



STATE WATER PROJECT CONTRACT EXTENSION PROJECT

Draft Meeting Summary and Action Items

State Water Project Contract Extension Project

September 17, 2013 10:00 AM – 3:00 PM

Draft Meeting Attendance List

<p><u>California Department of Water Resources Lead Negotiators</u></p> <ul style="list-style-type: none"> • Perla Netto-Brown, California Department of Water Resources • Vera Sandronsky, California Department of Water Resources • Carl Torgersen, California Department of Water Resources • Ralph Torres, California Department of Water Resources <p><u>State Water Project Contractor Lead Negotiators</u></p> <ul style="list-style-type: none"> • Mike Wallace, Alameda County Flood Control Water Conservation District, Zone 7 • Dan Flory, Antelope Valley-East Kern Water Agency • Valerie Pryor, Castaic Lake Water Agency • Robert Cheng, Coachella Valley Water District • Mark Krause, Desert Water Agency • Tom Glover, Dudley Ridge Water District • Curtis Creel, Kern County Water Agency • Kathy Cortner, Mojave Water Agency • Deven Upadhyay, MWD of Southern California • Bob Perreault, Plumas County Flood Control & Water Conservation District • Douglas Headrick (by phone), San Bernardino Valley Municipal Water District • Ray Stokes, Santa Barbara County/Central Coast Water Authority • Lynn Hurley, Santa Clara Valley Water District 	<ul style="list-style-type: none"> • David Okita, Solano County Water Agency <p><u>California Department of Water Resources Staff</u></p> <ul style="list-style-type: none"> • Ted Alvarez, California Department of Water Resources • Mark Andersen, California Department of Water Resources • Terri Ely, California Department of Water Resources • Karen Enstrom, California Department of Water Resources • Spencer Kenner, California Department of Water Resources • Philip LeCocq, California Department of Water Resources • Nancy Quan, California Department of Water Resources • Dave Paulson, California Department of Water Resources • David Sandino, 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 <p><u>State Water Project Contractors and SWC, Inc.</u></p> <ul style="list-style-type: none"> • Josh Nelson, Best, Best & Krieger LLP/Crestline Lake Water Agency • Don Marquez, Kern County Water Agency • Amelia Minaberrigarai, Kern County Water Agency
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<ul style="list-style-type: none"> • Milly Chennell, Kern County Water Agency • Robert Kunde, Kern County Water Agency (Wheeler Ridge-Maricopa Water Storage District) • Jaime Dalida, MWD of Southern California • Kevin Donhoff, MWD of Southern California • John Schlotterbeck (by phone), MWD of Southern California • Jon Pernula (by phone), Palmdale Water Agency • Leah Wills, Plumas County Flood Control and Water Conservation District • Dana Jacobson, Santa Clara Valley Water District • Eric Chapman, State Water Contractors, Inc. • Theresa Lightle, State Water Contractors, Inc. • Stan Powell, State Water Contractors, Inc. • Julie Ramsay, State Water Contractors, Inc. • Linda Standlee, State Water Contractors, Inc. • Chantal Ouellet (by phone), Tulare Lake Basin Water Storage District 	<p><u>DWR Consultants for Contract Extension</u></p> <ul style="list-style-type: none"> • Tom Berliner, Duane Morris LLP • Erick Cooke, Environmental Science Associates • Barbara McDonnell, MWH Global • Cathy McEfee, Environmental Science Associates <p><u>Public</u></p> <ul style="list-style-type: none"> • Doug Montague, Montague, DeRose & Associates <p><u>Facilitation Team</u></p> <ul style="list-style-type: none"> • Charlotte Chorneau, Kearns & West • Mike Harty, Kearns & West • Kelsey Rugani, Kearns & West • Anna West, Kearns & West
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I. Welcome/Introductions

There were roundtable introductions of the negotiation teams and staff attending in person and by phone. Members of the public were given the opportunity to introduce themselves.

II. Meeting Overview

Anna West reviewed the Meeting Ground Rules emphasizing respect and listening. She also reviewed the process for public comment at the end of the meeting. Anna outlined the negotiation session agenda and stated that SWP Contractors would present on their latest Counter-Proposal.

Anna then reviewed the action list from the September 4, 2013 negotiation session and asked if there were any further edits to the meeting summary. Bob Perreault, Plumas County Flood Control Water Conservation District, asked DWR to clarify their statement on Objective 4. Carl Torgersen, DWR, stated that Objective 4 needs more discussion amongst DWR and the SWP Contractors. The group finalized the September 4 Meeting Summary, including the Objective 4 edit, which will be posted on the website.

