

**REPORT FOR THE MEETING OF
THE ADVISORY WATER COMMISSION OF THE SAN JOAQUIN COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
May 19, 2010**

The regular meeting of the Advisory Water Commission of the San Joaquin County Flood Control and Water Conservation District was held on Wednesday, May 19, 2010, beginning at 1:00 p.m., at Public Health Services, 1601 E. Hazelton Avenue, Stockton, California.

Roll Call

Present were Commissioners Nomellini, Lowery, Herrick, Edwards, Alternates Conarro and Holbrook, Secretary Lytle, Vice Chair 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 April 21, 2010.

Motion carried unanimously to approve the minutes of April 21, 2010 (Edwards/Holbrook).

SCHEDULED ITEMS

I. Discussion Items:

A. Special Presentation – High Speed Rail Going Through Your District? – Phil Pennino

Mr. Phil Pennino, Pennino & Associates, gave a presentation on the proposed High Speed Rail Project and alignment in San Joaquin County. The High Speed Rail Project is being explored statewide as a critical transportation link which may impact facilities or lands belonging to local water districts or agencies. The Commission presented an opportunity to let local water agencies know about the studies currently under way and the potential impacts that may come up. There are 2 phases; Phase 1 runs from Los Angeles to San Francisco, which is funded and an EIR is currently being performed. Phase 2 runs from Merced to Sacramento; preliminary routes were approved this month at the High Speed Rail Authority meeting. One route runs over the Altamont Corridor and the other from Merced to Sacramento. It is intended to have high speed rail running by the year 2020 which may include multi-use for freight. A hybrid train with the speed of 150 mph is being considered for the Altamont Corridor. A typical section along the alignment will have fenced corridors with tracks elevated in some areas separated from roads and highways. Tunnels will be considered for some areas. The Altamont Corridor is a first priority and Merced to Sacramento is second.

B. Update on State Water Board Public Hearing on Cease and Desist Orders against Delta Farmers in San Joaquin County – DeeAnne Gillick

Ms. DeeAnne Gillick, Special Water Counsel for the County, updated the Commission on the recent hearings held by the State Water Resources Control Board regarding local Delta Water Rights. Several property owners and Delta farmers are being challenged regarding their use of water based on valid water rights. The next set of hearings is on June 6, 2010 for Woods Irrigation Company and July 7, 2010 against four additional farmers. The State Board is alleging that the farmers are using water without a valid water right despite the claim of having a Pre-1914 riparian water right, both of which are recognized as legal water rights. The allegations of the State Board force farmers and property owners to prove these rights at the hearing with the risk of being served a Cease and Desist Order to stop pumping. Riparian rights are available when adjacent to a water course and Pre-1914 rights when diversions have commenced prior to 1914 when the State adopted an appropriative water right system.

The County and the Central and South Delta Water Agencies challenged in District Court the State Board's authority to determine riparian and Pre-1914 water rights. The District Court refused to hear the challenge until after the State Board held the hearings. It appears the State Board does not have the authority to determine riparian and Pre-1914 water rights. There is a tremendous expense to defend these water rights to the State Board. It is unknown what the State Board will do or decide. There seems to be a political motivation for the challenge of the in-Delta water rights.

C. Update on WEF Flood Management Tour, San Joaquin County Flood Management and SJAFCA Activities – Mark Connelly

Mr. Mark Connelly, County Flood Management Division, gave an update on the WEF Flood Management Tour which was held on May 12-13, 2010. The tour was attended by many local agencies and included locations throughout the Delta. Tours on Day 1 included stops at the San Joaquin River National Wildlife Refuge, Mape's Ranch, Alex Hildebrand's property, Paradise Cut and River Islands project, Lathrop super levee, and RD 17. On Day 2, the tour included stops at Smith Canal, Bear Creek, Discovery Bay and Jones Tract. Discussions included the risks of flooding, the south Delta bypass, and levee improvements. The next tour will be held in the year 2012.

Mr. Connelly stated an update will be provided next month regarding the Lower San Joaquin River Feasibility Study following the Flood Protection Technical Advisory Committee next week. Currently, the most important change is that Stewart Tract is now part of the feasibility study. There is no change in the status of the Provisional Accredited Levees (PALs) and a response from FEMA is expected. It has been agreed upon by RD 1614, RD 828 along with SJAFCA to spend \$125,000 to apply for an EIP project for the Smith Canal. The current estimates for construction are \$24 million for the facility, and \$1.5 million for design costs. A response will be expected from the state if the application has been accepted. Commissioner Nomellini stated the cost shared process takes approximately two years. Lastly, General Rock Donahue from the U.S. Army Corp of Engineers will be visiting on August 16-17 regarding flood emergency operations. The 17th will involve a tour of areas in the Delta.

D. Discussion and Possible Action on 5-Delta Counties Coalition and other Delta Activities – Mel Lytle

Dr. Lytle updated the commission regarding the 5-Delta Counties Coalition (DCC) and other Delta activities. Several documents have been transmitted dealing with funding to support various activities based on the 2009 Delta legislation that was passed in November. The first letter asks agencies to provide enough funding for local and county agencies to maintain and participate in the various activities. Monitoring and participating in the bureaucracies including the Delta Stewardship Council, Delta Protection Commission, and the Delta Conservancy requires staffing and funding. Another letter was sent to Senator Boxer regarding a Water Resources Development Act (WRDA) request from the DCC to authorize participation in the development and implementation of projects in the Delta. Also, there has been development of a new executive director who will be hired on a contractual basis to coordinate activities between the TAC and Delta County Supervisors. A meeting was held regarding the Delta Corridor's project and Assemblyman Berryhill passed the bill in committee which promotes the project. Lastly, continued funding from San Joaquin County for Delta activities will be determined as the budget is approved in June.

II. Action Items:

A. Discussion and Possible Action on Participation in the Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) Program – Mel Lytle

Dr. Lytle discussed the participation by the County with Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) Program. At a number of meetings, staff has seen presentations of the overall concept of this program. The program would develop a region-wide salt and nitrate management program for the Central Valley. San Joaquin County has been interested in the platform developed regarding salinity issues with the San Joaquin River, agriculture, habitat and wastewater discharge. SEWD has joined the CV-SALTS executive committee as a voting member and has contributed \$25,000 to the effort.

There are a number of agencies in San Joaquin County that are participating as CVSC executive committee members. Dr. Lytle asked the Commission for recommendation of which level to participate before being presented to the Board of Supervisors. He stated there is adequate budget and staff to participate at the \$25,000 contribution level.

Mr. Rudy Schnagl, Central Valley Regional Water Quality Control Board encouraged participation and support for the CV-SALTS Program. He stated a new committee has been established that will focus on the Lower San Joaquin River. Commissioner Nomellini asked if there is an issue of postponement in acting on the upstream water quality standards of the San Joaquin River, Mr. Schnagl stated there is no effort to postpone any action and that the CV-SALTS program would address upstream water quality standards.

Commissioner Nomellini moved to recommend the County participate as voting members of the executive committee and pay \$25,000 in membership fees. Alternate Holbrook seconded the motion. Motion received unanimous approval.

III. Communications:

- A. Article – The Cost to Fix the Delta is Approximately \$39 Billion
- B. Article – Appellate Court Upholds Salinity Standards and dissolved Oxygen Studies in the Sacramento-San Joaquin River Basin
- C. SWRCB Statement of Water Diversion and Use Deadline: July 1, 2010

Public Comment: None

Possible Future Agenda Items: None

Adjournment: 2:47 pm

Next Regular Meeting: June 16, 2010, 1:00 p.m.

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