarations were released in 2014 and 2018. The DWR Director received a letter of commitment and supporting documentation for 75 percent of the non-public benefit funding on December 2, 2021. Statutory requirements were met. Based on documents received, staff recommended the Commission find the project feasible.

Public comment from Isaac Kinney who said, based on lack of treaty law, the state does not hold full legal title of this project, and planning documents do not address the adverse effects to surrounding indigenous communities, including cultural impacts, natural impacts and impacts on economic well-being to sovereign nations.

Commissioner Makler asked for confirmation that 100 percent of capital costs will be covered by WSIP funding, and operations and maintenance (O&M) costs are covered by AVEK. WSWB General Manager Mark Beuhler said there will be no spillover onto AVEK ratepayers. Revenue generated from surplus water will pay for O&M costs. Makler said a greater description of the project-cost ratio would be needed for the final funding decision.

Commissioner Steiner asked about staff's concern with MWD having first rights for capacity and was told all projects would have to address staff concerns and have all agreements worked out before the final funding decision.

Commissioner Curtin asked how much water they expect to store in the combined water banks, is the source the California or Los Angeles Aqueduct, how long does it take to percolate, and how much would be captured in a high flow. He was told that all water is from the SWP, they can store potentially 70,000 acre-feet/year, with 8,400 acre-feet/year on average going to fish, currently operational percolation ponds get about a foot or two of recharge a day, and capture is dependent upon reservoir storage capacity. They will also have on-site storage.

Commissioner Arthur asked staff to explain the 2018 finding around Delta benefits. Ms. Young said the Commission verified physical public benefits, monetized their value, and the Commission made MCEs based on the ecosystem and water quality benefits accepted by the administering agencies. The benefits that determination was made on are still there. She asked the applicants if pulse flows are designed for when fish need it most. GEI Project Manager Mark Ashenfelter said releases will be in the spring of dry and critical years, for three consecutive years.

Chair Alvarado said public benefits and ecosystem benefits are what the state is investing in with this program, and it is important to frame the conversation around it. She then entertained a motion to find the project feasible and adopt a supporting resolution to that effect. Commissioner Curtin moved to accept the motion and Commissioner Steiner seconded the motion. All Commission members voted in favor.

The Commission took a 10-minute break.

10. Water Storage Investment Program: Sites Project Continuing Eligibility and Feasibility Determination (Action item)

WSIP Program Manager Amy Young presented the staff recommendation regarding the Sites Project feasibility consistent with WSIP regulations, and as required by Water Code §79757, for the Commission's consideration. This project is promoted by its applicant, the Sites Project Authority. A review of project operations, engineering designs, costs and construction methods found the project can be technically and physically constructed and operated. A review found that significant impacts for the project can be mitigated, significant and unavoidable impacts were identified, and a Statement of Overriding Considerations (SOOC) will be prepared, showing environmental feasibility. There were changes to the dam size and facilities since the application was submitted, and based on a review, benefits exceed costs showing the benefit to cost ratio is greater than one, showing economic feasibility. A review found funds from all

sources are sufficient to cover all costs based on the applicant's financial plan, costs allocated to non-public beneficiaries do not exceed benefits received, and documentation shows financial feasibility. A revised draft EIR and supplemental draft were released for public review in November 2021. The DWR Director received a letter of commitment and supporting documentation for 75% of the non-public benefit funding on November 5, 2021. Statutory requirements were met. Based on documents received, staff recommended the Commission find the project feasible. Staff noted that the Commission has received public comments on this item, and they have been posted on the website and included in Commissioner packets.

Public comment from Barry Nelson of the Golden Gate Salmon Association, who opposed the project, saying it is not environmentally feasible and will cause negative impacts to bypass flows and Chinook salmon runs.

Public comment from Jim Brobeck, AquAlliance, who opposed the project, saying it is not environmentally feasible and will cause negative impacts to surface water quality.

Public comment from Andrew Meredith, President of State Building and Construction Trades Council of California, who supported the project because of the economic benefit in its employment of local workers and said it meets the state's climate change goals.

Public comment from Regina Chichizola, who opposed the project because the EIR was rushed and it will cause negative impacts to fisheries, bypass flows, and water quality, and said that Tribal representatives are supposed to be allowed to speak first, and that consultation has not been done for most of the Tribes in California that will be affected.