III. Objectives Discussion

Kathy Cortner, Mojave Water Agency, presented on the SWP Contractors' vision of financial enhancements. She encouraged negotiators to not lose sight of where DWR and the Contractors have a shared vision, including extending the contract, streamlining the billing process and enhancing financial management. More discussion is needed on the details of each vision.

For Objective 3, there is broad agreement, overall, with 1hh as an outstanding issue. There is broad agreement on financial management enhancements, including the reserves and level of reserves, but how these accounts are funded, approved and adjusted are still to be determined. The Contractors believe a Financial Steering Committee with approval authority can be used to bridge the gap on funding issues.

Fundamental to the Contractors agreement on reserves is the enactment of financial management enhancements, including:

- Rate of funding the GOA is contingent on milestones being met:
 - Execution of the SWRDS financial steering committee charter approved by both the Contractors and DWR
 - Director approval of SWRDS organization structure, with Committee input
 - Financial Steering Committee approval of the Work Plan developed by the SWRDS Chief Financial Officer (CFO)
 - Implementation of the Work Plan
- Future adjustments to the GOA or the SSA to be approved by the SWRDS Financial Steering Committee, as well as establishing a general operating reserve policy.

Carl suggested that perhaps instead of having the SWRDS Financial Steering Committee approve GOA and SSA adjustments, DWR and the Contractors could mutually agree on hiring a third party financial expert to work with them on establishing a set of parameters that would be used to define adjustments, up or down. This consultant could decide on a mechanism and methodology for altering the reserves account instead of having adjustments linked to milestones. If the formula or mechanism is inapplicable, the Steering Committee would review it. DWR proposes a five-year review of the GOA and that could extend to the SSA as well. This approach eliminates having GOA future adjustment decisions be solely the responsibility of DWR or the Contractors; both parties would mutually agree on which third party would be hired.

When asked if this third party would be included in the contract amendment or as part of the Steering Committee Charter, Carl said it is negotiable. Deven Upadhyay, Metropolitan Water District of Southern California, asked if the third party's analysis would happen right away. Carl answered that the analysis would not occur right away, but that parameters for future analysis could be established. These parameters could be memorialized in the contract amendment.

Kathy asked if DWR is suggesting elimination of the milestones for financial enhancements. Carl suggested having milestones makes sense, but the timeframes may change based on scope or challenges uncovered along the way. He also shared that having the enhancement milestones linked to GOA funding is problematic for the Department. Having all financial management of both SWRDS and the SWP in one organization is difficult to accomplish since many other DWR divisions, like Flood Management or Department of Environmental Services, for example, have

multi-purpose programs. Their programs may impact the SWP and other facets of DWR. DWR currently executes service level agreements for ongoing O&M activities and DWR plans to maintain this existing structure with O&M. Carl suggested that this approach could be expanded to Flood Management and the Department of Environmental Services, having the Deputy Director of the State Water Project request services of these departments through service level agreements.

Ray Stokes, Santa Barbara County/Central Coast Water Authority, clarified that the Contractors' proposal is to have 100% of the budgeting and reporting established through a Chief Financial Officer. He asked if the service level, internal agreements Carl mentioned have that capability. The goal for the Contractors is to have one, "go-to" place for SWRDS finances. Carl answered that the agreements are one way to have SWP funds centrally managed. Having all of the budgeting and reporting go to one person is where DWR is headed, but the specific details are not clear at this point. Ray elaborated that financial reporting is a key element to have in one "go-to" place. He foresees having the statement of charges, cash flow analysis, 10-year forecasts, etc. under the CFO.

Perla Netto-Brown, DWR, stated that DWR Fiscal currently oversees the financial statements for the SWP and also all of the other departments. She understands Ray's point of view and suggested matrix reporting may be a potential alternative. This issue would need to be discussed further.

Deven shared his perspective that SWRDS could be handled like a separate utility within DWR. The Contractors would then be able to interact with the people managing their utility, and this is a similar structure to how many cities run their water department's finances. It would share administrative overhead. Carl responded that it is possible to execute an internal agreement with any program, but the Department may not be allowed to execute Deven's vision. He thought that matrix management with fiscal is more appropriate for SWRDS since it focuses on ongoing activities instead of contracting specific projects. He stated that DWR and the Contractors agree on consolidated management and having one group responsible for financial management of SWRDS.

