



STATE WATER PROJECT CONTRACT EXTENSION PROJECT

Meeting Summary

State Water Project Contract Extension Project

January 8, 2014 10:00 AM – 3:00 PM

Draft Meeting Attendance List

<p><u>California Department of Water Resources</u></p> <p><u>Lead Negotiators</u></p> <ul style="list-style-type: none"> • Rob Cooke, California Department of Water Resources • Perla Netto-Brown, California Department of Water Resources • David Sandino, California Department of Water Resources • Carl Torgersen, California Department of Water Resources <p><u>State Water Project Contractor Lead</u></p> <p><u>Negotiators</u></p> <ul style="list-style-type: none"> • Dan Flory, Antelope Valley – East Kern Water Agency • Mike Wallace, Alameda County Flood Control Water Conservation District, Zone 7 • Paul Gosselin, Butte County • Valerie Pryor, Castaic Lake Water Agency • Tom Glover, Dudley Ridge Water District • Mark Krause, Desert Water Agency • Curtis Creel, Kern County Water Agency • Steve Arakawa, MWD of Southern California • Deven Upadhyay (by phone), MWD of Southern California • Kathy Cortner, Mojave Water District • Jon Pernula (by phone), Palmdale Water District • Bob Perreault, Plumas County Flood Control & Water Conservation District • Jeff Davis, San Geronio Pass Water Agency • Ray Stokes, Santa Barbara County/ Central Coast Water Authority 	<ul style="list-style-type: none"> • Douglas Headrick, San Bernardino Valley Municipal Water District • Dana Jacobsen, Santa Clara Valley Water District • David Okita, Solano County Water Agency <p><u>California Department of Water Resources</u></p> <p><u>Staff</u></p> <ul style="list-style-type: none"> • Ted Alvarez, California Department of Water Resources • Terri Ely, California Department of Water Resources • Avery Estrada, California Department of Water Resources • Scott Jercich, California Department of Water Resources • Spencer Kenner, California Department of Water Resources • Philip LeCocq (by phone), California Department of Water Resources • Jeremiah McNeil, California Department of Water Resources • Mehdi Mizani, California Department of Water Resources • Dave Paulson, California Department of Water Resources • Nancy Quan, 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 • Matt Naftaly (by phone), Santa Barbara
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<p><u>DWR Consultants for Contract Extension</u></p> <ul style="list-style-type: none"> • Tom Berliner, Consultant • Erick Cooke (by phone), Environmental Science Associates • Cathy McEfee (by phone), Environmental Science Associates • Barbara McDonnell (by phone), MWH Global • Stan Dirks, Orrick, Herrington & Sutcliffe LLP <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 Arrowhead Water Agency • Dan Masnada (by phone), Castaic Lake Water Agency • Milli Chennell, Kern County Water Agency • Don Marquez, Kern County Water Agency • Amelia Minaberrigarai (by phone), Kern County Water Agency • Ted Page, Kern County Water Agency • Jaime Dalida, MWD of Southern California • David Reukema, MWD of Southern California • John Schlotterbeck (by phone), MWD of Southern California • Leah Wills (by phone), Plumas County Flood Control and Water Conservation District 	<p>County</p> <ul style="list-style-type: none"> • Brian Pettit, Santa Barbara County • Chantal Ouellet (by phone), Tulare Lake Basin Water Storage 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. <p><u>Public</u></p> <ul style="list-style-type: none"> • Dan McDaniel (by phone), Central Delta Water Agency • Doug Montague (by phone), Montague, DeRose and Associates • Thomas Rinn (by phone), Waterworks Consulting • Patricia Schifferle, Planning and Conservation League <p><u>Facilitation Team</u></p> <ul style="list-style-type: none"> • Alex Braunstein, 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 ground rules the action list, stating that nearly all action list items were completed by December 31st due to very impressive work by all. She asked if there are additional edits to the December 17 negotiation session meeting summary, and hearing no objections, it was approved and will be posted to the website.