Public comment from Sydney who opposed the project due to negative environmental impacts to numerous species, communities of color, and indigenous communities.

Chair Alvarado said she was unable to identify Tribal representatives in the queue, but if staff were able to identify them, they could move them to the front of the line.

Public comment from Steve Evans, Rivers Director for California Rivers Coalition, who opposed the project because there is no excess water in the Sacramento River water system, and it will cause negative impacts to fisheries and Sacramento River riparian habitat.

Public comment from Sheridan Noelani Enomoto from Save California Salmon, who opposed the project because it is not environmentally feasible and will negatively impact Native American Tribal burial grounds, ceremonial sites, salmon fishing, and drinking water quality.

Public comment from Margo Robbins from the Hurok Reservation, who opposed the project because it is not environmentally feasible and will negatively impact salmon fisheries and Native American natural and cultural resources. Its only public benefit is to big agriculture.

Public comment from Cecilia who opposed the project because it is not economically, financially, or environmentally feasible, will not improve the Delta's ecological health or provide

water for local communities, and will negatively impact ecosystems, wildlife diversity, and people by releasing hot, polluted water to the Delta.

Public comment from Jo Coffey who opposed the project because it will negatively impact wetland and woodland plant and animal species, drown Native American cultural sites, and disrupt salmon and other fish species.

Public comment from Erin Woolley from the Sierra Club, who opposed the project, saying it is not environmentally feasible, will not provide any benefits to the Delta, and will cause negative impacts to local burial grounds and habitat.

Public comment from Robert Kunde from Wheeler Ridge Maricopa Water Storage District, who supports the project and said many of the statements made in opposition are lacking in basis. Climate change will result in an increase in winter flows and flooding, and Sites will divert those flows and release them in dry periods to benefit salmon runs and the environment.

Public comment from Adrian Covert from the Bay Area Council, who supports the project and said it will provide 1.5 million acre-feet of badly needed storage, the right sizing of the dam was responsive to public feedback, and the current project provides the state with competitive public benefits.

Public comment from Dan Bacher who opposed the project, saying it is not environmentally feasible and will cause negative impacts to the salmon population and the Trinity and Klamath Rivers, will not benefit the ecosystem, will cause the Sacramento River to be overdrafted, and would divert more water to San Joaquin Valley agri-business.

Public comment from John Armstrong, who opposed the project because of the human disease reactions from water degradation, and the push for Sites is nothing but imperialism from MWD, international Central Valley agri-business, the U.S. Bureau of Reclamation, and legislature-enabled international civil engineering firms that specialize in dam building.

Public comment from Assemblyman James Gallagher, who supports the project because it has been studied for many years; the latest analysis shows it is an environmentally feasible project; will provide for farms, cities, and the environment; will expand smart surface water storage; provides operational flexibility; and was recognized in the Governor's Water Resilience Portfolio. A letter of support was signed by a bi-partisan group of 22 state legislators.

Public comment from Amelia, who opposed the project on behalf of her students, saying fisheries and nature are not protected with this plan, and nature and community should be prioritized over profits and corporations.

Chair Alvarado said that the time limit for comments would be adjusted to two minutes after Mr. Warren, who had been in the queue for some time.

Public comment from Ronald Stork from Friends of the River, who opposed the project, saying there are still significant environmental and financial feasibility issues. He said the applicant's

briefings with project skeptics was paid for by early funding dollars, and a letter was submitted in opposition signed by 13 organizations.

Public comment from Katy Wagner, who opposed the project, saying it will cause negative impacts to wildlife habitat, salmon, Native American culture, and 41 prehistoric sites are subject to destruction. The public benefits are not substantiated and violate WSIP regulations. It is another example of colonization and exploitation of indigenous people.

Public comment from Sheree Norris from California Indian Environmental Alliance, who opposed the project, saying it will cause negative impacts to the Delta, salmon production and indigenous people, and we need the EIR and EIS completed before a decision is made.

Public comment from Dierdre Des Jardins was cut off due to technical difficulties, but was told she will keep her place in line once she reconnects. Chair Alvarado reminded the public that following Mr. Warren there will be a two-minute time limit on speakers.