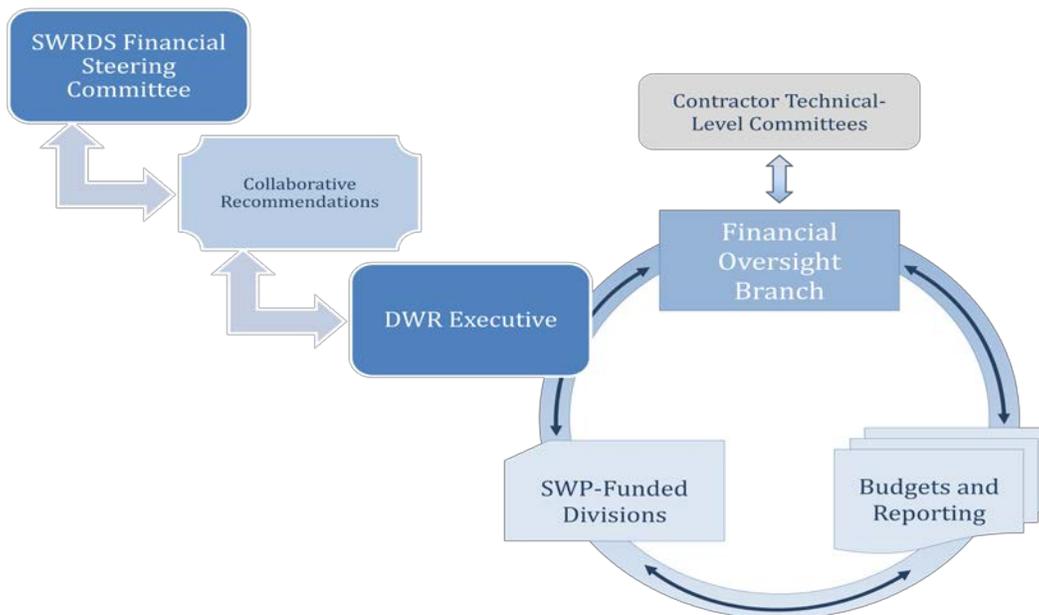
Curtis Creel, Kern County Water Agency, emphasized that the concept of a consolidated, financial organization had more to do with authorization and approval over aspects of the SWP, and not as much about the creation of reports or the dissemination of information. In this potential structure, there may be a Deputy Director who is responsible for the State Water Project itself and would oversee the CFO and the implementation of different financial policies. Curtis and Carl both agreed that the Deputy Director would be the person to establish direction and authorization of SWP projects.

Ray discussed financial reporting further clarifying what, in particular, he is looking for as a Contractor. He would like to be able to read the statement of charges and understand the variances, what the basis for statement of charges was, understand the actual costs versus the budget, and to be able to communicate the bill's details to his agency's Board. Additional DWR personnel may be needed. Perla agreed that some additional resources may be needed to assist in developing these financial reporting tools and that the statement of charges should reconcile

with the budget. Deven added that the meshing of the budget and the statement of charges is a milestone identified in the Contractors' proposal.

Regarding milestones, Carl shared that DWR does have milestones they wish to implement for financial enhancements. The issue for the Department is linking milestones to GOA funding level adjustments. DWR does not think it is reasonable to put constraints on increasing the GOA with 51(e) revenues. Deven shared that the Steering Committee's future work plan and associated milestones is not meant to define all of the details, but will be a joint commitment by the Department and the Contractors for progress. The Contractors would be assured of having milestones met along with providing increased financial flexibility with increasing reserves. Carl thinks the SWRDS Financial Steering Committee will provide that assurance since that group will have input on why milestones are, or are not, being met.

From DWR's perspective, the Steering Committee would provide direction to the project team. The decision-making would be set based on tasks established by both the Contractors and DWR. Carl suggested that some language could be added to the contract to assure the Contractors while many specifics would be described in the Steering Committee's charter. DWR's vision of the Steering Committee's oversight is illustrated in the graphic below. DWR and the Contractors would establish the work plan that includes deliverables and when the deliverables will be implemented. The Steering Committee will have the ability to make recommendations on internal financial management. The Committee will provide direction to the project teams and ensure that there are enough resources, realistic schedules, etc. This Committee will not be looking at line items in the budget; that would happen in technical committees. If there is a major issue, like the energy crisis in the early 2000's, the Committee would provide significant assistance.



