

**SANTA YNEZ RIVER WATER CONSERVATION DISTRICT
IMPROVEMENT DISTRICT NO. 1**

MINUTES

A Regular Meeting of the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No. 1, was held at 5:30 p.m. on **Tuesday, November 17, 2009.**

Trustees Present: Harlan Burchardi Lee Bettencourt
Jeff Clay Matt Loudon
Harry Poor

Trustees Absent: None

Others Present: Chris Dahlstrom Brad Herrema
Karen King Mary Martone
Isaiah Brookshire

I. CALL TO ORDER

President Burchardi called the meeting to order at 5:32 p.m.; he stated that this is a Regular Meeting of the Board of Trustees. Trustee Bettencourt arrived at 5:35p.m.

II. REPORT BY THE GENERAL MANAGER/SECRETARY REGARDING COMPLIANCE WITH THE REQUIREMENTS FOR POSTING OF THE AGENDA

Mr. Dahlstrom presented an Affidavit of Posting of the agenda, along with a true copy of the agenda for this meeting. He stated the agenda was posted in accordance with the California Government Code commencing at Section 54950 and also pursuant to Resolution No. 340 of the District. President Burchardi directed that the Affidavit be filed as evidence of the posting and of the agenda items contained therein.

III. APPROVAL OF SPECIAL MEETING MINUTES OF OCTOBER 21, 2009

The minutes of the special meeting of October 21, 2009 were presented for Board consideration. President Burchardi requested minor corrections.

It was **MOVED** by Trustee Loudon, seconded by Trustee Poor, and carried by a unanimous voice vote, to approve the Special Meeting Minutes as corrected.

IV. ADDITIONS OR CORRECTIONS, IF ANY, TO THE AGENDA

Mr. Dahlstrom stated that there were no additions or correction to the agenda.

V. PUBLIC COMMENT

President Burchardi noted that there was an attendee present from the public.

Mr. Isaiah Brookshire, Santa Ynez Valley Journal reporter was present for the meeting.

VI. CONSENT AGENDA

Trustee Poor **MOVED** the Consent Agenda items be approved as presented; the motion was seconded by Trustee Loudon and carried by a unanimous voice vote.

VII. MANAGER'S REPORT- STATUS, DISCUSSION AND POSSIBLE ACTION ON THE FOLLOWING SUBJECTS

A. DISTRICT ADMINISTRATION

1. Financial Report on Administrative and Operational Matters
 - a) Presentation of Monthly Financial Statements

Mr. Dahlstrom provided the Board a review of the current month's revenue and expenses. He reported that because of low water sales for the month, revenues only slightly exceeded expenses by \$20,317 mainly due to a final FEMA reimbursement of approximately \$55,000. He reported that the LAIF quarterly statement shows an account balance of \$8,630,060.74 earning interest at .646% as of October 31, 2009.
 - b) California Personal Withholding Tax - 10% Increase

Mr. Dahlstrom reported that effective November 1st the amount of State of California income taxes withheld from District employees as well as all income earners in the California will increase 10 percent. Mr. Dahlstrom stated according to information from the State Controllers office, there is no end date for the 10% additional withholding increase. He stated that he contacted State Senator Tony Strickland regarding the increase and it was explained that the provisional withholding does represent a tax which was opposed by the Senator. Assemblyman Pedro Nava was contacted via e-mail in hopes he would respond with an explanation.
2. Building & Security Improvements
 - a) Office/Shop/Yard Security Measures

Mr. Dahlstrom stated that he contacted Bret Jones of Jones and Jones Architects he is available to work with the Ad Hoc committee. Mr. Dahlstrom suggested that the committee meet to develop the list of needs and necessary improvements and return to the Board with more information. He stated that Ms. King will arrange a meeting with the committee.
 - b) Southerly Parcel Landscaping

Mr. Dahlstrom stated that he contacted and spoke with the District's landscape contractor who provided a scope of work and cost estimate to improve the look of the southerly parcel adjoining the SYCSD parcel. Mr. Dahlstrom stated that he received a quotation of \$21 per linear foot for a 6-foot dog ear cedar wood fence and would move forward with the construction as promised so that the SYCSD Board would recognize the District in being a good neighbor. The fence is intended to screen the District's operation and maintenance yard.

