

MINUTES

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS
April 19, 2023, 3:00 P.M.
22901 Banducci Road, Tehachapi, CA 93561

CALIFORNIA DPH RECOMMENDS ALL PERSONS CONTINUE WEARING MASKS INDOORS IN PUBLIC SETTINGS

- Item 1. Call to Order and Roll Call**
Directors Present: Ables, Hall, Sasia, Schultz, Zanutto.
Legal Counsel: Mr. Robert Kuhs is available by phone if needed.
Staff in Attendance: Catherine Adams, LaMinda Madenwald, Tom Neisler. Jon Curry is out on leave.
- Item 2. Announcement**
President Schultz announced this meeting is being audio recorded, including all Board, Staff, and Public comments.
- Item 3. Flag Salute**
The Pledge of Allegiance was led by President Schultz.
- Item 4. Approval of Agenda**
Director Hall moved to approve the agenda. Director Sasia seconded the motion, and it was carried on the following vote: Ayes: Ables, Hall, Sasia, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.
- Item 5. Comments by any Party on Items of Interest and Within the Subject Matter Jurisdiction of the Legislative Body**
There were none.
- Item 6. Consent Calendar - Consent items are considered routine and are intended to be acted upon as a single item, without discussion. During this portion of the meeting, the Consent Calendar will be read aloud. Prior to approval, the President will give the Board the opportunity to remove any item from the Consent Calendar to be discussed and voted on individually. The President will also give staff and the public the opportunity to request any item be discussed individually, in which case the President will determine whether the item will be removed from the Consent Calendar. The remaining calendar will be acted upon. Any removed items will then be heard and acted upon individually.**
- a. Approve Minutes of the Special Board Meetings of March 7, 2023, and Regular Board Meeting of March 15, 2023
 - b. Approve Financial Report and Payment of Bills
 - c. Receive and File 2022 Annual Watermaster Reports for Tehachapi Basin and Cummings Basin
- President Schultz asked if there were any items the Board, Staff or Public would like to remove for discussion, and there were none.
- Director Zanutto moved to approve the Consent Calendar. Director Hall seconded the motion, and it was carried on the following vote: Ayes: Ables, Hall, Sasia, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.
- Item 7. General Manager's Report**
Mr. Neisler reported on the following:

- He stated the photo is of Tulare Lake in 1871 and pointed out Buena Vista Lake near the bottom of the map for reference. The Tulare Lakebed has previously been dry for a very long time, but today it is very much present and is expected to become quite large with the coming snowmelt.
- The Newsom Administration has rescinded almost all of the drought restrictions they had in place and have taken a lot of credit for water use reduction in the month of February (18% over 2020).
- The Voluntary Agreements on joint operation of the Central Valley Project and the State Water Project have been under negotiation for 12 years and they are running out of time because the contracts expire in 2035. Without an extension of those contracts, DWR cannot borrow money beyond 2035 and he explained further details.
- The importation system began pumping on March 15th with two engines and went to three engines on April 3rd with operations running very smoothly. The Pump Plant team has been doing a great job.
- There was a significant line break at the corner of Giraudo and Bailey Roads. The repairs were delayed due to the weather, but Staff were able to make the repairs utilizing the Staff welder to fabricate necessary parts and get the repair completed.
- Last month, the Kern County Water Summit was conducted, and Director Zanutto represented the Board and Ms. Cat Adams, and the District attorneys were able to join as well. The presentations were very good this year and it was interesting to hear both sides of the issues we are faced with.
- The Pump Plant Tour received an unprecedented response this year with over 70 RSVPs. A second tour day was added to accommodate the large number of attendees so the tours will be Thursday and Friday.
- The District's Statement of Economic Interest Form 700s have been filed and required Ethics and Sexual Harassment Training has been completed.
- Mr. Neisler is going up to Sacramento next week to attend a tour of the Delta through ACWA that was sponsored by a vendor. It was a limited invitation list, and he is looking forward to attending.
- He noted there is a Case Management Conference this Friday in Sacramento Superior Court, where the Judge will set the schedule for briefing and ongoing Sage Ranch litigation.
- He and Ms. Madenwald are working with the Finance Team to complete the paperwork required for the engine financing solicitation. The Prospectus (Official Statement) that was prepared for the underwriter is over 50 pages long and Staff has a presentation to Standard and Poor's, they rate the bond issue, via Zoom on Monday. Majority of the presentation will be made by Mr. Neisler, and they have encouraged him to sell the District and explain why it's a good risk. They plan to bring the financing package to the Board in May for approval.
- He only included one chart with this report because there are others later on the agenda. The statewide reservoir chart shows Oroville is at 87% capacity and 118% average YTD. They are keeping available space in Oroville because there is a lot of snowpack that is going to melt and there needs to be space to capture that. San Luis Reservoir is full with no capacity for additional water.
- He offered to answer any questions the Board or Public may have.

