

MINUTES

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT
POSTPONED REGULAR MEETING OF THE BOARD OF DIRECTORS
December 20, 2021, 3:00 P.M.
22901 Banducci Road, Tehachapi, CA 93561

THIS MEETING WILL BE CONDUCTED IN-PERSON
STATE MANDATED COVID-19 PRECAUTIONS WILL BE ENFORCED
MANDATORY MASKING WILL BE REQUIRED INDOORS FOR ALL ATTENDEES

- Item 1. Call to Order and Roll Call**
Directors Present: Cassil, Hall, Pack, Schultz, Zanutto
Legal Counsel: Mark Tomlinson on phone
Staff in Attendance: Catherine Adams, LaMinda Madenwald, Jon Curry, Tom Neisler
- 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**
Ms. Adams requested amending agenda Item 10 to make a clerical correction to the resolution title so that it states, "Adopt Resolution CW 1-2021, Approving and Adopting Rules & Regulations for the Amended and Restated Cummings Basin Watermaster." Mr. Neisler clarified that the Tehachapi Basin Watermaster resolutions are titled "TW #-Year" so this being the first Cummings Basin Watermaster resolution, it should be titled in a similar manner.
- Director Hall moved to approve the agenda as amended. President Schultz seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, 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**
Ms. Adams announced that she mailed a form to the Directors for the General Manager's Performance Evaluation to be held at the January meeting and asked Directors to let her know if they do not receive it. There were no other comments.
- 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 Regular Board Meeting of November 17, 2021
 - b. Approve Financial Report and Payment of Bills

President Schultz asked if there were any items the Board, Staff or Public would like to remove for discussion. There were none.

Director Zanutto moved to approve the Consent Calendar. Director Pack seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.

Item 7. General Manager's Report

Mr. Neisler reported on the following matters:

- He thanked the Board for their patience with the postponement of the regular meeting. He was concerned about the road conditions that would be affecting everyone's ability to get home after the meeting that night. We have been blessed to receive precipitation and snow.
- On December 2, DWR announced the initial Table A Allocation for 2022 is 0%; outside of health and safety considerations. They have not provided information on what "health and safety considerations" will be. He is hopeful DWR will refine and clarify this allocation in the near future.
- The State reported the October voluntary conservation equated to 13.8% reduction, the overall timeframe of July through October equates to 5.3%.
- There was 7 inches of precipitation in the Feather River Basin and several feet of snowpack in the Sierras. That increased the average snowpack in the state from 19% to 83% of the YTD average. This event also contributed to increased levels in Lake Oroville bringing it to 1 million acre feet which equates to an elevation of 673 feet. As of last week, they were still not able to start the hydroelectric plant and an update is coming out tomorrow.
- At the December 9th, Member Unit Manager's meeting, the Agency staff presented a report on the 2022 Statement of Charges. The Board just approved TCCWD's 60% payment in the amount of \$1.9 million. The estimated total 2022 bill is in excess of \$3 million. This was anticipated and the conservative budgeted amount was \$3.3 million. For reference, the 2021 bill was \$2,753,000.
- There is a newly released opinion that DWR Bond Counsel has issued, determining that the DWR debt cannot be extended beyond the 2035 expiration of the supply contracts. This means that not only all the existing debt that DWR has, but the \$1.3 billion incurred for the Oroville spillway repairs, needs to be repaid by 2035. In terms of municipal debt, that is right around the corner. This is very troubling. In addition to the existing debt, DWR has budgeted \$6.5 billion additional capital costs prior to 2035. He will keep the Board apprised of any new information as it comes available.
- The City's Snyder Well repairs are almost complete. We appreciated them repairing that facility and look forward to that well coming online again.
- The Brite Lake chart shows the current level is very low.

He offered to answer any questions from the Board, Public, or Staff and there were none.

Item 8. Operation Manager's Report

Mr. Curry reported on the following matters:

- The Central Valley Salts Program is a way to set permit requirements for salinity levels and loading associated with wastewater discharges. Since the District is permitted to spread the wastewater from the CCI plant, it falls under this regulatory category. He described the two options detailed in the Staff Report. Staff has chosen the Alternative Salinity Permitting Approach and the District will contribute a \$770 fee annually and participate in the stakeholder meetings. The data will be used in setting salinity standards for renewed and future wastewater discharge permits.
- Staff has received the approved Authority to Construct (ATC) from SJVAPCD for the PP1 generator. This 60kW generator is part of the FY 21-22 Pumping CIP Project and is scheduled to be delivered on January 5th.

