

**REPORT FOR THE MEETING OF
THE ADVISORY WATER COMMISSION OF THE SAN JOAQUIN COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
FOR DECEMBER 17, 2008**

The regular meeting of the Advisory Water Commission of the San Joaquin County Flood Control and Water Conservation District was held on Wednesday, December 17, 2008, beginning at 1:00 p.m., at Public Health Services, 1601 E. Hazelton Avenue, Stockton, California.

Roll Call

Present were Commissioners Nomellini, Gilmore, Edwards, Alternate Conarro, Alternate Holbrook, Secretary Lytle, Vice-Chairman Price, and Chairman McGurk. Others present are listed on the Attendance Sheet. The Commission had a quorum.

Approval of Minutes for the Meeting(s) of November 19, 2008.

Motion carried unanimously to approve the minutes of Nov. 19, 2008 (Edwards/McGurk).

Public Comment (Non-Agenda Items)

None.

SCHEDULED ITEMS

I. Special Presentation:

Dr. Jeffrey Michael, University of the Pacific Eberhardt School of Business – Report on the Public Policy Institute of California’s Report on Navigating the Delta

Dr. Mel Lytle, Water Resource Coordinator, introduced Dr. Jeffrey Michael from the University of Pacific Business Forecasting Center Eberhardt School Of Business. Dr. Lytle invited him to present some his critiques of the recent Public Policy Institute of California (PPIC) report on the Sacramento-San Joaquin Delta and Peripheral Canal. Dr. Lytle expressed the importance of Dr. Michael’s critique because of the discrepancies and inaccuracies portrayed in the PPIC Report. Typically in an academic setting, there is a peer review process which reviews reports prior to being released.

Vice Chairman Willard Price stated UOP has always depended on the Business Forecasting Center to perform meaningful work with the community. Vice Chairman Price commended Dr. Michael on his work with flood control insurance and commented what a great asset he is to the UOP.

Dr. Jeffrey Michael thanked the commission for the invitation and stated he is a new resident to the Stockton area with no emotional attachment to the Delta, but does recognize the Delta as being critically important to this region. Formerly from Maryland, Dr. Michael served as Director of the Center of Applied Business and Economic Research at Towson University in Baltimore and has worked on many studies similar to the PPIC study.

Dr. Michael reviewed the PPIC report and privately researched data sources and assumptions. He offered a brief overview of some key findings of unsupported assumptions that inflate PPIC cost estimates and use of inaccurate data for population growth. The outcome matrix used by the PPIC assumed that there are only two options based on the economics; building the Peripheral Canal or ending Delta exports. The PPIC concluded that the Peripheral Canal would be the best option because it is \$1 billion cheaper annually than ending Delta exports despite the environmental benefits of ending exports.

The PPIC’s approach was to compare a no export (NE) case – what would happen if exports were shut down and a restricted transfer (RT) case which is an imposed prohibition against agricultural users selling their water to urban users. These two scenarios are compared to the base case and the difference is your cost of ending Delta exports.

Dr. Michael questioned many of the sources used by the PPIC, for instance, the PPIC's estimate for population growth from the current 39 million to 65 million in 2050. Compared to the U.S. Census Bureau (37 million to 55 million) and Department of Finance (38 million to 59.5 million) the PPIC's estimate is 65 million. As a result, a credible estimate of 2050 California population is 55 to 59 million, not 65 million assumed in the PPIC report. Also, the key unsupported assumptions of the PPIC's desalination cost of \$2,072 per acre-foot are inflated with no reference for the estimate compared to \$1,000 per acre-foot provided by the National Research Council of the National Academy of Sciences in May 2008. Orange County operates a recycling plant at \$550 per acre-foot. Finally, the water recycling assumption of \$1,500 per acre-foot is inflated with no reference for inflation. This number is well outside the upper limits of the highest reference from Department of Water Resources (\$300 - \$1,300).