President Schultz asked if since more than the normal amount of water is being released from Oroville, is some of it being utilized downstream. Mr. Neisler stated that water goes directly into the Feather River and flows into the Delta, so outflow into the Bay is still far exceeding the requirement. While that water is not being captured, there is a tremendous amount that is being captured and put to good use downstream.

Item 8. Operations Report

Mr. Neisler reported that Mr. Curry is out on medical leave, and he covered the highlights in his report. He added that crews are very busy and described some of the on-call events the Pumping System crews have dealt with, but overall things are running very smoothly. He asked if there were any particular questions from the Board and Public. President Schultz inquired about a valve repair between the lake and the T as it has been in progress for a while. Mr. Neisler was not completely sure what the status was

but believed that crews were waiting for a line shutdown because it is not a mission critical item, so it does not warrant shutting the system down to finish the repair.

Item 9. Receive and File Update on 2023 Operations

Mr. Neisler stated that given the unusual nature of operations this year, he feels recurring updates are helpful. As of last Friday, the statewide snowpack average is 247% of average for April 1st. These charts show there is more snowpack in the south than the north, and unfortunately that is less effective in terms of usable water supply. All of the reservoirs that benefit our District are at or near capacity. He displayed a chart showing the Northern, Central, and Southern Sierra snowpack levels with relation to reservoir capacity. He described the conditions of the Northern stating that Oroville is going to be working overtime to let water out of the lake. He looked at the Central stating there is nowhere for the water to go, which is why Tulare Lake is going to be a problem. It has already flooded 1200 structures and is 10 miles wide. Looking at the Southern Sierra, the situation is more pronounced because there is not enough reservoir storage. The 2023 Table A Allocation remains at 75% and there is talk that the April 1st modeling will yield an even higher allocation. While that is good news, most water managers in the state have more water available now than they can deal with in this calendar year.

On March 15th, Staff started the importation system on a two-engine basis and went to three engines on April 3rd. As of this morning, 1,159 AF of water has been imported into the District. Majority of customers are not taking water yet, so it's a struggle to find a place to put all this water. 21 CFS is about 42 AF of water per day. All recharges are operating to the capacity that they can, and Staff is trying to balance recharges and lake levels. By April 14th, about 441 AF of water had been recharged. Currently, Brite Lake is at 1480 feet which leaves about 400 AF of capacity.

The District is currently accepting Article 21 water (SWP) and Lower Kern River (LKR) water, and has a home for all those supplies. It has accepted 2,250 AF of LKR water at \$5/AF, and half of that water will be left behind as payment for using ID 4's facility, so this leaves a net 1,125 AF of water in the ground. Earlier this week, the Agency released another block of LKR water, 50,000 AF, and the District's share is 958 AF. The Article 21 program is more complicated, and he explained the ordering process. All the water imported in March was Article 21 water and for April, 800 AF of SWP water was ordered which had to be taken before taking any Article 21 water, so crews ran the third engine to accomplish this. ID 4 is willing to take the District's LKR water but does not have the capacity to take the Article 21 water. Later in the agenda, the Board will be asked to approve an agreement that will allow utilization of the District's Cross Valley Canal capacity to convey water to a new banking facility in the San Joaquin Valley. From now until September, the District's importation system is committed to using its full capacity to import the Table A Allocation and Staff hopes to import over 8,000 AF of water this year.

