

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT
BOARD OF DIRECTORS

MINUTES OF THE BOARD MEETING OF
July 28, 2010
1:30 P.M.

President Clare Henry Day called the Board Meeting of the Board of Directors to order at 1:40 p.m. All present stood for the pledge of allegiance, led by President Day.

ROLL CALL:

BOARD MEMBERS PRESENT:

Clare Henry Day, President
Melody McDonald, Vice President
Manuel Aranda, Director
Arnold Wright, Director
John Longville, Director
Richard Corneille, Director
David E. Raley, Director

BOARD MEMBERS ABSENT:

None

GENERAL COUNSEL PRESENT:

Bill Ihrke, Rutan & Tucker, LLP

STAFF PRESENT:

Claud Seal, Assistant General Manager/District Engineer
Shanae Smith, Executive Assistant II

GUESTS PRESENT:

None

1. PUBLIC PARTICIPATION

President Clare Day announced this as the time for any persons present, who so desire, to make an oral presentation to the Board of Directors. Hearing none, the meeting proceeded with the published agenda items.

2. ADDITIONS/DELETIONS TO AGENDA

There were no additions/deletions to the agenda.

3. CONSENT CALENDAR

Approval of the Board Minutes, July 14, 2010

A revised red-line copy of the minutes from the July 14, 2010 meeting were distributed, including additional comments submitted by legal counsel for the Board's review.

It was moved by Director Longville and seconded by Director Aranda to approve the revised minutes from the July 14, 2010 meeting, including legal counsel's comments. The motion carried unanimously.

It was moved by Director Aranda and seconded by Director McDonald to approve the un-audited Financials and Check Register for June 2010. The motion carried unanimously.

4. INFORMATION ITEMS:

A. Board Committee Reports

Resources Committee

Director Corneille reported the Resources Committee met on Monday, July 26. He stated that Assistant General Manager/District Engineer Claud Seal requested input from the Committee on a number of topics regarding potential future projects and programs presented for discussion. The committee also discussed a field equipment purchase for the case front end loader of a tooth equipped bucket, as recommended by Director Raley as a result of his field visit. The equipment purchase is estimated at approximately \$4,000 and would need to be included in the budget. Mr. Seal also briefed the Committee on lessons learned during the Seven Oaks Dam (SOD) high flow tests, with regard to the functionality of the District's facilities and subsequent issues with debris. The list of topics presented to the Committee will be provided to the Board, in addition to grant proposals submitted on behalf of the District to the Santa Ana Watershed Project Authority's (SAWPA) One Water One Watershed ("OWOW"). Director Corneille also reported that the Committee discussed Lisa Pierce' employment status and would make a recommendation to the Board at the August 11 regular Board meeting.

Administrative Committee

Director McDonald reported the Administrative Committee met on Tuesday, July 27. The Committee reviewed a revised alternate budget proposal presented by Director

Raley. With regard to salaries, the Committee voted to make a recommendation to the Board to amend the approved FY 2010-2011 budget to reflect an increase to \$700,000 to include the consideration of hiring a General Manager. Director McDonald stated the Committee would also make a recommendation to the Board to increase the vehicle operations budget item from \$8,000 to \$19,000. The Committee also discussed an investment policy update proposed by Director Raley, which would entail investing monies from the District's reserve funds for the purchase of twelve CD's at \$240,000, potentially increasing income by \$22,000. Director McDonald said the Committee deferred the item to legal counsel to identify the risks associated with the monies being called, as well as any limitations and possible liability to the District. The proposal will be brought back to the Committee before the first regular Board meeting in August.

B. Assistant General Manager's Report

Claud Seal reported that flows of the SOD releases had been completed and were successful although some releases were delayed due to downstream environmental issues. Mr. Seal stated that all field personnel were utilized to operate inlet gates to allow up to 300 cfs flow into the diversion structure and the District's spreading basins. Mr. Seal reported issues with debris and rocks plugging the inlet gates, resulting from the testing. Mr. Seal also reported that a full report and analysis of diverting activities will be provided by staff, including movies and still photos.

Mr. Seal briefly summarized a conference call between President Day, and the Orange County Flood Control District (OCFCD) concerning the potential relocation of the District's operations and occupying the US Army Corp of Engineers' (USACE) SOD building. He said an additional call is scheduled for the upcoming week to continue the discussions.

Mr. Seal acknowledged that he and Lisa Pierce met with Janice McBride of the US Fish and Wildlife Service to tour the District's facilities and discuss issues surrounding the critical habitat designation for the Santa Ana Sucker and the possibility of installing a channel on the District's property as an alternative solution for the fish. A discussion ensued.

