



Revisions to Procedures for Resolutions of Necessity and Eminent Domain (Action Item)

Introduction

The California Water Commission (Commission) is considering changes to its process to adopt resolutions of necessity (RONs). The proposed changes to the process reflect Commission staff's desire to streamline the adoption process while also preserving the statutory requirements set forth in the California Code of Civil Procedure.

The current RON process provides an additional "information meeting" that is not required by statute. The information presented at the "informational meeting" and the actual adoption hearing is substantially the same. The proposed change eliminates the "informational meeting" and allows the Commission to adopt RONs at the same meeting when the project is first presented. This elimination streamlines government efforts, eliminates bureaucracy, and saves staff resources for both the Commission and DWR.

Background

California Water Code sections 250, 253, 258, 11575 and 11580 allows Department of Water Resources (DWR) to acquire land to construct, maintain, or operate the State Water Project. California Code of Civil Procedure sections 1245.210 and 1245.220 require the Department to obtain a RON from the Commission before proceeding to initiate court action to obtain property rights from private citizens.

The Commission adopted the current RON process in August 2011 and revised it in February 2013. The process requires that RONs be introduced at an informational meeting prior to being considered for adoption at a second meeting. The existing process provides additional time for the Commission to become familiar with the project and to provide additional interaction with landowners.

DWR did not request any RONs from 2012 until 2022. The Commission adopted 52 RONs from January 2022 through March 2023 for the Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project (Big Notch Project). Processing these RONs took a substantial amount of time and effort from Commission staff and demanded significant time from Commissioners at monthly Commission meetings. The informational meeting portion of the Commission's process doubles the amount of effort needed to process these RONs, and also doubles the amount of time and preparation on DWR to present the RONs to the Commission. Because the informational meeting presentation is repeated in the RON hearing, it is not clear the informational meeting is providing Commissioners with a greater understanding of the project elements needed for the RON decision.

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This agenda item is consistent with Goal Three of the Commission's Strategic Plan, to carry out its "statutory authorities associated with the Department ... to ensure that the Department's decisions on key programs and activities are based on sound information and advance climate resiliency." Goal Three specifically includes the Commission's eminent domain obligations within its objectives.

Meeting Overview

Commission Counsel Holly Stout will present the proposed revisions to the Commission. This is an action item. The Commission may adopt the proposed revisions, direct staff to make edits and adopt the revisions with those edits, or direct staff to make substantive changes and return with the revised process at a later Commission meeting. The Commission may also defer a decision until a later Commission meeting or opt to keep the current process. If the Commission defers its decision, any eminent domain actions requested by DWR will be subject to the current procedures.

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