

MINUTES

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS
September 15, 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

- Item 1. Call to Order and Roll Call**
Directors Present: Cassil, Hall, Pack, Schultz, Zanutto
Legal Counsel: Robert Kuhs (remote)
Staff in Attendance: Catherine Adams, LaMinda Madenwald, 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**
Director Hall moved to approve the agenda. 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.
- 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 Regular Board Meeting of August 18, 2021, and Special Board Meeting of September 3, 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 Hall moved to approve the Consent Calendar. President Schultz seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Zanutto; Noes: None; Abstain: Schultz; Absent: None.
- Item 7. General Manager's Report**
Mr. Neisler reported on the following matters:

- The picture on the Staff Report was taken near the end of the boat launch ramp. The drought is unprecedented.
- The District is saying goodbye to two long-term employees; Farrell Loyd is retiring after more than 34 years, and Joe Sasia has left to pursue another opportunity after 33 years. We wish them the best and thank them for their service.
- Agencies throughout the state are beginning mandatory delivery restrictions on water supplies. Reservoir levels continue to drop; Lake Oroville is at 629 feet and Lake Mead is at a historic low.
- ACWA held a meeting with the Natural Resources Secretary and the Cal EPA Secretary to discuss water conservation measures this morning and Mr. Neisler attended. He distributed his notes from the meeting. Governor Newsom has requested voluntary cutbacks of 15% in water use for Californians. The meeting highlighted the money that is available from both state and federal sources to deal with drought contingencies and conservation plans so Mr. Neisler will continue to update the Board.
- The KCWA Member Unit Manager's meeting was September 9th and the Voluntary Agreement negotiations were discussed. The primary dispute remains that the State will not back off from their Incidental Take Permit requirements. ACWA and the Bureau of Reclamation are very interested in a more adaptive approach.
- Brite Lake levels continue to drop as anticipated and this week there is a flattening of demand.
- At the September 9th Member Unit Managers meeting, the 2022 estimated Statement of Charges for 2022 was received. It is in accordance with our projections and the Ad-Valorem tax rate the Board approved. As reported previously, with the Hyatt Power Plant shutdown and other factors that increased costs this year, the energy component of the bill increased statewide about \$71 million. This also included the first component of the Oroville Spillway construction.
- The City of Tehachapi, City Council conducted the second reading of the Ordinance approving Sage Ranch on September 7th. Mr. Neisler played a video clip of a segment of the Council meeting discussing the water issue. He reviewed the information the City presented regarding water in Tehachapi Basin and provided corrected details.
- TCCWD has received a request to review another development in the City of Tehachapi that contains an additional 37 residential units. The District has requested further information in order to determine the source of water supply. On behalf of the District, Mr. Neisler has written a letter in opposition to approving the project, pending the receipt of that information and the discussion of the water supply.
- The Pump Plant Tour is coming up on October 21, 2021.
- We held an "end of season/thank you" pizza lunch in the Board room on Sept 3rd.
- He reviewed the charts attached to the Staff Report. The reservoir charts are very discouraging, and he included a new chart depicting the level of Lake Oroville. It shows how the current level is below the minimum storage level and below the levels recorded during the 1976/1977/1978 and 2013/2014/2015 droughts.

President Schultz mentioned at one of the ACWA conferences there was discussions of pilot programs that suggested other ways to address the smelt issue and wondered if there has been any more mention of those at the ACWA meetings. Mr. Neisler stated he has not heard any further updates on that topic.

Director Zanutto commented he has noticed the District electric costs are some of the highest he's seen since the wells are being used so much. He stated it goes to show the cost of water gets very expensive when we have to use these sources. Mr. Neisler agreed and elaborated on the rising rates as well. He stated the wells are holding up remarkably well to this extended use. He mentioned Staff will be measuring well levels in October and this will provide a better idea of how much draw down there has been. Director Zanutto asked for the capacity of Tehachapi Basin when it's full and Mr. Neisler stated the capacity is 350,000 acre feet. Current estimates from hydrogeological consultants state that there is about 260,000 acre feet of water in the basin. He clarified that this District does not manage the amount of water that is in the basin, that's what it takes to drain every drop of water, that is not all available to

everyone. The District manages the difference in the levels and the amount of storage. While there is 260,000 acre feet today, we do not have access to all of that water.

