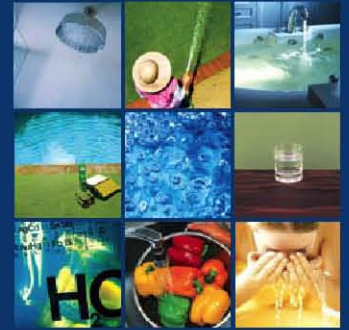


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The Weekly Wrap



February 3, 2012

No. 2012-5

TO: CWA Member Companies
FROM: Jack Hawks, Executive Director
SUBJECT: Highlights for the Week Ending February 3, 2012

Pressure on Peevey Intensifies in Wake of Role on PG&E Penalty OII—This past week has been extremely difficult for California PUC President Mike Peevey, and the pressure for his removal has intensified, primarily as a result of his decision to make himself the Assigned Commissioner in the a Order Instituting Investigation (OII) involving Pacific Gas and Electric Co. (PG&E), I.12-01-007, that will determine whether PG&E violated the law in its natural gas pipeline operations leading up to the San Bruno explosion, and what remedies should be imposed to ensure public safety.

First, on Jan. 28th, the *San Jose Mercury News* continued its assault on Peevey with an editorial titled "PUC president is the last person who should lead San Bruno probe," which said that Peevey "should be ashamed of having appointed himself instead of naming someone [who is] objective. Peevey's lax leadership and his cozy relationship with PG&E are thoroughly documented. He should have resigned as president this past summer after the National Transportation Safety Board exposed the extent of his incompetence. Every day Gov. Jerry Brown leaves him in charge is a disgrace to this administration. At a minimum, Brown must rescind Peevey's outrageous self-appointment and replace him with somebody trustworthy."

Second, also on Jan. 28th, the *San Francisco Chronicle*, in its lead editorial, "Michael Peevey wrong person to rule on PG&E case," was somewhat less defamatory, saying, "It would be hard to think of a less suitable overseer than the man who presided over years of well-documented coziness between utility and regulator." The *Chronicle*, at least, showed some reasoned thinking by stating that Peevey has put himself and the Commission in a no-win situation.

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It noted that “a light action against PG&E by Peevey would be widely viewed as the climax of what [Assembly Member Jerry] Hill called a ‘decade of mistrust’ on his watch. If he were to decide on heavy fines, he might be subject to second-guessing about whether he was overcompensating in the face of criticism - or trying to deflect blame from the Commission’s sorry track record on safety enforcement. Either way, he is the wrong person for the job. Brown should remove him. And soon.”

In response, President Peevey and Commissioner Mike Florio issued a joint statement on Jan. 31st, saying that “although President Peevey will serve as assigned Commissioner in this phase, the two of us will be working together, as co-equals. This will continue the pattern of the past year, in which we have worked closely together, within the confines of California’s Bagley-Keene Open Meeting Act, on all the San Bruno-related gas cases assigned to Commissioner Florio.” They further noted that “The assignment of a Commissioner to manage the enforcement case does not alter the fact that the CPUC is a five-member body. All five Commissioners will have an equal voice in the result of the San Bruno investigation. This will remain true, no matter which individual Commissioner takes on the case-management role.”

The next day at the Commission’s Feb 1st Open Meeting, Assembly Member Hill led off the Public Speaker portion with a diatribe against Peevey, calling the joint statement with Florio a “smokescreen” (to presumably let PG&E off with a small fine) saying that his “lax leadership and cozy relationship w/PG&E have been well-documented in the media” and that “by refusing to step aside as assigned commissioner in the PG&E penalty case, you will be sustaining the culture of complacency that you have pledged to end.” As I said, it was a very bad week for President Peevey.

