

MINUTES

**TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS
April 20, 2022, 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: Cassil, Hall, Pack, Schultz, Zanutto
Legal Counsel: Robert Kuhs
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**
 Director Hall moved to approve the agenda. 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. Motion passed.
- Item 5. Comments by any Party on Items of Interest and Within the Subject Matter Jurisdiction of the Legislative Body**
 Ms. Adams stated two letters were received and distributed. One was from the City of Tehachapi and Golden Hills CSD regarding the Delta Conveyance Project (DCP) Funding Agreement and the Draft Ordinance Establishing District Water Sale Priorities (Ordinance 2022-1). The second letter was from Bear Valley CSD regarding Item 11., the 2022 Cummings Basin groundwater allocation. 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 March 16, 2022 and Special Board Meetings of March 9, 28, 30, 2022.
 - b. Approve Financial Report and Payment of Bills
 - c. Receive and File 2021 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. Ms. Adams removed Item b. and President Schultz removed Item c.

Director Zanutto moved to approve Item a. Minutes of the Regular Board Meeting of March 16, 2022 and Special Board Meetings of March 9, 28, 30, 2022. Director Hall 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 b.- Ms. Adams stated that the Check Register that was sent out in the Board Package contained a typo and the revised register has been distributed. She pointed out the UMPQUA Bank Credit Card line item on the second page and stated there was a transposition on the dollar amount on the original register, so this revised register reflects the correct dollar amount. There were no other changes to the document.

President Schultz moved to approve Item b. Financial Report and Payment of Bills as amended. Director Hall 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 c.- President Schultz stated that because these annual reports just came out today, there was no time to review them. He is fine with receiving and filing the reports, he just wanted to note he has not had a chance to read them.

President Schultz moved to approve Item c. Receive and File 2021 Annual Watermaster Reports for Tehachapi Basin and Cummings Basin. 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. Motion passed.

Item 7. General Manager's Report

Mr. Neisler reported on the following matters:

- The image on the Staff Report is a chart showing this has been the driest January-March in California recorded history and he reviewed the precipitation levels of the years listed.
- We are moving into the springtime schedule and the vendor is spraying herbicide at District locations.
- After the RBM on March 16th, the Table A allocation dropped to 5%. There has been significant precipitation in the northern part of the state since then, so hopefully that will alleviate the concern for reducing the allocation further. The State Water Operations Committee meeting is this Friday.
- Most of the northern snowpack has already melted. Typically the peak snowpack is late March to early April and this year they are estimating that it was sometime in January. As of last Tuesday, statewide snowpack average was 31% and dropped to 28% last Friday.
- The Delta Conveyance Project (DCP) continues to progress and will be discussed later in the meeting.
- The signing of the MOU on the Voluntary Agreements is a big breakthrough in getting this issue resolved as it has been in the works for more than 10 years. We are privileged to have Tom McCarthy, KCWA General Manager, with us today. If the Board is interested in further information on this topic, Mr. McCarthy will be available at the end of this Staff Report.
- Capital Improvement Projects are underway, and the next cycle planning has begun. Mr. Curry will provide more details. All of the extraction wells are operating and the lake levels are rising.
- Mr. Neisler will be attending the Spring ACWA Conference in Sacramento on May 4-5th, and Director Hall will be attending the JPIA conference on May 2-3rd.
- The Kern County Water Summit will be held on May 19th (error in Staff Report), however that will be the date of the Annual Pump Plant Tour. Flyers were distributed today.
- He spoke last night at the SSCSD Board meeting, providing a brief presentation and then answering questions from the Public and the Board.
- There was no need for the previously purchased natural gas for the month of April since the Pumping System is not operating, so Mr. Neisler sold the gas back to Shell. It was purchased for \$2.68/mmbtu and sold for \$5.31/mmbtu. Rather than sell back all the excess natural gas at one time, he is assessing the situation each month. The California spot price for natural gas today closed at \$8.11/mmbtu.

-He reviewed the attached charts and offered to answer any questions.