Item 8. Operation Manager's Report

Mr. Neisler presented the Operation Manager's Report on behalf of Mr. Curry:

- The system was shut down on August 23rd (typo in Staff Report) after pumping all the water available to the District for 2021.
- The Staff Report discusses the current projects the Pipeline and Pumping Systems Department are working on. We have transitioned to off season projects, and you can see some clean up taking place in the yard with roll-off bins.
- There are two right-angle drives being repaired at Deran Gear in Texas and two 7-stage vertical turbine pumps are at Evan's Hydro for evaluation and repair. A new 7-stage pump is being built by Ruhrpumpen in Oklahoma. The parts that we use are unique, hard to come by, have long lead times and because of all those factors, are costly.
- Edison has assured us the problems at Dennison well have been resolved and the check valve has been working properly.
- As we move into winter, trainings will be scheduled for the GIS Technician, a Pipeline employee will attend CLA-VAL training, and two mechanics will attend VHP Technology training. Mr. Curry has been accepted into the "Leadership Essentials for the Water Industry" program through ACWA/JPIA. Mr. Neisler appreciates the Board's support in allowing Mr. Curry to attend as he feels it will benefit him greatly.

He offered to answer any questions and there were none.

Item 9. Approve Outline of Rules and Regulations for Amended and Restated Judgment Cummings Basin

Mr. Neisler stated in January of 2021, the Kern County Superior Court granted the petition to amend and restate the judgment for the adjudicated Cummings Basin. The District needs to adopt Rules and Regulations to implement the management structure that is outlined in the Amended and Restated Judgment (ARJ). Staff and Legal Counsel's first attempt was to mimic the Tehachapi Basin judgment Rules and Regulations since both are relatively similar. However, the TB Judgment was prepared in the 1970s and there wasn't a good correlation with the requirements that are included in the ARJ. Therefore, Staff and Legal Counsel prepared a new outline for a Table of Contents for the Rules and Regulations. He presented the proposed outline from the Staff Report and is asking for Board approval to continue in this direction prior to expending funds to develop the document off of this outline. There is a deadline to have this completed by the end of this year.

As presented at the May RBM, in October, all customers will be sent the Estimated Water Requirements form, in which they are asked to request amounts of surface water, pumped groundwater, and water to be recharged by the district on behalf of the customer. The forms should be returned by November 1st. There is concern customers may ask for more water than actually needed knowing supplies will be limited. TCCWD provides delivery estimates to KCWA every year based on criteria they establish. This coming year they are looking for a much more robust set of projections, including necessary agricultural deliveries. They define necessary agricultural deliveries as permanent crops and greenhouse crops. He reviewed the rest of the procedures outlined in the Staff Report for 2022 water deliveries.

President Schultz commented this outline is a great starting point and inquired if the Board will have a chance to review some of the drafts prior to bringing it to the Board in November. Mr. Neisler confirmed they would and suggested it may be beneficial to reinstate the Ad-Hoc Cummings Basin Adjudication

Committee for reviewing this document. President Schultz reinstated the Ad-Hoc Cummings Basin Adjudication Committee with the prior committee members of President Schultz and Director Zanutto with Director Hall as the alternate.

Director Zanutto referred to customers requesting higher amounts of water than needed for fear of getting less than they ask for and stated he recalls in the AJR they can be penalized if in fact they did something like that. Mr. Neisler stated this form is one we ask all customers to complete, not just the CB customers. It gives the District an idea for what the demand is going to be in the upcoming year. Staff will have to wade through the estimates and there is history to look back on to help compare if current year requests are in line with typical usage.

Director Zanutto moved that the Board approve the proposed outline for the Rules and Regulations to implement the Amended and Restated Cummings Basin Adjudication and direct Staff to draft the rules and regulations. 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.