While it may be true that President Peevey could have saved himself some grief by assigning the case to another commissioner, it’s also true that the newspapers could have explained that Comr Florio is already the Assigned Comr for the two main cases involving PG&E and gas pipeline safety. The new OII is a penalty consideration case to examine a new staff report alleging that PG&E violated state law and various federal and state pipeline safety regulations and accepted industry standards, which will consider appropriate penalties and remedies for the violations.

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In contrast, Comr Florio is presiding over the main proceedings arising from the accident. First, he is the Assigned Comr in rulemaking (R.11-02-019) that will establish new rules for the safe and reliable operation of natural gas pipelines in California. Second, he is the Assigned Comr in the OII that is investigating PG&E's operations and practices with respect to the facilities records for its natural gas transmission system pipelines. Obviously, the fines and penalties in Peevey's OII will in large part be predicated on the results of Florio's OII. This is why both will be working together in the penalty case OII.

The reason I'm being Paul Harvey and bringing you the "rest of the story" is that at the end of the Open Meeting in response to a staff presentation on So Cal Edison's less than optimal response to the Nov. 30-Dec. 1 wind outages in the L.A. Basin, President Peevey lost his patience (and temper) and expressed his frustration at the utilities lack of responsiveness to safety issues. "This is nuts", he said, "You cannot operate like this." He went on to say, "I don't know, how, collectively, we can get across to all the utilities we regulate that safety is priority number one and that we will just not tolerate anything less than a Herculean effort in this regard, including updating all your systems and everything else on a periodic basis ..."

I have no doubt that he meant water and telecom utilities in addition to the energy utilities, so this subject will be something we'll need to make sure on which we maintain open communications with Comr Sandoval and Water Division Director Rami Kahlon.

Speaking of the Commission's Open Meeting, the agenda items involving California American Water and Suburban Water Systems, as well as a complaint proceeding involving new water service for a small utility called MobileHome Water, were held for future consideration. The PUC did make these decisions at the meeting:

- **Approved Decision 12-02-003**, which grants California Water Service authority to buy James Water Co., Inc., pursuant to Public Utilities Code Sections 851-854.
- **Approved Res W-4900**, which grants Timberland Water Company the authority to file revised rate schedules that will increase revenues by \$14,359, or 14.4%.

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- **Approved Res W-4901**, which grants California Hot Springs Water a general rate increase of \$8,118 for water service and \$8,784 for sewer service.
- **Approved Res W-4903**, which grants Del Oro Water's Strawberry District a general rate increase of \$36,508, or 10.45% for Test year 2011.

CWA Files Comments on Draft Financing Rule—As discussed in the Jan. 27th Weekly Wrap, CWA filed comments Feb. 3rd on the draft workshop report and draft financing rule proposed by the energy utilities in the Competitive Bidding Rule OIR, R.11-03-007. CWA's comments consisted of strong support of the both the report, the new draft rule, and the proposed revisions to General Order 24-B – with a few modest proposed edits designed to comport with its previous positions in the rulemaking, as well as to clarify the intentions of the parties.

For instance, CWA suggested the addition of utilities in the draft rule's first provision such that the goal of long-term debt issuances by utilities will be to achieve the lowest cost-of-capital for the utility and its ratepayers (as opposed to only the ratepayers). CWA also suggested a qualifier in the second provision such that utilities shall determine the financing terms of their debt offerings *to the best of their ability* in order to have the rule acknowledge the real-world limitations on their ability to dictate the terms of their issuances.

In the third provision, which states that utilities shall retain the authority to use their legitimate business judgment in selecting firms for a particular debt securities offering, CWA suggested deleting "legitimate" so as not to imply that utilities would use "illegitimate" judgment in their selections, as well as to avoid adding a value-laden qualifier to a standard contractual term.

With respect to GO-24B, CWA requested that the quarterly reports required only be applicable when actual reportable issuances, receipts or disbursements have occurred. CWA noted that water utilities engage in debt financings on a much less frequent basis than energy utilities, and that quarterly filing requirements for water utilities of inactivity would be a waste of time and resources. Finally, CWA suggested that GO 24-B be redesignated as GO-24C in order to reflect the accurate number of revisions to the order.

