

STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING/HEARING
(Portion)

APRIL 21, 2015

Coastal Hearing Room - Second Floor
1001 I Street
Sacramento California 95814

scribed by: Kathryn Davis CSR No. 3808

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STATE WATER RESOURCES CONTROL BOARD

BOARD MEMBERS

Chair Felicia Marcus

Vice-Chair Frances Spivy-Weber

Board Member Tam M. Doduc

Board Member Steven Moore

Board Member Dorene D'Amamo

1 PORTION OF TRANSCRIPT OF PROCEEDINGS.

2 (9:00 - 27:40)

3 --oOo--

4 CHAIR FELICIA MARCUS: We are on to Item No. 9,
5 California's drought emergency. Bill, I just want to
6 give you some advance warning. I'm going to be asking
7 you about the blog.

8 JOHN O'HAGAN: Good morning. I'm John O'Hagan
9 with the Division of Water Rights. I'm going to give
10 you a brief update for transfers and curtailments. Any
11 water transfers that we had before the Division include
12 the consolidated place of use of the Central Valley
13 Project and State Water Project. This transfer requests
14 exchange or transfer of over 335,000 acre feet of water.

15 A notice was posted on April 6th for this
16 transfer and comments are due today. If no comments are
17 received, we should be issuing an order by April 27th.
18 If we get substantial comments, then, of course, that
19 will delay that decision further.

20 CHAIR FELICIA MARCUS: The transfer was that I
21 was distracted by the picture --

22 JOHN O'HAGAN: It is the consolidated place of
23 use for the Central Valley Project and the State Water
24 Project.

25 The next two transfers -- they are kind of on

1 the same track -- are the Garden Highway Mutual Water
2 Company for 7,500 acre feet to the state water
3 contractors; and then the Plumas Mutual Water Company
4 for 4,828 acre feet. Both of those were transfers we
5 noticed on the sixth and comments are due today. Again,
6 if no comments are received, then orders will be issued
7 next week.

8 As far as curtailments, at the last Board
9 meeting, we identified that the Deputy Director for
10 Water Rights had issued a curtailment order on Antelope
11 Creek for fishery protection.

12 Since that time on April 17th, a second fishery
13 protection curtailment order has been issued for the
14 Deer Creek Watershed. And I believe that affects about
15 50 water right holders. So those are the two
16 curtailment orders issued subsequent to the emergency
17 regulations.

18 For the curtailment process, we have had
19 meetings with stakeholders from the San Joaquin
20 Watershed and also the Sacramento River Watershed. We
21 shared our analysis with the San Joaquin River Group,
22 which includes the South Delta and Central Delta
23 representation and the exchange contractors.

24 They felt that the Department of Water Resources
25 unimpaired flow calculations could be improved. They

1 thought they had better data. So we were waiting to see
2 if we would get it. They said they would send it to us.
3 We did not get the data, but I did call their
4 representative and they informed me that they felt that
5 it wasn't a big enough significant difference to provide
6 the data. So we are still going to be using the
7 Department of Water Resources full natural flow
8 calculations for our analysis.

9 In the Sacramento River Watershed, we met with
10 the stakeholders there. They also identified some
11 deficiencies in our analysis for flows. And then also
12 an issue dealing with the demand data that we are using,
13 the 2014 demand data and the average demand data.

14 Because this year there were some state water
15 contractors that were cut further than previously, they
16 felt that that should be reflected in our demand
17 analysis. So we are looking at that to see if a demand
18 should be reduced for those state water contractors.
19 And we are also looking at the increased potential flows
20 that we are missing in our analysis.

21 In both cases, we plan to be issuing a
22 curtailment notice to post-1914 water right holders in
23 the San Joaquin by the end of this week or early next
24 week. That will affect over 1,500 water right holders.

25 During the same timeline, we were planning to

1 issue a curtailment notice for the Scott River in
2 Siskiyou County. Last year we had issued the same type
3 of notice. Those water rights are under an
4 adjudication, but there is conditions in that
5 adjudication to make certain flows for satisfying senior
6 rights. The flow conditions are below the standards, so
7 we are now going to be issuing that curtailment notice
8 and that affects over 200 water right holders.