Director Zanutto asked Mr. Neisler to explain why he would sell back the natural gas. Mr. Neisler responded that the gas is pre-purchased to lock in the price, and now without pumping, there is excess. Generally supplies are purchased 3 years in advance, and this particular gas was purchased in 2019, prior to the 2020 election. With assumptions that the administration would change from Republican to Democratic with more green energy goals, fossil fuel prices would rise. He locked in a larger supply than normal with the assumption of rising prices, because even if the supply ended up being too much, it could be sold back without suffering a financial deficit. The gas was not burned since there was no water to pump. At this point, the plan is to operate the system from July to mid-August for a 6 week period and gas is already purchased for April through September. All the gas not burned in those other months can be sold back to Shell.

Director Hall commented when looking at the severity of the drought, if over 10 years, we do not get the amount of water we expect in the local areas and well levels go down, it may be prudent to reevaluate the pumping allocation. Mr. Neisler stated that is the Native Safe Yield (NSY) of the adjudicated basins and those are calculated on a hydrologic cycle. Those cycles vary by basin but are typically over 30 years, so 10 years would be subset of the data and it's hard to say if things would even out. If these trends were to continue and there were a significant change in the hydrologic cycle, then yes, the Native Safe Yields would have to be looked at for the basins. Those considerations are based on empirical data. Well levels are measured twice a year and the data is included in the annual reports so if the levels start falling, we would raise concerns. Director Hall then asked how the amount of water we import compares to the safe yields of the three basins, in terms of a percentage. Mr. Neisler responded that the long-term reliability factor for the State Water Project (SWP) is currently about 48%. That would provide the District less than 10,000 AF per year. The total of the NSY's for all three basins is approximately 8,990 AF. The native groundwater available is approximately equal to what we can anticipate in the long-term from the SWP. That SWP reliability number is falling.

Director Cassil asked if the 2021 Annual Watermaster Reports are now available to the public and Mr. Neisler confirmed that they are posted on the District website.

Item 8. Operation Manager's Report

Mr. Curry reported on the following matters:

- The CalOES generator project is progressing as we have received the second 150KW portable generator and the two stationary generators are scheduled to be delivered in June.
- The skid steer loader has been delivered along with the mower deck and fork attachments. Staff is putting together an operations plan and training with the vendor.
- Wm. B Salah Co. has completed the painting of Pumping Plants 1-4. Staff performed a "punch list" walk through and notified the contractor of the needed corrections and those were taken care of last Friday. Mr. Curry will do an inspection of those tomorrow and hopes to bring back the certification of completion at the May 18th RBM.
- All four of the District's Tehachapi Basin extraction wells were running however, today the Nunes well was taken out of service. It should be repaired next week. The Brite Lake data from April 15th was elevation 4353.4', volume 1087.6 AF, and level 27.4'.
- Pumping Systems Staff has been taking advantage of the extra off season time this year to do more maintenance projects. They performed maintenance on the evaporative coolers at all the pump plants and worked on the potable water filtration systems that go into the coolers. Because of the high cost to have a painting contractor perform the work, Staff has been painting the bulk oil and waste oil storage tanks at each pump plant. They have color coded everything and it looks really nice.

- The Cogen Facility has been out of service for a number of years, so the turbine was removed, and a steel cover has been installed over the hole for safety.
- Operations Staff received a utility verification data request from Kern County Public Works for a shoulder paving project along Backes Lane, Shout Road, and Woodford Tehachapi Road to Hwy 202. Staff performed potholing to verify line locations for the project area and this allowed for our GIS Technician to log the location data. Data was submitted to KC Public Works as requested.
- Pipeline Staff has completed CASGEM, Key and General well soundings. These are collected twice per year. They performed tree clearing in the Antelope Run Channel from ID3 to Valley Blvd and fabrication and installation of platforms for the bulk and waste oil tanks. They graded the entire Pump Plant road and placed seven loads of aggregate base.
- Staff continues to work with the consultants on the Electrification Feasibility Study to keep that project moving forward. The Storage Canopy Project is underway and with the weather coming in, the Earth Day Cleanup in Antelope Run has been postponed.
- He offered to answer any questions.