B. DISTRICT OPERATIONS & MAINTENANCE

1. Still Meadows Road Water System Improvement Project - Zone 3 Pressure Pipeline and Station Interconnection

Mr. Dahlstrom stated that work is complete on the Still Meadows Road water system improvement project. He stated that Tierra Contracting did a great job and that the notice of completion will be presented at the December meeting for acceptance. He also mentioned that extra work was performed on an unidentified water service line fire hydrant replacement and that there will be change orders presented at the December meeting for Board action as well. Mr. Dahlstrom stated that the pressure in the low pressure areas of Deer Hill will increase substantially up to 75 psi and that all customers in the affected area have received multiple notifications of the pending pressure transfer. He commended staff for its good work.

C. WATER SERVICE FOR PROPERTIES, PROJECTS & IMPROVEMENTS

1. Santa Ynez Indian Reservation Project – Santa Cota Road Large Diameter Water Main Line Replacement, Alignment & Loop
 - A. Water Main Easement Acquisition and Abandonment of Easements

Mr. Dahlstrom stated that the easement information, including legal descriptions and maps has been submitted to the District. He stated that staff, the District’s engineering consultant, and legal counsel will review the information and provide a progress report to the Board. He stated that once the documents have been evaluated and finalized along with all of the District’s deed processing, it will be provided to the Board for action and then will be sent to the Bureau of Indian Affairs. He stated that their review and approval process could take as long as nine months but likely a year to finish.

VIII. REPORT, DISCUSSION AND POSSIBLE BOARD ACTION ON THE FOLLOWING SUBJECTS:

A. Cachuma Conservation Release Board

1. Report on Board Meeting

Mr. Dahlstrom reported that the Board packet included the October 26, 2009 CCRB agenda and Trustee Bettencourt provided a recap of the topics discussed at the meeting. The item of interest to ID No.1 was a Memorandum of Understanding (MOU) between COMB, CCRB and ID No. 1 for funding and construction of El Jaro Creek Cross Creek Ranch Fish Passage Project. He said this was also discussed at the COMB meeting as well. Trustee Bettencourt stated that CCRB approved the MOU despite his objections.

2. Steelhead Enhancement Projects

a) El Jaro Cross Creek Passage Barrier Removal

Mr. Dahlstrom summarized that the El Jaro Cross Creek project is complete. He stated this item was also discussed by COMB because CCRB transferred the project to COMB for construction contracting purposes under the recently adopted MOU. He stated that ID No.1 approved its 10.31% share of the estimated project cost in the CCRB/ID No.1 joint 2009-2010 Budget, or the amount equivalent of \$61,860. However, under joint agreement, ID No. 1 needed to approve the project bid amount of \$369,000 in order to fund its cost share. Also, he reported that three change orders were approved by CCRB and subsequently by COMB for a total of \$36,958. He indicated ID No.1’s cost participation in the change order would also need to be approved by the Board.

He also mentioned that CCRB invoiced ID No. 1 for a portion of El Jaro project costs, but no payment will be made until the cost reconciliation is complete and the project is presented to our Board for approval. This has not occurred and therefore, no payment toward the El Jaro Creek project has been made. Mr. Dahlstrom stated that more information will be provided on this item at the December.

b) Quiota Creek Passage Barrier Design

Mr. Dahlstrom summarized the memorandum in the Board packet related to CCRB’s reconciliation of grant funds received and recommendation for use of those funds. He indicated that the Quiota Creek #6 project final cost increased from \$892,000 to \$897,759 and that the San Julian fish passage project, not in the BiOp, increased to \$472,000 creating a \$79,000 shortfall. With all the grant funding, the total cost of the projects as well as cost over runs, the Member

Units needed to fund the shortfalls. Ms Rees' reconciliation of grant funds received indicates a balance of funds, in the amount of \$414,274, is recommended to pay for survey and design of the Quiota Creek fish passage projects. He stated that this money should be refunded to the Members rather than funding other projects. He reported that Ms. Rees got approval from her Board to keep the remaining grant funds for the survey and design on all of the remaining eight (8) crossings for Quiota Creek.