Item 10. Adopt the Updated Kern County Multi-Jurisdictional Hazard Mitigation Plan – TCCWD Annex

Mr. Neisler stated he is presenting this Staff Report on behalf of Mr. Curry. Mr. Curry and Mr. Hilliker have spent a considerable amount of time on this project. Every five years, the Kern County Multi-Jurisdiction Hazard Mitigation Plan (KMJHMP) is updated to reduce losses resulting from natural disasters. Kern County has been working the last two years on the updates to the plan as the last formal plan was dated 2014. Staff has attended meetings and there has been public presentations of the plan for review. The governing body for each participating jurisdiction must adopt the Volume 1 “umbrella plan” and its respective standalone Annex HMP by adoption of a resolution. Once FEMA receives all the resolutions, they can issue the final approval and the Kern MJHMP will be valid for five years.

The Kern County Incident Command Center is an amazing organization to see how they work in times of crisis. The database and contact tree they have is very valuable. The attachments to the Staff Report provide the proposed Resolution 11-21, the KMJHMP Background memo, and the TCCWD Annex.

Director Cassil asked if drought is considered an emergency that FEMA would reimburse for. Mr. Neisler did not know for sure, but he referenced page 1-14, Section 1.4.3.4 Identify Hazard Problem Statements, which lists the threat “Increased Fuels due to drought” so if drought is not an explicit concern it is an underlying concern. Generally, FEMA reimburses for an acute event not a long-term event such as a drought.

Director Pack moved that the Board adopt Resolution 11-21, Adopting the Kern Multi-Jurisdiction Hazard Mitigation Plan Update. Director Cassil seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.

Item 11. Review Method of Electing Directors and Director’s Division Boundaries

Mr. Neisler stated this item was anticipated to be on this month’s agenda at the request of Director Cassil. This item was discussed at the June and July RBMs and those Staff Reports are provided as attachments. At the July RBM, the Board tabled the discussion until the 2020 census data was released and that data is available in a format that can be incorporated and analyzed in our GIS.

The first question is whether the Board desires to change the method by which Directors are elected. Ordinance No. 1, dated February 21, 1973, determined that Directors would be elected “from divisions” in accordance with Water Code Section 30730. He explained that the “from divisions” method allows for all voters within the entire district to vote for each of the five directors. The division are created by

roughly equivalent areas (acreage). The “by divisions” method allows voters to only vote for the director from the division in which the voter is registered. The divisions are created by population size.

The second question is whether the Board desires to change the Director’s Division boundaries. If the “by divisions” election method were adopted, the divisions would have to be reanalyzed and balanced according to population. He has discussed what this would take with our GIS Consultant, Cal CAD Solutions, and a proposal to give a rough estimate of the population of each division is provided as Attachment B. To perform the full detailed project, costs could be in the range of \$50,000 due to the necessary proration and interpretation needed as the census blocks do not correlate with division boundaries or parcel boundaries. The Board would be required to pass a resolution adopting the new district boundaries no later than April 17, 2022 (Attachment C).

Director Cassil stated if one studies the information we have on the number of acres per director, the current system, she feels that it’s not people being represented, it’s acres being represented. She believes it’s to the advantage of the Board to gather information and go out to other districts and the community to see what kind of representatives they want to have for this water district. She would be interested in seeing the results of the Cal CAD Solutions proposal and mentioned the Kern County Elections Office has a specialist there that can do mapping and it is free.

Director Zanutto stated that when he casts a vote on this Board, he believes it affects all divisions and he feels he should be held accountable to the voters of all divisions. Director Hall stated when water is imported, it is for everyone. We are not trying to allocate resources in a regional area, so the need for regions to get independent representation is fairly minimal. He feels the original design of the District was to have everyone thinking about all the regional water issues and then everyone gets a say in it. He concurs with the original understanding and wisdom of the formation of this District.

Director Pack stated when he makes a decision, he considers the whole Tehachapi area, and he wouldn’t change any of his votes if he felt like he only represented exactly the number of people in his district. He appreciates all the work Director Cassil has done with this topic, but he feels at this point, we have a very representative Board based on geography and in other ways, and he would like to conclude the discussion on it.