Public comment from Jan Warren from Save the Delta, who opposed the project, saying it will cause negative impacts to the salmon population and Native American burial sites. More water going south will lead to more almond growers, and a river cannot remain healthy if water continues to be drawn from it.

Public comment from Dierdre Des Jardins from California Water Research, who opposed the project, saying there is not enough scientific information being presented to the Commission, the bypass flows proposed are too low, and are not driven by appropriate flow criteria necessary for salmon. Do not automatically assume there are Delta benefits.

Chair Alvarado reminded the public of the two-minute time limit going forward.

Public comment from Ashley Overhouse, Friends of the River, who opposed the project, saying it is not environmentally feasible and will not advance the long-term objectives of the Delta. The Save California Salmon online petition has 48,000 signatures in opposition.

Public comment from Malissa Tayaba, Vice-chair of Shingle Springs Band of Miwok Indians, who opposed the project, saying it will further diminish the Delta ecosystem and will have a direct impact on the health and life expectancy and future of their Tribe.

Public comment from William M. Martin, who opposed the project because the Bay Delta Water Quality Plan Update will require increased flows through the Delta and the Sites Project will stand in the way.

Public comment from Vivian Helliwell, Watershed Conservation Director of Pacific Coast Federation of Fishermen, who opposed the project, saying it is not environmentally feasible and will cause negative impacts to salmon from the Sacramento and Klamath River systems.

Public comment from Keiko Mertz from South Yuba River Citizens League, who opposed the project, saying it is not a sustainable solution to water security and will contribute to the erasure of Native American values and culture.

Public comment from Krystal Moreno, Program Manager for Traditional Ecological Knowledge for the Shingle Springs Band of Miwok Indians, who opposed the project saying true and meaningful Tribal consultation has not occurred, and her Tribe was not consulted at all.

Public comment from Isaac Kinney, who opposed the project, saying it will cause negative impacts to salmon and take water without the consent of indigenous people. It is unstable, obsolete infrastructure, using unstable, obsolete financing.

Commissioner Alvarado asked staff to speak to the vetting of the ecological benefits and efforts taken to validate the feasibility of the project. Ms. Young said the projects are still early on and have not gone through the full EIR process. Staff has looked at the potential impacts, but the administering agencies still need to enter into contracts with applicants to show these public benefits can happen. Permits and water rights still need to be completed before final funding.

Commissioner Curtin asked how much water north of the Delta would be used in the Sites Reservoir. Jerry Brown, Executive Director of the Sites Project Authority, said of the local participant share, about 25 percent of the water supplies are slated for north of the Delta.

Commissioner Arthur asked about changes to the public benefits that result in a significant decrease in deliveries to refuges, and how do they account for the cost as well as the benefit. Mr. Brown said it was because of the changes to the size of project, and they tried to assign benefits that achieve the level of value of the state's contribution. They will dedicate 250,000 acre-feet for environmental purposes. In developing a project cost estimate, it is inclusive of all mitigation efforts to the impacts identified in the EIR.

Commissioner Makler asked about the timing of regulatory and environmental approvals, and at what point in the process can the public engage. Mr. Brown said the public comment closes mid-January, with a six- to seven-month period to address the comments, concluding in late summer, followed by permits, water rights, and final design, with start of construction in 2024.

Commissioner Steiner asked what has been done to reach out to Tribal entities, and what further discussion is planned. Mr. Brown said they reached out to 14 Tribes in the project's footprint and sent out a wider net of coordination request letters but have not gotten any additional responses to date.

Commissioner Solorio asked what changes will be made to improve or modify the environmental documents, and Mr. Brown said they are looking at continued mitigation.

In addition, Mr. Brown said the Sites Project will not solve all the problems we face and will continue to face, but if we do nothing things will get worse. Sites represents a step forward, and many see eye-to-eye on what Sites is trying to do but differ on how to approach solving

some of the problems. Sites meets Proposition 1 requirements in all regards. The recirculated EIR demonstrates that the Sites team heard comments and made the adjustments.

Chair Alvarado reminded attendees that the Commission is not awarding any funding today.

