



SUMMARY ACTION/MINUTES – OCTOBER 22, 2008

Meeting in session: 1:35 p.m.

AGENDA ITEM NO. 1 - ROLL CALL

The Eel Russian River Commission held a meeting on October 22, 2008 at 1:30 p.m. at the Sonoma County Board of Supervisor Chambers.

Roll call was conducted with the following Commission members present: Michael Delbar, Jimmy Smith, Paul Kelley

Also Present: Joe Ely, Project Coordinator for Stetson Engineers, Inc., Mesa, AZ., and a water rights consultant to the Round Valley Indian Tribes; Kristine Lawler - Secretary, Eel Russian River Commission.

AGENDA ITEM NO. 2 – APPROVAL OF MINUTES FOR JULY 31, 2008 MEETING.

Upon A motion by Commissioner Kelley and seconded by Commissioner Smith, the minutes for the July 31, 2008 meeting were unanimously approved.

AGENDA ITEM NO. 3 – PROPOSED EEL/ RUSSIAN RIVER TRANS-BASIN DIVERSION SETTLEMENT.

Presenter: Joe Ely, Project Coordinator for Stetson Engineers, Inc. and water rights consultant to the Round Valley Indian Tribes, pointed out that there are two glaring problems with the reservoir operating criteria specified by the Reasonable and Prudent Alternative (RPA) described in the National Marine Fisheries Service's recent biological opinion for the Potter Valley Project.

The first problem being that water cannot be diverted into the Russian River unless Lake Pillsbury storage equals or exceeds the storage criteria specified by the reservoir operating rule curve, which at times is impossible because the minimum storage criteria specified by the rule curve exceeds the maximum storage capacity of Lake Pillsbury. The second problem being that no provision was made for an early release of water for frost protection for Potter Valley, or a release of water at the end of the irrigation season, to wet the ground and prepare it for the following year.

Mr. Ely then gave a power point presentation demonstrating an alternative approach to the reservoir operating criteria specified by the RPA, and discussed the Round Valley Indian Tribe's proposal for amending the RPA. In addition, Mr. Ely distributed handouts showing the power point slide images and the proposal to balance the competing needs of the Russian and Eel Rivers (*handouts are available from the Eel Russian River Commission Secretary/Mendocino County Water Agency*).

Commission Question: In regards to item 4. on Mr. Ely's handout, which reads *The remainder of the RPA shall remain in effect throughout the life of the Potter Valley Project and it's related facilities*, Commissioner Smith questioned whether an RPA for a Federal Energy Regulatory Commission (FERC) term of the license can have provisions that extend beyond the term of the license.

Mr. Quesenberry, (Karshmer & Associates) attorney for the Round Valley Indian Tribes, responded by saying that if the parties can reach an agreement with respect to the operation of the Potter Valley Project, then he believes they can be worked through the FERC licensing process.

Commission Question: Commissioner Smith asked if the previous conversations of legislation and the current mention of a coalition that would go forward within the FERC process, are identical pathways.

Mr. Ely confirmed that they would be parallel paths, because the coalition would agree on provisions, then take them to FERC to modify the RPA. Once the RPA is modified, then when the relicensing comes up it would license what is already in place.

Commission Question: Commissioner Smith questioned whether this proposal is a modification from the initial program that the tribe designed when they talked about pursuing legislation that would supplant the FERC process, initiating the 15% and setting it into law.

Mr. Ely clarified that they always envisioned going through Congress and working with FERC at the same time, however, he expressed that the details are becoming clearer as they go along.

Mr. Quesenberry added additional explanation that they would be asking Congress to give FERC some guidelines, made up from the agreements of concerned parties, with the additional components of a settlement for moving forward for relicensing.

Commission Comment: Commissioner Smith expressed concerns regarding any permanent allocation of Eel River water to the Russian River, noting that the future needs of the Eel River drainage needed to be taken into account and protected before any water was permanently allocated to the Russian River.

Commission Comment: Commissioner Kelley acknowledged Mr. Ely's presentation and proposal. He recommended that the ongoing discussions be expanded to include National Marine Fisheries Service, PG&E, and other stake holders, and expressed his desire to continue the discussion at another ERRC meeting early in the New Year.

COMMISSIONER KELLEY DEPARTED AT 3:15 p.m.

AGENDA ITEM NO. 4 - QUESTIONS, ANNOUNCEMENTS, AND PUBLIC EXPRESSION

Ms. Nadananda; Mr. Koehler; Mr. Sean White; Ms. Janet Waither; Mr. Tom Weseloh; Ms. Janet Pauli; Mr. Dennis Murphy; Mr. Guinness McFadden; Mr. Dick Butler; Mr. Stephen Quessenberry.

In response to a number of inquiries, clarifications of the proposal were made. Recognition and praise was given to the Round Valley Tribe and Mr. Ely for his presentation. Concerns expressed included: Whether water could be taken out of the Eel River from another point of diversion if the Potter Valley Project wasn't diverting the full 300 cfs (Mr. Ely indicated that, according to this proposal, the water could be taken from another diversion point); Having an RPA that runs the life of the Potter Valley Project; Public funding not being quantified; The need to do more research with regard to the feasibility of constructing a fish ladder, fish passage in general, and benefits to the Eel River and maintaining and operating a fish hatchery in perpetuity. The tribe being financially compensated, but none of the other organizations involved in the long standing dispute over the operation of the Potter Valley Project

Commission Comment: Commissioner Smith acknowledged the presentation and members of the public for their participation.

Commission Comment: Chairman Delbar expressed his gratitude to Mr. Ely for his presentation and the possibility of finding a resolution to the Potter Valley dispute. He seconded Commissioner Kelley's remark that this proposal gives a starting point for stake holders to sit down and reach an agreement. Chairman Delbar noted that this topic will continue to be discussed at future meetings, and indicated that the next meeting will be held in Humboldt County soon after the first of the next year.

AGENDA ITEM NO. 5 - ADJOURNMENT

The meeting was adjourned at 3:35 p.m.