The forecast for next year is looming, and he displayed a chart showing a summary of the different modeling forecasts for the temperature of the Pacific Ocean at the equator. This is used to measure a "La Nina" versus an "El Nino" condition. If the temperature is below normal, that typically indicates a La Nina which leads to drier and colder winters. When the temperature is higher, it typically leads to an El Nino which is wetter and warmer. At some time in January, the La Nina conditions ended and started to transition into El Nino. Indications are that a significant El Nino winter is coming next year which would lead to above normal precipitation; more flooding, less snowpack, and less ability for the water to absorb into the ground.

In conclusion, conditions are not normal, and Staff is doing everything they can to accommodate and take advantage of these water supplies. President Schutlz asked for clarification on the additional capacity mentioned for Article 21 water and Mr. Neisler explained the ordering process and stated he ordered 800 AF of SWP water utilizing a two-engine system, so he was able to run a third engine to pump the 400 AF of Article 21 water. Director Zanutto mentioned taking a tour a few years ago of the Kern County Water

Bank off Interstate 5, and asked what that is going to look like this year. Mr. Neisler stated he was recently in the area of the ponds near Cal State University Bakersfield, and they were all full. He added we will run out of banking capacity in Kern County before we run out of cheap water. They are forecasting 700,000 AF of excess water off the Kern River.

Item 10. Receive and File Water Exchange Agreement Between Improvement District No. 4 and Tehachapi-Cummings County Water District

Mr. Neisler stated the District has entered into a water banking agreement with Improvement District No. 4 (ID 4), twice in the past, 2017 and 2019. These opportunities to bank come very quickly and often do not accommodate waiting through a normal Board cycle for approval. Back in 2017, the Board granted the General Manager the authority to approve and execute these agreements in order to take advantage of these opportunities. He has executed an agreement with ID 4 this year and began banking water through ID 4 into the Kern Water Bank on March 17th. Banking will continue there as long as they have the available capacity. This item is for the Board to receive and file the agreement. It is slightly amended this year from the one used in the past because of the quantity of water available and the various types. Previously this has only been for Lower Kern River water and now it is expanded to apply to any type of water. The agreement has been reviewed by the District's Legal Counsel and theirs. Historically, ID 4 has met requests for extraction and conveyance every time the District has made them. Considering those conditions and the fact that it is LKR water at \$5/AF, he is comfortable leaving half of it behind. The Board had no opposition to this.

Item 11. Approve Water Banking and Storage Agreement with Grimmway Enterprises

Mr. Neisler mentioned that since before he started working here, the District has been searching for a new banking facility down in the valley and today he is presenting a new agreement for a new banking facility. Finding banking facilities has become even harder since the implementation of SGMA because so many agencies now need to bank water.

Grimmway Enterprises has constructed a new banking facility on property that they currently farm. In fallow portions of the year, they plan to recharge water on this facility for their use and partners use. He displayed the map showing the proximity of the facility to the Cross Valley Canal. Grimmway has obtained permits from the Kern County Water Agency (KCWA) to extract water from the canal and spread it on these ponds. Grimmway owns and operates wells on this property right now, however they are not approved for extraction or reconveyance into the Cross Valley Canal. The District owns 4 CFS capacity in the canal and has the right to use capacity in the canal when it is available. This agreement is for the District to utilize the facility to extract water from the canal and spread it on these ponds. The agreement does not include extracting the water and reconveying it because both parties are still trying to work that out. Mr. Neisler considers this to be a trial or Proof of Concept type agreement and thus is limited to two years to make sure everything works out. There are provisions in the agreement to deal with the water if at the end of two years it is decided it does not make sense or something else. Diamond Farming Company, the property ownership entity of Grimmway, owns the property the facility is on and leases it to Grimmway so there is the low risk of Diamond terminating the lease. Mr. Neisler stated this is not an ironclad opportunity like the ID 4 agreement, but it certainly can develop into that over a period of time.

The condition under which this offer is made, is that the District will leave 1/3 of the water behind as an accommodation for using the facility. In other words, for every 3 AF of water the District deposits there, Grimmway keeps 1 AF, and the District keeps 2 AF (less the spreading loss). This agreement is set up for any type of water and this is advantageous for the District as it does not have to ask KCWA's permission to convey LKR water. When it comes to SWP water, Staff will need to go through KCWA and get their concurrence. Another benefit of this agreement is in a year where the full capacity of the system cannot be utilized, such as last year, using these same conveyances, Grimmway could convey their water up into Tehachapi through a Wheeled Water Agreement similar to what is done in Tehachapi Basin.