III. Objectives Discussion

Carl Torgersen opened his comments on the Finance Committee charter with a reminder that, just as the Contractors need to go their boards, DWR will need to get approval from the Director. Carl proceeded to describe an overarching proposal for the charter, suggesting that DWR and SWP Contractors settle on “policy” as the appropriate term to describe the focus of the Finance Committee. He also suggested that the charter doesn’t need to be so lengthy and

could be distilled down to one or two pages of key content. He suggested that the charter would establish that the Finance Committee has a chair and vice-chair and either can determine agenda topics for the Committee, which then makes recommendations to the Director. Carl added that he appreciated the effort that went into documents up to this point, though DWR and the Contractors may be able to move forward by simplifying the document. David Okita said that Contractors agreed on the policy focus on the Finance Committee, and then asked for clarification on what the Department had in mind for what details would go into the contract. Carl responded that he thought the details of the charter should not go into the contract because it's difficult to anticipate issues 50 years from now, at which point the contract would need to be amended to change the charter if the charter language is included in the contract. David Sandino added that the charter itself could be a binding document without being included in the contracts; there is precedent for agreements between the Department and Contractors which are not in the contract.

Carl Torgersen stated that the single point of financial contact, or the Chief Financial Manager (CFM), is potentially an unresolved issue, stating that the Department does not want to force-fit the CFM position without looking at the organizational impacts. Tom Glover responded that for the Contractors, there is an interest that the CFM position and associated responsibilities are memorialized going forward, so that 30 or 40 years from now the role is clearly established. He explained that the language on the responsibility and authority of the CFM are important to the Contractors; this person needs to be able to oversee SWRDS financial resources. Tom said that Contractors want to make sure that language addressing this is included in the Contract. Tom added that the Contractors recognize that there are two work plans, one is the one that Carl has talked about regarding internal/organizational analysis. In the view of SWP Contractors there is a second work plan that would have two phases. The first phase would address what the organization looks like and what skills the CFM should have. He explained that it's the Contractors intent to have approval over the outcome of this phase. Then the second phase of the work plan is essentially a business process improvement effort, led by the CFM. This is part of the reason the language on authority and responsibilities of the Chief Financial Manager needs to be clear, to ensure he or she oversees SWRDS resources, and drives this process.

Carl responded that in DWR's existing structure, the proposed responsibilities of the CFM are across different areas of the organization so committing to those responsibilities to the CFM position in the Contract or Charter is problematic. Tom asked if Carl's understanding is correct that the Committee would make recommendations, and the CFM would bring these recommendations to the Director. Then, if the Director decides to implement the recommendations, the CFM would have the delegated authority of the Director to implement. Carl responded yes, that it aligns with his perspective as well. Carl added it comes down to what language DWR and SWP Contractors could agree on. DWR is a multi-mission Department, so pulling out one part of the mission is problematic.

Perla Netto-Brown stated that it was her impression from the Contractor's proposal that the CFM would report to the Committee. Tom suggested that the CFM works with the Committee; he clarified that there is precedent for this from the Program Analysis and Support Office (PASO) and Enterprise Business and Strategic Planning Office (EBSPPO) that were part of Executive in the early- to mid- 2000's. Carl stated that he sees the CFM as a person who is charged to carry out the Director's decisions.

Both Perla Netto-Brown and David Okita said that they were hearing a difference in the two positions between what Tom has articulated and what Carl has articulated. David Okita emphasized that Contractors envision the CFM being a high-level position over SWRDS, reporting to the Deputy Director, adding that the language on authorities and responsibility was chosen carefully. Carl Torgersen responded that he understands, but is reluctant to commit to the language provided before the Department does an organizational analysis to understand what's possible.

Tom Glover stated that he thought it would be productive to start looking at actual language that is agreeable to both parties. Carl Torgersen suggested that less is more as far the Charter is concerned. DWR agrees with the CFM in concept, though the detail needs to be worked out. There was a discussion of the possibility of making direct edits to the charter today either in the negotiation meeting or in a caucus. David Okita added that, from the perspective of the Contractors, some details would need to be included in the contract.

Curtis Creel affirmed that he thought there was a possibility that the Finance Committee could be described at a high level. Carl agreed, stating that the Committee would have a Chair and Vice-Chair structure, and either could put items on the agenda. He suggested that there are only a few key items to be reflected in the charter, including the process for proposing items to be recommended as agenda topics.

Carl Torgersen stated that DWR agrees that once the Committee is formally chartered there would be a work plan or work plans which the Committee would develop and approve. He questioned, however, whether language on the details of the work plan(s) is needed in the charter. He added that he thought a new item the Contractors had added was approval on the current Program work plan, and said that this could be problematic since it is already underway and the Committee might not be formally established. He suggested that communicating and coordinating on this current effort is already underway. Curtis Creel clarified the Contractors' understanding that DWR is already embarking on a Program Control process. He explained that the Contractors also envision the two-phase process that Tom Glover had described, where the first phase of the work plan is developing criteria for the role of the CFM, and then a second phase of the work plan is implementation. Curtis asked to clarify if Tom Glover's process pertaining to things that the Committee is overseeing would be included in the Charter. Carl Torgersen said yes, he thought that was the case.