- For the CalOES Emergency Generator Project, ATC's for the two stationary generators were submitted to EKAPCD for review and approval. The two portable generators will fall into a statewide permitting category. The 120 kW portable generator will be delivered to the vendor in Bakersfield next week and the 175 kW generator is set to be delivered January 17th.
- The District's four Tehachapi Basin extraction wells are off, and recharge areas are shut down. Brite Lake data from December 10th was: elevation 4342.9', depth 16.9', and lake volume 530.2 AF.
- The Pumping Systems department has started rebuilding the high-pressure let-down natural gas regulators at PP1 through PP3. They are replumbing the secondary water, high pressure, 2" waterlines and replacing the wye strainers at PP1 through PP3.
- In some of the holding tanks for the engine cooling systems, Staff has noticed a lot of deposits and scale build up. Those have been flushed out and will be recoated before being put back into service. He referenced the pictures of the pitting and corrosion on the jacket water side. Those have been machined out and sleeves were inserted to bring the covers back to original specifications.
- The fourth and last, new-design discharge head for PP1 was received on December 8th. These new-design discharge heads have a greater adjustment range, which allows for better alignment between the engine and the right-angle drive.
- The Pipeline Department conducted a mainline shut down on December 6th in the Tehachapi Basin from Sutter Street to Ponderosa Street to install a new branch valve at turnout T-15. He described the details of the work during the shut down as mentioned in the Staff Report. The line was put back into service on December 8th. Turnout T-15 will be the connection point to tie into GHCS D's Steuber Well.
- Superior Tank completed painting of the welded tank at PP4. They will be onsite to begin the factory rehabilitation work on the West Bolted Tank at PP4 as part of the annual maintenance contract. There will also be washouts and visual inspections performed on some of the other storage tanks.

He offered to answer any questions. President Schultz asked what prompted the rebuild of the high pressure let-down gas regulator and Mr. Curry responded that this is a maintenance item done every off-season to ensure they do not have a failure during the pumping season.

Item 9. Receive and File June 30, 2021 Audited Comprehensive Financial Report

Ms. Madenwald stated this item is the Board's opportunity to receive and file the Audited Comprehensive Financial Report (ACFR). A copy will be made available on the District website and hard copies are available upon request.

Van Lant & Fankhanel, LLP has completed the annual audit and issued an unmodified opinion that the financial statements are fairly presented in conformity with the Generally Accepted Accounting Principles (GAAP). The Ad-hoc Audit Committee (Hall, Zanutto) met with Mr. Brett Van Lant via Zoom on December 9th to discuss and review the ACFR. The Committee and Staff were pleased and satisfied with the results of the audit. The Committee recommends the Board receive and file the ACFR.

Mr. Van Lant, partner with Van Lant & Fankhanel, LLP, provided a presentation on the audit via Zoom. He stated several reports are issued as part of the audit; the Audit Report (Opinion on Financial Statements), Internal Controls and Compliance Report, District's Calculation of Appropriation's Limit Report, and a letter to the Board of Directors. He described the details and responsibilities of each report pointing out that the District received a clean, unmodified opinion which is the highest opinion you can receive in financial reporting. This means there were no departures from GAAP and the financial statements are fairly presented. The Internal Controls and Compliance Report shows there were no significant deficiencies, material weaknesses, or non-compliance. There were no exceptions to report in the Appropriation's Limit Report. The letter to the Directors shows there were no difficulties or

disagreements to report. He thanked Ms. Madenwald and District Staff for their assistance in completing the audit and offered to answer any questions the Board or Public may have.

Director Hall commented that the audit went smoothly and Director Zanutto thanked Mr. Van Lant for working with the Committee and answering their questions. He added the District's Net Position has improved about \$3.5 million from last year.

Director Zanutto moved that the Board receive and file the audit report. President Schultz seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.

Director Zanutto commented that the District's retirement liability is at about \$3 million and he suggested having a discussion on that at one of the future Budget sessions. Mr. Neisler stated they would be happy to incorporate that into the mid-year budget discussions.

Item 10. Adopt Resolution CW 1-2021, Approving and Adopting Rules & Regulations for the Amended and Restated Cummings Basin Watermaster

Mr. Neisler stated Mark Tomlinson, an associate with LeBeau Thelen, is on the phone as he was the primary author of these rules and regulations, working very closely with Staff. At the November Board meeting, the draft Rules and Regulations were presented. They have been thoroughly revised and the Cummings Basin Ad-Hoc Committee has met to review this updated version.

The primary changes that were incorporated were the deletion of references to water rights and carryover provisions because these are overlying rights, not prescribed rights. The responsibility of maintenance and replacement of well meters has been transferred to the District. There are operational reasons for this and it gives the District better control to ensure the readings are accurate. The costs associated with this will be tracked, so if the Board determines that cost should be recoverable, then assessment provisions can be discussed at that time. Majority of the conservation measures were removed as this was not the right venue for those to be described and implemented. The District does promote conservation and feels it should be District-wide and not basin specific. All the exhibits have been completed and are now included.

