



STATE WATER PROJECT CONTRACT EXTENSION PROJECT

Draft Meeting Summary and Action Items

State Water Project Contract Extension Project

May 1, 2013 10:00 AM – 3:00 PM

Negotiation Meeting Attendance List

<p><u>California Department of Water Resources Lead</u></p> <p style="text-align: center;"><u>Negotiators</u></p> <ul style="list-style-type: none"> • Carl Torgersen, California Department of Water Resources • Perla Netto-Brown, California Department of Water Resources • Steve Cohen, California Department of Water Resources • Rob Cooke, California Department of Water Resources • Ralph Torres, Advisor, California Department of Water Resources • Vera Sandronsky, California Department of Water Resources <p style="text-align: center;"><u>State Water Project Contractor Lead</u></p> <p style="text-align: center;"><u>Negotiators</u></p> <ul style="list-style-type: none"> • David Aladjem, Alameda County Flood Control and Water Conservation District, Zone 7 and San Bernardino Valley Municipal Water District • Dan Flory, Antelope Valley-Eastern Kern Water Agency • Paul Gosselin, Butte County • Valerie Pryor, Castaic Lake Water Agency • Dan Masnada (by phone), Castaic Lake Water Agency • Don Charlton, Coachella Valley Water District • Roxanne Holmes (by phone), Crestline-Lake Arrowhead Water Agency 	<ul style="list-style-type: none"> • Mark Krause, Desert Water Agency • Curtis Creel, Kern County Water Agency • Steve Arakawa, MWD of Southern California • Deven Upadhyay, MWD of Southern California • Kathy Cortner, Mojave Water Agency • Phillip Miller (by phone), Napa County Flood Control & Water Conservation District • Bill Harrison (by phone), Oak Flat Water District • Bob Perreault, Plumas County Flood Control & Water Conservation District • Douglas Headrick, San Bernadino Valley Municipal Water District • Jeff Davis, San Gorgonio Pass Water Agency • Ray Stokes, Santa Barbara County / Central Coast Water Authority • Joan Maher, Santa Clara Valley Water District • David Okita, Solano County Water Agency • Mark Gilkey, Tulare Lake Water Storage District Steve Wickstrum (by phone), Ventura County Flood Control District • Lisa Kern (by phone), Ventura County Flood Control District <p style="text-align: center;"><u>California Department of Water Resources Staff</u></p> <ul style="list-style-type: none"> • Ted Alvarez, California Department of Water Resources
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<ul style="list-style-type: none"> • Terri Ely, California Department of Water Resources • Karen Enstrom, California Department of Water Resources • Jennifer Iida, California Department of Water Resources • Scott Jercich, California Department of Water Resources • Spencer Kenner, California Department of Water Resources • Dave Paulson, California Department of Water Resources • Nancy Quan, California Department of Water Resources • Jackie Robinson, California Department of Water Resources • Rita Sanko, California Department of Water Resources • Lisa Toms, California Department of Water Resources • Dena Uding, California Department of Water Resources • Pedro Villalobos, California Department of Water Resources <p><u>State Water Project Contractors and SWC, Inc.</u></p> <ul style="list-style-type: none"> • Bruce Alpert, Butte County • Gary Bucher, Kern County Water Agency • Royce Fast, Kern County Water Agency • Jason Gianquinto, Kern County Water Agency • Don Marquez, Kern County Water Agency • Amelia T. Minaberrigarai, Kern County Water Agency • Ted Page, Kern County Water Agency • Mike Radon, Kern County Water Agency • Jaime Dalida, MWD of Southern California • Kevin Donhoff, MWD of Southern California • David Reukema, MWD of Southern California • John Schlotterbeck, MWD of Southern California 	<ul style="list-style-type: none"> • Tom Fayram, Santa Barbara County Flood Control & Water Conservation District • Matt Naftaly, Santa Barbara County Flood Control & Water Conservation District • Lynn Hurley, Santa Clara Valley Water District • Dana Jacobson, Santa Clara Valley Water District • Cindy Kao, Santa Clara Valley Water District • Leah Wills, Plumas County Flood Control & Water Conservation District • Terry Erlewine, State Water Contractors, Inc. • Theresa Lightle, State Water Contractors, Inc. • Julie Ramsay, State Water Contractors, Inc. • Cliff Schulz, State Water Contractors, Inc. <p style="text-align: center;"><u>Public</u></p> <ul style="list-style-type: none"> • Joshua Nelson, Best, Best & Krieger • Adam Lazar, Center for Biological Diversity • Ann Spaulding, City of Antioch • Brian Hooker, Congressman Garamendi's Office • Kevan Samsan (by phone), Delta Stewardship Council • Colin Bailey (by phone), Environmental Justice Coalition for Water • Erick Cooke, Environmental Science Associates • Cathy McEfee, Environmental Science Associates • Karen Medders, North Delta Water Agency • Bryan Victor, Orrick, Herrington & Sutcliffe • Mike Weed, Orrick, Herrington & Sutcliffe • Debbie Espe (by phone), San Diego County Water Authority • Elizabeth Leeper, San Luis and Delta Mendota Water Authority • Mindy Simmons (by phone), Senator Wolk's Office • Margarita Colmenares, Think Verde • Robert Kunde, Wheeler Ridge-Maricopa Water Storage District
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	<p style="text-align: center;"><u>Facilitation Team</u></p> <ul style="list-style-type: none">• Alex Braunstein, Kearns & West• Michael Harty, Kearns & West• Kelsey Rugani, Kearns & West• Anna West, Kearns & West
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I. Welcome/Introductions