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Second Snowpack Survey Moves the Needle from Abysmal to Dismal—The Dept. of Water Resources' (DWR) second snowpack survey for the 2011-2012 water year on Feb. 1st revealed that water content in California's mountain snowpack remains far below normal for this time of year. While not nonexistent as in the first survey, the manual and electronic readings for the second survey recorded the snowpack's statewide water content at only 37 percent of normal for the date. That level is just 23 percent of the average April 1 reading, when the snowpack normally is at its peak before the spring melt.

"So far, we just haven't received a decent number of winter storms," said DWR Director Mark Cowin in a news release. "We have good reservoir storage thanks to wet conditions last year, but we also need more rain and snow this winter."

Specifically, the electronic readings indicated that water content in the northern mountains is 41 percent of normal for the date and 26 percent of the April 1 seasonal average. Electronic readings for the central Sierra snowpack are 32 percent of normal for the date and 20 percent of the April 1 average. The numbers for the southern Sierra are 42 percent of average for the date and 25 percent of the April 1 average. Statewide, the snowpack water content is 37 percent of normal, as noted above.

DWR and cooperating agencies conduct manual snow surveys around the first of the month from January to May. The manual surveys supplement and check the accuracy of the real-time electronic readings from sensors up and down the state. DWR's initial estimate is that the State Water Project (SWP) will be able to deliver 60 percent of the slightly more than 4 million acre-feet of water requested this calendar year by the 29 public agencies that supply more than 25 million Californians and nearly a million acres of irrigated farmland. However, that estimate will likely change.

The initial 2011 estimate was that the SWP would be able to deliver only 25 percent of the slightly more 4 million acre-feet requested. However, the near-record snowpack and heavy rains resulted in deliveries of 80 percent of requests in 2011. The final allocation was 50 percent in 2010, 40 percent in 2009, 35 percent in 2008, and 60 percent in 2007. The last 100 percent allocation was in 2006.

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Lake Oroville, the State Water Project's principal storage reservoir, is at 107 percent of average for the date (72 percent of its 3.5 million acre-foot capacity). Lake Shasta, the federal Central Valley Project's largest reservoir with a capacity of 4.5 million acre-feet, is at 99 percent of its normal storage level for the date (68 percent of capacity). San Luis Reservoir south of the Delta is at 119 percent of average for the date (95 percent of its capacity of 2,027,840 acre-feet). San Luis is a critical source of water for both the SWP and CVP, especially when pumping from the Delta is restricted or interrupted.

For more information, see DWR's new "Water Conditions" webpage at:
<http://www.water.ca.gov/waterconditions/>.

CA Water Plan Advisory Committee Codifies DAC Caucus Activities—The Public Advisory Committee (PAC) of the California Water Plan Update 2013, on which I represent CWA, met in Rancho Cordova Feb. 2nd and considered three issues for the 2013 update. The first was reaching consensus on the scope, charter and work plan of the new Disadvantaged Communities & Environmental Justice Caucus (DAC/EJ). While I was concerned initially that this caucus could result in a “tail wagging the dog” scenario where future water supply would become a subordinate issue, the direction of the DAC/EJ Caucus continues in an encouraging manner, with primary focus so far being on assisting the small and rural systems serving these communities.

The Caucus' work will revolve around the Water Plan's Objective #13, which is titled Ensure an Equitable Distribution of Benefits, and which states:

Increase the participation of small and disadvantaged communities in State processes and programs to achieve fair and equitable distribution of benefits. Consider mitigation of impacts from the implementation of State government programs and policies to provide safe drinking water and wastewater treatment to all California communities and to ensure that these programs and policies address the most critical public health threats in disadvantaged communities.

