

The State Water Project: An Enterprise Within Government

The State Water Project is a billion dollar water collection and delivery enterprise critical to the quality of life and economic well-being of 23 million Californians in cities and farms from the San Francisco Bay Area, through the San Joaquin Valley to the Central Coast and Southern California.

Its 29 contractors include agricultural water districts and urban water agencies, the biggest being the Metropolitan Water District of Southern California, a consortium of 26 cities and water districts from Ventura County south to San Diego County and east to San Bernardino and Riverside counties.

The project is operated by the Department of Water Resources, created in 1956 to bring the dream of a state water system to reality. A half-century later, much has changed, and the governance structure established to design and construct the water project no longer is appropriate for the task of running it. The water districts that have thrived because of the project now have developed management and operating capacity of their own.

Many government agencies exist to provide public goods and services that otherwise would not be supplied, the costs covered by taxpayers who may not directly benefit. By contrast, the costs of maintaining and operating the State Water Project are paid directly by the contractors that benefit. Although the project additionally provides such public goods as recreation and flood protection, in terms of the services it delivers, it can be considered a utility in a functional, if not legal sense, an entity that operates in a competitive arena for many of its inputs, but especially skilled employees and energy.

Unlike the federal government's Central Valley Project, which has contracted out much of its operating tasks to joint powers authorities formed by water districts, the State Water Project remains largely a state government operation.

The previous chapter discussed the conflict within the Department of Water Resources between its water planning and management functions

and the function of operating the project. Within the project itself, however, the state faces the conflict of its mission to operate the project at high levels of performance and its obligation to meet the administrative requirements of being a part of state government. This has renewed and recast discussions about whether the State Water Project should be moved out of the Department of Water Resources, a discussion intensified by the 2009-2010 furloughs of project employees and the state's budget uncertainty.

For the project's managers, and for its customers the water contractors, the project is straining to operate as a state department, within the state's hiring, procurement and contracting rules.

The areas of greatest concern are in hiring and retaining trained employees, procurement of spare parts for maintenance and repair, and entering into short-term contracts where advantageous, for the electricity needed to power the project's pumps and valves.

With the exception of the operations of the Coastal Branch, the State Water Project is run by employees of the Department of Water Resources. Though the costs of the State Water Project are covered by revenues from state water contractors, the project is subject to the same hiring restrictions as most other state departments and furlough requirements. Unlike many state departments however, the project is expected to provide service seven days a week, 24 hours a day.

The project's business operations – developing contracts with customers, creating budgets, hiring, determining pay and job classifications, purchasing equipment and supplies such as power – all are subject to the regular protocols that apply to the rest of the Department of Water Resources, and are subject as well to the requirements of the state control agencies – the Department of Finance, the State Personnel Board, the Department of Personnel Administration and the Department of General Services.

Purchasing power is an important consideration for the State Water Project, which generates only 20 percent of its energy needs. As California's largest power user, the state must buy power in competitive markets to supplement what the project produces. By contrast, the Central Valley Project makes more electricity than it consumes, which it sells to the Western Area Power Administration, a marketing arm of the U.S. Department of Energy.

Constraints Limit Project Efficiency

State managers and the project's contractors have told the Commission of their concerns that personnel practices dictated by state civil service rules and contracting protocols required by state procurement policies are diminishing the project's efficiency at a time when many of its physical assets, such as its giant pumps near Tracy and its hydroelectric plant at Lake Oroville, are wearing out. Environmental restrictions create additional operating constraints that, with greater staffing flexibility, project operators could manage more efficiently.