As mentioned, the District's Legal Counsel is out of town and although he has been through this agreement previously, he has not had the opportunity to fully approve it, so Mr. Neisler's recommended motion is to approve the agreement and authorize the President to sign it, subject to final Legal Counsel review.

President Schultz asked if there were any Public comments and a member of the audience asked for clarification of the tenant versus owner water rights on the land itself. Mr. Neisler stated water rights are not an issue in this because the water being deposited is for the District use on their property as a banking facility. Director Zanutto stating this only works if there is extraction capability and asked if there is a hang up on that portion. Mr. Neisler stated it is a permitting issue as permission is needed from KCWA to extract, then convey that water back through the canal and to the aqueduct. It is time consuming getting those permits. Mr. Matt Vickery, Grimmway Farms, stated they are waiting on an encroachment permit from the KCWA to take water from the canal to the spreading basins. They have a field visit with KCWA tomorrow to get the final approval. Regarding extraction of banked water in the future, they have done that on an emergency basis in the past. The next step will be to get that approved on a permanent basis. When the timing is right and the KCWA isn't inundated with those types of requests, they will take that approach. Part of the agreement is working together to get that extraction capability because it is in everyone's best interest. Mr. Neisler stated he takes comfort in knowing extractions were allowed in the past and they do not foresee any reason why KCWA would not allow this. Also, the risk is low because this is very low cost water and there is no cost to the District for the facility. This would be water that the District would otherwise have to pass on.

Director Zanutto clarified that we have an out at the end of 2 years if this does not work out and Mr. Neisler read the section of the agreement that applies to how the stored water would be handled if the agreement is terminated. Director Sasia inquired about the costs to extract the water and Mr. Neisler stated we do not know those yet, but it would be standard pumping cost and for reference, the District pays \$150/AF to extract water from the Kern Water Bank.

Director Zanutto moved that the Board approve the Water Banking and Storage Agreement with Grimmway Enterprises and authorize the Board President to execute the agreement, subject to final Legal Counsel review. Director Sasia seconded the motion, and it was carried on the following vote: Ayes: Ables, Hall, Sasia, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.

Item 12. Schedule Ad-Hoc Budget Committee Meeting

Ms. Madenwald stated the Ad-Hoc Budget Committee consists of Directors Hall and Zanutto. Staff is ready to get started on the preliminary budget and would like to set a committee meeting so this can go before the Board at the June Regular Board Meeting. Dates and times were discussed, and the meeting was set for Thursday, June 1st at 10:00 a.m.

Item 13. Board of Directors Comments

Director Ables referred to the banking agreement with Grimmway and feels it is important to have banking options. He encouraged Mr. Neisler to continue to look for these opportunities. Director Hall agreed with Director Ables, and added he is looking forward to options of wheeling water up here. Director Sasia thanked Mr. Neisler for his footwork on the banking agreement as we need places to store this water. Director Zanutto complimented Mr. Neisler on the good, upbeat report as it was good to hear for a change. President Schultz commented on seeing the snowpack in the Sierras and recommended seeing Tulare Lake, if you get a chance, as it is really amazing, especially flying over it.

Item 14. Adjourn to Closed Session

President to reference Closed Session items as presented on Agenda, then Board to adjourn to Closed Session.

- a. In Accordance with Exhibit A Attached hereto, TCCWD v. City of Tehachapi *Et al.*
- b. In Accordance with Exhibit B Attached hereto, DWR v. All Persons Interested in Authorization of WaterFix Revenue Bonds, et al.; DWR v. All Persons Interested In The Matter of the Authorization of Delta Program Revenue Bonds, *Et al.*
- c. In Accordance with Exhibit C Attached hereto, Rosedale-Rio Bravo WSD *Et al.* v. Kern County Water Agency *Et al.*
- d. In Accordance with Exhibit D Attached hereto, Performance Evaluation, General Manager

The Board adjourned to Closed Session at 4:13 p.m.

Item 15. Return to Open Session

The Board returned to Open Session at 5:21 p.m.

Report Action Taken in Closed Session:

- a. No reportable action.
- b. No reportable action.
- c. No reportable action.
- d. No reportable action.