9 The Sacramento River Watershed we expect to be,
10 by May 1st, issuing follow-up curtailment notices for
11 post-14 water rights in those watersheds. And that
12 would be roughly 2,900 water right holders.

13 And that is all I have. Is there any question?

14 CHAIR FELICIA MARCUS: When do you think you are
15 going to start having to curtail senior water right
16 holders in the San Joaquin or the Sacramento in the
17 season? How far up and would you be doing it in trances
18 or what would your increments be?

19 JOHN O'HAGAN: What we are doing for the further
20 analyses is looking at tributary level demands on by
21 senior right water holders. And our analysis shows that
22 in mid-May, we will likely have to curtail senior water
23 rights in certain tributaries of the watershed and
24 perhaps even further.

25 And the same thing will be going on in the

1 Sacramento River Watershed because of inadequate flows.
2 As you can imagine, the Sacramento is a little better
3 off.

4 Term 91, on the Sacramento side, has still not
5 been activated. So the curtailments under that are
6 still not in place, but those should be coming in
7 mid-May.

8 CHAIR FELICIA MARCUS: The second part of the
9 question is just when you go up, are you saying you'd be
10 curtailing all of the seniors or going up to year "X"?

11 JOHN O'HAGAN: It will be by priority date. It
12 is similar to the post-1914 water rights. We are going
13 to be looking at the demand and supplies by priority
14 date of pre-14 water rights based upon the information
15 that we have in our data set.

16 CHAIR FELICIA MARCUS: Right. Do you think that
17 means you might have it on a rolling weekly basis going
18 further up? I'm just trying to think of the increments.
19 I'm not going to hold you to it, but just some measure
20 of increment that you are going to be looking at.

21 JOHN O'HAGAN: I believe that they will be -- if
22 we do curtail, it will be for the summer season because
23 the supply continues to diminish. So we are at a
24 diminishing supply but an increasing demand as you go
25 into June and July. So we will be cutting off the tops

1 of those demands by priority, as necessary.

2 CHAIR FELICIA MARCUS: Right. Maybe I'm not
3 asking this right. Help me, Tom. It is like when you
4 go up the watershed to, you know, 1905 or --

5 THOMAS HOWARD: Up on the San Joaquin River, I
6 think that, at least the supply/demand curve projections
7 that I've seen at the 90 percent exceedance, all
8 pre-1914s would be curtailed.

9 Is that approximately correct, John?

10 JOHN O'HAGAN: Yeah. But by the date --

11 THOMAS HOWARD: By the summer, yes.

12 JOHN O'HAGAN: It is not a date certain. As we
13 move along, you know, we would cut and see how it goes.
14 I don't want to speculate that all of them will be by,
15 you know, June 1st. I want to make sure that we are
16 being careful and tracking this, so that we do not
17 curtail when unnecessary.

18 THOMAS HOWARD: But we will do them by tranches,
19 as John is indicating. But at the 90 percent
20 exceedance, the supply/demand curves indicate that all
21 the pre-1914 in the San Joaquin Basin would be curtailed
22 during the summer season sometime.

23 CHAIR FELICIA MARCUS: Okay. That is what I'm
24 trying to get. They are not all going to be curtailed
25 at the same moment. They will be curtailed as it goes

<http://www.yreba.net/hdhp>

1 up. So I was thinking you are not going to have -- if
2 you have got thousands of them, you are not going to be
3 making decisions by every, you know, three hours every
4 day.

5 THOMAS HOWARD: No, no.

6 CHAIR FELICIA MARCUS: So that is what I'm
7 getting at, which is you would probably do --

8 THOMAS HOWARD: Every couple of weeks probably,
9 we would put out a few updated -- a few people every
10 couple of weeks approximately.

11 BOARD MEMBER DORENE D'AMANO: Well, but the
12 biggest impact would be the irrigation districts, the
13 larger users. Whenever that happens, even though it may
14 hit one water right holder, it will affect hundreds,
15 thousands.