Commissioner Steiner said the Commission is following a process set up by the Legislature, and it does not require the EIR or public benefit contracts to be complete. Commissioners are looking at a very limited number of things in making today's determination.

Commissioner Curtin said a lot of people feel this is such a slow process and ask why Proposition 1 is taking so long to get the projects off the ground.

Chair Alvarado entertained a motion to find the project feasible and adopt a supporting resolution to that effect. Commissioner Gallagher moved to accept the motion and Commissioner Curtin seconded the motion. All Commission members voted in favor.

The Commission took a 30-minute lunch break.

11. Water Storage Investment Program: Pacheco Reservoir Expansion Project Continuing Eligibility and Feasibility Determination (Action item)

WSIP Program Manager Amy Young presented the staff recommendation regarding the Pacheco Reservoir Expansion Project feasibility consistent with WSIP regulations, and as required by Water Code §79757, for the Commission's consideration. This project is promoted by its applicant, the Santa Clara Valley Water District (Valley Water). A review of project operations, engineering designs, costs and construction methods found the project can be technically and physically constructed and operated. The feasibility study includes a Sensitivity Analysis Alternative because of DWR's Division of Safety of Dams review of the proposed hardfill dam concept. A review found that significant impacts and mitigation measures were identified and the applicant anticipates filing a SOOC, and documentation shows environmental feasibility. The project location, cost and the economic benefits claimed have changed since application. Based on a review as adjusted by staff, benefits exceed costs showing the benefit to cost ratio is greater than one, showing economic feasibility. A review found that Valley Water's strong financial base, ability to pay for the project, and the commitment to pay for a substantial share of costs allocated to ecosystem benefits shows financial feasibility. A draft EIR was released for public review in November 2021. The DWR Director received a letter of commitment and supporting documentation for 75% of the non-public funding on November 19, 2021. Statutory requirements were met. Based on documents received, staff recommended the Commission find the project feasible. The Commission has received public comments on this item, and they have been posted on the website and included in Commissioner packets.

Public comment from Katja Irvin from the Sierra Club Loma Prieta Chapter, who opposed the project, saying they are concerned about extensive environmental and biological impacts, overstated benefits, and an increase in water rates. There are less costly and less environmentally damaging options available.

Public comment from Christophe LaBelle of the Silicon Valley Group, who supports the project and said the reservoir expansion will ensure the continued prosperity of the region.

Public comment from Marjan Kris Abubo, U.C. Davis law student, who opposes the project, saying it will cause unavoidable impacts to low-income communities of color, is detrimental to ecosystem health, the public benefits are small, and the hypothetical improvements claimed should be approached with skepticism.

Public comment from Alvaro Casanove of the California Native Plant Society, who opposed the project saying they are concerned about adverse impacts on rare plant species and habitats.

Public comment from Anna Sciaruto of the Bay Area Council, who supports the project because it will provide a drought resilient, south-of-Delta emergency water supply to the Bay Area.

Public comment from David Bini of the Santa Clara and San Mateo Counties Building and Construction Trade Council, who supports the project because the region is in a water shortage emergency, and this infrastructure project will provide 21,000 local, well-paying jobs.

Public comment from Don, a reporter, who asked if some of the water that will potentially be in Sites will end up in Pacheco if both are funded.

Public comment from Kat Wilson, Climate and Sustainability Policy Advisor speaking on behalf of San Jose Mayor Sam Liccardo, who opposed the project, saying there is concern in the cost benefit analysis, and it will not provide more water or expand our water supply.

Public comment from William L. Martin, who opposed the project, saying the environmental impact is much greater than any supposed benefits, it will result in the loss of acres of oak and sycamore forests and riparian habitat, and the cost has been understated.

Public comment from Ronald Stork, from Friends of the River, who opposed the project, saying the project encountered seismic difficulties, and the new reservoir would go in Henry Coe State Park, which would be illegal, making it infeasible.

Public comment from Ashley Overhouse, from Friends of the River, who opposed the project, because it is not legally, economically, financially or environmentally feasible. It will not improve the water supply in the South Bay. She also referenced Professor Jeff Michael's letter attached to the Stop Pacheco Dam letter.

Public comment from Molly Culton, Sierra Club California, who opposed the project, saying it fails to provide public benefits and will result in extraordinary rate increases.