David Okita recognized that the distinction between the existing program process work plan and the second two-phase work plan, suggesting that this second, two-phase work plan should be included in the charter. David further suggested that details around the CFM should be included in the charter. Carl stated that DWR agreed with the CFM in concept, and said that he would be comfortable including language in the charter on the Committee's review and approval of this work plan, but he did not think the details about the work plan were necessary to include in the charter (III. Committee Responsibilities, 2., a-f, etc.). Carl Torgersen gave an overview of sticking points for DWR in the Charter. In the last paragraph of page one of the draft charter, on technical committees, DWR is concerned that this language implies that entities other than DWR can give direction to DWR staff, stating that Contractor committees do not have authority to give DWR staff work. He added that the fundamental issue is to avoid language that implies that DWR staff is receiving direction from multiple sources.

Curtis responded that the intent of the language is to reflect that technical work will sometimes need to be done to support the work of the Finance Committee. Kathy Cortner clarified that the language being discussed was developed to respond to DWR's proposal that committees should be examined for redundancies. Carl suggested that this language be taken out to help streamline the charter. David agreed that it could possibly be taken out.

Ray Stokes asked for clarification on how the technical committees would interact with the Finance Committee. Carl responded that he viewed that technical committees could forward issues to the Chair and Vice Chair to be considered for the Finance Committee agenda, if there are policy topics warranting the Committee's review. Ray agreed, suggesting that there is alignment between DWR and SWP Contractors.

Perla Netto-Brown added her observation that the paragraph on page 1 appeared to refer to existing committees which are currently committees of the Contractors. She explained that new technical committees going forward would be comprised of both Contractors and Department staff and that the technical committees would follow up on Finance Committee issues, as needed. She suggested that the structure would be bottom-up, bringing technical topics forward for decisions by the Finance Committee, as needed, and top-down where the Finance Committee needs to have information developed by a technical committee.

Carl agreed and suggested that one responsibility of the CFM could be to give the Committee an idea of workload for staff and therefore the timing for deliverables and suggested subject-matter experts who can be engaged depending on the topics to be addressed. He clarified that these specifics are not needed in the charter.

Curtis Creel suggested that the Charter be edited to reflect the changes discussed, with language on the bottom of page one to be deleted, and the following sentence be added: "The SWRDS Finance Committee may establish technical committees to address specific or ongoing matters, as they see fit." The facilitation team made the edits.

Carl Torgersen suggested that DWR wasn't sure that all the language is needed on the work plan details, nor does DWR agree with the approval concept for the work plan already underway since the Committee will not be established when this current work plan will be in implementation. Steve Arakawa asked how the definition of financial policy would be worked out, in practice, if the detailed language were removed. Carl suggested that if there is a question about a potential topic and whether it should go to the Committee he suggested it can be sorted through given that it requires the approval of either the Chair or Vice Chair. David Okita suggested that the definition of financial policy is captured in other language of the charter.

Carl suggested that DWR and Contractors might want to reconsider a one-year term which could be too short, and also questioned the concept in Section H. on "review" of the committee and how such review would be conducted. Dan Flory clarified that perhaps the Finance Committee would review the charter. Tom Glover agreed suggesting the Finance Committee would review the charter every five years.

Kathy Cortner asked about the approach to creating the work plans. Carl said that there would be an organizational analysis leading to establishing the CFM and then the CFM would draft the

work plan and work with the Finance Committee to get approval, and then implement the work plan.

DWR and SWP Contractors took a short caucus.

David Okita stated that Contractors are encouraged by the morning discussion on the charter and would like to directly edit the draft Charter over lunch. The Contractors would like to review DWR's edits to the draft the Offer #5, but they want to make progress on the Charter first so we don't lose momentum.

Carl Torgersen started to review the Department's edits to the offer. Anna West suggested that it may be more efficient if Contractors could ask clarifying questions. David Okita then asked about the definition of "other available revenues" on page 2, item 8. Perla Netto-Brown stated that it could be an appropriation from the legislature, Davis-Dolwig money, or 51(e) revenues. Ray Stokes clarified that DWR would not use cash from current year operations to fund the GOA. Carl Torgersen responded that this is correct; the Department would not use current operations funds to fund the GOA.

