

MOKELUMNE RIVER FORUM

MEETING No. 26

DRAFT MEETING SUMMARY

MEETING DATE: March 15, 2007

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

ATTENDEES: Mike Harty
Tom Francis – East Bay Municipal Utility District
Rod Schuler
Hank Willy – Jackson Valley Irrigation District
Mel Lytle – San Joaquin County Public Works Dept.
Ed Pattison – Calaveras County Water District
Joe Mehrten – North San Joaquin Water Conservation District
Jim Abercrombie – Amador Water Agency
Rob Alcott – East Bay Municipal Utility District
Lena Tam – East Bay Municipal Utility District
John Skinner- East Bay Municipal Utility District
Tom Orvis – San Joaquin Farm Bureau
Gerald Schwartz – East Bay Municipal Utility District
Bob Granberg – City of Stockton
Ed Pattison – Calaveras County Water District
Mike Floyd – California Department of Water Resources

ACTION ITEMS AND AGREEMENTS

1. Tom Gau of San Joaquin County Public Works Dept. (SJC) will be asked to contact Senator Machado in an attempt to arrange a meeting to discuss the Inter-Regional Conjunctive Use Project (I-RCUP). The meeting would be held prior to the April 19, 2007 Mokelumne River Forum (Forum) meeting and be attended by a Forum subcommittee.
2. A discussion of the development of a proposed funding strategy will be placed on the agenda as a discussion topic for the April 19, 2006 Forum meeting. The strategy would be crafted by a Forum subcommittee as a follow-up to the Machado meeting and the discussion that takes place at the Forum meeting in April. The strategy would then be presented to Elected Officials at the proposed May meeting to be held in conjunction with the ACWA conference.
3. Mel Lytle will provide feedback from SJC reps / officials regarding their response to the recent SWRCB action canceling their Mokelumne River water right application. Following the SJC internal discussion (and as an agenda item at the April Forum meeting), Dr. Lytle will detail the results of the internal discussion

and in particular provide feedback regarding SJC's plans for future Forum participation.

4. EBMUD will prepare a draft Memorandum of Agreement (MOA) for review by a Forum subcommittee. The MOA will be used to guide how work as associated with the I-RCUP would be contracted, to identify cost sharing arrangements, as well as identify mechanisms for entering into grant agreements on behalf of the Forum members and/or I-RCUP participants. The draft MOA will be reviewed and edited by a Forum subcommittee and discussed at the April 19, 2007 Forum meeting.
5. In addition to the draft MOA, EBMUD will prepare a draft schedule for the MOA refinement, adoption and implementation. The draft schedule will be reviewed by a Forum subcommittee and discussed at the April 19, 2007 Forum meeting.
6. EBMUD will begin the preparation of a draft Request for Proposal (RFP). It will be reviewed by the Forum subcommittee in the coming months. The RFP will cover the scope of work as identified as initial I-RCUP studies (i.e., the preparation of an engineering feasibility study, the development of legal / institutional arrangements, the performance of an environmental review, and stakeholder outreach). Once completed and approved by the Forum / I-RCUP participants, it will be given to consulting firms interested in performing the work / in preparing a response to the RFP
7. In addition to the draft RFP, EBMUD will prepare a draft schedule for the RFP refinement and completion. The schedule will also detail the time required for the consultant selection process and for contractual agreement negotiations with the selected consultant.
8. The standing date, time and location of Forum meetings may pose a problem / hindrance to Forum participation by representatives from environmental organizations. Mike Harty will be contacting Forum participants (via email) to determine if there are any alternative standing dates / times for Forum meetings. Mike will also be reviewing options for rotating meeting locations.
9. Gerald Schwartz of EBMUD will be working on arrangements for the May Elected Officials meeting to be held in conjunction with the May ACWA conference. He will report-back regarding those plans during the April 19, 2007 regular Forum meeting.
10. Stockton East Water District (SEWD) will be asked to provide breakfast for the April 19, 2007 Forum meeting, which will be held at the San Joaquin Farm Bureau's Stockton offices beginning at 9 am.