Carl Torgersen thanked everyone for all of the work that has gone into preparing for negotiation, described the history, mission, and function of the State Water Project, and the need for Contract Extension. Carl described the importance of this negotiation process that occurs in a public forum, adhering to the Monterey Settlement Agreement, and he emphasized the importance of identifying objectives up front, ideally today or by no later than the second meeting.

II. Meeting Overview

There were roundtable introductions of the negotiation teams and staff. Then Anna West reviewed the meeting process, ground rules, and the agenda. Mike Harty affirmed which SWP Contractors were present for potential tallies for decision making.

III. Overview of Contract Extension

Scott Jercich provided an overview of Contract Extension, giving a history of the State Water Project and the need to extend water contracts to sell bonds and keep the debt service as low as possible. A financial pinch on the Contractors has already started and will get more serious as we approach 2035, since bonds are typically sold with 30-year repayment periods and DWR can now only sell bonds with 22 bonds due to the 2035 maturity date limitation. Scott described the phases of the Contract Extension process, including the process of preparing for negotiations, the negotiations where we will develop Agreements in Principle (AIPs), and then the phase when specific contract language will be developed in parallel with the environmental review process.

IV. Negotiation Process Overview

Anna West described the decision-making process, the "AIP" concept, and the goal of full consensus by DWR and 29 State Water Project (SWP) Contractors. As part of achieving consensus on AIPs, Anna outlined a non-binding tally system to achieve tentative AIPs. It is hoped that the group will achieve full consensus. However, a tentative AIP will be obtained if DWR and a majority of SWP Contractors present agree to a draft tentative agreement in a tally taken at a meeting. She then described a between-meeting process to notify and gather tallies with those SWP Contractors not present. Then, at the next negotiation meeting, a tally on the draft tentative AIP will again be taken. After discussion by Lead

Negotiators and staff, there was agreement that tallies should be taken only during negotiation meetings. Comments offered during discussion included:

- Suggestion that tallies should take place only during negotiation meetings to ensure consistency with the Monterey Principles.
- Kearns & West (K&W) should encourage non-attending parties to attend the next meeting in person or by phone to participate in the tally process.

V. Objectives and Initial Offers

Carl Torgersen presented DWR's Objectives for Contract Extension, stating that DWR is committed to a process for extending and financing the State Water Project, and views their Objectives as a package deal. Ray Stokes presented SWC Contractor Objectives for Contract Extension and Paul Gosselin presented Butte County's objective. After reviewing the DWR and SWP Contractor Objectives, DWR and SWC Contractors presented their initial offers. Carl presented the Initial Offer for Objective 1, Perla Netto-Brown and Steve Cohen presented Initial offers on Objectives 2a and 2b, respectively, and Rob Cooke presented DWR's initial offer for Objective 3. Ray Stokes presented an initial offer for SWP Contractors' Objectives 1, 2 and 3. Paul Gosselin stated that Butte had no initial offer beyond its objective. DWR and SWP Contractors subsequently adjourned to caucus.

VI. Negotiation Process--Objectives

Joan Maher stated that, like DWR, SWP Contractors viewed their Objectives as a package deal—all need to be addressed, and stated that the Contractors would prefer to take a tally once a complete package is in place. Carl suggested that DWR has a similar view, but sees value in interim tallies. DWR and SWP Contractors discussed differences in their respective Objectives 1, clarifying how they arrived at their proposed contract term. Carl clarified DWR's rationale for a proposed contract term of 40 years to achieve a full 30 years before compaction, while also anticipating there will be policy shifts and changing conditions that warrant DWR and SWP Contractors coming back to the negotiating table. Joan Maher clarified the rationale for a 75-year contract term proposed by SWP Contractors, stating that a 75-year term is commensurate with the original contracts and would support costly projects related to securing alternative water sources to the Delta. Joan Maher also suggested that the stability of a longer contract term is in the public interest.

DWR and SWP Contractors subsequently discussed the topic of reserves (DWR Objective 2a). Curtis Creel acknowledged that cash flow and reserves is a necessary part of being in business and that addressing DWR needs for meeting payroll and contingencies is in the best interest of DWR and SWP Contractors. After affirming the importance of the reserves topic, Curtis proposed that a technical team be formed to gather additional information to understand what the problems are and issues related to the reserves topic. DWR and SWP Contractors discussed the details related to the language of the initial offer for Objective 2a. Comments follow.