Public comment from Meg Giberson, who opposed the project, saying it will cause negative environmental impacts, the costs and impacts are greater than can be justified, and it will not provide measurable improvement to the Delta.

Chair Alvarado said that speakers will move to a two-minute time limit after Mr. Middlemiss.

Public comment from Jeremy Smith from the State Building and Construction Trades Council, who supports the project and seconded David Bini's comments.

Public comment from Amelia, speaking for her students, who opposed the project, saying it is a waste of money and she will yield the rest of her time to Regina Chichizola.

Public comment from Regina Chichizola of Save California Salmon, who opposed the project, saying there are concerns with transfers of water from the Delta, carryover storage in the upper Sacramento watershed, and water quality in the Bay Delta. The treatment of the Shingle Springs Tribal leader was outrageous and unacceptable.

Public comment from Ross Middlemiss, from the Center for Biological Diversity, who opposed the project, saying it will destroy hundreds of acres of habitat, and sever habitat connectivity for many threatened species.

Chair Alvarado reminded the public of the two-minute time limit going forward.

Public comment from Scott Cashen, who opposed the project because of its negative impacts to biological and cultural resources, it will provide only marginal improvement to steelhead habitat, and it has numerous mitigation obligations.

Public comment from Malinalli Calli, from Save the Del Puerto Canyon, who referred to AB275: American Cultural Preservation chapter 167 and said Native American sovereignty has not been considered. All indigenous Tribes in California must be respected.

Public comment from Margo Schueler, who opposed the project, saying urban water loss is only beginning to be tracked and quantified. The state must address current losses within the existing water system before discussing the need to capture more wild water.

Public comment from Osha Meserve from the Stop Pacheco Dam Coalition, who opposed the project, saying they submitted 233 letters in opposition, it is a different project than the one proposed in 2017, it is a different Commission, and it is a bait-and-switch by Valley Water.

Chair Alvarado suggested staff ask other state agencies how they identify Tribal commenters.

Chair Alvarado asked about the change to the benefits, what was shared at April's Valley Water Board of Directors meeting, the consistency determination concerning State Park lands, and staff's vetting of the project's financial and environmental feasibility. Ms. Young said projects are in early stages and regulations require applicants to identify potential impacts and whether they can mitigate them or adopt SOOCs. The administering agencies still need to enter into contracts with applicants to show these public benefits can happen. Steve Hatchett, economic consultant to the Commission, said when reviewing economic and financial feasibility, they follow requirements listed in the regulations and do not dig down into rate-making policy and cost distribution. They look at whether the applicant has demonstrated and obligated itself and shown an ability and willingness to pay an aggregate for their share of the costs, and his opinion is that they have. Valley Water Engineering Unit Manager Ryan McCarter said they have

analyzed five different alternatives in the EIR. At the April Board meeting, the “no new water supply” statement meant that they are not taking water that comes into the watershed from the creek itself and using that for Valley Water’s benefit. All of that water goes to the steelhead benefit. It is off-stream storage, conveniently located, with 97,000 acre-feet set aside for emergency water supply. It will contribute to water supply reliability. Valley Water conveyed to the California Department of Parks and Recreation that the plan is consistent with the park’s general plan and purpose and the public resources code. There is a three-quarter mile stretch of creek that crosses over the park’s boundary, and it does not inundate any trails or roads.

Commissioner Steiner asked for more information on the single purpose alternative, Dr. Michael’s comments about the benefits being overstated, and the legality of building the reservoir in Henry Coe State Park. Mr. McCarter said they looked at the single purpose reservoir comparison for the steelhead benefit. The infrastructure is needed to provide the cold water and timed releases. In response to Dr. Michael’s comment, he said he did not know what rationale or method was used to calculate the benefit and could not answer in further detail.

Commissioner Arthur asked about the economic feasibility of the single purpose alternative costs used to assess the public benefits. It looks like the increase in construction costs brings up an increase in benefit cost. How does that allow the Commission to assess the economic feasibility? Roger Mann, economic consultant to the Commission, said the alternative cost principle requires that one buy something that is worth more than the cost one is paying. They decided it was a fair judgement at that time. The concern is, he does not know with this alternative cost if the benefit as far as the fish is worth that much money because he does not have information on that.

