

MOKELUMNE RIVER FORUM

MEETING No. 15

DRAFT MEETING SUMMARY

MEETING DATE: December 15, 2005

LOCATION: San Joaquin County Farm Bureau
3290 North Ad Art Road
Stockton, CA 95215

ATTENDEES: Tom Francis – East Bay Municipal Utility District
Eric Hong – Department of Water Resources
Mike Flood – Department of Water Resources
Charles Hebrard – Calaveras County Water District
Hank Willy – Jackson Valley Irrigation District
Terry Strange – Upper Mokelumne River Watershed Council
Tom Flinn – San Joaquin County Dept. of Public Works
Tom Gau – San Joaquin County Dept. of Public Works
Mel Lytle – San Joaquin County Dept. of Public Works
Jim Hanson – San Joaquin County Dept. of Public Works
Ed Pattison – Calaveras County Water District
Jim Abercrombie – Amador Water Agency
Tom McGurk – Stockton East Water District
Lena Tam – East Bay Municipal Utility District
Rob Alcott – East Bay Municipal Utility District
Gerald Schwartz – East Bay Municipal Utility District
Katie Matthews – San Joaquin Farm Bureau
Tom Orvis – San Joaquin Farm Bureau
John Skinner – East Bay Municipal Utility District
Kevin Kauffman – Stockton East Water District
Fred Weybret – North San Joaquin Water Conservation District
Ed Steffani – North San Joaquin Water Conservation District
Bob Granberg – City of Stockton

ACTION ITEMS

1. Mike Forum members asked Mike Harty to take comments generated regarding the Draft Assurances Document and prepare a second-draft for circulation prior to the January 19, 2006 meeting of the Forum.

2. Each agency will commit to reviewing the second-draft of the Assurances Document ahead of the January meeting and will be prepared to discuss the comments as an agenda item.
3. Mike will have the support of the sub-group between now and January 19th in regard to the formulation of this second draft of the Assurances Document.
4. Others that are interested in taking part in the sub-group Assurance Document effort were asked to contact Mike Harty following the meeting.
5. A conference call with that included respective agency legal staff is to be considered as a follow-up activity once general agreement on the Assurance Document language is reached.
6. Mike Harty will contact NGO's in January as part of his Stakeholder Outreach Effort. His discussion will include a host of topics such as the upcoming assurances document, their interest in participating in the Forum, potential conflicts with meeting dates and locations, etc.
7. Tom Francis of EBMUD will prepare a list that parties can use to identify who's turn it is to provide Breakfast at the following Forum meetings.
8. Charles Hebrard of CCWD agreed to provide Breakfast at the January Forum meeting.
9. The next meeting of the Forum will be held at the SJFB's Stockton office from 9 am – noon on January 19, 2006.

PRELIMINARY MATTERS

October Meeting Summary

Prior to today's meeting, Eric Hong provided a requested edit to the meeting summary for October 20, 2005. The edit was incorporated into the printed version of the meeting minutes provided to the group. No additional changes were requested.

Agenda

The proposed agenda for the morning's Forum meeting was discussed with no changes requested initially. *Note that during the meeting, the topic order was altered per a request by Charles Hebrard of Calaveras County Water District.*

New Attendee Introductions

Eric Hong of the Department of Water Resources (DWR) introduced Mike Floyd, also of DWR. Mr. Floyd has taken a position under Eric in DWR's Conjunctive Water Management Program. Mike will be attending future meetings of the Mokelumne Forum as DWR's representative.

Tom Orvis of the San Joaquin Farm Bureau (SJFB) introduced Ms. Katie Matthews, also of the SJFB. Ms. Matthews is a program director for the SJFB and will be attending future meetings of the Mokelumne Forum as one of their representatives.

AGENDA TOPIC: UPDATES FROM FORUM MEMBERS

SJCO: Tom Gau of SJCO noted a meeting his agency had with EBMUD that took place during the Nov. 2005 ACWA meeting. Also in attendance were key elected officials / policy makers that serve on the governing bodies of the respective agencies. The discussion topic centered on working to improve communication between the two agencies. Representatives from both agencies left the meeting encouraged. Plans are being established to hold a follow-up meeting in late February. That meeting would be attended by a mix of policy makers and staff. Rob Alcott of East Bay Municipal Utility District (EBMUD) agreed that the meeting between the two agencies was very positive.