16 JOHN O'HAGAN: Yeah. If a senior water right
17 holder is a major district, which most of them hold
18 prior rights, yes. If we curtail that right, it will
19 affect many agricultural users in that district.

20 BOARD MEMBER DORENE D'AMANO: I had a couple.
21 Okay. Could you talk about the relationship between
22 Term 91 and post-1914?

23 JOHN O'HAGAN: Term 91 is --

24 Board MEMBER D'AMANO: In terms of the dates.

25 JOHN O'HAGAN: Well, Term 91 would be, in most

<http://www.yeslaw.net/help>

1 post-1914 water rights with a priority date of 1969, I
2 believe it is --

3 THOMAS HOWARD: '65.

4 JOHN O'HAGAN: '65. So those would be curtailed
5 right off the bat when we are doing this initial
6 curtailment coming up.

7 So Term 91, however, is triggered by a
8 calculation on the project releases of stored water to
9 make Delta demands. And that is a different trigger in
10 the Delta calculations.

11 So that is coming soon. At the same time we are
12 doing this, they will probably occur near the same time
13 but we will be going deeper than Term 91 on our initial
14 curtailment.

15 BOARD MEMBER DORENE D'AMANO: And then
16 consolidated place of use -- that was adopted last year,
17 that was approved last year as well?

18 JOHN O'HAGAN: That is correct.

19 BOARD MEMBER DORENE D'AMANO: Right. Not that
20 you would be expected to have all this information
21 today, but a little bit on the history of adoption of
22 consolidated place of use.

23 Is it something that comes before us frequently
24 or comes before staff frequently for approval? Or is
25 this something that, typically, just comes before the

1 Board in dry years?

2 JOHN O'HAGAN: I know it came before us last
3 year. I'm not sure about previously. I wasn't leading
4 the program in prior years.

5 THOMAS HOWARD: I have a vague recollection of
6 it having come in one other year, but it is not
7 something that we do on an annual basis historically.

8 2009 Michael tells me.

9 JOHN O'HAGAN: There you go.

10 BOARD MEMBER DORENE D'AMANO: The historian.
11 Okay. Thank you.

12 BOARD MEMBER STEVEN MOORE: I am just interested
13 in how your work earlier this year, in conducting the
14 Information Order and gathering that information has
15 improved our ability to do the demand forecasts and
16 refine this process of selecting, you know, cut-off
17 points for the curtailments and the timing of it.

18 Has it improved our efficiency and our accuracy?
19 Also in terms of the documentation of pre-1914 rights,
20 has that part of the Information Order improved our
21 process?

22 JOHN O'HAGAN: We definitely have now got dates
23 in which we had ranges of dates, for example. So that
24 improves the priority date that people are claiming. We
25 got good data for 2014 which reflects a dry year

http://www.judicial.net/CaseP

1 situation in which we are utilizing, for those
2 thousand-plus parties that got the Information Order,
3 that's the data that we are utilizing for our demand for
4 those water rights.

5 And you saw in the last presentation, they
6 dropped those demands significantly. And that is to the
7 benefit of all the water right holders. Before we
8 initiate curtailments, it has dropped the demand curve.
9 So we feel that that Information Order was a great value
10 to us for better information, but also to the
11 stakeholders.

12 BOARD MEMBER STEVEN MOORE: Thank you. I think
13 that is worth highlighting and repeating a lot; that
14 this is our effort to try to make the system more
15 orderly and efficient and equitable.

16 So thanks for your hard work on that.

17 BOARD MEMBER DORENE D'AMANO: Could I follow up
18 on that? I know I already went, but thank you. That is
19 a good question. Would you be able to quantify it in
20 terms of amount of time delay for invoking the
21 curtailment?

22 JOHN O'HAGAN: We could look at that. We don't
23 have that right now because we immediately move to
24 utilize that data. We didn't look at it. We would be
25 able to put in the existing data that we were going to

1 use before the information, and then see what the shift
2 would be. So we could provide that data.