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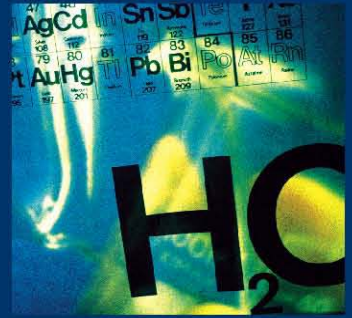
During the meeting, the PAC agreed that the Caucus would be tasked with a number of deliverables in advance of the 2013 Update. They are:

- Revise and reissue the report, *Californians Without Safe Water*, which was last updated in 2005;
- Develop a DAC handbook and communications plan;
- Identify key legislative and regulatory issues relevant to DACs, as well as options for addressing them;
- Ensure greater attention to DAC/EJ issues in the Regional Forums;
- Review the Water Plan Finance Plan with attention to DAC/EJ issues;
- Create a directory of DAC/EJ contacts by region;
- Identify and review state government activities for providing technical and financial assistance to DACs; and
- Integrate the work of the other Water Plan Update groups with DAC/EJ considerations.

There was a dichotomy in the discussion between supporters for adding the “value of water” to the Caucus scope, as well as the concept of affordability, where of course, there is tension between the two. I decided crystallize this tension for everyone and said the PAC must reconcile the two competing interests by addressing the ratepayer vs. taxpayer conundrum. That is, for DAC financial assistance, where the affected ratepayers cannot pay for the costs of providing safe, clean water, should other ratepayers subsidize these costs (as is the case with energy) or should the taxpayer subsidize these costs through public grants? We’ll see where the group comes out on this question in the next 22 months as the 2013 Update is completed.

I was not able to attend the afternoon session, which dealt with the graphics preferences for the 2013 CA Water Plan, and the latest activities of the Flood Management Caucus. I’ll report on these activities in future updates.

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CII Task Force Reviews Initial Draft of Metrics Document—The Commercial-Institutional-Industrial (CII) Task Force’s Metrics Subcommittee also met on Feb. 2nd in Sacramento and here again, the news was encouraging. This group is responsible for identifying the candidate metrics that will be adopted in the CII Task Force’s Final Report to the Legislature later this spring on the SBx7-7 mandate to establish Best Management Practices (BMPs) for these non-residential sectors. For the past three months, this subcommittee has been doing a lot of equivocating on what the metrics should be for these BMPs. I think the Dept. of Water Resources staff got frustrated with the lack of progress, and Rich Mills of the DWR staff (who is also participating in the California PUC’s recycled water rulemaking) decided to move the whole process forward by writing a 22-page single-spaced document titled “Water Use Metrics and Data Collection.” And there is no doubt he galvanized the subcommittee into action.

What his paper does is provide a framework for understanding water use metrics, discusses who should be using the metrics and why certain metrics are appropriate for certain subsectors. He also presented criteria for selecting appropriate metrics and provided examples of how particular metrics would fit the different sectors. In other words, he has made a good start on creating order out of chaos.

The draft paper is well organized and follows a logical progression from the legislative mandates to the definitional parameters to the candidate metrics. For water use, he divided the metrics into two basic functions: a general water metric that provides a basic quantification of water usage, and a specific metric that can be used as an indicator for “efficiency-in-use” of water. He defined “water conservation” as “a reduction in water loss, waste or use, while “efficiency” is the ratio of output to input or vice-versa. Accordingly, then, “water use efficiency” is defined as the relationship of water-related tasks accomplished with a given amount of water.

From these definitions, he constructed the basic metric as volume divided by time in the appropriate units (e.g. gallons per day), and then applied a scaling factor to the basic quotient that normalizes the metric, for example, in terms of population or employees or square feet of building area. This allows for comparisons to be made relative to the scaling factor chosen.

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Rich's document moved forward through discussions of "Metadata" (data about data), the distinctions between metric values, benchmarks and targets, and the criteria for selecting applicable metrics. He also made a series of recommendations and proposals for the CII Task Force's consideration on how to address options for the appropriate metrics by sector and subsector, including what scaling factors to use and how to make the water use efficiency metrics relevant to the product or service being provided in the various CII sectors.