While they were in effect, court-imposed limits on pumping in the south Delta narrowed the window within which the project could move water from the Delta to the California Aqueduct and make deliveries to the San Joaquin Valley, Southern California and to Bay Area cities. The reduced opportunity to schedule pumping put a premium on operational availability of the project's facilities. At the same time, the combination of deferred maintenance and repair and vacancies caused by high staff turnover and retirements – fueled by pay differentials with nearby water districts – reduced the project's operational availability from a peak of 93 percent in 2004 to 85 percent through July 2009, according to an internal department analysis. When the project had the clearance to move water, it did not always have the operational availability to make the most of the opportunity, Ralph Torres, Department of Water Resources deputy director for the State Water Project, told Commission staff.⁷³ His concerns were echoed by water contractors who add that out-of-date job classifications and pay scales further tie the hands of project operators.⁷⁴

A departmental pay analysis of skilled trade workers through the rank of supervisor showed a gap of up to 54 percent with competing water districts, such as the Metropolitan Water District of Southern California. The same analysis showed that the average level of experience has dropped from the department's preferred 15 years in field divisions and now ranges from five to eight years.

“Workers can, and have, gone straight down the road to do virtually identical jobs for a lot more money,” Mr. Torres told the Commission. Less than two miles from the State Water Project's Banks Pumping Station is the Central Valley Project's C.W. “Bill” Jones Pumping Plant, operated by the San Luis Delta-Mendota Canal Water Authority under contract to the federal Central Valley Project.

Contractors told Commission staff that the state's four-year apprenticeship program – which costs the state up to \$400,000 in

training costs for each employee – attracts candidates to the project, and attracts contractors to the trained workers once they have completed their apprenticeship.⁷⁵ As examples of the operational costs of deferred maintenance and slowness of the procurement process, contractors point to outages of hydroelectric units at Oroville and the delay of more than two years to replace the computer communications system that links the project's activity of equipment at each location, a problem exacerbated by the current system's age and lack of spare parts.

Procurement requirements also increase the delay in purchasing replacement parts, such as the giant valves used in the pumps at the Banks Pumping Station, which because of their size and special application, have few manufacturers. Added delays further reduce the pumps' operational availability.

In testimony to the Commission, Lester Snow, then-director of the Department of Water Resources, detailed two additional ways in which the State Water Project, in its enterprise role, is put at a disadvantage by state administrative rules designed for all other state agencies:⁷⁶

- As California's largest single consumer of energy, and the state's fourth largest producer of hydroelectric power, the State Water Project is a significant player in electric energy markets. Meeting power needs constitute a major part of managing the project. When the department's 30-year transmission interconnection agreement with Southern California Edison was expiring, the department renegotiated a new agreement for another 30 years. The Department of General Services denied the 30-year term and required the Department of Water Resources to contract for five years, on the basis that new opportunities could develop or new players could enter the market during that time. This reflected the control agency's unfamiliarity with the transmission business, Mr. Snow testified, given the small likelihood that another entity would, on a speculative basis, invest heavily to build parallel transmission lines to bid for the state's contract, as rates are reviewed and approved for reasonableness by the Federal Energy Regulatory Commission. The contract expires in 2010, requiring Department of Water Resources staff to begin the bid process again.
- Separately, the Department of Water Resources, because of contract negotiating conditions, is locked out of key electronic trading markets that would allow the state to buy and sell electric power on a spot basis as its needs demanded, costing the state an estimated \$5 million a year. On a real-time basis, the problem is compounded by the limited number of participants outside the electronic exchange, Mr. Snow testified.

The application of state administrative rules and procedures on the State Water Project can increase delays and missed opportunities with little regard to the implications for those paying the bills, the contractors and ultimately all California water users. This has the further consequence of separating decision-making from risk, as procedures designed for internal administrative control do not have to consider the operational demands of serving external customers, or the costs of failing to do so, according to testimony from Roger Patterson, assistant general manager for the Metropolitan Water District, whose members account for roughly half the project's revenues each year.⁷⁷

The administrative conditions that dictate how the project operates are a point of contention for the contractors, Laura King Moon, assistant general manager of the State Water Contractors, testified to the Commission:

“Administering the SWP in today’s changed environment has resulted in a heavy burden on DWR personnel and management. Although the SWP contractors completely fund all the water supply portions of capital and operations and maintenance activities related to the SWP through direct payments made under their contracts with DWR, the SWP is still subject to all personnel, contract and management requirements placed on other state departments that rely solely on taxpayer money from the General Fund. This has negatively impacted the ability of DWR to adequately staff and operate the SWP.”⁷⁸