Commissioner Solorio said if the project did not receive the \$500,000 through the WSIP, that cost would be paid by rate payers. Infrastructure only gets more expensive over time. He asked how committed the current general manager and board are on this project, and was told they are working with the board annually on the rate-setting process. Last year they came up with an 8.6 percent increase without Pacheco, and a 1.1 percent increase on top of that with it. Deputy Director of Dam Safety and Capital Delivery Christopher Hakes said the project is Valley Water’s second priority, and the board is absolutely committed and plans to move forward with it.

Commissioner Makler said the Commission is in a legislatively determined process and must determine if Valley Water provided a set of deliverables that are in statute. A substantial amount of work needs to be done on this project, it is in the beginning of the environmental entitlement process and he would like to hear about the timeline. Ms. Young said the timelines on the Commission website are updated based on the quarterly reports received from the applicants. Mr. McCarter said they have been given approval by U.S Environmental Protection Agency to apply for \$1.3 billion in Federal Water Infrastructure Finance and Innovation Act loans.

Vice Chair Swanson asked how much money the Commission has allocated to this project in early funding. Ms. Young said they received an award for \$24.2 million. Mr. McCarter said they have spent \$12 million of that.

Commissioner Arthur asked how significant the increase in benefit to steelhead is and what is the mitigation cost. Mr. McCarter said Pacheco Creek runs dry most years, and a consistent perennial flow is needed to sustain the steelhead population. The current small reservoir is not managed to control flows very well now; there is not enough water and it is not cold enough. It is a pretty significant increase in benefit. There will be downstream benefits with the increased releases down Pacheco Creek that will benefit some of the other wildlife and botanical species. They are potentially looking to do some preservation projects.

Commissioner Curtin said this is another attempt to store excess water when available and manage it, but the project still does not answer the question of possibly more water. If someone thinks the project provides more water, such as from either desalination or recycled water, then that person is not on the same page. Staff did a good job under difficult circumstances vetting what the applicant is proposing, and he feels comfortable supporting the staff recommendation.

Commissioner Makler told the applicant to utilize this forum to continue the discussion as it goes through the process because these are important questions.

Commissioner Arthur asked about the willingness to pay and the public benefit process. Mr. Mann said alternative cost works when one believes the thing he or she is buying is more valuable than what he or she is paying. There is no willingness to pay for a project that provides flows but no fish. Willingness to pay has to do with having a population of fish. There is not a study that pertains to this type of fish so he really cannot say what the willingness to pay is. Ms. Young said the applicant will put together a contract with the California Department of Fish and Wildlife which will come before Commission in draft stage for review and comment.

Chair Alvarado said, as the Commission moves forward, Commissioners want assurance that the benefits projected are reasonably expected to come to fruition. Ms. Young said the environmental documentation process and the permitting process will tell the Commission a lot about some of these benefits.

Chair Alvarado entertained a motion to find the project feasible and adopt a supporting resolution to that effect. Commissioner Curtin moved to accept the motion and Commissioner Solorio seconded the motion. All Commission members voted in favor.

12. Water Storage Investment Program: Screening Project Feasibility Determination (Action item)

12A. Regional Surface Water Supply Project

WSIP Program Manager Amy Young presented the staff recommendation regarding the Stanislaus Regional Water Authority Regional Surface Water Supply Project, one of two screening projects that met the requirements of Water Code §79757 and, if found feasible and

if determined that the project will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta, would be eligible for WSIP funding should the Commission pursue a second solicitation. Screening information for this project was submitted by the Stanislaus Regional Water Authority (SRWA). Screening projects were not required to perform all analyses outlined in regulations. Information may be limited and staff evaluations show where projects may not currently meet the WSIP Technical Reference requirements. If the Commission chooses to move forward with a second solicitation, an additional set of regulations will be required and any eligible projects would need to submit full applications before receiving an MCED or funding.