The Board objected to the use of this funding and discussed the fish enhancement projects, the costs and overruns, and commented on the reporting and several other compliance requirements under the Biological Opinion. Trustee Loudon suggested that ID No.1 not fund or support any other fish enhancement projects until after the re-consultation occurs. The Board concurred with the suggestion. Additionally Trustee Bettencourt proposed to go to each of south coast Member Unit Boards and discuss the gross mismanagement of CCRB related to the funding and the project activities related to the BiOp. Mr. Dahlstrom suggested that a letter be prepared to CCRB indicating that ID No. 1 will not participate in any funding of projects until after the outcome of re-consultation process.

It was **MOVED** by Trustee Loudon, seconded by Trustee Poor and carried by a unanimous voice vote to authorize Trustee Bettencourt to address each Cachuma Member Unit Board to express ID No.1's issues and perspective on fish projects and management there of, and direct the General Manager to prepare a letter for the President's signature expressing ID No.1 concerns about the financial and project mismanagement of CCRB and to send that letter to every member of each board and to CCRB.

B. Cachuma Operations and Maintenance Board

1. Report on Board Meetings

Mr. Dahlstrom stated that the Board packet included the October 26, 2009 meeting agenda. He and Trustee Bettencourt reported that most of the topics discussed were related to the South Coast Member Units and the COMB Capital Improvement Program bond with the exception of the El Jaro Cross Creek project.

Trustee Bettencourt reported that the COMB Board, made up of the same south coast members as the CCRB Board, considered and approved of a Memorandum of Understanding (MOU) between COMB, CCRB and ID No. 1 for funding and construction of El Jaro Creek Cross Creek Ranch Fish Passage Project, which was also discussed at the CCRB meeting. Trustee Bettencourt stated that he was the only no vote.

Trustee Bettencourt summarized the significant discussion that occurred on the COMB capital projects, the bond, construction bids, and status of the Member's action on the Bond. They reported that Ms. Rees presented a policy that would allow the manager to approve up to \$200,000 in change orders without Board action. This item was discussed at great lengths, although tabled by COMB.

2. COMB 2009 Bond and Indemnification Agreement

Mr. Dahlstrom updated the Bond actions since the October meeting meeting. Montecito Water District will self fund and not participate in the COMB bond, Carpinteria Valley Water District withdrew from the 2nd barrel funding but is considering participating in the other COMB projects, and Goleta Water District

would determine if it would fund the remaining balance of the 2nd barrel if CVWD withdrew. Mr. Dahlstrom stated that the Board packet included a November 12, 2009 letter from Carpinteria Valley Water District General Manager. He explained that Carpinteria's Board met on November 4, 2009. He further explained that this further complicates the future of the bond and Indemnification Agreement. He stated that Goleta met last week although he did not have any information on the meeting outcome at this time.

He further explained that the City of Santa Barbara and Goleta Water District are the only partnering agencies fully supporting the bond at this time. He stated that the Indemnification Agreement will need to be revised yet again.

He also mentioned that Ms. Rees presumed that the bond approval would go smoothly and that she proceeded with bids for the second barrel project. The deadline to award the bid is December 9th and COMB may have a funding problem if the bond is not approved.

Mr. Dahlstrom reiterated that this Board does not want to hold up the process and stated that ID No.1 will support the bond with the revisions to the indemnification agreement once they are known. He stated that no action is needed at this time and more information would be provided as it becomes available.

3. Participation in COMB Projects, Activities and Contracts

Mr. Dahlstrom stated that the joint MOU for COMB to fund and provide construction oversight of the El Jaro Creek project was approved by COMB and CCRB but has not been presented or approved by the ID No. 1 Board. He stated that the MOU lacks content and legal terms and conditions and was not reviewed by legal counsel. It was reiterated that COMB is not the appropriate agency to contract for fisheries project related to the BiOp.