When the State Water Project started deliveries in the 1960s and had the lead in expertise and set the bar for operational sophistication, this was understandable, as few local water agencies had the experience or ability to contribute to operations and maintenance. In the decades since, however, these local agencies have developed considerable expertise in running large systems of their own. Large water districts have built canals and reservoirs and developed groundwater storage and buy and sell electricity for their own needs. They also have created information technology systems to track water use at the household and business level and bill for service and collect payments, often for millions of customers. During the same period, the state’s capabilities have eroded.⁷⁹

In some cases, contractors have developed in-house capacity for some work that can benefit the project. The Department of Water Resources, for example, contracts with the Metropolitan Water District’s machine shop for some services, saving the state the overhead costs of maintaining duplicative capacity.

“No longer do local water agencies wait idly by for the state or federal governments to take the lead in building massive water projects for their benefit. Examples of this are Diamond Valley Reservoir constructed by Metropolitan Water District of Southern California and Los Vaqueros Reservoir constructed by Contra Costa Water District. No longer is it necessary for large infrastructure projects to be centrally operated, managed, or maintained,” Ms. Moon testified.

In an effort to improve efficiency, contractors formed the State Water Contractors Authority as a joint powers authority under state law to assist the Department of Water Resources with managing its contracting and personnel constraints.

Placed as it is in the Department of Water Resources, the State Water Project is not able to best serve the needs of its contractors and their customers or the public good of the state as a whole. The governance structure that was established for planning, design and construction of the State Water Project is more than five decades old and, while it may have been appropriate for those tasks, the structure no longer fits the needs of the project, or the needs of Californians, now that it is in operational mode. The project’s mission is of broad public interest to all Californians, not just to those who receive water through the project, as the project’s reliable and efficient operation is central to the state’s economy and quality of life of its citizens.

The current structure also does not serve the state’s mission of water management and planning to meet California’s current and future water needs. The functions of water management and planning at times are at odds with the department’s water storage and delivery obligations. More often, the immediate needs of the operating function make it difficult to focus on the longer-term need for water planning.

The presence of the project within the department presents an obstacle to integrating water rights accounting and administration into a comprehensive approach to planning and management, such as that found in most other western states.

The past 50 years have seen tremendous changes in society, the environment and in the technology available to manage and operate complex systems. If California is to ensure the success of the State Water Project, it must recognize that the current structure is unsustainable, and prevents the state from uniting other functions essential to managing California’s water resources and planning for its future. California’s leaders must engage in the discussion of the current structure’s shortcomings and consider options that both enhance the

project's reliability and performance, and allow for a comprehensive approach to water planning and management.

Creating an Independent State Water Project

The Commission recommends separating the water operations function of the State Water Project from the Department of Water Resources' functions of planning and water management through the establishment of a state-owned water authority to operate the project. The project's reservoirs, dams, canals, pumps and power plants from Lake Oroville to Riverside County should remain the property of the state. These assets were financed through general obligation bonds and their continued control by the state benefits the broad public interest in California's economy and quality of life, which include the project's role in flood prevention and recreation, and its impact of its operations on the environment. The project should remain state-owned as a special purpose entity, though the new entity's management should be released from the state government hiring, job classification, procurement and contracting rules. Such rules have been developed for state departments to safeguard taxpayer money. They are not cost-effective for a competitive, contractor-funded enterprise whose efficiency and reliability are critical to California's economy and quality of life, and where contractors can be relied upon to demand efficiency, accountability and transparency. The argument has been made that the contracting and personnel issues could be resolved by modernizing the administrative requirements short of forming an independent entity. This remedy, however, would not resolve the conflict within the Department of Water Resources between its planning and management functions and its operations function of running the project.