The more I read his document the more complicated it got, and I know I had company on the subcommittee because I think most of them were intimidated. The subcommittee will be submitting suggestions and proposed edits during the next 10 days, and I expect the next draft to be circulated in advance of the next CII Task Force meeting on Feb. 24th. It should be an interesting meeting. If anyone is interested in reading this first draft, let me know and I'll send it to you.

Upcoming Industry Meetings/Conferences/Events:

- February 5-8, 2012 - National Association of Regulatory Utility Commissioners – Annual Winter Committee Meetings (8:45a-5:15p; Renaissance Hotel; 999 9th St., N.W., Washington, DC 20001); J. Hawks will attend.
- February 8, 2012 – California Urban Water Conservation Council Board of Directors Meeting (9:30a – 5:00p; East Bay MUD – 375 11th St., Oakland); J. Hawks will attend.
- February 9, 2012 – Urban Water Institute Conference (9:00a-5:00p; Hilton Hotel - 400 East Tahquitz Canyon Way, Palm Springs); J. Hawks is a panelist.
- February 10, 2012 - CWA Directors Meeting (9:30a-2:30p; California Water Association, 601 Van Ness Ave., Suite 2047, San Francisco 94102).
- February 15, 2012 – California Water Awareness Campaign Board of Directors Meeting (10:00a-noon; ACWA – 910 K St., Sacramento); J. Hawks will participate by phone.

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- February 15, 2012 – CWA USDP Committee Meeting (10:00a-2:30p; San Jose Water – 110 W. Taylor St., San Jose); J. Hawks will attend in part.
- February 16, 2012 – California PUC Open Meeting (9:00a – 12:00p; 505 Van Ness Ave., San Francisco 94102)
- February 24, 2012 – Dept. of Water Resources – CII Task Force Meeting (9:30a – 3:30p; San Diego County Water Authority; 4677 Overland Ave., San Diego 92123); J. Hawks will attend.
- March 5, 2012 – National Association of Water Companies – Government Relations Committee Meeting (10:30a – 2:30p; Hotel George, Washington, DC); J. Hawks will attend.
- March 6-7, 2012 – NAWC/CWA – Annual Congressional Fly-In; Capitol Hill, Washington, DC; J. Hawks will participate.
- March 8, 2012 – California PUC Open Meeting (9:00a – 12:00p; 505 Van Ness Ave., San Francisco 94102)
- March 8-9, 2012 – Annual California Water Policy Conference – “From Water Woes to Water Wise” (Westin Hotel – LAX; 5400 West Century Blvd., Los Angeles, CA 90045)
- March 9, 2012 – CWA Legislative Committee Meeting (10:00a-3:00p; Nossaman LLP Office – 915 L St., Suite 1000, Sacramento); J. Hawks will attend.
- March 14, 2012 – California Urban Water Conservation Council Plenary Meeting (9:30a-3:00p; Northern California location TBD); J. Hawks will attend.
- March 15, 2012 – CWA Directors Meeting (9:30a-2:30p; Manhattan Beach Club; 1330 Parkview Ave., Manhattan Beach 90266)
- March 22, 2012 – California PUC Open Meeting (9:00a – 12:00p; 505 Van Ness Ave., San Francisco 94102)
- March 25-27, 2012 – Water Reuse Association - 2012 WaterReuse California Annual Conference (Sheraton Grand Hotel; 1230 J St., Sacramento, CA 95814; http://www.watereuse.org/sites/default/files/u8/calicon2012_registration.pdf); J. Hawks will attend.
- March 27-28, 2012 – Water Education Foundation – 29th Annual Executive Briefing (8:30a-4:30p; Doubletree Hotel; 2001 Point West Way; Sacramento); J. Hawks will attend.

—CWA—