Director Pack moved that the Board not discuss this any further, pass on this agenda item at this time due to costs and complications, and moved that the Board not consider this until at least the next election. President Schultz intervened and requested to make comments first. Director Pack welcomed the comments but stated his motion has been made. President Schultz asked for a second, there being none, the motion died.

President Schultz stated he went around and talked to people in various divisions to get their opinion on this topic. Most of the people felt that voting “from divisions” was a more merit based vote rather than a popularity vote as it is not limited to the people in just one area. He feels it gives all the voters the right to participate in changes to this District every two years. As a regional water district, with limited State water, he thinks we should maintain a regional voting system. He feels that currently, everyone votes and takes care of this district as a single entity, not as a specific division interest. This creates a team concept, and everyone working towards the same cause. He feels the voting “from divisions” pushes that forward. When he talked to people about “by divisions” voting, they felt it was more of a popularity vote and in talking about the change to the City’s voting, they stated they did not like that change. Another comment someone made was that “by divisions” harbors a greater likelihood of having directors elected by self-interest rather than those with the interest for the entire area as their motivation to be elected. This method also can create a divided Board, where the self-interest of the division is the reason to get on the

Board and then it's sought after to the detriment of the other divisions. He apologized as he did not intend to cutoff Director Pack, but he wanted to share these comments he gathered from the public.

Ms. Susan Wells, Golden Hills CSD, commented this District created this voting method in 1973, and the District has changed since then. She feels it is important for the Board to exercise due diligence when it comes to the issue of redistricting which happens every 10 years based on the census. Exploring "by divisions" is something she feels is part of due diligence; creating maps, having public meetings, looking for ways the District could be changed or not. She agrees with Director Cassil in that the way it's represented now, directors are representing acreage, not populations. She appreciates when Directors say they represent all divisions when votes are cast and that they are providing water to the entire district, but she feels the M&I users carry the heaviest load of the subsidy for the water that comes from the State and those populations should be given fair representation. She encouraged the Board to not dismiss this issue and to go forward with a redistricting process and include the communities in doing so.

Director Cassil asked the Board members if any of them have ever stood against an opponent in an election. Directors Hall, Pack and Zanutto raised their hands and she thanked them for the information.

President Schultz pointed out this Board brought this topic up in the past, it has been in Director Comments and on the agenda twice, and he has made the effort to go out and talk with constituents to get their thoughts. He believes when this Board was created, it was a different time, but he feels they were very wise in how they went about choosing this method.

President Schultz moved to close the discussion, further expense, time, and effort toward changing the method by which Directors are elected and/or any changes to the current division boundaries. For the 2022 elections, the Board will continue to be voted for "from divisions" as stated in Ordinance 1, approved on February 21, 1973. The motion was seconded by Director Zanutto and passed on the following votes: Ayes: Pack, Schultz, Zanutto; Noes: Cassil, Hall; Abstain: None; Absent: None.

Item 12. Provide Update on Regional Water Conservation Effort

Mr. Neisler stated the outreach effort is taking some positive steps forward. Agencies have placed orders for 4'x 8' banners and vehicle magnets. TCCWD has ordered 4 banners and 24 car magnets to cover the fleet. They were ordered from South Street Digital, a local vendor, and the District's cost was approximately \$1700. In addition, Mr. Neisler wrote an article for the Tehachapi Living magazine about water supply and conservation, and it should be in the October issue. He stated he is actively involved at both the ACWA level and the state level on what is happening there. He assumes this will be a significant topic of conversation at the ACWA Conference and he is looking forward to that. He offered to continue to have this item on the agenda or to only present it as needed.

Director Cassil stated she would be happy to hear a report as needed, not necessarily on the agenda every time. She suggested that as representatives come back from the ACWA conference, there may be some new ideas that come about. Mr. Neisler thanked her for the direction.