- DWR needs the ability to adjust the level and purpose of reserves, building in a review process, every five years, or as the need arises.

- The Reid Gardner termination requiring establishment of an escrow account is an example where having additional reserves would have been useful.
- 120 days of reserves for current operations is about \$200 million, which is currently equivalent to four months of O&M and power.

DWR and SWP Contractors discussed DWR's Objective 2b to create an "Other Project Purposes" Account. Steve Cohen clarified that related projects do not have a beneficiary or funding source, and that the time period for the account would be focused post-2035. Steve Cohen provided related examples with no beneficiary or funding source such as future water (unallocated Table A where DWR covers the costs), Del Valle flood allocation, and CALFED and other predecessors to BDCP. Discussions between DWR and SWP Contractors raised a number of technical issues to be addressed by a technical team. These issues included:

- The need to identify the relevant types of funding and what mechanisms need to be put in place.
- The need to understand the definition of direct revenue stream, needs, and how adjustments would be determined.
- The need to understand whether fish and wildlife enhancements and recreation are relevant to Objective 2b.

DWR and SWP Contractors discussed their respective Objectives 3, each agreeing to provide a list of potential "unintended consequences" of Contract Extension. Ray Stokes asked for clarification on the language of the initial offer, which states that "All DWR costs will be recovered in the year that they are incurred," asking if this applied to SWP costs, State Water Resources Development System (SWRDS) costs, and/or other costs as well.

Negotiate Objective(s)—Combining and Sequencing

DWR and SWP Contractors discussed the extent to which objectives can be considered at the same time for negotiations, and also the sequencing for negotiating objectives. The group agreed that DWR's Objective 1 and SWP Contractors' Objective 1 both address the contract term and can be combined. The SWP Contractors suggested that the SWP Contractor Objective 2 to complete the environmental review process by 2014 is an overarching theme or goal, but not a topic to be negotiated. DWR affirmed that this overarching interest to complete the process by December 2014 is a shared interest by DWR with the SWP Contractors.

The group affirmed that the DWR Objectives 2a and 2b are distinct and are each to be negotiated. The group also affirmed that DWR's Objective 3 and SWP Contractors' Objective 3 can be combined and negotiated together.

On the sequence of the objectives to be negotiated, Ray Stokes suggested that we begin with Objective 3. DWR took a brief caucus after which Carl Torgersen offered that Objective 2a, 2b, and 3 are linked and should be bundled and negotiated concurrently due to their connectivity.

VII. Next Steps

DWR and SWP Contractors discussed next steps, including setting the agenda for the May 15th Negotiation Meeting, agreeing that the meeting would address Objectives 2a, 2b, and 3. Participants noted that additional discussion of Objective 2a and 2b depended on the availability of technical team findings, and suggested that Objective 1 should be discussed if there is time available.

VIII. Public Comment

There were no requests to provide public comment.

IX. Adjourn

The meeting was adjourned.

Action Items		Responsibility Due Date
1	Draft proposed revised tally approach (all tallies in negotiation meetings; K&W follows up with non-attending SWP Contactors and encourages attendance at the next meeting).	K&W May 15
2	Create a joint team on Objective 2a: Reserves. Address “what is the problem” and bring a presentation to the next meeting. Carl / Curtis to determine participants.	Carl Torgersen and Curtis Creel May 15
3	Create a joint technical team on Objective 2b: Other Project Purposes to address: Defining “direct revenue stream,” “need” and “adjustments.” Carl/Curtis to determine participants.	Carl Torgersen and Curtis Creel ASAP
4	DWR and SWP Contractors each to develop a list of “unintended consequences.”	Ray Stokes and Rob Cooke May 15
5	Clarify language of the initial offer of DWR Objective 3, which states that “DWR costs will be recovered in the year that they are incurred.” Does this apply to SWP costs, State Water Resources Development system (SWRDs) costs, and/or other costs as well?	Perla Netto-Brown and Rob Cooke May 15
6	Provide additional information on initial offers: <ul style="list-style-type: none"> • DWR Objectives 2a, 2b and 3 • SWP Contractors Objective 3 	Perla Netto-Brown, Steve Cohen, Rob Cooke, Ray Stokes May 15
7	Post Team dates and times on the website	DWR As soon as is known
8	Create a system for tracking all documents (e.g.: DWR #1; SWP C #1; etc.)	DWR ASAP
9	DWR to respond on the concept of taking tallies on individual objectives as interim progress, along with a tally at the end of the full package.	Carl Torgersen May 15

Meeting Handouts:

- May 1st Negotiation Session Agenda and Ground Rules
- Overview of Contract Extension Presentation
- DWR Objectives
- SWP Contractors’ Objectives
- Butte County Objective
- DWR Initial Offer – Objective 1
- DWR Initial Offer – Objective 2a
- DWR Initial Offer – Objective 2b
- DWR Initial Offer – Objective 3
- SWP Contractors’ Initial Offer