Item 16. Adjournment

The meeting was adjourned at 5:21 p.m. on a motion made by Director Hall, seconded by Director Sasia, and carried on the following vote: Ayes: Ables, Hall, Sasia, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.


Robert W. Schultz, Board President


Catherine Adams, Board Secretary



CLOSED SESSION ITEM DESCRIPTIONS

(Gov. Code § 54954.5)

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code § 54956.8.)

Description of Property: _____
Proposed District Negotiator: _____
Negotiating Parties: _____
Subject of Conference: _____

B. CONFERENCE WITH LEGAL COUNSEL (Gov. Code § 54956.9.)

1. Existing Litigation: KCSC No. BCV-21-102184 KCT
Name of Case: TCCWD v. City of Tehachapi *Et al.*

2. Anticipated Litigation: _____
Gov. Code § 54956.9 (b): _____
Gov. Code § 54956.9 (c): _____

C. PUBLIC EMPLOYEES (Gov. Code § 54957.)

1. Appointment: _____
Title: _____
2. Employment: _____
Title: _____
3. Performance Evaluation: _____
Title: _____
4. Discipline/Dismissal/Release: _____

D. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code § 54957.6.)

Agency Negotiator: _____
Employee Organization: _____
Unrepresented Employee: _____



CLOSED SESSION ITEM DESCRIPTIONS

(Gov. Code § 54954.5)

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code § 54956.8.)

Description of Property: _____
Proposed District Negotiator: _____
Negotiating Parties: _____
Subject of Conference: _____

B. CONFERENCE WITH LEGAL COUNSEL (Gov. Code § 54956.9.)

1. Existing Litigation: Two Cases
Names of Cases: DWR v. All Persons Interested in Authorization of WaterFix Revenue Bonds, et al.; DWR v. All Persons Interested In The Matter of the Authorization of Delta Program Revenue Bonds, et al.
2. Anticipated Litigation: _____
Gov. Code § 54956.9 (b): _____
Gov. Code § 54956.9 (c): _____

C. PUBLIC EMPLOYEES (Gov. Code § 54957.)

1. Appointment: _____
Title: _____
2. Employment: _____
Title: _____
3. Performance Evaluation: _____
Title: _____
4. Discipline/Dismissal/Release: _____

D. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code § 54957.6.)

Agency Negotiator: _____
Employee Organization: Not Applicable
Unrepresented Employee: _____



CLOSED SESSION ITEM DESCRIPTIONS

(Gov. Code § 54954.5)

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code § 54956.8.)

Description of Property: _____
Proposed District Negotiator: _____
Negotiating Parties: _____
Subject of Conference: _____

B. CONFERENCE WITH LEGAL COUNSEL (Gov. Code § 54956.9.)

1. Existing Litigation: KCSC No. BCV 21100418 TSC
Name of Case: Rosedale-Rio Bravo WSD *Et al.* v. Kern County Water Agency
Et al.

2. Anticipated Litigation: _____
Gov. Code § 54956.9 (b): _____
Gov. Code § 54956.9 (c): _____

C. PUBLIC EMPLOYEES (Gov. Code § 54957.)

- 1. Appointment: _____
Title: _____
- 2. Employment: _____
Title: _____
- 3. Performance Evaluation: _____
Title: _____
- 4. Discipline/Dismissal/Release: _____

D. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code § 54957.6.)

Agency Negotiator: _____
Employee Organization: _____
Unrepresented Employee: _____



CLOSED SESSION ITEM DESCRIPTIONS

(Gov. Code § 54954.5)

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code § 54956.8.)

Description of Property: _____
Proposed District Negotiator: _____
Negotiating Parties: _____
Subject of Conference: _____

B. CONFERENCE WITH LEGAL COUNSEL (Gov. Code § 54956.9.)

1. Existing Litigation: _____
Name of Case: _____

2. Anticipated Litigation: _____
Gov. Code § 54956.9 (b): _____
Gov. Code § 54956.9 (c): _____

C. PUBLIC EMPLOYEES (Gov. Code § 54957.)

1. Appointment: _____
Title: _____

2. Employment: _____
Title: _____

3. Performance Evaluation: _____
Title: General Manager

4. Discipline/Dismissal/Release: _____

D. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code § 54957.6.)

Agency Negotiator: _____
Employee Organization: _____
Unrepresented Employee: _____