PRELIMINARY MATTERS

February Meeting Summary

An electronic version of the February 15, 2007 draft meeting summary was distributed via email prior to the March Forum meeting. Mike Floyd of the California Department of Water Resources (DWR) provided requested edits via email prior to the March meeting. Mike's changes were incorporated into the printed version provided at the start of the March meeting. No further changes were requested by other Forum participants at this time.

Purpose and Agenda

The primary purpose for the meeting was to review the February 26, 2007 electeds meeting among elected officials, focusing on perceptions of agreements, other outcomes, and next steps. A secondary purpose was to discuss the increased interest in the Forum by other groups, such as environmental organizations, including steps needed to encourage their participation.

An action taken by the State Water Resources Control Board (SWRCB) regarding a SJC Mokelumne River water rights filing was added to the agenda as a discussion item.

AGENDA TOPIC: UPDATES FROM FORUM MEMBERS

Jackson Valley Irrigation District (JVID): Hank Willy of JVID noted that the agency was continuing to move forward on a water right matter. He anticipates that work regarding this particular water right issue would continue.

San Joaquin County Public Works Dept. (SJC): Mel Lytle of SJC noted that the SJC Board of Supervisors met on Tuesday March 13, 2007, and as a consent item granted EBMUD an encroachment permit for the construction of the segment of the Freeport Regional Water Project (FRWP) that runs through SJC / SJC right-of-way(s). In addition, Mel's office was moved from a building off of Hazelton Ave. to downtown Stockton adjacent to the baseball park and San Joaquin River.

Calaveras Co. Water District (CCWD): Ed Pattison of CCWD commented that CCWD was in the midst of rate hearings at the moment. As part of that effort, the agency is investigating the option of a tiered rate system.

Ed also commented that he attended a conference as hosted by the group formed to prepare the Cosumnes, American, Bear, and Yuba Rivers (CABY) IRWMP regarding Sierra IRWMP efforts and associated planning and project implementation activities. The event was also attended by John Woodling of DWR. Mr. Woodling gave a presentation during which positive mention was made of the Forum and in particular of the prospects for the I-RCUP (mentioning that the I-RCUP is a good example of how regional cooperation can be used to forward projects of mutual benefit). Ed also noted that representatives from environmental organizations present at the meeting discussed how they viewed that their participation in various IRWMP processes had been marginalized. The environmental reps. present provided suggestions for how to better engage them / include their needs and interests.

North San Joaquin Water Conservation District (NSJWCD): Joe Mehrten of NSJWCD noted that they are taking steps to initiate a well charge / groundwater use rate fee.

Amador Water Agency (AWA): Jim Abercrombie of AWA commented that work is nearly complete on their 8½ mile pipeline project. The contractor (Ranger Construction) is planning for a "blessing of the pipe" ceremony for Friday March 16, 2007 to celebrate the installation of the final pipeline segment.

East Bay Municipal Utility District (EBMUD): Rob Alcott of EBMUD expressed his thanks to SJC and their Board of Supervisors for the granting of the FRWP encroachment permit. Mr. Alcott next discussed the protests that were received to EBMUD's request (as made to the SWRCB) for an extension of their Camanche Permit. Seven (7) protests were received. One by an "anglers group" / fishing alliance, one by an individual living in San Joaquin County who has riparian and appropriative rights senior to EBMUD, and five from various water agencies located in San Joaquin County. Rob understands that the SWRCB is reviewing the protests to determine which will be accepted. EBMUD would be given 30 days to file a reply to accepted protests, and following that time the protest resolution process would begin.

Lena Tam of EBMUD provided a brief update on the hydrologic conditions in the River / EBMUD's Foothill reservoirs and watershed. Per Lena, this has been an extremely dry March. Snow content in the watershed was measured to have a fifty (50) % water content. Precipitation this year to date is at seventy-one (71)% of normal. Assuming conditions continue (which is as per long-range weather forecasts), it is anticipated that EBMUD will operate its reservoirs via dry-year release patterns (i.e., releases of around 250 cfs to meet fisheries needs).