3 BOARD MEMBER DORENE D'AMANO: I just think, you
4 know, that makes it a little more real for the water
5 rights holders, particularly those that aren't
6 comfortable with the Information Order and it would help
7 for them to see the actual benefit.

8 LES GROBER: My name is Les Grober. I'm
9 Assistant Deputy Director for Water Rights, the other
10 one. I have a very brief update and I'm going to
11 introduce staff from the Department of Water Resources
12 and Bureau of Reclamation to provide an expanded drought
13 update, in general, in terms of the hydrology but also
14 the operations under the Temporary Urgency Change
15 Petition Order.

16 My brief update is following up to the update
17 that I provided two weeks ago. We had just issued
18 another TUCP order, the Executive Director issued the
19 order. Two of the key issues at that time were
20 discussions of and receipt of operations plans for New
21 Melones on the Stanislaus, and Shasta on the Sacramento,
22 principally whether the operations needed to provide
23 temperature control through the summer. And then also
24 then answering the water supply issue. It was critical
25 to kind of get to some resolutions.

<http://www.yreka.net/hs3p>

1 So there were discussions and negotiations going
2 on at that time. I'm happy to report that there is
3 provisional agreement and provisional approval by the
4 Executive Director of Plans for the operations of both
5 New Melones and Shasta.

6 We are waiting now on the submittal of those
7 final plans, some of the delay from the dates of the
8 TUCP. But the important point is just getting that
9 certainty with regard to how to operate, and also water
10 supply, and then to make transfers and such.

11 So these are plans intended to be able to
12 maintain temperature control on those rivers through the
13 summer period. And those plans were prepared in
14 consultation with the fish agencies.

15 We also on Friday received the application --
16 and stakeholders as well, yes. There were a lot of
17 discussions taking place at all levels over the last two
18 weeks. We received the application for the water
19 quality certification for the barriers on Friday. And
20 this is now just for one barrier at West Falls River.

21 In discussions with the applicants at the Corps
22 of Engineers, we are attempting to issue a water quality
23 certification by May 4th because there is a need to
24 start construction in May in order to have them in place
25 for June, so that the project can operate consistent

1 with their TUCP-adjusted operations for Delta outflow
2 through the summer months.

3 And so with that -- and if you have questions
4 for me now, or I could ask the Department and the Bureau
5 staff to join me up here, and then you could ask
6 questions throughout -- or if you have anything now.

7 CHAIR FELICIA MARCUS: A quick question on the
8 barriers. You said something -- the barrier -- to
9 understand. Is that something that at some point you
10 are going to show us the pictures and slides? Maybe it
11 is even in here. Thank you. For those of us who are
12 graph-impaired that like pictures --

13 LES GROBER: West Falls River, doesn't everybody
14 know where that is?

15 CHAIR FELICIA MARCUS: I know where the Old and
16 Middle River are pretty well but --

17 BOARD MEMBER STEVEN MOORE: Thanks for your hard
18 work. And also to our partner agencies and stakeholders
19 on those processes of fairly-rapid agreements that have
20 been made to react to the challenges of the TUCP and
21 those deadlines.

22 It was real important to me to see the system
23 respond to what we learned from last year. And I just
24 want to indicate my appreciation for all that hard work
25 to get to this point.

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BOARD MEMBER DORENE D'AMANO: I would like to
chime in on that as well. Thank you, and Mr. Howard and
all the agencies. I think that having those expanding
discussions to the stakeholders I think really helped.
And we would have a lot more people here today if it
weren't for your ability to pull this all together.

So thank you.

(Whereupon, end of transcribed portion.)

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REPORTER'S CERTIFICATE

State of California)
) ss.
County of Sacramento)

I certify that the statements in the foregoing hearing were transcribed in the within-entitled cause by audio; that said hearing was taken at the time and place therein named; that the testimony of said witnesses was reported by me, a duly Certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and said testimony was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said hearing, nor in any way interested in the outcome of the cause named in said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of August, 2015.

KATHRYN DAVIS
Certified Shorthand Reporter
Certificate No. 3808

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