Such a reorganization also would remove the existing conflict between the Department of Water Resources' statewide obligations for water management, planning and flood protection, and its more focused obligations to contractors, Metropolitan's Mr. Patterson told the Commission.⁸⁰

Establishing the project as an independent state-owned water entity would allow the project to hire as needed, and offer pay levels sufficient to attract and keep skilled employees and move quickly to address maintenance backlogs and repairs, increasing operational availability. It also would create greater flexibility in contracting, whether for replacing spare parts for which few sources exist, hiring consultants for short-term needs or making plans for significant system upgrades or expansions. Contracting guidelines that recognized the importance of cost-effectiveness and system reliability could allow the project to develop

more efficient energy purchasing strategies, including tapping real-time electric power markets, which could save money and enhance power reliability. Improving project efficiency and operational availability would address operational concerns about water reliability from the project side. Separating the project from the planning and management functions would allow the new Department of Water Management to focus on those tasks, increasing the department's ability to address water reliability.

Separating the operations of the project also could enhance transparency, making clear to the Legislature and taxpayers the true cost of running the project and, separately, the full costs of the planning, water use management, flood protection and dam safety services provided by the Department of Water Resources. The Legislative Analyst's Office has repeatedly recommended putting the full extent of the project's books into the department's formal budget for legislative review, in part to settle a long-running question of how costs are allocated for non-contractor related expenses related to the project, such as the recreational use of the project's reservoirs, environmental protection and flood prevention. The State Water Contractors have expressed interest in having a greater say in how spending decisions are made. Supporters of the department's non-project activities privately express the concern that, absent the State Water Project and its contractor revenues, the department's resources might be too little to sustain a long-term strategy of changing how California uses water. The sensitivity surrounding the subject is all the more reason for openness.

Operating as a separate entity, the project would hold the water rights currently held by the Department of Water Resources. This represents a tremendous asset for the new entity, as well as an accountability mechanism that would allow the state to use water rights regulation to ensure the new entity operates according to its permits and licenses and makes reasonable and beneficial use of a public good. The new Department of Water Management would retain responsibility for recreation and other non-contractor related uses of State Water Project facilities, as well as flood protection and dam safety.

The department should interact with the project by integrating its planning and management roles with its water rights administration and enforcement role. The State Water Project regularly has issues involving its water rights come up before the State Water Board, often in regard to water quality, specifically regarding Delta salinity. The department, in measuring supply and determining instream flow needs, would be establishing water availability criteria within which the project would have to operate. Analogously, the project would have to operate within the water quality requirements set by the State Water Board. A key

Department of Water Management player in this relationship would be the Delta water master, the position established in the 2009 legislation, who in the existing governance structure, represents a link between the State Water Board and the Delta Stewardship Council.

Independent Governance for State Water Project

A number of options exist for what form the legal entity should take for an independent State Water Project, and the Legislature has the ability to create a new form should none of the existing examples prove acceptable. Both the Central Utah Project and the Central Arizona Project are run by special districts, which are structured slightly differently to reflect differences in project histories and missions.

The Central Utah Project is governed by the Central Utah Water Conservancy District, which is a political subdivision of the State of Utah. The district contracts with the federal government and acts as a water wholesaler to cities and agencies. The district, which represents the citizens of a 10-county region, has responsibility to plan, design, construct, operate and maintain project facilities. It also administers and facilitates water sales and is the party responsible for repaying the federal government for the reimbursable costs of the Central Utah Project.⁸¹ The project also is subject to the oversight of the Utah Reclamation and Conservation Commission, a federal commission created by the 1992 Central Utah Project Completion Act to provide funding for the project and to balance water delivery and environmental interests.⁸²

The Central Arizona Water Conservation District is a public improvement district set up as a municipal corporation, with the similar goals of constructing, operating and managing the Central Arizona Project and repaying the federal government. Unlike California's State Water Project, the Central Arizona Project was built to deliver Colorado River water to just three counties in which the state's population was concentrated, as well as the region's significant agriculture industry.⁸³