Curtis clarified that the Steering Committee would collaborate with the DWR Executive although details of the interaction need more discussion. Carl foresees the Financial Oversight Branch as customer service for programs. Also, there is an interconnection of the projects at the technical level and the Steering Committee.

Curtis described that the single financial point of contact, potentially a CFO, would come to the Steering Committee for recommendations on how to edit a policy or how to deal with a particular constraint. The Steering Committee could then make a recommendation. How would this recommendation then be implemented? Would the Director sign the action/recommendation and authorize staff for implementation? Carl answered that there may not be one answer to that scenario. He foresees the Steering Committee's recommendations going to the DWR Executive and then the Financial Oversight Branch. Perla added that policy-type decisions could go to the Steering Committee, but the refunding of bonds would not. Curtis affirmed that the Contractors do not envision bonding going to the Steering Committee. He clarified that anything that impacts SWRDS financial risk should go to the Committee.

Dan Flory, Antelope Valley-East Kern Water Agency, thinks there is understanding amongst DWR and the Contractors that each have obligations to meet. He foresees the Steering Committee handling big-picture items such as being able to opt-out of the BDCP.

Kathy Cortner suggested that the Contractors and DWR appear to be aligned on the Steering Committee's overall vision, but she raised the Contractors' concern about how financial management enhancements will transcend future administrations. Carl suggested that if the Steering Committee is established immediately, the charter would establish and memorialize its responsibilities. Language could also be included in the contract amendment although specific information like including completion dates is not realistic. Deven stated that completion of the Steering Committee charter is one of the Contractors' proposed milestones, linked to \$50 million for the GOA.

Carl summarized that the issue is financial management and not program control. DWR needs to determine its best organization structure for managing finances, and integrating input from the Contractors.

IV. Objectives Discussion Continued

Kathy walked through the "Flow of Funds" graphic, inserted below. The first column illustrates the current funding priorities, the second illustrates DWR's most recent counter-proposal's prioritization, and the third illustrates the Contractors' fourth offer's recommendations.

Flow of Funds		
Current	DWR Counter-Proposal	SWP Contractor Fourth Offer
1. Revenue Bond Debt Service	1. Revenue Bond Debt Service	1. Revenue Bond Debt Service
2. Operations and Maintenance	2. Operations and Maintenance	2. Operations and Maintenance
3. G.O. Bond Debt Service	3. G.O. Bond Debt Service	3. G.O. Bond Debt Service
4. Capital Facilities Account (\$4.5 M)	4. Capital Facilities Account (\$4.5 M)	(Eliminate Cap. Facilities Acct) (line 96)
5. Rate Management (\$40.5 M) (ends in 2035)	5. Rate Management (\$40.5 M) (ends in 2035)	4. Rate Management (\$40.5, ends in 2035)
6. Additional System Purposes		
7. "Owed" Rate Management	Director's Discretion	Subsequent Priorities
8. Increases in the GOA (up to \$32 M)	6a. Increase GOA (90 days/\$150 M)	6. GOA (up to \$150 M) (line 95)
9. Additional Rate Management	6b. SWRDS Support Account (\$60 M)	7. SWRDS Support Account (\$60 M) (line 98)
	6c. SWRDS Reinvestment Account	8a. % SWRDS Reinvestment Account (line 99)
	6d. Additional Systems Purposes	8b. % "Owed" Rate Management (line 100-104)

Kathy shared that the Contractors believe that not everything should be up to the Director's discretion (items 6a-d in DWR's proposal). The Contractors want to ensure that certain things are funded and that funds are not appropriated somewhere else. Carl asked what the reasoning is behind eliminating the Capital Facilities Account before 2035. Kathy responded that other funds will replace that and therefore, it will not be needed.

Ray outlined that if the Capital Facilities Account is eliminated, the SWRDS Support Account (SSA) would be established and funded by 51(e) revenues. Whatever remains in the Capital Facilities Account before it is eliminated will be transferred to the SSA as well. DWR clarified that their latest offer did suggest eliminating the Capital Facilities Account although not before 2035. They think the SSA may not be fully established yet and the Capital Facilities Account could be utilized. Post 2035, DWR agrees that the remaining balance of the Capital Facilities Account will be transferred into the SSA and it will be eliminated.