President Schultz asked if there are any plans to put the Cogen facility back in operation. Mr. Curry responded there is not and the contract with Edison has been terminated. In looking at the records, that facility has not generated any power since the early 1990s. Mr. Neisler added there were a couple studies conducted in the past to see if it was feasible to make that facility work and it was not.

Item 9. Approve Delta Conveyance Project Member Unit Funding Agreement

Mr. Neisler stated in November, 2020, the Board approved the first funding commitment for the planning and design phase of the Delta Conveyance Project (DCP). The contract is Attachment A to the Staff Report and provided for two years of funding (2021 and 2022). The original intent was to fund a four-year effort but there was resistance from the State Water Contractors, so the negotiated agreement was for two, two-year commitments. Now is the time to consider the second two-year commitment. The costs are detailed in Attachment B and the proposed amendment is Attachment C. The project is currently on schedule and on budget. There is a cost increase over the next two-year commitment because the work effort increases towards the completion of the engineering and final design for the project. It is anticipated that prior to the end of this funding commitment (2024), all the environmental approvals and permits should be in place and there is expected to be a decision on whether the project will proceed. The DCP is a \$16 billion project in 2020 dollars, a 15-year planning effort, and first water is anticipated to be delivered in 2037. In summary, the District's participation in going forward with the project itself will be determined at a future date; the consideration for this item is just for a commitment for the next two years of funding for planning and engineering.

The costs for this participation are included on the Annual Statement of Charges from the KCWA and are funded by the Ad-Valorem Tax. The Board approves that tax amount every year in July and the current rate is 0.053559%. Participation in the DCP may result in a potential increase in the tax rate.

Tom McCarthy, General Manager of KCWA, conducted a brief presentation on the big picture view and a refresher on the concept of this planning period as opposed to the larger project. He pointed out this is not a referendum on participating in the larger project, it's a discussion on whether you want to continue to participate in the discussion on the planning effort. There has been no change to the budget, the schedule, or the scope of work with the exception to some geotechnical work due to access. The public issuance of the Environmental Impact Report (EIR) is on schedule for mid-June. He reviewed the KCWA Board actions taken thus far and the costs for each agency.

Director Zanutto asked who picks up the cost if a Member Unit drops out. Mr. McCarthy explained that at this time, there is approximately 10% of the project that is unsubscribed and in the next two years it will be determined how that will get handled. State Water Contractors may be given the opportunity to purchase more water. Director Pack asked why there has not been an adjustment in cost when inflation is so high. Mr. McCarthy explained that in the beginning, they planned for a four-year phase, they didn't anticipate a two-year check-in so that is why there hasn't been a cost estimate adjustment. It's part of the original scope of work, they just had not planned to do it yet. The original cost estimate did plan for some inflation; there is an approximately 35% contingency factored in. Director Cassil asked what the implications would be if the TCCWD Board decided to vote "no" today. Mr. McCarthy stated there would be a revision to the KCWA's commitment to the project and the Member Unit Agreements. For TCCWD, it's really a question of water resources portfolio and reliability, which he can't speak to those specifics, but he would assume the District is looking for a diverse portfolio with different levels of reliability from each of those sources and this is one of those potential sources. As Mr. Neisler mentioned, reliability has been decreasing due to environmental and operational constraints, so some contractors look at this as a way to shore up that reliability and eliminate further losses. President Schultz appreciated Mr. McCarthy's statement and added that he looks at this more as a way to maintain the supply we have rather than a way to get additional supply.

In addition to the letter submitted to the Board, Ms. Susan Wells, GHCSO, stated that they are in support of the DCP and if increased reliability is one of the objectives through this project, then that should bode well for coupling a long-term plan through the water priority ordinance and a commitment to M&I having priority through that ordinance. She is concerned about 10% of the costs being unsubscribed. For GHCSO, they feel the taxpayers are funding this heavy lift, and she is not saying they shouldn't, but the benefit of that needs to be shared proportionately.

Director Cassil moved that the Board approve participation in "AMENDMENT NO. 1 CONTRACT BETWEEN KERN COUNTY WATER AGENCY AND ITS MEMBER UNITS FOR PRELIMINARY PLANNING AND DESIGN COSTS RELATED TO A POTENTIAL DELTA CONVEYANCE PROJECT" and authorize the General Manager to execute the contract. President Schultz seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Schultz, Zanutto; Noes: Pack; Abstain: None; Absent: None. Motion passed.

