



STATE PUBLIC WORKS BOARD
February 17, 2023

FINAL MINUTES

PRESENT:

Ms. Gayle Miller, Deputy Director, Department of Finance
Ms. Jennifer Osborn, Chief Deputy Director, Department of General Services
Mr. Mike Keever, Chief Deputy Director, Department of Transportation
Mr. Bryan Cash, Secretary, Natural Resources Agency

CALL TO ORDER AND ROLL CALL:

Ms. Miller, Chairperson of the Board, called the meeting to order at 10:05 am
Ms. Kat Lee, Secretary of the Board, called the roll. A quorum was established.

MINUTES:

The next order of business was to approve the minutes from the January 20, 2023 Board meeting.

Ms. Sally Lukenbill, Executive Director of the State Public Works Board, stated that staff had prepared and reviewed the minutes from the January 20, 2023 Board meeting and recommended approval of the meeting minutes.

Ms. Miller asked if there were any questions or comments from the Board, or from the public. There were none.

A motion was made by Ms. Miller and seconded by Ms. Osborn to approve the minutes. The motion passed unanimously through a 3-0 roll-call vote (Ms. Miller, Mr. Keever, and Ms. Osborn all voting aye).

CONSENT ITEMS:

The next order of business was to consider the Consent Calendar, which consisted of one item within the Natural Resources Agency. Ms. Lukenbill presented the following:

- Consent Item 1: If approved, the requested action would approve the acquisition of real property and the execution of a Property Acquisition Agreement and other such documents as may be required to complete the acquisition of the Pit River / Tunnel Tract property in Shasta County for the Department of Forestry and Fire Protection.

The acquisition was a result of the settlement agreement PG&E entered into as part of a 2003 bankruptcy settlement, where PG&E is required to ensure that approximately 140,000 acres of watershed lands owned by PG&E were conserved for beneficial public

uses. The 7,000 acre Pit River/Tunnel Track property would be subject to a perpetual conservation easement and would be used as a CAL FIRE Demonstration State Forest.

Staff recommended approval of Consent Item 1.

Ms. Miller asked if there were any questions or comments from the Board, or from the public. There were none.

A motion was made by Ms. Miller and seconded by Mr. Keever to approve Consent Item 1. The motion passed unanimously through a 4-0 roll-call vote (Ms. Miller, Mr. Keever, Ms. Osborn, and Mr. Cash all voting aye).

Ms. Miller thanked and excused Mr. Cash.

ACTION ITEMS:

The next order of business was to consider one action item.

- Action item 1: If approved, the action would adopt an amended Resolution of Necessity for the Gonzales property in Fresno County authorizing the use of eminent domain by the High Speed Rail Authority, to acquire property or interests in property for the High Speed Train System.

Ms. Lukenbill stated that on November 18, 2022, the Board adopted Resolution of Necessity 2022-0105, authorizing the use of eminent domain to acquire the Gonzales property in Fresno County. Subsequent to adoption, a missing citation was identified, prompting the need for an amended RON. Specifically, the original Gonzales RON did not reference Code of Civil Procedure Sections 1240.320 and 1240.330, which are necessary to identify the Fresno Irrigation District as the entity that would be using the subject easements.

On January 25, 2023, Notices of Intent to adopt a First Amended Resolution of Necessity were mailed by Board staff to the owners of the abovementioned property. These notices were sent in accordance with Code of Civil Procedure section 1245.235. The members' briefing packages contained the Resolutions of Necessity and surveyor maps for the property.

Ms. Lukenbill noted that the members' briefing package also included objections from the Gonzales property grantee, as well as High Speed Rail's response to the objections.

At the time, Board counsel had reviewed the objections raised in the letter, and based on that review, staff felt comfortable recommending that the Board move forward with the adoption of the amended Resolution of Necessity for the property.

Paul Brown, serving as counsel to the Board on Eminent Domain items, presented the opposed and amended Resolution of Necessity.

Mr. Brown stated that the opposed Resolution of Necessity was for the Gonzales Property in Fresno County. In a phone call made to Board staff, the property owner objected to the acquisition on the basis that the proposed take would not result in the greatest public good or least private injury compared to reasonable alternatives.

The amended Resolution of Necessity, owner's objection, and High Speed Rail's response had been reviewed, and it was counsel's opinion that High Speed Rail's written responses adequately addressed the objections made on behalf of the property owner. In addition, prima facie evidence that the factors set forth in Code of Civil Procedure Section 1245.230 were present and if the Board agreed and determined the factors were present, the Board may move to adopt the Resolution of Necessity.

Staff recommended adoption of the amended Resolution of Necessity for the Gonzales property in Fresno County, authorizing the use of eminent domain to acquire the property or interests in property for High Speed Rail.

Ms. Miller asked if there were any questions or comments from the Board, from the property owners or their counsel, or from the public. There were none.

A motion was made by Mr. Keever and seconded by Ms. Miller to adopt staff recommendation. The motion passed unanimously through a 3-0 roll-call vote (Ms. Miller, Mr. Keever, and Ms. Osborn all voting aye).

OTHER BUSINESS:

NONE

REPORTABLES:

Ms. Lukenbill presented the reportable items for the period of January 11, 2023 through February 6, 2023 and stated that the reportable items were included in the staff analysis and in the member's briefing packets.

Ms. Miller asked if there were any questions or comments from the Board, or from the public. There were none.

NEXT MEETING:

Ms. Miller stated that the next Board meeting was scheduled for Monday, March 20, 2023 and the time and location of the meeting would be posted on the Board's website.

Ms. Miller asked if there were any other questions or comments from the Board, or from the public. There were none.

The meeting was concluded.