The independent State Water Project entity could take other forms, such as a public authority, including a revival of California's State Water Project Authority, special districts and government corporations. Sarah Bates, a water resources specialist at the University of Montana's Center for Natural Resources and Environmental Policy, emphasized in her study of governance options for the State Water Project that policy-makers, in distinguishing among forms, should focus on desired characteristics, such as independence of control, board membership and organizational authority.⁸⁴

The State Water Project functions as a utility, and often is described as such, though legally, as Ms. Bates points out, a utility is substantively quite different. In general, a utility delivers a public service and is given monopoly status by law in return for serving all customers in a given defined area and charging reasonable, non-discriminatory rates. In California, investor-owned utilities, and their rates, are regulated by the California Public Utilities Commission, a body whose jurisdiction does not extend to the State Water Project.

More important than a specific legal form is the issue of independence for the State Water Project entity. The membership of the project's board should represent the interests of the state as a whole, rather than reserving seats for specific areas of expertise or special interest. Members should be appointed by the governor, confirmed by the Senate and be allowed to serve full terms and be eligible for reappointment. Board members should serve overlapping terms to ensure institutional continuity and to bolster board autonomy.

The Commission examined several governance models, including those of the Central Arizona Project, governed by elected members from three counties served by the project, and the Central Utah Project, which is governed by the Central Utah Water Conservancy District, made up of 18 trustees representing a balance of 10 rural and urban central Utah counties. The Commission also took into consideration its studies of the California Bay Delta Authority and CALFED in 2005, and the state and regional water boards in 2009.

In testimony and interviews, the state water contractors recommended that customers of the project be represented on the board, much as member water districts serve on the Metropolitan Water District Board. Given the decades of disputes and criticism from environmentalists and others about how the water project has been operated, this option appears ripe for generating further conflict. Creating specific board positions that represent different stakeholder perspectives also has been proposed. Left in place, however, such structures can encourage a board to focus on a parochial agenda and inhibit its ability to adapt to broader societal changes. Such a structure also creates the potential for polarization, a problem that already afflicts much of the water debate.

One model that appears to have particular relevance for California is the governance structure used by the California Independent System Operator (ISO), which operates 80 percent the state's wholesale high-voltage electricity grid. The structure was created during California's energy crisis after the Federal Energy Regulatory Commission rejected the state's existing Independent System Operator governing structure as insufficiently independent of energy market participants. Today, the

California ISO has a board of five members, appointed by the governor and confirmed by the Senate. When there is a board opening, the ISO Board of Governors hires a nationally recognized search firm to develop a slate of candidates for an open board position. The candidates then are ranked by a formal representative stakeholder group. The list of candidates, along with the ranking, then is forwarded to the governor.⁸⁵

Closer State-Federal Coordination of Projects

An independent state-owned water project also would have more flexibility to contract with the kind of joint powers authorities that now operate much of the Central Valley Project, such as the San Luis and Delta-Mendota Water Authority or, to the north, the Tehama-Colusa Canal Authority. The Department of Water Resources already has explored such arrangements through its contract with the Central Coast Water Authority to operate and maintain much of the project's Coastal Branch Aqueduct. The authority, formed in 1991 to help finance, finish and operate the 116-mile branch off the California Aqueduct, is made up of water agencies and cities in San Luis Obispo and Santa Barbara counties.

A new joint powers authority formed in 2009, the State and Federal Contractors Water Agency, in recognition of the shared interests of state and federal contractors in the Bay Delta Conservation Plan. The members also recognize the joint powers authority's potential as a legal entity capable of offering the same kind of operating relationships to the State Water Project as federal water contractors currently provide for the Central Valley Project.