In conclusion, the key assumptions that drive the PPIC's costs are highly inflated and unsupported. More realistic assumptions about population growth are to desalination costs are most likely using their model and technique to generate a cost of around \$600-\$700 million annually. This figure is pretty close to the estimate of the Peripheral Canal cost at \$350-\$850 million annually. If costs are comparable, then ending Delta exports is a viable alternative. In addition the environment benefit of ending exports would also be gained.

Commissioner John Edwards praised Dr. Michael on his excellent work and findings.

Vice Chairman Price stated he has worked with and reviewed reports by the PPIC in the past. When the PPIC report was released, he asked them if they presented a balanced opinion because of the seemingly one sided pre-determined conclusion? The PPIC's answer was yes, with no details. Vice Chairman Price has considered requesting the PPIC to publish some version of Dr. Michael's analysis in the near future as a balance toward their claim. Dr. Michael stated what he believes happened is the PPIC put this report together very quickly within a couple of months, they had a theme, used an old model where they apply the 50% increased cost factors without updating parameters with current information. Dr. Michael has asked the PPIC to recalculate the models with new assumptions for a more realistic cost estimate.

Commissioner Dante Nomellini asked if it was correct to say the PPIC didn't include the economics of environmental impacts. Dr. Michael replied that he suspects they were left out because calculating the environmental benefits for this type of study can be done even though it is very time consuming and costly. Commissioner Nomellini also stated there is some evidence that supports the hypothesis that exports will destroy the salmon, how difficult would that be to quantify. Dr. Michael said these studies are being done, are often controversial, and often used in litigation. Commissioner Nomellini also asked what the result would be if some assumed exports would continue, Dr. Michael stated that based on simple calculations, the costs would be much lower.

Vice Chairman Price asked who funded the PPIC report. Dr. Michael stated that the PPIC was very public with the fact that they were funded by PacTel and the Packard Foundation.

II. Discussion Items:

A. Discussion on Activities of the California League of Women Voters Concerning the Delta Vision and Bay Delta Conservation Plan (Esther Vasquez)

Ms. Esther Vasquez, League of Women Voters Representative offered a presentation on national policies of the League and discussed a letter sent by Janis R. Hirohama, President of the Stockton League to Mike Chrisman, Secretary of California Resources Agency regarding the Delta Vision and Bay Delta Conservation Plan (BDCP). The League is concerned that the water needs of those who live and work within the Delta will be of secondary importance to the perceived need for water supply reliability to other parts of the State. The BDCP appears to have moved very quickly with minimal involvement of in-Delta water interests. The League is concerned that other alternatives have not been considered and is urging the state to set limits on the amount of water to be exported through or around the Delta. Therefore, the scope of the EIR/EIS should include an alternative that reduces exports. This would establish statewide water conservation, recycling, watershed management, development of local supplies, and other non-structural strategies as the preferred

solution to meeting the goals of sustainability of the Delta ecosystem and reliability of water supply. Ms. Vasquez announced the League may hold a forum in January 2009 to address Delta water issues and concerns.

Update on the State Water Board Revocation of the Auburn Dam Water Rights – DeeAnne Gillick

Ms. DeeAnne Gillick, Neumiller & Beardslee and Special Water Counsel for San Joaquin County gave an update on recent proceedings of the State Water Resources Control Board regarding Auburn Dam Water Right permits. On December 2, 2008, the State Board revoked the Bureau of Reclamation's water right permits for the Auburn Dam project. The Auburn Dam project consisted of an 800,000 acre-foot on-stream reservoir on the American River. The Bureau of Reclamation was granted a water right in the 1970's to fill that reservoir during the months of November through June.

In the revocation proceeding, the County as well as Stockton East Water District participated in the hearing and made the argument that the County should be provided an opportunity to use the direct diversion rights from the Bureau's permit to develop a project to benefit the County. The County was one of the intended beneficiaries of the Auburn Dam project. The State Board did not concur with the County's argument; however, efforts at the hearing were successful and hopeful in that the State Board indicated they are aware of San Joaquin County's unique situation where there is not a reliable water supply and the significantly overdrafted groundwater basin. During the hearing, three separate board members made comments that indicated sympathy and understanding of the County's plight. For 50 years San Joaquin County has looked to the American River and other water sources and has been denied repeatedly of water rights and developed water supplies.