Ray described the Contractors' proposed subsequent priorities. The GOA and the SSA will be funded first and the leftover funds would then be allocated between the SWRDS Reinvestment Account and the historical rate management credits. This means that all of the revenue stream would be tied up. After 2035, 51(e) revenues still exist because they are reinvested into the SWP and reimbursed by the Contractors. The SSA will be used for non-reimbursable costs while the SRA will be reimbursable by the Contractors. Ray further explained that the Director will still have discretion over the SRA and SSA. Carl noted that the Department's proposal is silent on the subject of repayment of historical rate management credits, and that language already exists in the Contract that addresses this point.

Perla asked if this proposed structure would limit the Director's discretion to the funds available in the SSA and SRA. Ray responded yes, but that this how the Director's discretion works currently. The Director will have a cap on non-reimbursable projects post-2035, but not pre-2035. This is because pre-2035, the SSA will be funded by 51(e) revenues and post-2035, the SSA is replenished by the interest earnings from the SRA.

Carl explained the Director currently does not have discretion over the amount of funds allocated to the GOA. DWR proposes changing that while the Contractors' proposal mandates

funding the GOA and SSA first. David Okita, Solano County Water Agency, confirmed that the Contractors' propose that the Steering Committee will have discretion on adjusting the GOA.

Deven asked what is meant by mutual agreement related to decision making by the Steering Committee. Carl suggested that mutual agreement means trying to reach consensus on a recommendation. Deven asked if this includes DWR and SWP Contractors. Carl affirmed yes, that is the intent.

Anna West asked what happens if consensus isn't reached. Carl suggested that there would likely need to be a dispute resolution process, which could be worked through in developing the charter for the Steering Committee.

Anna reviewed a document the facilitation team put together based on the morning discussion, highlighting where DWR and the Contractors have potential agreements. She shared that these are obviously not final, but may assist in moving the process forward:

- Deputy Director of the SWP sets direction on programs/approvals of projects that are SWRDS related
 - Establish service level agreements with other divisions (DES, IT)
- Consolidated Financial Management/Single Financial Point of Contact for SWRDS – Authority over SWRDS
 - Matrix organization reporting structure? (to be developed by the Financial Steering Committee)
- Financial Reporting
 - Single budget, aligned with Statement of Charges (SAP alignment with SOC)
 - Understand basis for the budget (roll up of projects/programs)
 - Cash flow
 - Budget v. Actuals
 - Actuals and variances
 - Long-term forecasts/financial outlook
- Financial Steering Committee (start immediately)
 - Establish a charter
 - Build on the existing work plan and milestones

Anna also highlighted an offer Carl shared earlier in the meeting.

DWR Proposal

- Set/establish parameters for changing funding levels of GOA and SSA, with 3rd party expert
 - Mutually agree as part of the contract amendment

She asked if the Contractors have discussed this concept, or had a response. David Okita explained that the Contractors had not had a chance to discuss the proposal.

Dave Paulson, DWR, revisited the issue of rebilling included in DWR’s most recent counter-proposal on Objective 3. Rebilling occurs to correct errors or allocation issues that were included in the original bill. This is different than revised billing and supplemental billing. Rebills will be sent to Contractors sometime between July 1 and January 1. DWR hopes to give Contractors the ability to discuss the rebill with their Boards. It was clarified that the ability to rebill is an existing practice and the Department would like to memorialize it in the Contract Amendment. The Contractors have various perspectives on this topic. The Contractors will provide a response on rebilling at the next negotiation session.

The Contractors will also revise the “Flow of Funds” graphic prior to the next negotiation.

V. Next Steps

Anna reviewed the Contract Extension Process through October. The group agreed to extend the time for the next meeting, scheduled for October 2nd, from 10:00am to 5:00pm (could adjourn earlier depending on meeting progress) at the Resources Building 1416 9th Street, Room 1131. Space will be tight, so staff may want to join by phone, or they may need to go to caucus rooms and dial in.

VI. Public Comment

There were no requests to provide public comment.

VII. Adjourn

The meeting was adjourned.

Action Items		Responsibility Due Date
1.	September 4 Negotiation Session Meeting Summary to be finalized and posted on the website.	K&W ASAP
2.	SWP Contractors to update the Flow of Funds graphic.	SWP Contractors ASAP
3.	DWR to prepare a revised Counter-Proposal building on the matrix.	DWR ASAP
4.	DWR or K&W to share information on timing for DWR counter-proposal after initial DWR meetings.	DWR or K&W when available
5.	September 17 Negotiation Session to be prepared.	K&W ASAP