Through a Coordinated Operations Agreement signed in 1986, the Department of Water Resources and the U.S. Bureau of Reclamation have increasingly coordinated the operations of the two project's various facilities, most importantly, coordinated dam releases and Delta pumping to meet Delta water quality standards and flow objectives, as well as operations of the San Luis Reservoir and San Luis Canal. The agreement also allows the state project to move water for the Central Valley Project

Good Governance for State Project

A governance structure for an independent State Water Project should have the following attributes:

- Sufficient institutional independence from the Department of Water Resources to operate more competitively in the utility market, outside state agency contracting and personnel requirements;
- Governing board empowered to provide policy and management oversight, with members who have experience with issues arising in project operation and who are dedicated to the project's broad public mission;
- Regular and organized input from stakeholders (including, but not limited to, the State Water Contractors) through a broadly representative stakeholder advisory committee and/or stakeholder nomination process to choose governing board members; and,
- Regular and organized input from independent experts through special focus advisory boards to address highly technical aspects of operations, marketing and regulatory compliance.

Sources: Sarah Bates, Senior Associate, Center for Natural Resources and Environmental Policy, University of Montana. March 4, 2010. "California State Water Project Governance Options, review draft." Also, Sarah Bates. September 24, 2009. Written testimony to the Commission.

and for the Central Valley Project to sell water to the State Water Project.⁸⁶

While the agreement has increased operational and institutional coordination, the projects could benefit from closer strategic coordination to meet longer term needs or broader objectives. Some of these possibilities are outlined in the State Water Plan's system reoperations discussion, which explores ways to "reoperate" reservoirs and dams to achieve multiple goals. In this, the state can take advantage of conjunctive storage strategies being developed at the local level, such as the work being done by the Nature Conservancy, or the demonstration project underway with Glenn-Colusa Irrigation District and the Natural Heritage Institute to rethink how the Central Valley Project's Lake Shasta

and the State Water Project's Lake Oroville hold reservoir water that otherwise would have to be released for flood control purposes. The project, supported by the Department of Water Resources and the U.S. Bureau of Reclamation, has been looking at ways, through a basin-wide integrated water management plan, to link use of Lake Shasta and Lake Oroville to the local groundwater system, with the tri-fold goal of increasing supply reliability and flexibility, reducing the threat of groundwater overuse and providing water for environmental restoration.

Pursuing such strategies requires coordination of the two projects as well as an integrated view of water system needs and conditions, including comparative evaporation rates, available surface water, groundwater basin capacity and the level and timing of surplus Delta outflows. This could help develop a shared strategy for greater interconnections between the two projects, operationally as well as physically, such as planning for additional intertie between project works in the San Joaquin Valley to facilitate transfers and storage.

At an administrative level, the state could advance the integration of the two systems – and streamline the water transfer process – by permanently combining the place of use designations for the State Water Project and the Central Valley Project for transfers for the San Joaquin Valley, particularly for water transfers within the valley.

Conjunctive Management of Surface and Groundwater

Coordinating reoperation plans with the integrated regional water management planning programs in the Department of Water Management could allow enhanced reservoir management to incorporate groundwater storage as well. The Nature Conservancy is interested in whether water made available from reoperating Folsom Dam or Oroville Dam can be used to recharge a south Sacramento County aquifer. Recharging the aquifer when water is available during non-irrigation months could provide additional storage at a cost lower than new surface storage.

With proper planning and incentives, such conjunctive storage strategies could be extended to replenishing aquifers that support important habitat conditions as well. The Cosumnes River near Sacramento offers a vivid example of the situation. There, the Nature Conservancy and a coalition of partners are working to protect and restore riparian habitat and the Chinook Salmon run. Raising groundwater levels could help reestablish the connection between the southern Sacramento County aquifer and the Cosumnes, which would allow the "rewetted" river to flow earlier in the rainy season, reducing impediments to successful Chinook spawning.

Sources: Maurice Hall, Senior Hydrologist, California Water Program, The Nature Conservancy. January 2010. Written testimony to the Commission. Also, Rachel Hersh-Burdick. 2008. "Effects of Groundwater Management Strategies on the Greater Sacramento Area Water Supply." Thesis submitted in partial satisfaction of the requirements for the degree of Master of Science 2008 in civil and environmental engineering, Office of Graduate Studies, University of California, Davis.