Some of the language in the draft order has been deleted, particularly the language of the past decisions by the State Water Board from the 1950's. In the final order, it clearly recognizes the County's current pending application for American River water. In addition, there is a statement in the decision that says the State Board finds within the public interest in supporting the efforts of San Joaquin County to develop additional surface water supplies.

Commissioner Nomellini asked if there is any reference to watershed protection. Ms Gillick replied not in this proceeding, but that is why the County's application for American River is so important. From the 1970's, there is a statement in the State Water Board's decision that says the County is clearly a party that should be protected under the watershed protection statute. Dr. Lytle asked if they mentioned fully appropriated streams, Ms. Gillick said there was discussion at the hearings that considered the American River as fully appropriated through the city and county of Sacramento. Ms. Gillick also stated that the Bureau made no comments at the final hearing; their comments were submitted in writing.

C. Update on Delta Vision Committee, 5-Delta Counties Coalition and BDCP Activities – Tom Flinn and Terry Dermody

Mr. Tom Flinn, Public Works Director reported on the County Supervisor Association Meeting in San Diego where a specific workshop was held to discuss the Delta and its importance to all 58 counties north and south. Supervisor Maryann Piepho of Contra Costa County reported on the tremendous impact of the Delta and how we have not been properly engaged in the process. These are not only Delta issues but water rights also.

Mr. Terry Dermody, County Water Counsel commented on the Delta Vision Strategic Plan which was presented to the Governor. There is also a new bill by Senator Simitian SB12 dealing with water issues and another bill by Dan Gilmore (Bakersfield area) dealing with surface storage and water rights. He will continue to meet with Delta Vision Committee and Secretary's regarding the Delta Plan.

Commissioner Willard Price asked if newly structured Delta Commission is trying to get the plan approved separate from the BDCP, Mr. Dermody explained legislature would need to take action to implement the Strategic Plan.

D. Update on Flood Management, FEMA Mapping and SJAFCA Activities – Mark Connelly and Roger Churchwell

Mr. Mark Connelly, County Flood Management Division, reported that FEMA has approved new preliminary digital Flood Insurance Rate Maps (FIRMs), where 12,000 parcels have been removed from proposed special hazard areas. There are presently 38,000 parcels within the county that are protected by Provisionally Accredited Levee (PAL) applications which expire some time between August 2009 and August 2010. All owners along Bear Creek have submitted permit applications for encroachments. Regarding the Calaveras River, there have been six property owners who have submitted permit applications.

Mr. Connelly announced the visit of US Army Corp of Engineers Colonial Chapman on January 29th. County representatives will inform him of the County's flood and Delta issues and arrange site visitations of the Calaveras River and Smith Canal.

Mr. Roger Churchwell, for San Joaquin Area Flood Control Agency (SJAFCA), stated the USACE has certified the project management plan for work on the 4-year Lower San Joaquin Feasibility Study.

III. Action Items:

A. Possible Action to Approve Draft Letter Regarding the Legislative Analyst's Office Report on Reevaluation of the State Water Right Priority System – Mel Lytle

Dr. Lytle stated the LAO report proposes changes to the California water rights priority system which have been established for almost one hundred years. As directed by the commission, a letter has been formatted with several recommendations regarding surface and groundwater rights. This letter represents the 19-member agency San Joaquin County Flood Control and Water Conservation District Advisory Water Commission and is being sent to Local and State Elected Representatives. It is important for County interests to clearly define issues regarding this report as well as any potential legislation that might move forward. It is recommended that this letter be supported and finalized under Chairman Tom McGurk. Commissioner Dante Nomellini motioned to allow the editorial comments by Chairman McGurk and member agencies to be incorporated into letter prior to Chairman's signature and Commissioner John Edwards seconded. Motion received unanimous approval.

IV. Communications (See Attached):

A. Draft EIR Scoping Meeting Announcement for the Delta Wetlands Project.

Public Comment:

Possible Future Agenda Items: None

Adjournment: 3:00 pm

Next Regular Meeting: January 21, 2009, 1:00 p.m.

CM

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