Director Zanutto commented he has mixed feelings on this topic because the California WaterFix was approved by DWR and after numerous years and millions of dollars were spent, there was a change in administration and the process started all over. There is nothing to say that cannot happen again and taxpayers money is being spent, so if there is not some real progress in the next two years, he may feel differently about voting for this project. Director Pack explained he voted "no" because he has never voted to put any money into this DCP. He agrees with Director Zanutto that it does benefit California, but you have to do a cost-benefit analysis and he feels it is just too expensive to move forward with this project.

Item 10. Adopt Ordinance 2022-1 Establishing Water Delivery Priorities for 2022

Mr. Neisler stated the purpose of this item is to establish and disseminate procedures for deliveries of imported water in 2022. The Board has received public comments on five separate occasions regarding this item. The Special Board meetings were formatted as public workshops to receive comments on the water supply allocation for 2022 and the required water priority ordinance due to the extreme nature of the ongoing drought. At the March 30th Special Board Meeting, the Board approved the wording of Ordinance 2022-1 (Attachment A) and directed Staff to post the public notice to consider adoption at this meeting. The Proof of Publication in the Tehachapi News is attached and the notice was posted on the

website and social media accounts as well. Ordinance 2022-1 is being presented for adoption by the Board.

Director Hall commented that this Ordinance only applies during times of shortage and does not think it should be used as a long-term planning tool. He agrees a plan needs to be made, but this is not the place for it. Director Pack inquired if the Board has any desire to make any changes to the current committee. President Schultz responded not at this time, there is a committee formed to take care of this ordinance and that is still in progress.

Mr. Schlosser, City of Tehachapi, appreciates that these are weighty items and can sympathize with the position the Board is in. He appreciates the comments the Board has made, recognizing the taxpayer contributions. The Board has received consistent comments from the City, GHCSO and Grimmway that we are looking for a long term plan. He would like to know what is being done specifically to start working on a plan. Director Cassil called a Point of Order stating this item is to discuss the adoption of Ordinance 2022-1 and she will be happy to discuss the topic of a long-term plan when there is an agenda item for it.

Director Zanutto stated he has a comment regarding this that he will make during Directors Comments. Director Cassil requested the General Manager include a topic of a long-term plan regarding establishing water delivery priorities be placed on the agenda so this can be discussed for future planning. Mr. Neisler understood and acknowledged her request.

Ms. Wells, GHCSO, went on record objecting to the Ordinance claiming there is no inclusion of the stakeholders going forward with this process. She disagreed with Director Hall stating priorities are a long-term issue; they change every year based on the allocation, but are a long-term issue. She stated they've asked for a standing committee, for incorporation of their suggestions and requests, and they can't continue this way. The Board just approved another two years of funding for the DCP because of the long-term reliability of water and the taxpayers rely on that water and need to go hand-in-hand. She requested that there be an opportunity to sit down and have an agenda item for a long-term plan for priorities that can go hand-in-hand with the long-term plans the Board is making for reliability. President Schultz thanked her for her comments.

Director Packed moved for adoption of Ordinance 2022-1 Establishing Water Sale Priorities for 2022. 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 11. Approve Cummings Basin Groundwater Allocations in Accordance with Amended and Restated Judgment

Mr. Neisler stated the Board considered this item at the March 16th RBM and the Staff Report is included for reference as Attachment A. He reviewed the concerns the Board and Public expressed at that meeting as detailed in the Staff Report. The Board tabled the item and directed District Counsel, Robert Kuhs, to prepare an opinion on those items. Mr. Kuhs has provided memoranda on the two items, and they are included as Attachments B and C.

Mr. Kuhs stated BVCSO owns approximately 650 acres of agricultural property within the basin and own overlying rights to pump the groundwater and irrigate the land on a proportional basis under the Amended and Restated Judgment (ARJ). The current lease arrangements between BVCSO and its tenants, Grimmway and Valley Sod, prohibited those tenants from pumping from those parcels. It was the District's understanding that BVCSO would not be irrigating their lands with that groundwater and on that basis, determined that would not be a proper allocation under the ARJ. A letter has been presented from BVCSO indicating they are reconsidering those leasing arrangements, and are requesting the Board allow

their irrigation allocation so their land can be farmed by the tenants. Mr. Kuhs feels that would comport with the letter and the spirit of the ARJ.