The State Water Board approved a temporary measure in 2009⁸⁷ at the request of the Department of Water Resources and the U.S. Bureau of Reclamation to alleviate shortages for growers who had seen their project allocations reduced. The state could further enhance system efficiency by allowing water to be pumped from either the state's Banks Pumping Station or the nearby Central Valley Project's Jones Pumping Plant, depending on which station at the time had excess capacity, as long as the actions complied with the existing environmental protections.

Ultimately, One System

The creation of an independent state-owned water authority should put the project on the path to ultimately merging the two water projects into one system under state control, as envisioned by project architects in its earliest days and repeatedly since. Such a combination would require an act of Congress to allow the title of the Central Valley Project assets to pass to the state. The Commission heard compelling testimony on the difficult issues involved in such a merger, including apportioning the remaining debt and managing the liability of the environmental damage caused by drainage of salts and other contaminants in the San Luis Drain and the cost of environmental remediation. Donald Glaser, Mid-Pacific regional director for the U.S. Bureau of Reclamation, which oversees the Central Valley Project, also pointed to the concerns that were raised by municipal utilities in Sacramento and Santa Clara, which purchase electric power generated by the Central Valley Project, during California's early-1990s merger attempt under Governor Pete Wilson. They expressed the fear that a merger with the State Water Project, a major consumer of electric power, might put their supplies at risk.⁸⁸

Existing contracts and regulatory responsibilities would have to be honored and, though the complexity of such a combination should not be underestimated, the state would accrue significant benefits over time, Metropolitan Water's Roger Patterson told the Commission.⁸⁹ The benefits of combining systems include the ability to consolidate activities, including infrastructure operation and investment, giving the state's water managers the

State Water Project Structure

In testimony to the Commission, Lester Snow, then-director of the Department of Water Resources, summarized considerations for creating a new governance structure for the department and the State Water Project that emerged from an internal study of options for addressing limitations of the current structure on project operations.

- At a minimum, a new governance structure should be responsive to the unique (to state government) SWP requirements of utility operation in the areas of human resources and contracting;
- The multi-purpose benefits of the SWP include water supply, energy supply, water quality, recreation, flood control, and fish and wildlife enhancement which may need to be balanced in any alternative governance structure;
- Given the complexity and integration of the SWP supporting infrastructure within DWR, a phased approach to any alternative governance structure would need to be investigated and impacts to other programs of state importance assessed;
- As general obligation bonds and other public financing were used for the construction of the SWP, the benefits derived must benefit the people of California. This public trust obligation of the SWP must continue and be retained in any form of governance; and,
- Assignment of water rights to DWR for the development of the SWP must be retained by the State as these rights preserve the public interest.

Source: Lester Snow, then-director, Department of Water Resources. June 25, 2009. Written testimony to the Commission.

ability to create and implement a long-term strategy that takes into account all of the water project assets in California, whether reservoirs, dams, pumps or aqueducts.

A full merger also would simplify the process of working with multiple state and federal government agencies, as well as improve regulatory efficiency and effectiveness through the consolidation of water rights, which could aid further streamlining of water transfers. A merger would enable the consolidation of administrative staffs and allow the state to standardize contracts to suppliers, allowing the state to price water at levels that encourage the most efficient practices, eliminating price disparities among like users in the state and federal projects and shrinking the Central Valley Project's operating deficit.

DWR Staff and Roles Intertwined

Breaking the State Water Project out of the Department of Water Resources would require considerable thought and preparation. In addition to funding issues is legitimate concern from within the department that it would not be able to attract engineering and other specially trained professionals without the draw of the project, as well as the concern that it would lose the flexibility to pull people from different departments during emergencies, such as flooding. Separating operating functions from planning and management also would reduce career development opportunities – and the richness of understanding – gained by moving through different assignments within a larger department.

In his testimony, Mark Cowin, then-deputy director for integrated regional planning, said the current structure allows matrix-team approaches to such projects as purchasing and managing lands for flood projects or using lands set aside for State Water Project mitigation purposes to achieve optimal Swainson's hawk habitat. On such projects, the department can quickly draw on a wide variety of expertise across divisions. Such opportunities could be lost if the project were made independent.