Mel Lytle of SJCO noted that the federal legislation drafted to obtain feasibility study funding for their MORE Water Project had been passed by the U.S. House of Representatives (H.R. 3812). The language of H.R. 3812 enables the Mokelumne River Forum Stakeholders to provide information that may be used in the study. The Bill is now an Act that has been introduced in the Senate. \$3.3 Million is requested. If the funding is approved, the Feasibility Study will be conducted by the U.S. Bureau of Reclamation in partnership with SJCO.

Mr. Lytle also noted that SJCO has embarked upon the preparation of the Mokelumne and Calaveras (MOCA) hydrologic model. A kick-off meeting with the consultant hired by SJCO was held a few weeks ago. Plans are to develop an in-house (e.g., for SJCO staff use) hydrologic model primarily focused on the Mokelumne System but with the ability to also incorporate an understanding of the Calaveras System. The model will also include the "possibility" of an inflow from an American River intake (such as a withdrawal at Freeport). While this will be an in-house model, SJCO intends for it to be an open development process, and are willing to share info with outside entities.

AWA: Jim Abercrombie of Amador Water Agency (AWA) noted that contract for the construction of the Amador Canal into Pipeline Project will be awarded on January 26, 2006. Mr. Abercrombie also noted that he has initiated a discussion with PG&E regarding their possible interest in participating in a raising of Lower Bear Reservoir project. PG&E, as the project's owner, may have an interest since the embankment is a potential source of copper that is observed in steam flow (via surface leaching from the

rock-face that forms the embankment's outer shell). This is a water quality concern and contributed (along with high Zinc levels) to the 303-d listing of the tributary. The copper credit that could be obtained by resurfacing the embankment could be of interest to AWA in conjunction a waste discharge permitting strategy they are considering.

EBMUD: Lena Tam of EBMUD noted that representatives from her agency met with reps. from the City of Stockton at the ACWA conference this past November. The topics of discussion included an Update on the City's Delta Water Supply Project and a request by the City for EBMUD to perform some research to determine what available information they may have on Rough and Ready Island.

SJFB: Tom Orvis of the San Joaquin Farm Bureau (SJFB) noted that the agricultural discharge waiver has been given a six (6) month extension. In addition, Mr. Orvis noted that following discussions that had taken place between the October meeting and the present, the SJFB has agreed to provide use of their meeting facility for the purpose of the monthly Forum meeting at no charge. Forum members expressed their gratitude for SJFB's willingness to provide the accommodations as their contribution to the Forum.

City of Stockton: Bob Granberg of the City of Stockton provided an update on their Delta Diversion Project. The City certified the project's Environmental Impact Report (EIR) on November 8th, 2005. During the 30-day public challenge period, the City received two (2) Notice of Intents (NOI) under CEQA regarding plans by others to file lawsuits aimed to block the project. One NOI was filed by the Delta Mendota Water Authority, the second by the Westlands Water District.

SEWD/NSJWCD: Kevin Kauffman of Stockton East Water District (SEWD) noted that the Eastern Water Alliance (EWA) – which includes SEWD, North San Joaquin Water Conservation District (NSJWCD) and Central San Joaquin Water Conservation District (CSJWCD) – met with the City of Lodi and Woodbridge Irrigation District (WID) to discuss options to make use of the water transferred to Lodi from WID (of which Lodi has no current project in place to take advantage of the transferred water). An option forwarded was a potential groundwater recharge project at Mickey Grove Park Golf Course. *This discussion occurred off topic / later during the meeting.*

AGENDA TOPIC: WATERSHED GRANT FUNDING – INFO UPDATE
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Edwin Pattison of Calveras County Water District (CCWD) provided the group with a summary of select grant funding programs that offer monies to offset the costs of various watershed-related activities. Unfortunately, the timing of the 1st such initiative as championed by the State of California was such that no application could be made (those applications were due in December). The second program Edwin noted was a CALFED-related effort aimed more toward water quality than water supply needs. It was determined that the group was not currently ready to go after grant funding, but assuming progress is made on the assurances document and water availability study, the group

would be better positioned in the years ahead. In addition, any future program should have an emphasis on providing funds to develop regional water supplies and/or conjunctive use projects to be a good fit for the group.

AGENDA TOPIC: STAKEHOLDER OUTREACH

Discussion between Mike Harty and Additional Stakeholders: Mike Harty detailed his interactions with the Foothill Conservancy, noting that he spent approximately 30 minutes on the phone discussing the Forum with Chris Wright, the Conservancy's Executive Director. Mike also noted that he hoped to arrange a meeting in January with representatives from key Non-Governmental Organizations (NGOs). Topics of conversation will include the upcoming assurances document.