President Schultz inquired if BVCS D has submitted an application and Mr. Neisler confirmed they had already submitted a timely application. President Schultz thinks this is fair now that it will be used on the property. Director Zanutto agrees with the use on the property and asked BVCS D how they intend to carry this out. Mr. Bill Malinen, General Manager of BVCS D, answered they are working with their tenants to see if this plan can be carried out with the current well situation and revising the agreements to align with the new conditions under the ARJ. Mr. Kuhs asked for the timeline they expect to have this resolved because whether or not this 318 AF allocation will be granted affects how much water is allocated to other irrigators. Mr. Matt Vickery, Grimmway Farms, commented they are working to see if they have the extraction capability to get the groundwater to the property for this use. The Board discussed giving BVCS D until the end of April to get this resolved to allow Staff time to prepare the allocations for the next RBM. Mr. Schlosser asked that if now the 318 AF may be allocated for irrigation use only, isn't there a 318 AF hole in the water they need for their customers and where will BVCS D get the water to replace that. Mr. Neisler stated the water is covered under their Term M&I Agreement.

The second issue Counsel was asked to address was the effect of allocating water to landowners who have not submitted an application and one particular pumper in question was Milano Land & Cattle who is proposed to receive an allocation. There was an effort by Staff to allocate water to those ranching operations for cattle grazing without Milano submitting their own application and that drew objection from some stakeholders. The ARJ requires an application for a couple reasons; planning purposes (how much and for what purpose) and applications include a verification under penalty of perjury to assure the landowner is going to use the water beneficially, for the stated purposes in their application. Mr. Kuhs's recommendation and opinion is that any pumper wanting an allocation needs to take the affirmative step of making that application under penalty of perjury. Additionally, the ARJ does not have a provision that speaks directly to how to allocate water to grazing operations. The constitutional standard is that no one should be allocated more water than they can reasonably and beneficially use. The Board has three issues to consider; there needs to be a policy decision on whether applications are mandatory, given the first year of operation, will there be leeway given to those who did not make a timely application, and how will uses be dealt with that have not been specifically accounted for in the irrigation allocation component of the ARJ. The Board members discussed livestock consumption and ideas for dealing with the issue of a livestock allocation.

Mr. Neisler summarized the direction the Board would like to be taken. He stated the BVCS D issue is still outstanding and a path to resolve it has been mapped out. We will require users to submit applications and then evaluate those applications to determine the allocation. Director Cassil stated that the recommended motion is formatted to accept a revised allocation and since that determination has not been made at this time, she feels it is necessary to table the item and asked for other Director's input. President Schultz feels the application period should be left open until April 30th for those involved in this item and this should be voted on in the next RBM.

Director Cassil moved to table Item 11. until the next Regular Board Meeting. Director Hall seconded the motion. President Schultz pointed out this motion does not address the application deadline. The following votes were cast; Ayes: Cassil, Hall, Zanutto; Noes: Pack, Schultz; Abstain: None; Absent: None. Motion passed.

President Schultz moved that the Board extend the 2022 Cummings Basin Irrigation Allocation Request Form deadline to April 30, 2022. Director Hall 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 12. Authorize Staff to Issue a Request for Bids for Gate Automation Project

Mr. Curry stated the Gate Automation Project was approved in the 2021-22 Capital Improvement Plan (CIP) and this is to authorize Staff to issue a request for bids for this project. This project includes the construction and installation of equipment, materials, and components necessary to provide TCCWD with an automated gate located at the southeast main entrance to the office and compound.