In written testimony, Mr. Cowin expressed concerns that making the project independent would diminish the Department of Water Resources' organizational stability, given the department's uncertain bond funding:

“Currently, as new programs and projects are implemented, staff with appropriate expertise and qualifications may move easily between divisions to take on a higher priority assignment. As programs and projects wind down, staff may be incorporated into a

variety of other ongoing, funded projects. With the current level of inconsistency in funding for DWR programs, removal of the SWP could lead to instances where qualified staff cannot be identified in a timely manner to carry out high priority programs, or layoffs are necessary when programs end.”

Such issues could be addressed through changes in the state’s human resources policies and by establishing a consistent source of state funding to replace diminishing General Fund contributions and inconsistent general obligation bond proceeds, Mr. Cowin said.

Also a complication is that, as the State Water Project grew, its needs were integrated into work performed through the existing staff structure. Staff levels grew to accommodate the additional work, though the structures did not necessarily change. In many units, such as the one that measures the water content of Sierra snowpack, there is no easy delineation between work done for the project and work that contributes to the department’s management and planning operations, Department of Water Resources Deputy Director Ralph Torres said.⁹⁰

Department of Water Resources senior managers already have been exploring how different governance structures could address the limitations the project faces while preserving the overarching public interest responsibilities the department has as the state’s water resources manager.⁹¹

As difficult as the transition would be, it is clear to the Commission that the State Water Project, as currently structured and managed, is unsustainable. Leaving water project operations within the Department of Water Resources only preserves the conflicts with the department’s other roles and complicates efforts to make the project more efficient and reliable. The status quo also prevents the closer linkage of water rights accounting and water planning and management, and foregoes opportunities to forge closer operational ties with the Central Valley Project and the contractor-organized joint powers authorities which operate much of the project.

Recommendation 3: The governor and Legislature should create a separate, independent publicly owned entity, the California Water Authority, to operate the State Water Project and other current functions related to or influenced by the project's operations to improve transparency, efficiency and accountability. The new entity should work to further integrate its operations with those of the federal Central Valley Project, with the ultimate goal of merging the two systems under state ownership. In establishing the new entity, the state should:

- ❑ Create an independent oversight board, whose members represent the perspectives of statewide interests critical to the project's operations as well as the project's impact on the environment. The board should be manageable in size, and members should be able to serve full terms, with the option to be reappointed to an additional term. Board members should elect their own chair. Candidates should be nominated through a stakeholder process. The governor should appoint the members who must be confirmed by the Senate.
- ❑ Allow the entity to raise money through revenue bonds for infrastructure improvements, to be repaid by revenues from project operations.
- ❑ Encourage the entity to increase operational integration with the Central Valley Project, including re-operation of storage facilities to advance co-equal goals of water reliability and ecosystem health.
- ❑ Encourage the entity to pursue contracting opportunities with local water distribution districts and joint powers authorities where such arrangements create demonstrable value to the state and water users.
- ❑ Allow the entity to create its own job classifications and compensation structures that are competitive with comparable jobs in California water and power districts in order to attract, retain and develop high-quality personnel essential to maintaining project reliability.
- ❑ Enable the entity to enter into contracts that allow it to be fully competitive in short-term and long-term electricity markets.
- ❑ Require the entity to release an annual report to the public, with details on its annual budget, long-term capital plans, outstanding debt, operating expenses and revenues.
- ❑ Make the entity responsible for:
 - ✓ Operating the State Water Project to meet the co-equal goals of ecosystem health and water supply reliability.
 - ✓ Operating the State Water Project according to the terms and conditions of its water right permits.

- ✓ Storing, conveying and delivering water to contractors in the most cost-effective manner consistent with the long-term sustainability of the State Water Project.
- ✓ Maintaining reservoirs, dams, canals, pumps and other infrastructure assets essential to providing system reliability.