Mike mentioned that the Conservancy has a conflict with holding the Forum meetings on the first Thursday's of the month, hence for now he suggested we leave the Forum meeting as scheduled for the third Thursdays.

There was some discussion of the option of holding an occasional meeting at an upcountry setting as a way to better encourage Stakeholder participation by interested environmental groups.

AGENDA TOPIC: DRAFT ASSURANCES DOCUMENT PRESENTATION

Following a requested change in agenda topic order, the group began a discussion of the Draft Assurances Document that had been prepared by a Forum sub-group.

Mike Harty provided the following key points regarding the draft assurances document:

- It was prepared to address the topic of assurances and hence needed to incorporate the interests of all members, which are various and at times unique to a particular member
- The Forum had assigned the task of preparing the draft document to a sub-group.
- Aside from Mike Harty, that sub-group also included: Lena Tam and John Skinner of EBMUD, Mel Lytle of SJCO, and Jim Abercrombie of AWA
- The language of the document was purposefully written in a manner to avoid "legal-speak"
- The document was structured such that focus was given on its intended use
- It was acknowledged that while the document may not necessarily be viewed as "legally binding" in a court of law, it would be viewed as a morally binding document in the eyes of all signatories
- They document has little value unless it is signed by participants, yet there was some acknowledgement that there may be participants and/or stakeholder groups whom would not sign the document

- All Forum members were then invited to review the draft assurances document and provide their perspective on:
 - What is useful;
 - What is missing;
 - Whether the document's form / format is appropriate; and
 - What are the next steps.

Jim Abercrombie of AWA noted that he viewed the draft document as a good first start. He saw that a couple of elements were still missing, specifically:

- A statement of purpose (i.e., the incentive for creating the document); and
- A summary of the interest of the particular signatory

Mel Lytle of SJCO noted that there were two meetings that took place in conjunction with drafting the assurances document. He compared the document to a prenuptial agreement, in that the intent of the document was to set rules in the event that a party wishes to leave and/or separate from the group.

Jim Hanson of SJCO cited his view of the baseline issues the assurance document should address:

- The document should provide some discussion as to what everyone will need in order for them to want to participate in the Forum (e.g., what project elements work for their particular agency)
- The document should provide the assurance that existing water rights won't be compromised and/or placed at risk

Other participants voiced various concerns. Some were concerned with whether the assurances document should provide "project assurances" versus "program assurances". Others asked if there should be some set time period and/or "life" assigned to the document (i.e., how long should it be considered as "in force"). Many voiced a concern regarding how NGO's and other interest groups / stakeholders will be included in the assurances process (will they be asked to sign the document, will there be separate meetings where they are not invited to provide a level of "information protection", etc.?).

Eric Hong of DWR noted that the State's objective is to encourage broad outreach efforts, and hence cautioned the group in regard to enacting a system that could tend to limit full stakeholder participation.

Mike Harty noted that the concept of how to involve NGO's and further if they would be asked to sign an assurance document would have to be addressed as this process moves forward. While there may be some risks associated with making information available to NGOs as part of the Forum process with out their assurance, there were also risks associated with not gaining stakeholder participation at the early on in the process.

Terry Strange noted that NGO's have a range of interests, often have limited staff and hence can't be generalized and/or lumped into one category.

Ed Steffani commented about the need (or lack thereof) to seek the participation of other agencies that currently not part of the Forum process yet may be key to moving a project concept forward. He mentioned Central and South Delta Water Agencies as being parties that perhaps meet this criteria. The group agreed with Ed although they noted that until a more formal strategy is crafted by the Forum and further until a couple of meetings have been held with said agencies to gauge their participation interest, for now these groups, while invited to attend Forum meetings, will not be pressed to do so.

Mike Harty summarized the main concerns on a writing board and reviewed them with participants at the conclusion of the topic discussion. The information summarized on the board concerned proposed changes, additions, considerations, and/or alternations needed in the draft assurances document. Information captured was as follows:

- Add a purpose statement regarding the need for assurances
- Add an interest summary for all parties
 - Business objectives
 - More details on commitments
- Assurances are diverse
 - Is there a project ultimately that will meet the needs of participants?
 - How can we incorporate the need to protect agency water rights?
 - Will participants commit to removing project protests?
- What is the Scope of the Assurance Document
 - Should it be broad based / for any report prepared by the Forum?
 - Should it be narrowly defined / only in regard to the preparation of the Water Availability Study (WAS)?
 - Should it be "project assurances" or "information / program assurances"?
- What should the term of the document be
 - Should it be tied to the life of the Forum?
 - Should it terminate is a certain number of participants drop out of the Forum?
 - Should it match DWR's Forum funding commitment timeframe?
 - Should the assurance document run indefinitely (e.g., have a life not tied to the life of the Forum)?
- How should Forum participation be tied to the signing of the Assurance Document
 - Should there be different levels of participation?
 - Would DWR agree to different levels of participation?
- What "Consequences" would be incorporated into the Assurance Document
 - Of failing to provide information?
 - Of using the document by a party in an activity outside of the Forum?