Tom Francis of EBMUD noted that the agency and SJC held a meeting in February to discuss SJC's interest in use of EBMUD's portion of unassigned FRWP capacity. He anticipates that periodic meetings will be held to discuss the matter further.

San Joaquin Farm Bureau (SJFB): Tom Orvis of the SJFB, in reply to Lena Tam's comment regarding dry river conditions, noted that in his opinion there was significant quantity of water flow from New Melones Reservoir / down the Stanislaus River, which appeared somewhat contradictory to the dry-year forecast for the Mokelumne.

Mr. Orvis commented that the concept of a Peripheral Pipeline project (as proposed to direct flow around the Delta) appears to have been resurrected. This project is viewed by the SJFB as having substantial negative impacts (although Tom noted that the project would likely be supported by the Farm Bureau's northern California and southern California sections and hence the State Bureau office would take a neutral stand).

Tom also commented that the State Farm Bureau is working on draft legislation that would address the issue of metal theft that is impacting ag. landowners and irrigation districts. Legislation would put safeguards in place regarding the sale of recycled materials in the hope of deterring theft. He noted that the State Farm Bureau is seeking the support of others (such as utilities, water agencies, etc.) as they advance the bill through the legislature.

City of Stockton (Stockton): Bob Granberg of Stockton provided an update regarding the Delta Water Supply Project (DWSP). The City has recently released an RFP for the design build of the DWSP treatment plant and pipeline. The RFP was sent to the two pre-qualified vendors (Black & Veatch and CDM, Inc.).

Mr. Granberg also noted that Stockton held initial discussions with North San Joaquin Water Conservation District (NSJWCD) regarding possible water transfer options that would entail taking a portion of NSJWCD's 20,000 acre ft. / yr. Mokelumne River waters. Discussions were instigated at the request of NSJWCD and started in part to address the SWRCB's recent actions whereby the water right would be denied unless, among other requirements, NSJWCD demonstrates a proposed use of said waters.

Finally, Bob commented that a project recently installed by Stockton in the San Joaquin River canal (a Bubbler) has been very successful at introducing air / oxygen into the canal. The City was given a Judges Award at the San Joaquin Council of Governments yearly banquet. The Bubbler was designed by HDR, Inc.

California Department of Water Resources (DWR): Mike Floyd of DWR noted that there would be a meeting held at the Modesto Irrigation District's office on March 16, 2007 beginning at 10 am to discuss plans for the continuation of their Integrated Regional Water Management program, including how agencies would like to see funds as will be available under Proposition 84 distributed.

Mr. Floyd also noted that the SWRCB has on its March 20, 2007 agenda the topic of a possible decision to make nine (9) additional Round 1 Prop. 50 Ch. 8 Implementation Grant awards. The meeting will be held at the Cal EPA building in Sacramento beginning at 10 am. Bob Granberg of Stockton encouraged those who are opposed to such a plan to attend to voice their concerns.

AGENDA TOPIC: FEB. 26 MEETING OF ELECTED OFFICIALS

Mike Harty began the discussion by noting that the attendance at today's Forum meeting was smaller than usual, and further most of those in attendance today also were at the elected officials meeting. However, since some individuals, such as Hank Willy of JVID, were not at the elected officials meeting, Mike asked that a five (5) minute update be provided.

As next discussed by Mike Harty, the following comments were made regarding the meeting of Feb. 26, 2007:

- The meeting served to obtain an endorsement from those present to approach Senator Machado in the pursuit of funding for the I-RCUP effort(s);
- A follow-up elected meeting was suggested and will be held to coincide with the ACWA meeting that will be held in Sacramento during the week of May 7, 2007;
- Individuals who in the past have appeared to hold deep project reservations, such as Paul Sanguinetti of Stockton East Water District (SEWD), now appear to be more supporting of an inter-regional effort, assuming that various safeguards could be put in place; and

- Agencies that in the past have been infrequent Forum attendees, such as Woodbridge Irrigation District, appeared pleased with the results of the meeting and may be more encouraged to attend future meetings of the Forum.

