



<p>Consideration of Action on a Resolution of Necessity for the Species Conservation Habitat Expansion Project (Action Item)</p>

Agenda Item at a Glance

- The Salton Sea is an inland lake located in Riverside and Imperial counties. The [Salton Sea Management Program](#), called "SSMP", is an effort led by the State of California to protect air quality and provide habitat for fish and wildlife at the Salton Sea.
- In order to accomplish the goals of the SSMP, the Department of Water Resources, called "DWR," can obtain land through a process called eminent domain. Eminent domain is the power of the government to acquire land from private landowners even if the landowners do not want to sell the land. The landowner must receive payment for the value of the property. The government can only do this if the land is needed for a public purpose or a public benefit.
- Before DWR can begin any eminent domain proceeding, it must obtain a Resolution of Necessity from the California Water Commission, called "Commission". To issue a Resolution of Necessity, the Commission must hold a public hearing to consider the requested Resolution of Necessity. The landowner must receive notice of the hearing and have an opportunity to be heard.
- At this hearing, DWR will present information for the Commission to consider adopting the Resolution of Necessity for the SSMP. This is an action item and is relevant to anyone interested in the SSMP or eminent domain proceedings. Tribes, property owners, and the public will have an opportunity to make a comment to the Commission before the Commission discusses this item.

Introduction

The future of the Salton Sea (Sea) remains a central focus of Governor Newsom's Administration, with an emphasis on implementing projects on the ground that benefit the communities and wildlife that depend on the Sea. In response to State Water Resources Control Board Order 2017-0134, the Salton Sea Management Program (SSMP) – led by the California Natural Resources Agency (CNRA) in collaboration with the California Department of Water Resources (DWR) and the California Department of Fish and Wildlife (CDFW) – is implementing projects. The SSMP projects aim to improve conditions around the Sea by constructing 29,800 acres of projects to help reduce public health impacts from airborne dust from the exposed lakebed, and to create habitat for fish and wildlife. To comply with the Governor's focus on the

Salton Sea and the associated legal mandates, DWR has moved forward on a variety of aquatic habitat, wetland, dust suppression, and vegetation projects. The largest of these is the Species Conservation Habitat Project (SCH).

The SCH is located at the southern end of the Salton Sea, near the mouth of the New River, in Imperial County, California. The SCH is an aquatic habitat project that will provide approximately 5,000 acres of nesting, resting, and foraging habitat for birds and aquatic habitat for fish. DWR has recently received an infusion of federal funding for the purpose of expanding the SCH. This proposed expansion would provide nearly 4,500 additional acres for a total of approximately 9,500 of aquatic pond habitat. Construction of the expansion project area is planned to start in 2025, and construction is expected to last three years.

The Wilson property, which is the subject of today's hearing, is located in the very center of the proposed expansion area. The Wilson property is currently underwater and will be likewise submerged when the proposed aquatic pond habitat expansion is complete. DWR has initiated negotiations pursuant to the State's eminent domain authority. Negotiations with the landowners have not produced an agreement for fee title, therefore DWR is requesting the Commission consider adopting a Resolution of Necessity for the property.

DWR submitted a notice to the California Water Commission (Commission), on February 13, 2025, of DWR's intent to request a resolution of necessity, consistent with the Water Commission's "Procedures for Resolutions of Necessity and Eminent Domain" (Procedures). The landowners have been notified of this hearing and their right to attend and be heard or to submit written comments. The Commission notified the affected owners listed in the agenda of this hearing on a Resolution of Necessity consistent with the Commission's procedure for adopting Resolutions of Necessity. The notice was mailed on April 29, 2025 to the address of record from the Commission's office at 715 P Street, Sacramento, California.

Upon adoption of a Resolution of Necessity, DWR will proceed with filing an eminent domain action.

Commission Decision

During this hearing, DWR must present information for the Commission to consider whether the public use or public benefit justifies the government's acquisition of land from a private landowner who is unwilling to sell. DWR will present evidence for the Commission to consider in support of the specific findings required for a resolution of necessity pursuant to Code of Civil Procedure § 1245.230, which requires the Commission to find:

1. The public interest and necessity require the proposed project.
2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
3. The property described in the resolution is necessary for the proposed project.

4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

If the Commission is satisfied that the legal requirements have been met it will adopt a Resolution of Necessity. To adopt a Resolution of Necessity requires a two-thirds vote of all members, which is a minimum of six votes in favor of the Resolution of Necessity, regardless of the number of Commission members present.

If the Commission is not satisfied that the legal requirements have been met, it may request that DWR return with additional information.

The value of the property and how much the landowner should be paid is not a matter for the Commission to consider. Just compensation will be determined during the eminent domain court action.

Background

DWR has the legal authority to acquire the subject parcel by eminent domain for public purposes, namely, for State water storage and conservation, promotion of the general public health and welfare resulting from preservation of fish and wildlife, and to carry out and make effective the principal purpose of the subject project, including but not limited to the need to protect and/or preserve the attractiveness, safety, and usefulness of the entire SCH and expansion project. The legal authority for this is contained in Code of Civil Procedure Section 1240.120(a), and Water Code sections 250, 253, 11900 and 11903). California Code of Civil Procedure sections 1245.210 and 1245.220 require the Department to obtain a Resolution of Necessity from the Commission before proceeding to initiate court action to obtain property rights from private citizens.

This agenda item is consistent with Goal Five of the Commission's Strategic Plan, which is to "exercise [the Commission's] statutory authorities to ensure transparency, accountability, and sound public processes". Goal Five specifically includes the Commission's eminent domain obligations within its objectives.

Meeting Overview

At this meeting, Melinda Dorin, Program Manager, and Catherine Cavanaugh, Senior Staff Counsel, from DWR will present evidence to the Commission regarding the specific property listed on the agenda and how this property is necessary to meet the goals of the SCH expansion project. Ms. Dorin and Ms. Cavanaugh will also update the Commission about the efforts DWR has made to work with the landowners. DWR will ask the Commission to consider adopting a Resolution of Necessity for this property. The Commission will take comment from the landowner, Tribal leaders, and the public, discuss the information presented, and consider whether to issue a Resolution of Necessity.

This is an action item.

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