The SWRA Regional Surface Water Supply Project is a conjunctive use project in Stanislaus County, currently under construction, scheduled to be operational in 2023. Water is pumped from the Tuolumne River at the new raw water pump station, treated and delivered to the cities of Ceres and Turlock. Potential public benefits include steelhead in the Tuolumne River, and emergency response during drought or infrastructure failures. It would address fish and wildlife beneficial uses identified in the Bay-Delta Plan. It allows for Turlock Groundwater subbasin in-lieu recharge and conjunctive management of surface and groundwater. The draft and final EIR were released in 2018. The DWR Director received a letter of commitment on November 19, 2021. The feasibility study broadly addressed the categories of feasibility. Areas where the feasibility study does not meet WSIP regulatory requirements are noted in the staff report. It is difficult to understand all benefits and costs of the project without a modeling analysis of impacts both with and without project in the context of a larger water system as well as climate scenarios. SRWA would still need to submit a full application with all of the required components at a later date if the Commission moves forward with a second solicitation. The documentation submitted meets minimum statutory requirements although staff cannot make a feasibility recommendation based on WSIP regulations. If the Commission makes both findings, the project could apply to the WSIP in the future and would need to complete a full application. If Commission does not make the findings, the project would not be able to apply under WSIP if a second solicitation occurs.

Public comment from Deirdre Des Jardin, said that Del Puerto Canyon Dam has not done proper modeling and analysis to identify the water sources or impacts on the Delta. The modeling that was done did not use latest current operations which are much more aggressive and have had very negative impacts on fisheries.

Public comment from Jerry Brown who said as the Commission considers new projects, consider that Sites remains the only project in the WSIP that has not been fully funded and has the capability to provide additional public benefits.

Vice Chair Swanson said the Commission would be remiss if it did not consider these two projects. The Commission is very limited and restricted by what it can do from a funding perspective, but new projects should not move ahead of existing projects.

Commissioner Steiner said this project could be fully built before they are through the application process and asked if the Commission would be reimbursing and was told that is correct. She also asked about the beneficial use to the Delta, and was told the applicant was asked to provide a summary of what they believed their public benefits could be and how they might benefit the Delta. The claimed improvements for steelhead and benefits for wildlife fisheries would be reevaluated in the application process.

Commissioner Gallagher said these projects are few and far between, and it is hard to get one off the ground. By joining WSIP are they going to be increasing their costs, is the Commission's program creating a larger burden on the project with increased costs for permits, and is it slowing them down in the middle of construction to be part of this? SRWA representative Monique Day said it should not slow down the project's progress. If the project gets additional funding it will offset the amount of loan money needed and end up saving ratepayers quite a bit.

Chair Alvarado asked why they did not apply for funding earlier and SRWA General Manager Robert Granberg said at the time it looked like a pretty heavy lift but now that they are further down the road they would like to continue down the process. The benefit could be there, and they are hoping for consideration through this process.

Commissioner Makler cautioned the applicants that there is a lot more to do in a second solicitation, and because of the statutory deadline it is important the Commission have backups if other projects fall out.

Chair Alvarado entertained a motion to find the project feasible and adopt a supporting resolution to that effect. Commissioner Makler moved to accept the motion and Commissioner Curtin seconded the motion. Commissioner Steiner asked if they are also making a determination about the Delta benefit. Commission Legal Counsel Holly Stout said yes, this vote is for both the feasibility determination and the Delta benefit, and asked Commissioner Makler if that was his intent when he moved to accept the motion, and both he and Commissioner Curtin said yes. Commissioners Curtin, Gallagher, Makler, Solorio, Steiner, Swanson, and Alvarado voted in favor. Commissioner Arthur voted no. The motion passed.

12B. Del Puerto Canyon Reservoir

WSIP Program Manager Amy Young presented the staff recommendation regarding the Del Puerto Canyon Reservoir, submitted by the Del Puerto Water District and the San Joaquin River Exchange Contractors Water Authority. A regional surface storage project located in Stanislaus County near Patterson, it is an off-stream reservoir with 82,000 acre-feet storage capacity. Construction includes the reservoir, conveyance facilities and relocation of Del Puerto Road and utilities. Potential public benefits include incremental level 4 refuge water supply, riparian benefits, flood control benefits to residential and agricultural areas, and the project would address wildlife habitat beneficial uses identified in the Bay-Delta Plan. The feasibility study submitted was prepared under federal rules and broadly addresses feasibility components. The final EIR was completed in 2020. The DWR Director received a letter of commitment on