A discussion of the required follow-up to the elected officials meeting (including the preparation / information needed for the proposed elected officials meeting in May 2007) was postponed until following a discussion of a recent water rights matter pertaining to SJC's Mokelumne River SWRCB filing.

DISCUSSION TOPIC: SWRCB'S CANCELLATION OF SJC / MOKELUMNE RIVER WATER AND POWER AUTHORITY'S (MRWPA) APPLICATION 29835

A very recent matter pertinent to a SJC water right application was brought to the attention of Forum members by Mel Lytle of SJC on the afternoon preceding today's Forum meeting. While it was too short notice to make the formal agenda, the topic was serious in nature and had the potential to impact SJC's future participation in the Forum. Hence it was added to the day's agenda for discussion.

Mike Harty asked Mel Lytle to summarize for those present the recent SWRCB action.

Dr. Lytle noted that yesterday afternoon (March 14, 2007), he received a letter from the SWRCB. That letter, as signed by Steven Herrera, Chief of the SWRCB's water rights permitting section, consisted of an order canceling SJC's / MRWPA's Application 29835. That application, as noted by Mel, was for a right to divert water (flood flows) from the Mokelumne River into their proposed Duck Creek Reservoir (i.e., for their MORE Water Project).

Since Mel had only just yesterday received the notice, he had yet to confer with other County staff, County legal counsel, County elected representatives, etc. Aside from being deeply concerned about the order and its potential impact on the County's water resource situation, he also viewed that the action places into uncertainty SJC's interest in participation in the Forum.

Dr. Lytle commented that SJC's interest in participating in the Forum could be summed up by two "priority" statements:

1. SJC's first priority w/r to participating in the Forum was to develop a water right on the Mokelumne River (Mel indicated that such a right would be a derivative of Application 29835); and
2. SJC's second priority w/r to participation was to help others benefit from projects that may be developed from such a perfected water right (such as how others would benefit from an I-RCUP project that utilizes a SJC water right as a water source).

Dr. Lytle stated that their participation in the Forum has not brought them any closer to meeting Priority #1. He speculated that spending time and effort on Forum participation / regional cooperation may have been detrimental had they instead spent that same time and effort on a SJC-lead environmental permitting / project development path. Mel specifically pointed out that in their cancellation letter, the SWRCB stated that one of the reasons the application was being cancelled was due to lack of progress on environmental documentation / engineering studies.

Mel said that the SWRCB action possibly placed SJC's participation in the Forum (and/or in the I-RCUP) in jeopardy, but that he would not necessarily know if that would be the case until he had met with other SJC representatives and discussed the implications of the SWRCB's action. He was working to schedule such a meeting(s) for next week.

Dr. Lytle made a few specific comments about the contents of the letter. He was in general disagreement with the SWRCB's contention that little progress had been made by SJC regarding the gathering / providing of necessary information in support of the requested water right. He is concerned that the SWRCB's water rights staff is not communicating with their other staff (and with DWR staff) who are leading Integrated Regional Water Management Planning (IRWMP) efforts. Those efforts strongly encourage regional planning whereas in his view the water rights staff appear to be discouraging regional approaches.

Mel concluded by noting that the letter includes means by which SJC could appeal the decision of the SWRCB, and that the SWRCB also notes that SJC could re-apply for a water right via a new application (although that prospect appeared to result in a significant loss of time for SJC, since the application cancelled had been originally filed in 1990 and hence had an associated filing seniority).

