

SUMMARY ACTION MINUTES

ADDENDUM

to

BOARD OF SUPERVISORS

Regular Meeting

TUESDAY, MAY 20, 2014

Regular Meeting – 10:00 a.m.

MERCED COUNTY
ADMINISTRATION BUILDING
2222 “M” STREET
BOARD ROOM, THIRD FLOOR
MERCED, CALIFORNIA 95340
(209) 385-7366

JOHN PEDROZO.....DISTRICT 1
HUBERT “HUB” WALSH, JR....DISTRICT 2
LINN DAVIS.....DISTRICT 3
DEIDRE F. KELSEY....DISTRICT 4
CHAIRMAN JERRY O'BANION.....DISTRICT 5

JAMES L. BROWN
COUNTY EXECUTIVE OFFICER

JAMES N. FINCHER
COUNTY COUNSEL

*All supporting documentation is available for public review in the Office of the Clerk of the Board of Supervisors located in the County Administration Building, Third Floor, 2222 “M” Street, Merced, California, 95340
During regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday.*

The Agenda is available online at www.co.merced.ca.us

Any material related to an item on this Agenda submitted to the Clerk after distribution of the Agenda packet is available for public inspection in the Office of the Clerk of the Board

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10:00 A. M.

**THE PUBLIC IS INVITED TO SPEAK ON ANY ITEM ON THE AGENDA-
TESTIMONY IS LIMITED TO FIVE MINUTES PER PERSON**

REGULAR CALENDAR

BOARD ACTION

COUNTY EXECUTIVE OFFICE

1. Provide staff direction on local and legislative groundwater conveyance issues within Merced County.

APPROVED AS RECOMMENDED AYES: ALL
REVIEW BOARD ORDER – SEE PAGES 3 AND 4

BOARD ORDERS – SUMMARY ACTION MINUTES – MAY 20, 2014

ACTION ITEM NO. 1

2014-05-20 COUNTY EXECUTIVE OFFICE

The Clerk announces staff direction on local and legislative groundwater conveyance issues within Merced County is before the Board for consideration.

County Executive Officer James Brown reviews a staff report and states, in part, the following: The County became aware of the transfer late on May 15, 2014. On Friday, staff worked with the Bureau of Reclamation to extend the comment period from May 19, 2014, to the end of today, May 20, 2014. It has been made clear with the Del Puerto Water District that water would be used to keep permanent crops such as almond trees alive through this year and into next year. There are a couple of options regarding the transfer are: Much of the area of the groundwater appears to be coming from, and is located within the boundaries of, IRWMP or right next to it. One possibility is to request a further extension, which is probably unlikely, and attempt to put together a MAGPI or IRWMP meeting to have a broader group under the management plan to provide comments. Second option on the short term is to have Planning and Environmental Health send a comment letter to the Bureau of Reclamation with our questions and request to be included in any future notifications from both the Bureau of Reclamation and the California Department of Water Resources on any proposed water transfers that would result in the exportation of groundwater across County lines. Mr. Brown also discusses longer term standpoint. Mr. Brown's written comments were provided in writing and are part of the record.

County Counsel James Fincher discusses jurisdictional issues. He states that Merced County was not given official notice because we are not, under the law, a responsible agency so there is no requirement that we be noticed. He states that the only reason that there is a Federal NEPA issue involved is because they are using the Federal system to transport the water. Mr. Fincher discusses the Ordinance process under the California Water Code and California Constitution.

Community and Economic Development Director Mark Hendrickson comments on the environmental assessment conducted by the Bureau of Reclamation related to the proposed water transfer. Mr. Hendrickson highlights several questions identified as part of the proposed comment letter to be sent to the Bureau of Reclamation should the Board direct such letter. The questions are provided in writing for the record as well as a draft letter.

All Board members indicate that they have no dealings with the water transfers and therefore have no conflict of interest.

The Chairman requests that Anthea Hansen, General Manager of Del Puerto Water District, to respond to the questions submitted by Mr. Hendrickson.

Anthea Hansen, General Manager of Del Puerto Water District, provides background information on the function of the Del Puerto Water District. She states that her agency has been working with two Merced County landowners, Mr. Sloan and Mr. Smith. Ms. Hansen states she wants to make the Board aware of the following: quantity of the transaction is an "up to quantity"

and it might be that they are not even able to convey that amount of water; the arrangement they are working on is a two year committed arrangement with an option to add an additional two years; physical movement of the transfer would be through the Eastside Bypass; the Bureau of Reclamation posted the notice on the 5th; Ms. Hansen provides, for the record, the Public Notice of Intent filed on May 7, 2014, at the Merced County Clerk office and states it was posted on May 7 at 4:51 p.m. and published in the Merced Sun-Star. Ms. Hansen states that their District nor growers want to impact Merced County. She encourages continued discussion and discourages opposition to the project.

The following individuals comment regarding this item: Steven Sloan, Los Banos property owner; Jim Jasper, Newman resident, Director of Del Puerto Water District, farmer, almond hulling and grower; Steven Smith, 3rd generation farmer; Bob Weimer, Livingston resident; Unidentified person states he does not support this item; Billy Gresom, cattle rancher and farmer; Daniel Kelly, Stevinson resident, states he is opposed to the project and submits a letter addressed to Bureau of Reclamation; Ken Tucker, Gustine resident; Doug Wells, Livingston area; Reggie Hill speaks regarding Central Valley Flood Control Board, and states that the flood project drain pipes have been altered which is a violation of State Code; Collette Alvarnez provides written comments for the record; Amanda Carbajal, Executive Director of Merced County Farm Bureau, provides copy of letter sent to the Bureau of Reclamation; Mike Gallo, Merced resident and Atwater farmer and cheese plant owner; Anja Radabaugh, Executive Director Madera Farm Bureau speaks in opposition of project; Bob Giaompoli; Jean Okuye, Valley Land Alliance, submits letter addressed to Bureau of Reclamation from Attorney Marsha A. Burch on behalf of Valley Land Alliance; Rose Marie Burroughs speaks in opposition of the project; Louie Bandoni, Merced farmer.

Anthea Hansen responds to two of the ten questions mentioned above. She clarifies, with regard to question 8 that the Bureau is not active in water transfers unless trying to assist contractors with supplemental water. She states that the Del Puerto Water District and the 9,000 acres that are in Merced County have imported 1.3 million acre feet of water into Merced County since the inception of her district and they do not transfer water out. With regard to question 10 she states that the only Federal nexus is the WARN Act contract which will give her district the opportunity to convey and store the water. She states they were not required to do CEQA but they did, and the CEQA comment ends on May 27.

County Counsel James Fincher advises the Board that what is before them today is a choice for the Board to choose to comment and dialogue with the Feds in regards to the Environmental Assessment that is out there. Mr. Fincher states that the Feds will have to address comments before they begin. For the future, if the Board wanted to agendize a meeting in consideration of an emergency Ordinance, the Board would have to create findings to act, and those findings would have to be backed by evidence and would have science behind them and studies to support them. He further states that it could be done on an emergency basis but would only be for 45 days then have to go through a notice motion process.

Following lengthy discussion and upon motion of Supervisor Walsh, seconded by Supervisor Pedrozo, duly carried, the Board directs staff to compile a letter with serious questions and comments to the Bureau of Reclamation regarding their NEPA process and CEQA process to include the request for an extension of time.

Ayes: O'Banion, Pedrozo, Walsh, Davis, Kelsey