November 19, 2021. The feasibility study was prepared for federal funding and deemed technically and financially feasible by the Department of Interior. Areas where the feasibility study does not meet WSIP regulatory requirements are noted in the staff report. It is difficult to understand all benefits and costs of the project without a modeling analysis of impacts both with and without project in the context of a larger water system as well as climate scenarios; and estimated utility and road relocation costs were not as refined as normally accepted for a feasibility study. Benefits and costs of the project would be fully evaluated in a full application process before the Commission would make any funding decision. The WSIP Technical Reference, incorporated into regulations, further defined what would be required for completed feasibility studies which included documentation required for full applications. The Commission has discretion to find the project feasible based on statutory language alone. The Del Puerto Water District and the San Joaquin River Exchange Contractors Water Authority will still need to submit a full application with all of the required components at a later date if the Commission moves forward with a second solicitation. The documentation submitted meets minimum statutory requirements although staff cannot make a feasibility recommendation based on WSIP regulations. If the Commission makes both findings, the project could apply to the WSIP in the future; it would need to complete full application. If the Commission does not make the findings, the project would not be able to apply under WSIP if a second solicitation occurs. The Commission has received public comments on this item, and they have been posted on the website and included in Commissioner packets.

Public comment from Justin Fredrickson from the California Farm Bureau, who said the “no dam anywhere” people are not realistic. Voters spoke very clearly, they want storage, and the Commission needs to deliver that. It is important to leave the door open with these second-tier projects.

Public comment from Christopher Quock, who opposed the project saying it will negatively affect a valuable, tangible resource for teachers, and there is a deficiency in key information areas that threatens the ability of this project to deliver on its promises.

Public comment from Ronald Stork from Friends of the River, who opposed the project saying staff was unable to determine feasibility, as no feasibility studies have been completed.

Public comment from Elias Funez of Save Del Puerto Canyon Group, who opposed the project because environmental studies put forward do not show the full picture, the dam will be built over the San Joaquin fault line, it will produce an inherent flood danger, and Native American cultural sites would be destroyed.

Public comment from Ashley Overhouse from Friends of the River, who opposed the project, saying not all feasibility studies have been completed and the public benefits are to be paid for by federal funds so taxpayers would be paying for the same benefits twice.

Public comment from Julie Rentner who opposed the project saying the project’s flood damage reduction potential does not match the magnitude of flood risk introduced with a dam in this location, and it would negatively impact a sturgeon spawning habitat.

Commissioner Steiner asked to verify the quantity of new water. Del Puerto Water District and San Joaquin River Exchange Contractors Water Authority General Manager Anthea Hansen said the project does have a Department of Interior finding of feasibility. Del Puerto completed a large-scale recycled water project, and the challenge will be making sure there is storage in times of good to protect all that water. San Joaquin River Exchange Contractors Water Authority Executive Director Chris White said they have a conservation and transfer program in place and work with local west side districts that provide refuge supply.

Commissioner Arthur asked about the Delta benefit. Ms. Hansen said they will provide 9,800 acre-feet per year of water to south-of-Delta refuges and will aid healthy wildlife corridors along Del Puerto Creek.

Chair Alvarado entertained a motion to find the project feasible and determine that the project will advance the long-term objectives of restoring ecological health and improving water management for beneficial uses of the Delta, and adopt a supporting resolution to that effect. Vice Chair Swanson moved to accept the motion and Commissioner Curtin seconded the motion. Commissioners Curtin, Gallagher, Makler, Solorio and Swanson voted in favor. Commissioners Arthur, Steiner, and Alvarado voted no. The motion passed.

13. Consideration of Items for Next California Water Commission Meeting

The next meeting of the Water Commission is currently scheduled for Wednesday, January 19, 2022. At the January meeting, the Commission will elect officers for the 2022 calendar year, consider the Commission's 2022 workplan, receive a briefing on the Big Notch project, and discuss a draft of the groundwater trading white paper.

Commissioner Solorio suggested the upcoming drought work could involve regional listening sessions and offered Orange County as a possible location.

14. Adjourn

The Commission adjourned at 4:18 p.m.