The Board discussed the management of COMB and CCRB and the co-mingling of two agencies and projects that should be carried out by CCRB and ID No.1. Trustee Bettencourt requested a legal opinion letter from the COMB attorney addressing whether the COMB JPA allowed it to construct projects pursuant to the BiOp and FMP.

Mr. Dahlstrom referred to a COMB and CCRB organizational chart provided by Ms Rees at the Operation Committee. It was pointed out that CCRB should not be the subject of discussion at COMB committee and included on a COMB org chart. The Board discussed that is a typical problem that the Ms Rees can not differentiate between the two distinct agencies and the staff of each agency. The Board stated that the solution is to move the entire south coast operation into CCWA.

C. Santa Ynez River – State Water Resources Control Board

Mr. Dahlstrom stated that the Board packet included an October 30, 2009 letter to the State Water Resources Control Board transmitting ID No.1's Permit 17734 (6 cfs well field) License Inspection Report for approval. We will be waiting for the SWB to issue the license.

1. Water Rights Order 94-5 for Cachuma Project Permit - Draft Environmental Impact Report

a) Environmental Impact Report Status

Mr. Dahlstrom stated that Impact Science is now under contract with General Services. He stated that he will be attending a meeting on Thursday, November 19, 2009 with the State Water Resources Control Board Ms. Dana Heinrich, Dept of General Services, Impact Sciences, CCRB, the Parent District and special legal counsel representative to discuss the status of the EIR process. He stated that more information would be provided at the December meeting.

D. Cachuma Project

1. Water Supply and Water Service Contract Report

Mr. Dahlstrom reported that the Board packet included a letter from the Bureau of Reclamation stating that the Bureau has received COMB's submittal identifying the Project water schedule for the 2009-2010 water year.

2. U.S. Bureau of Reclamation Activities Report

a) Compliance with Biological Opinion for the Continuing Operations of the Cachuma Project

Mr. Dahlstrom reported that ID No.1, CCRB and the Parent District are working together to prepare and submit the monitoring and activities reports under the BiOp to USBR. USBR would then submit those documents to NMFS to attain compliance. He stated that the reports include the conservation measures, tributary reports and other monitoring requirements.

3. National Marine Fisheries Service

a) Draft Southern California Steelhead Recovery Plan – Preparation of Comments

Mr. Dahlstrom stated that he and legal counsel as well as Mr. Bruce Wales of the Parent District have been working the comment letters for submittal to the NMFS by the November 19, 2009. He stated each agency will submit a separate letter specific to each agency but using core information developed by legal counsel and the biology consultants. He stated that a copy of the comment letter would be provided to the Board at the next meeting.

b) Section 7 – Initiation of Reconsultation

Mr. Dahlstrom referred to the letter from the NMFS to USBR regarding compliance with RPM 6 and the BiOp. He reported that NMFS disagrees with the findings in RPM 6 and that the water rights releases affect the endangered species. This will be a point of contention with the downstream water users and water right holders and this NMFS position will cause significant issues. The NMFS letter requests the re-initiation of formal section 7 consultation by USBR. He indicated that the section 7 re-consultation with NMFS will bring up the key topics of greater flow releases from Cachuma, unimpeded volitional passage around Bradbury Dam and upstream of Cachuma, and changes to the downstream water rights. This process will begin after the first of the year.

4. Upper Santa Ynez River Operation Agreement (USBR – Cachuma Member Units)

a) City of Santa Barbara Pass Through Operations

Mr. Dahlstrom reported that the City is working with USBR on the Warren Act process and ID No. 1 is involved as a Cachuma Member Unit. The issues related to City's additional share of costs and obligations for use of Cachuma by the City need to be resolved. He stated that more information would be provided as it becomes available.