Mr. Seal distributed a summary report of the USACE's Water Quality Study for the Board's review and file.

C. Wash Plan Update

Randy Scott provided an update to the Board regarding the status of the Wash Plan. Mr. Scott reported that the City of Redlands has budgeted for past due invoices for their contribution to the Wash Plan, in the amount of approximately \$34,000. The funds will enable the District to complete contracts as the District proceeds with the completion of the Environmental Impact Statement (EIS) and Habitat Conservation Plan (HCP). Mr. Scott said staff is waiting to complete the final document for the EIS. The delay in completion of the EIS is associated with the lack of resolution between the Bureau of

Land Management (BLM) and the USFWS in the form of a consultation between the two, relative to the land exchange and the amendment to the BLM's land management plan. Mr. Scott stated that the USFWS' proceedings for the critical habitat designation for the Santa Ana Sucker has delayed the completion of the Wash Plan, and that he and legal counsel believe the Wash Plan will be looked at in relation to the critical habitat designation and whether it will enhance or affect the Santa Ana Sucker's condition. Mr. Scott said staff is proactively exploring habitat requirement issues associated with the Santa Ana Sucker, in an effort to accommodate some of the interests relative to the sucker. Those interests may be able to provide for use as a point of discussions with Nancy Ferguson of the USFWS. Mr. Scott also reported that staff will be proceeding with the submittal of the formal application for the incidental take permit associated with the HCP, as previously approved by the Board. A discussion ensued.

D. Report of Santa Ana Sucker Public Hearing

Director McDonald reported on proceedings regarding the public hearing regarding the Santa Ana Sucker and the testimony provided by legal counsel. A hard copy of the testimony for the public hearing and other materials from the District's former federal lobbyist Fred Hicks were distributed to the Board. The testimony highlighted the District's unique circumstances relative to the Wash Plan and possible solutions for the expansion of the critical habitat designation for the Santa Ana Sucker. Director McDonald announced that a regional meeting of the USFWS, scheduled for July 29, 2010 would be discussed as an action item on the agenda. Claud Seal led a discussion regarding a meeting between District staff and USFWS personnel, during a tour of the District's facilities relative to problems the District may face if the Santa Ana Sucker is designated above the dam.

5. ACTION ITEMS/NEW BUSINESS

A. Budget Augment Request of September 1, 2009 for Out-of-Scope Costs on the Land Exchange Draft EIS

Mr. Scott stated it is staff's recommendation that the Board authorize staff to recommend to the Wash Plan Task Force to consider approval budget augment for URS, as indicated in the staff report and supporting documentation. The allocation of the Wash Plan Task Force agreement would apply for invoicing contributions. Mr. Scott stated that the District's share would be \$6,366.80 for the payment of the augment.

It was moved by Director McDonald and seconded by Director Aranda to approve the, "Budget Augment Request of September 1, 2009 for Out-of-Scope Costs on the Land Exchange Draft EIS." The motion carried unanimously.

B. Assistant General Manager's Contract

It was moved by Director Corneille and seconded by Director Longville to approve the, "Assistant General Manager's Contract."

Legal counsel noted for the Board's attention, within the Assistant General Manager's Contract, in Section 2, on the first line, General Manager should be corrected and amended to read "Assistant General Manager."

A motion was then made to amend the pending motion, which was accepted by Director Corneille as a substitute motion to his original motion. It was then moved by Director Corneille and seconded by Director Longville to approve the Assistant General Manager's Contract, as amended. The motion carried unanimously.

C. Consider Authorizing District Representative to Attend the US Fish and Wildlife Services' Regional Meeting Regarding the Santa Ana Sucker

Director McDonald stated that she requested the item be added to the agenda. She stated that she would rather participate during the conference call, as she is unable to attend the meeting in Sacramento.

It was moved by Director Aranda and seconded by Director Wright to amend the recommended staff action to "Authorize District Representative to Participate in the US Fish and Wildlife Services' Regional Meeting Regarding the Santa Ana Sucker, via conference call," and authorize the same. The motion carried unanimously.