The Board may recall, Mr. Matt Vickery with Grimmway submitted written comments at the last Board meeting, and those have been addressed. He was provided a copy of this Staff Report and Mr. Vickery responded that Grimmway is satisfied with the revisions. Mr. Neisler feels these Rules and Regulations have had a thorough review and recommends that the Board adopt Resolution CW 1-2021. He offered to answer any questions the Board or Public may have.

President Schultz stated he was on the committee and agrees this document has been cleaned up. He feels it is being treated similarly to the Tehachapi Basin as appropriate. He feels that cost recovery may need to be addressed in the future, but feels it is appropriately written at this time.

President Schultz moved to adopt Resolution No. CW 1-2021, Approving and Adopting Rules and Regulations for the Cummings Basin Watermaster Judgment. The motion was seconded by Director Zanutto and was carried on the following votes: Ayes: Cassil, Pack, Hall, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.

Mr. Tomlinson thanked Mr. Neisler for all his input during the process and the Board for their patience as they pulled it together into this excellent condition.

Item 11. Schedule Ad-hoc Budget Committee Meeting

Ms. Madenwald stated it is standard practice to review the current Budget and make any necessary updates and amendments. Staff would like to conduct a mid-year budget review and present it to the Board in January. Therefore, they would like to schedule an Ad-hoc Budget Committee meeting to review a draft Amended Budget. The Committee members are Directors Pack and Zanutto.

The Ad-hoc Budget Committee meeting was scheduled for Tuesday, January 11th at 10:00 a.m.

Item 12. Report on Fall 2021 Virtual and Live ACWA Conference

Mr. Neisler stated that Director Hall attended the JPIA Conference live in Pasadena as there was not a virtual option available. The ACWA Conference focused on three main topics; everyone meeting in-person for the first time in two years, the current state of the drought and allocation, and SGMA. It was a good conference, and his report is attached to the Staff Report.

Director Hall stated the JPIA meeting opened with an extensive discussion on rising costs of cyber insurance as their receipts were less than their claim payouts for the year. Their immediate solution is to administer a large survey that all agencies will have to complete about their practices and procedures concerning cyber security. There was discussion on rising costs of property damage due to all the weather disasters such as fires and floods. There will be a 25% increase in JPIA's premium for the general reinsurance market, and additional future increases are expected. This increase may be offset in our premiums because JPIA owns an insurance captive in Utah intended to protect members from those market price increases. Mr. Neisler commented that subsequent to that troubling presentation from JPIA, he asked the District's IT consultant to attend the January meeting and provide a presentation on some highlights of what the District has in place for protection. Director Hall asked if we have two-factor authentication and Mr. Neisler stated that is in place for our remote access data networks.

Director Pack stated he is waiting for access to the recordings of the virtual conference as he was not able to attend due to the technical difficulties. He did receive an email from ACWA stating they will issue a \$150 refund to all participants since all the material was not available.

President Schultz stated he was only able to attend one virtual session due to the technical difficulties. The session was on the State's intention of fallowing at least 1 million acres of land. There will be options for farmers to be a part of the process but overall, it would be paying farmers to stop farming in highly impacted basins (not Tehachapi). The funds would be coming from taxpayer money. He is looking forward to being able to access the recordings to view the rest of the sessions. Mr. Neisler added that the reason Tehachapi will not be a part of the land fallowing program is it is a SGMA program, and we are grateful our basins are not subject to SGMA.

President Schultz suggested that Directors can comment on the ACWA Conference at the January meeting once they have been able to access the recordings. Mr. Neisler stated Staff will look into the status of those recordings coming available.

Item 13. Board of Directors Comments

Director Zanutto asked the representatives from the City of Tehachapi some questions regarding their nitrate testing at Snyder Well. They responded and clarified that at this time, they plan to continue to leave that well disconnected from their potable system.

Director Hall commented he did not mind driving to Pasadena for the conference and thought the city looked fantastic and the Convention Center was quite beautiful.

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, Rosedale-Rio Bravo WSD *Et al.* v. Kern County Water Agency *Et al.*
- c. In Accordance with Exhibit C Attached Hereto, Anticipated Litigation

The Board went into Closed Session at 4:17 p.m.

Item 15. Return to Open Session

The Board returned to Open Session at 5:12 p.m.

Report Action Taken in Closed Session:

- a. No reportable action.
- b. No reportable action.
- c. Board approved retention of Pioneer Law Group to assist with anticipated litigation with a 5-0 passing vote.

Item 16. Adjournment

The meeting was adjourned at 5:13 p.m. on a motion made by Director Hall, seconded by Director Cassil, and carried on the following vote: Ayes: Cassil, Hall, Pack, 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: 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): One Potential Case

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: _____