E. State Water Project

1. State Water Project Water Delivery Update & Transfers to other SWP Contractors
Mr. Dahlstrom included in the Board packet a November 9, 2009 memo from Central Coast Water Authority discussing an extension of the DWR system shutdown until November 25, 2009. He also included photos of the DWR portion of the state water aqueduct which indicated areas of concrete failure on the levees and that are in need of significant repair. He also reported that DWR's initial forecast may be as low as 10% delivery in the next water year.
2. Carpinteria Valley Water District proposed transfer of SWP Water
Mr. Dahlstrom reported that the Carpinteria Valley Water District has a proposed State Water transfer or sale of 1000 AF to a private enterprise. Mr. Dahlstrom indicated he will prepare and submit a letter to CVWD related to the transfer and express the District's concern over maintaining the terms and conditions of the Exchange Agreement.

F. City of Solvang

1. 5 CFS Permit Well Field Development and Facility Improvements
Mr. Dahlstrom stated that there was no new information relating to the City of Solvang's 5 CFS Permit. However, the City Manager would like schedule a meeting.

IX. REPORTS, ACTION BY THE BOARD MEMBERS OR STAFF, QUESTIONS OF STAFF, STATUS REPORTS, ANNOUNCEMENTS, COMMITTEE REPORTS, OBSERVATIONS AND OTHER MATTERS AND/OR COMMUNICATIONS NOT REQUIRING ACTION

Mr. Dahlstrom stated that the Board packet included the Family Farm Alliance current newsletter for informational purposes only.

Mr. Dahlstrom stated that the Board packet included a comment submitted via the website from a Los Olivos resident to the Board expressing his opinion to the Board regarding a recent newspaper article related to excessive legal fees. Mr. Dahlstrom read the comments.

Mr. Dahlstrom stated that the District recruited for the Water Resources Technician position and has made a selection. He explained the final candidate's extensive experience and qualifications could enable him to receive a salary higher than the base starting salary as defined in the adopted schedule for the position. The Board concurred and supported the General Manager's discretion to offer the finalist a starting salary at "C" step. The Board expects the candidate to perform his duties commensurate with this salary offer.

X. APPROVAL OF ACCOUNTS PAYABLE

Mr. Dahlstrom presented the Warrant List for Board approval. The Warrant List covered warrants 13186 through 13270, for the time period October 22, 2009 through November 17, 2009 in the amount of \$412,140.51.

Trustee Poor **MOVED** to approve the warrant list as presented. Trustee Bettencourt seconded the motion and it was carried by a unanimous voice vote.

XI. REQUESTS FROM BOARD OF TRUSTEES FOR ITEMS TO BE INCLUDED ON THE NEXT REGULAR MEETING AGENDA

There were no requests.

XII. CORRESPONDENCE: GENERAL MANAGER/SECRETARY RECOMMENDS THE ITEMS MARKED WITH AN ASTERISK (*) FOR FILE

The correspondence list was reviewed and discussed.

XIII. NEXT MEETING OF THE BOARD OF TRUSTEES

Mr. Dahlstrom stated that the next Regular Meeting of the Board is scheduled for Tuesday, December 15, 2009 at 5:30 p.m.

XIV. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

[Subdivision (a) of Section 54956.9 of the Government Code]

1. Name of Case: Adjudicatory proceedings pending before the State Water Resources Control Board regarding Permits 11308 and 11310 issued on Applications 11331 and 11332 to the United States Bureau of Reclamation and complaints filed by the California Sport Fishing Protection Alliance regarding the operating of the Cachuma Project and State Board Orders WR73-37, 89-18 and 94-5; and proposed changes to the place of use of waters obtained through aforementioned permits for the Cachuma Project
2. Name of Case: County of Santa Barbara vs. Santa Ynez River Water Conservation District, ID No. 1 - Case Number 1317052 Santa Barbara Superior Court

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

[Initiation of litigation pursuant to Subdivision (c) of Section 54956.9 of the Government Code - three cases]

The Board adjourned to closed session at 7:47 p.m. and reconvened to open session at 8:59 p.m. Legal Counsel announced that there was no reportable action for Closed Session Item XIV. A&B.

XV. ADJOURNMENT

Being no further business, it was **MOVED** by Trustee Poor, seconded by Trustee Bettencourt to adjourn the meeting at 9:01 p.m. The motion carried by a unanimous voice vote.

The November 17, 2009 Regular Minutes were approved at the December 15, 2009 Meeting.