Item 13. Approve Directors Attendance at Fall 2021 Virtual/Live ACWA Conference and ACWA Regions 6 & 7 San Joaquin Valley Water Forum

Mr. Neisler stated District Rules and Regulations require that Director's attendance at educational opportunities where expenses will be reimbursed, be approved in advance by the Board. The Fall 2021 Conference will be both a virtual and live event on November 30th through December 2nd in Pasadena, CA. There is not a lot of information available yet, but the notification and preliminary agenda are included. Director Hall is the District Representative of the JPIA Executive Board, and he is approved to attend that conference which takes place the Monday and Tuesday of that week. If he would like to attend the ACWA conference, his attendance will need approved as well. Ms. Neisler has registered to attend in-

person. Generally, the Board tries to limit in-person attendance to only two Directors to avoid any appearance of impropriety. The fee for the virtual event is \$385 and Directors are compensated \$100/day for their service. The approximate cost for live attendance is \$2,100 (\$725 registration fee) per Director.

Another event that is coming up is the Region 6 & 7 Water Forum which will be held at Harris Ranch in Coalinga, CA on October 8th from 10:00 a.m. to 2:00 p.m. Mr. Neisler will be attending and is happy to take any Directors who would like to attend. The agenda is attached to the Staff Report.

Director Cassil moved that the Board approve the attendance of Directors Hall, Pack and Schultz at the ACWA Fall 2021 Virtual Conference. The motion was seconded by President Schultz and passed on the following votes: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.

There will be no Directors attending the ACWA Fall 2021 Conference in-person.

President Schultz moved that Director Zanutto be approved to attend the ACWA Regions 6 & 7 San Joaquin Valley Water Forum. The motion was seconded by Director Cassil and passed on the following votes: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.

Item 14. Board of Directors Comments

Director Zanutto asked what time the Pump Plant Tour begins, and Mr. Neisler provided 8:00 a.m. Director Zanutto stated he spoke to Assemblyman Vince Fong, and he would like to attend and asked that the District contact him with the information. Mr. Neisler stated Staff will be happy to take care of that and thanked him for the outreach.

Director Hall commented that if the redistricting topic was ever going to be considered again, it would be helpful to know if there are any people who are being adversely affected by the current arrangement.

President Schultz commented that he was not trying to leave Ms. Wells out of the discussion on redistricting. He sometimes does not notice the audience when he is looking down and asked everyone to help make him aware if they see someone in the public looking to make a comment. He also commented that Mr. Sasia and Mr. Loyd have been at the District a very long time and asked what can be done to recognize their time and dedication. Mr. Neisler responded that Mr. Loyd has asked that no acknowledgement be done for him, despite that request, we will have a lunch and provide him a gift as we do for those long serving (retiring) employees. Mr. Sasia's service was acknowledged at the lunch last week and because he is not retiring, but leaving the District to take another position, these two situations are not equivalent.

President Schultz commented that the State of California has approved accessory dwelling units, sometimes known as Granny Flats. He is concerned with these and the water supply. It does appear the City of Tehachapi and others will embrace this which will result in more water use. He feels the Board needs to consider how much water that will be and where that will go in the future with the growth rate. Mr. Neisler commented he doesn't believe the City or other jurisdictions will embrace those requirements, but will have to comply as it is state law. He agreed with President Schultz's concerns, it will increase water use. The public water agencies' primary concern is this will increase the amount of water required to serve the existing population because those new units are being constructed on existing lots. The public water agency partners will have to consider this in their projections for the Regional Urban Water Management Plan update.

Item 15. 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, Potential Litigation

The Board went into Closed Session at 4:40 p.m.

Item 16. Return to Open Session

The Board returned to Open Session at 5:03 p.m.

Report Action Taken in Closed Session:

- a. No reportable action.

Item 17. Adjournment

The meeting was adjourned at 5:03 p.m. on a motion made by President Schultz, seconded by Director Hall, and carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.



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: _____
Name of Case: _____

2. Anticipated Litigation: _____
Gov. Code § 54956.9 (b): _____
Gov. Code § 54956.9 (c): 1 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: _____