In October of 2018, a Physical Threat Assessment was performed at the office/yard facility by C.A.S.E. (Consulting for Active Shooter Emergencies) in which physical site deficiencies were identified. One of the recommendations was to restrict access to the office/yard during hours of operation. A plan to accommodate this is to have the gate closed and visitors would have to be given access to the facility through an intercom system and District employees will have remote access clickers to operate the gate. There will be a "free exit" sensor located inside the gate to allow for leaving the facility freely. The gate operators are programable and have gate releases for manual operation during an emergency. He reviewed the tentative schedule as detailed in the Staff Report. The FY 2021-22 CIP budget includes \$40,000 for this project.

President Schultz asked if there are other agencies that close their gates during business hours and Mr. Curry stated there are a number in Bakersfield (KCWA, Rosedale Rio-Bravo) and Director Pack added that SSCSD Public Works facilities gates are kept closed. President Schultz noted that with it being programable, there is always an option of leaving the gate open if desired and Mr. Curry concurred.

Director Zanutto moved that the Board authorize Staff to issue a request for bids for the Gate Automation Project. 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 13. Approve Transfer of Water Rights in Tehachapi Basin from Mojave Public Utility District to City of Tehachapi

Mr. Neisler stated the judgment for the Tehachapi Basin has specific requirements for the water rights that were granted to the Mojave Public Utility District (MPUD). Sometime in the past, MPUD had extraction capability within the Tehachapi Basin that is no longer in use and those water rights have not been utilized. The City of Tehachapi would like to purchase the MPUD water rights and the judgment requires certain conditions upon the sale, transfer or lease of those rights. It requires that TCCWD approve the sale and the Watermaster sign off on the transfer as well. The City has requested our opinion on the transfer and Staff has supported it and the respective Counsels prepared a revision to the transfer document that includes a couple conditions. The first condition is that the water be extracted and used within the city limits and second that there will be no material injury likely to result from this transfer. This transfer will allow the rights to be used beneficially and help the City gain rights for proposed developments. It also allows for the District to ensure that the conditions of the judgment be maintained. At a Staff level, all parties seem to support this, and Mr. Neisler asks that the Board approve this transfer, subject to final review by Legal Counsel.

President Schultz inquired why there is a condition to limit the use to within the city limits rather than just within the adjudicated basin as with all other water rights holders. Mr. Kuhs clarified that for whatever reason, the transfer of those rights, as distinguished from every other right, were conditioned in the judgment. When a significant pumping right is taken and the impacts are transferred from one point to another, there is a potential for localized impacts. The judgment requires analyzing material injury and that analysis cannot be done without understanding the place of use. If that condition is removed, you are removing the material injury analysis. There is an assumption that at the time the judgment was being drafted, there was a technical reason why the drafters did not want those rights freely transferable, so it is not recommended to remove that condition and make them freely transferable without studying

the impacts. Mr. Don Marsh, City of Tehachapi, stated he had similar questions but in practical terms, it should not matter.

President Schultz moved that the Board of Directors, in their dual roles as Watermaster of the Tehachapi Basin and Plaintiff in the Judgment, approve the transfer of 75 acre feet of Base Water Rights from Mojave Public Utility District to the City of Tehachapi and authorize the Board President to execute the transfer deed on behalf of the Watermaster and Plaintiff, subject to final review by legal counsel. 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 14. Board of Directors Comments

Director Zanutto requested an item be placed on the next meeting agenda for the discussion and approval, that the Water Priority Committee be tasked with meeting with the water rights stakeholders to review and discuss the water priority ordinance. He suggested a time limit of September, to bring it to the full board. He also requested the Board task the Staff with developing a policy for the District's Banked Water Reserve that establishes a minimum pool, what amounts can be used for emergencies, and what the emergency uses would be.

Director Pack requested there be an agenda item at the next board meeting to have an understanding of the difference between Standing and Ad-Hoc Committees to see if we can incorporate them.

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, 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; 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, Anticipated Litigation, One Potential Case
- e. In Accordance with Exhibit E Attached hereto, Performance Evaluation, General Manager

The Board went into Closed Session at 5:03 p.m.

Item 16. Return to Open Session

The Board returned to Open Session at 6:33 p.m.

Report Action Taken in Closed Session:

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

Item 17. Adjournment

The meeting was adjourned at 6:33 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: 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): 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: _____



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: Not Applicable
Unrepresented Employee: _____