David Okita, asked about language on SSA replenishment on page 5, item 7, asking for clarification on the phrase "from other available system revenues." Carl replied that it's the same as with the other example, Davis-Dolwig money, 51(e) revenues, or an appropriation from the legislature. The word "system" was deleted.

David Okita asked for DWR's current thinking on the issue of three accounts versus four accounts. Carl Torgersen stated that DWR was still looking at four accounts, with a subaccount for 51(e) revenue within Systems Revenue. Addressing the concern that Ray Stokes raised, there would be a percentage that DWR could draw on (80 percent, for example) to ensure that the revenues are not overdrawn. Ray Stokes asked for specifics on the subaccount. Perla Netto-Brown stated that it would be a General Ledger account in SAP. Ray asked to clarify if the percentage policy Carl mentioned would be in the contract, or would be an internal policy. Carl responded that it was an internal policy and it could be a policy that the Finance Committee reviews.

David Okita asked about the rationale on page 3, 6. c. for removing the language on investments "per state government code." Perla Netto-Brown clarified that the Department would only invest the account in allowable instruments. David Sandino suggested that the language is redundant; DWR would follow the law in making SRA investments. David Okita suggested that the intent was to ensure that the investment policy is something that is not too risky, and to assure that there is enough interest generated to fund the SSA. Perla clarified that the SRA would be a part of the State treasury system which likely generates less than one half percent interest. She explained that the returns from loaning money to Contractors would be at the bond rate of three to four percent. Curtis Creel clarified that the intent is to have investments in the SRA generate a monetary return for the SSA, rather than investments in infrastructure. Perla clarified that this is the Department's understanding as well.

David Okita questioned on page 3, item B.3., on additional language on capital costs. He said that capital costs generally will be financed, but there could be some costs that the Department

may chose to pay without financing. Stan Dirks and Perla Netto-Brown stated that the sentence was included to accommodate the proposed operations of the SRA.

David Okita said that there are other concerns he had, with the capital facilities account and rate management, but these are negotiation points for discussion later, not clarification questions. He asked the Contractors if they had other clarifying questions, and there were none.

DWR and SWP Contractors adjourned for lunch and to caucus.

IV. Objectives Discussion Continued

Anna West stated that there were two items to be discussed: one is DWR's current thinking on charter language related to responsibilities of the CFM, and second is the Contractors' edits to SWRDS Finance Committee Draft Charter.

Carl Torgersen stated that while DWR has encountered deal killers in this negotiation process he thinks the Chief Financial Manager concept is not a deal killer. He reiterated that the Department needs to review the overall package, but he believes that DWR and SWP Contractors can make something work on the CFM.

David Okita presented an overview of the Contractors' revisions to the SWRDS Finance Committee Draft Charter adding caveats that this was done in a short timeframe without the benefit of sharing with all 29 Contractors for review. David offered that Contractors inserted the word policy and policies in the draft. To shorten the document by two pages, Contractors have eliminated the committee purpose section, as well as the responsibilities section, and added text to the goals. David clarified that the Charter does not touch the current work plan underway, but Contractors understanding is that the organizational analysis that leads to defining the Chief Financial Manager would be folded into phase one of the Charter work plan (Committee Responsibilities, Item 2, below).

2. The SWRDS Finance Committee shall ~~To provide input, recommendations and approval in the development and implementation of both the SWP Program Work Plan's and the SWRDS Finance Committee's financial enhancement work plans.~~ organization analysis to determine the role of the CFM.

Carl Torgersen responded that he was uncertain how the Finance Committee would provide input to the organizational analysis, since this effort is already underway and could be complete before the contract amendment is signed. Kathy Cortner asked if DWR had the ability to convene a committee at any time. Carl responded that he wasn't sure how the process would be organized, but that he thought that DWR and SWP Contractors could reach agreement on this issue.

David Okita clarified that the work plans are approved by the committee, and the organizational analysis is approved by the committee. David Sandino asked to clarify the meaning of "directing the development," and asked to confirm that DWR and SWP Contractors agree with the open-

ended nature of future work plans. David Sandino also asked about the term of the charter, which becomes more important if the charter becomes binding. David asked if the Contractors thought it might have the same term as Contract Amendments. Curtis Creel said that the Contractors would need to consider this, however, he believes the Contractors assumed that the term for the Committee was always intended to be the term of the Contract.