In response to Mel's discussion of the SWRCB action and Mel's description of SJC's disappointment with the action, the following comments were generated:

- Bob Granberg of the City of Stockton commented that regarding the City's recent water right permit (as related to their DWSP), they experienced minimal problem(s) getting a water right / working with the SWRCB, although that example appears to be different from a water availability (theirs is a 1485 water right) / protest perspective (they had settled protests early-on), and moreover the City had developed an environmental document early-on in the process / going-in to SWRCB discussions;
- Jim Abercrombie of AWA commented that he viewed it was important for SJC to stay involved in the Forum and particularly in the I-RCUP effort. He sensed that SJC could look at this as an opportunity to perhaps broker a deal as part of the I-RCUP to gain water via a contracting mechanism vs. a State-assigned water right;
- Mike Floyd of DWR agreed that there appears to be a disconnect between SWRCB's water rights staff and their Prop. 50 IRWMP grant staff, and he was

- concerned that the regional approach being championed by the Forum could be placed in jeopardy by this action of the SWRCB;
- In response to a comment by some present that perhaps the Forum could invite SWRCB representatives to discuss this action (and the recent action taken regarding NSJWCD's water right), John Skinner of EBMUD viewed that if we (the Forum) were to hold an abstract discussion with the SWRCB, we are in turn likely to get abstract answers. In his opinion, if the Forum were to advance a project forward to the SWRCB that had a completed environmental analysis and illustrated protests had been resolved and/or a resolution strategy was in place, the SWRCB would in turn quickly approve of any right required so long as it was within their power to do so (suggesting such a strategy is possible w/r to the I-RCUP). Further, he viewed that SJC's application denied by the SWRCB, since it pertained to the MORE Water Project and which had generated significant protests, would not necessarily be something the SWRCB would support until and unless protests were resolved / steps introduced that clearly showed how others impacted would benefit or have negative impact(s) mitigated. John also noted that he clearly understood the key priorities as presented by Mel w/r to why SJC was a participant in the Forum. That said, John also saw that perhaps any project as developed by the Forum would more importantly address "problems" faced by particular participants versus needing to address "participation priorities". In their case, he sees that the problem faced by SJC is groundwater basin overdraft, and clearly the I-RCUP effort, and its potential for expansion in later-phases, addresses the problem faced by SJC;
 - In response to John Skinner's statement(s), Mel indicated that the I-RCUP perhaps would be too small of a benefit for SJC (and not address the "problem" of basin overdraft to any great degree) as compared with the benefits (and ability to address the basin overdraft problem) that may be derived from the MORE Water Project, and hence he continues to be reluctant to state that SJC would continue working to support an I-RCUP in absence of having the potential to implement a larger-scale effort as well.

As the discussion topic concluded, options such as promises by Forum / I-RCUP participants to not apply for water rights on the Mokelumne were suggested as something that could be considered in order to preserve SJC's participation in the Forum and continue to advance the I-RCUP. No decision was made as to whether such promises would be possible and/or necessary. There also was some discussion as to whether the possible pull-out by SJC would jeopardize the Forum and/or the I-RCUP (i.e., would it still be possible to move it along in their absence?). No direct conclusion was reached.

Mel re-iterated his personal interest in staying involved in Forum activities, although he noted that internal SJC discussion was needed prior to committing to any future participation course by SJC.

Mike Harty suggested that the group take a break and return with a discussion of the next topic.

AGENDA TOPIC: NEXT STEPS AS FOLLOW-UP TO FEB. 26 ELECTED OFFICIALS MEETING

Although the SWRCB matter that impacted SJC had the potential to alter plans made as they relate to the upcoming Elected Officials meeting, it was decided that to be ready for said meeting, advanced planning was warranted, and that the matter facing SJC should not necessarily be factored into the mix at this moment.

As an action item, Mel Lytle will provide feedback from SJC following the required internal discussion (at the April Forum meeting), and based on that feedback plans could be adjusted as need be.

Since the next Elected Officials meeting would take place in early May, it was identified by those present that there would be only one Forum meeting that would take place in the meantime, hence an action item list needed to be developed today if possible.