Following the presentation of the above summary, the following was determined:

- Forum members asked Mike Harty to take these comments and prepare a second-draft of the assurances document for circulation prior to the January 19, 2006 meeting of the Forum.
- Each agency would then commit to reviewing the second-draft ahead of the January meeting and will be prepared to discuss as a January agenda item.
- Mike will have the support of the sub-group between now and January 19th in regard to the formulation of this second draft.
- Others that are interested in taking part in the sub-group effort were invited to do so and instructed to contact Mike Harty following this meeting.
- A conference call with that included respective agency legal staff should be considered following the preparation of the second-draft as an informational measure as well as to collect any comments and concerns they may have.

Hank Willy noted at the conclusion that if this effort stalls and/or if NGO complications occur, the Forum should have a “reconsideration” point, perhaps in a year’s time, in regard to its continued purpose and/or future.

**AGENDA TOPIC: POTENTIAL ROLE FOR RESERVED WATER RIGHTS
FROM AMADOR AND CALAVERAS COUNTIES**

Mike noted that at the request of one of the Forum members, there was a desire to conceptually discuss the potential role for reserved water rights from Amador and Calaveras County (as it relates to a possible Forum project that utilizes said rights until such time as the full allocation is needed by the respective up-country entities).

Jim Abercrombie detailed a possible project option that could provide benefits to up-country agencies as well as meet current water supply needs of San Joaquin County entities and be of benefit to EBMUD. Jim noted that projects that consider the needs and/or benefits to all and do not place existing rights in jeopardy are all on the table for discussion from his perspective. He noted, however, that unlike other agencies, AWA only has the Mokelumne as a water source (e.g., groundwater is not an option), hence AWA must be protective of their long-term rights. His view was that these project options will take quite some time to develop and must be preceded by assurance document(s) and water availability studies.

Rob Alcott of EBMUD, in response to a question from Ed Steffani of NSJWCD, noted that EBMUD was open to participating in regional projects (such as a conjunctive-use groundwater banking effort) assuming it could be a process where all Forum parties participate and derive a measure of benefit.

Charles Hebrard of Calaveras County Water District (CCWD) noted that during this interim period his agency hoped to be able to turn its Mokelumne River rights into a revenue stream, although he noted also that there is tremendous growth right now in the region and they also have been working with EBMUD to identify groundwater banking options in the western edge of the County to provide a dependable yield to meet this growth need. Similar to AWA's statements, they must be protective of their water rights for the best interest of their customers and the likely need for water in coming years.

Terry Strange of the Upper Mokelumne River Watershed Council noted that discussion of potential uses of upstream water rights also would need to be coupled with water quality and other environmental matters that faced the River. Fisheries needs also were of a concern both in upstream and downstream reaches of the River. Mike Harty mentioned that he was committed to working with NGO's this coming year to share these and other conversations and gauge their range of interests.

Mike Harty closed the topic by noting that parties appear willing to come to the table to discuss joint projects that may be proposed, although as mentioned earlier in the discussion, cornerstone documents addressing such matters as assurances and water available must first be in place.

Future Meeting Location

The SJFB is willing to provide use of their meeting facility as their contribution to Forum participation / membership. Hence the January meeting of the Mokelumne River Forum will be held at SJFB offices in Stockton.

Mike Harty will continue to investigate the concept of holding an occasional up-country meeting at a location such as EBMUD's Pardee Reservoir meeting facilities.

NEXT FORUM MEETING

The next meeting of the Forum is scheduled for Thursday, January 19th at 9:00 a.m. at the SJFB's meeting facilities in Stockton.

Charles Hebrard of Calaveras County Water District agreed to provide breakfast at the next Forum meeting. Tom Francis of EBMUD was asked to prepare a tracking form such that agencies could better identify when it was their turn to provide breakfast.

FUTURE AGENDA ITEMS

- Second-draft outline of an Assurances Document / Approach

The December 15th Mokelumne River Forum Meeting was adjourned at approximately 12 noon.

NOTE: The initial draft of these meeting minutes was prepared by Tom Francis of EBMUD. Mike Harty reviewed and edited the draft. Please send comments or questions to Mike.