Carl Torgersen questioned whether item 2 in committee responsibilities is necessary. David Okita said that this item addresses phase 1 of the work plan. Carl stated that there are different work plans. The Program Control analysis work plan, and then the Committee work plan on how the CFM fits in, and then subsequent work plans. Curtis Creel acknowledged this clarification and raised the possibility of eliminating item 2 if item 3 includes the evaluation of the organization. Carl indicated that DWR would need to consider this before deciding. Anna asked if DWR and SWP Contractors would consider the possibility of eliminating the item 2 in committee responsibilities.

Carl Torgersen stated that he thought this discussion pointed to the changing nature of CFM responsibilities over time, and that the language in the charter should be amended to reflect that. David Okita said that the Contractors understand the need to be flexible with regards to the responsibilities of the CFM; however, the Contractors want DWR's commitment to establishing the CFM as a high-level position. Contractors propose that changes to the scope of authority of the CFM would need to be approved by the Finance Committee. Carl stated that DWR would need to consider this, though there are a number of questions, including the meaning of authority. Tom Glover raised the possibility of a matrix management model, as was used in the FERC relicensing.

DWR and SWP Contractors took a caucus.

Carl Torgersen provided an overview of the changes DWR made during the caucus to the SWRDS Finance Committee Draft Charter. DWR added a caveat on State personnel rules and regulations with regards to creating the CFM position. The Department changed the language on "directing" SWRDS financial policies to overseeing SWRDS financial policies. Kathy Cortner asked if the CFM can compel departments to work towards Finance Committee policies. Carl responded that he thought so. Carl gave an overview of DWR's edits to committee responsibilities (see below).

I. COMMITTEE GOALS/RESPONSIBILITIES:

1. The SWRDS Finance Committee shall provide a forum that promotes coordination, communication, and cooperation among DWR and the Contractors regarding SWRDS financial policies as and reports. The SWRDS Finance Committee shall provide input and recommendations to the Director regarding SWRDS' financial policies.
- ~~2. The SWRDS Finance Committee shall provide input, recommendations and approval in the development and implementation of both the SWP Program Work Plan's and the SWRDS Finance Committee's financial enhancement work plans organization analysis to determine the role of the CFM.~~
2. The SWRDS Finance Committee shall direct the development and implementation of the SWRDS Finance Committee's financial enhancement work plans in cooperation and coordination with the CFM. The SWRDS Finance Committee shall approve all SWRDS Finance Committee's financial enhancement work plans. The SWRDS Finance Committee shall provide input and recommendations to the Director regarding implementation of the results of the financial enhancement work plans.
3. The SWRDS Finance Committee shall provide input and recommendations to the Director regarding DWR's SWRDS' financial policies, with the goal of providing information necessary to analyze and forecast SWRDS financial trends, activities, and fluctuations.

DWR also added language on the process for submitting proposed discussion items to the Finance Committee. David Okita stated that DWR and SWP Contractors are close, though he suggested that the document needs to be reviewed by the entire Contractors group. Curtis Creel asked if, with all the necessary caveats, everyone at the table today was alright with this charter. The participants for the contractors affirmed their support for the Charter as drafted. Kathy Cortner asked if it was appropriate to discuss the details of attorney review. Carl and Curtis agreed that this was a good next step.

V. Next Steps

DWR and SWP Contractors discussed the Contract Extension schedule and agreed the next meeting would be on Wednesday, January, 15.

VI. Public Comment

Patricia Schifferle from Planning and Conservation League provided public comment.

Anna West affirmed that all negotiations for this Contract Extension process have been held in public.

VII. Adjourn

The meeting was adjourned.

Action Items		Responsibility Due Date
1.	Post December 17 Negotiation Session Meeting Summary to the website.	K&W ASAP
2.	SWP Contractors to review DWR's edits to the Contractors' 5 th offer. Distribute in advance of 1/15, if possible.	SWP Contractors 1/15
3.	DWR and SWP Contractors to review latest SWRDS Finance Committee Draft Charter.	DWR and SWP Contractors 1/15
4.	Attorney Group to meet to discuss developing AIP language process for the Finance Committee Charter and upcoming Draft Offer language.	David Sandino, John Schlotterbeck, Amelia Minaberrigarai 1/15
5.	Send calendar request for 1/15 Negotiation Session.	K&W ASAP
6.	Draft January 8 Negotiation Session Meeting Summary.	K&W ASAP