The group noted that in order to properly provide an update to the electeds, the following information should be gathered:

- A Forum subcommittee should meet with Senator Machado (and / or Ann Beard, a Machado staff-person) to discuss the I-RCUP and get more specifics about funding opportunities. Tom Gau of SJC should organize the meeting. The subcommittee should consist of one representative from the following: EBMUD, SJC (in addition to Tom G.), SEWD, AWA, and CCWD. Preferably the meeting will be held prior to the Forum meeting of April 19, 2007;
- A proposed funding strategy will be crafted by a Forum subcommittee as a follow-up to the Machado meeting and as following the discussion that takes place at the April 19, 2007 Forum meeting. The strategy would then be presented to the Electeds at the May meeting. There is the potential that as part of the strategy the group will ask the approval of the Electeds to contact DWR leadership (such as Lester Snow), as perhaps accompanied by Sen. Machado, in an effort to gain I-RCUP funding support from the State. There is also the possibility that other Senators, such as Sen. Cox and Sen. Perata will be included in the Funding strategy, since they represent other regions included in the I-RCUP;
- EBMUD will prepare a draft Memorandum of Agreement (MOA) for review by a Forum subcommittee. The MOA will be used to guide how work as associated with the I-RCUP would be contracted, cost sharing arrangements, as well as identify mechanisms for entering into grant agreements on behalf of the Forum members and/or I-RCUP participants. The draft MOA will be reviewed and edited by a Forum subcommittee and discussed at the April 19, 2007 Forum meeting. From there, and assuming it is finalized, it will be presented to the Electeds at the May meeting;

- In addition to the draft MOA, EBMUD will prepare a draft schedule for the MOA refinement, adoption and implementation. The draft schedule will be reviewed by a Forum subcommittee and discussed at the April 19, 2007 Forum meeting. From there, and assuming it is finalized, it will be presented to the Electeds at the May meeting; and
- EBMUD will begin the preparation of a draft Request for Proposal (RFP). It will be reviewed by the Forum subcommittee in the months ahead. The RFP will cover the scope of work as identified as initial I-RCUP studies (i.e., the preparation of an engineering feasibility study, the development of legal / institutional arrangements, the performance of an environmental review, and stakeholder outreach). An update regarding the RFP progress will be provided during the April 19, 2007 Forum meeting. The Electeds will be informed that an RFP is in development at the May meeting.
- Gerald Schwartz of EBMUD will be working on arrangements for the May Elected Officials Meeting. He will report-back regarding those plans during the April 19, 2007 regular Forum meeting.

AGENDA TOPIC: FUTURE ROLE OF THE FORUM / PARTICIPATION BY ENVIRONMENTAL ORGANIZATIONS

Mike Harty asked that the group present discuss what steps they were willing to take to promote an expanded Forum and/or to be more inclusive of environmental organizations.

A possible financial stipend that would be provided to representatives from environmental organizations was discussed. Those present viewed that such a stipend may be problematic to support. Instead, it was viewed preferable to identify grant sources that could be secured and hence provide some monies to allow for representation.

If the cost of travel to Stockton for meetings was viewed prohibitive, the group would currently consider either a change of venue and/or an occasional meeting at EBMUD's Pardee center in the Foothills. In addition, the option of car-pooling was mentioned.

If the standing date and time of the meeting was a problem, the group would consider making a change if and when a suitable substitute date and time could be found. As an action item, Mike Harty will be contacting Forum participants to determine if there are any alternative standing dates / times for Forum meetings.

CLOSING

The March 15, 2007 Mokelumne River Forum Meeting was adjourned at approximately 12:00 noon.

NEXT FORUM MEETING

The next meeting of the Forum is scheduled for Thursday, April 19, 2007 at 9:00 a.m. at the SJFB's meeting facilities in Stockton.

SEWD will be contacted and asked to provide breakfast at the next Forum meeting.

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.

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