6. Monthly Activity Reports, And/Or Comments by Board Members

Director Corneille reported on the following agenda items discussed at SBVMWD's Advisory Commission on Water Policy meeting on July 22nd and handed-out a set of slides from this meeting on the CRP topic:

1. The 2010 Cooperative Recharge Program (CRP) proposed by the SBVMWD for use of available imported water for groundwater recharge, when the basins are at levels that require supplemental recharge, was discussed. The District voted at the July 14th meeting to recommend to the SBVMWD Board through the Advisory Commission to spread all available imported water locally. There was not a quorum at the Commission meeting, as 9 agencies are needed and only had 8 agencies were in attendance, so a formal vote could not take place. Director Corneille did discuss the District's position of spreading water locally where required. The City of San Bernardino MWD was also in favor of spreading as much water as possible locally. Douglas Headrick, General Manager of the

SBVMWD presented a formula and commitment that he said the Board would have regarding a deal with the Metropolitan Water District (MWD) to sell the water for \$100/per acre foot (AF) above SBVMWD's costs, up to about 25,000 AF. The net proceeds would be put into a special account called the Basin Management Account, and used only for a subsidy for cooperative water project purchases, purchase of additional imported water for recharge, and other basin management expenses. SBVMWD staff said that the District's and other spreading basins, and their pipeline distribution network for them to use all of the water available for the rest of the water year is unavailable. Mr. Headrick noted that in Lytle Creek, where there is an immediate need for recharge water, there is potential litigation from parties claiming the spreading of imported water may contaminate the basin, so the SBMWD will not spread water there.

2. Mr. Headrick gave a presentation on the topic of the status of the Delta water issues. The Delta Conservation Plan involves the evaluation of peripheral canal options, and restoration of the Delta. It has been determined that water supply and environmental restoration are co-equal goals in this Plan. The cost of the Delta conveyance improvements, including an all tunnel option is estimated to be as much as \$15 billion. The EIR for the project is scheduled to be completed by the end of 2010; the permits by the end of 2011 with construction completed by May 2022. The project would be totally funded by the water agencies, including the state water contractors, and would not be a general obligation bond.
3. Mr. Headrick updated the group on the Washington, D.C. meeting with Senator Feinstein regarding her questions and concerns relative to the critical habitat designation for the Santa Ana Sucker. Meetings were hosted by Senator Boxer, Representative Lewis and others. USFWS representatives were present at the meeting and listened, but were noncommittal.
4. The next SBVMWD Advisory Commission on Water Policy meeting is scheduled for, September 23, 2010. Topics of discussion would be; 1) A presentation on the Department of Water Resource' (DWR) East Branch Extension Phase II (EBXII) Project; 2) and results of the Seven Oaks Dam release tests.

Director Raley reported attending the Resources and Administrative Committee meetings as a member of the public. He also reported that he is a member of the Utilities Rate Advisory Committee for the City of Redlands. He stated the City of Redlands' water usage is reported down this year. Director Raley also requested the District's Calpers Retirement Plan is added as a future agenda item for discussion.

Director Aranda reported continuing presentations at service clubs in the area, including rotary clubs, and chambers of commerce and the Inland Empire Job Corp Science Club.

Director Longville reported attending District Board meetings. He also reported Cal

State San Bernardino and the University of Riverside now house and maintain the largest water archives in the State of California, as budget cuts have forced Cal Berkeley's President to request proposals from outside agencies to relocate the records.

Director Wright reported attending the Resources and Administrative Committee meetings; and (2) District Board meetings.

Director McDonald reported attending the East Valley Water District (EVWD) rate hearing presentation; the Santa Ana Sucker hearing to present testimony; the San Bernardino Chamber of Commerce (SBACC) Business After Hours event; and an Administrative Committee meeting.

7. UPCOMING EVENTS

Director Corneille expressed an interest in attending the 2010 San Bernardino County Water Conference, scheduled for August 12, 2010.

It was moved by Director Raley and seconded by Director Longville to authorize Director Corneille to attend the San Bernardino County Water Conference, scheduled for August 12, 2010 at the Ontario Convention Center, in the amount of \$125.00. The motion carried unanimously.

8. CLOSED SESSION

At 4:45 p.m., it was moved by Director Day and seconded by Director Aranda to adjourn to Closed Session, under the authority of Government Code Section 54957(b), regarding a personnel matter; under Government Code Section 54956.9(c), consider whether to initiate litigation; under Government Code Section 54956.9(b)(3)(a), and Section 54956.9(c), and Section 54956.9(b)(1), confer with legal counsel regarding significant exposure to litigation in one case. The motion carried unanimously.

At 5:55 p.m., the meeting reconvened into Open Session, with no reportable action under Government Code 54957

9. ADJOURN MEETING

At 5:55 p.m., the meeting adjourned to the regular Board meeting scheduled for August 11, 2010, at 1:30 p.m., at 1630 W. Redlands Blvd., Redlands, CA.

Claud Seal
Assistant General Manager/District Engineer