

SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT  
BOARD OF DIRECTORS

MINUTES OF THE BOARD MEETING OF  
August 11, 2010  
1:30 P.M.

President Clare Henry Day called the Board Meeting of the Board of Directors to order at 1:30 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  
John Longville, Director (1:45 p.m.)  
Richard Corneille, Director  
David E. Raley, Director

BOARD MEMBERS ABSENT:

Arnold Wright, Director

GENERAL COUNSEL PRESENT:

David B. Cosgrove, Rutan & Tucker, LLP

STAFF PRESENT:

Claud Seal, Assistant General Manager/District Engineer  
Lisa Pierce, GIS Coordinator  
Shanae Smith, Executive Assistant II

GUESTS PRESENT:

Woody Hynes, City of Redlands  
Don Lee, Tetrattech  
Christine Goeyvarts, Robertson's Ready-Mix  
Scott Hess, CEMEX  
Samuel Martinez, Local Agency Formation Commission

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. Director Corneille requested that each guest introduce themselves. President Day welcomed each guest and proceeded to 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 from July 28, 2010

Director Corneille distributed a red-lined copy of the minutes from the July 28, 2010 meeting for the Board's consideration.

**It was moved by Director McDonald and seconded by Director Corneille to approve the minutes from the July 28, 2010 meeting, as amended. The motion carried 5-0, with Directors Longville and Wright noted absent from the vote.**

4. SPECIAL PRESENTATION

**It was moved by Director McDonald and seconded by Director Corneille to table the, "Special Presentation by Bruce Cash of United Strategies Inc., Regarding Exclusive Rights to Negotiate Agreements for Conservation Banking," indefinitely. The motion carried 5-0, with Director's Longville and Wright noted absent from the vote.**

5. INFORMATION ITEMS:

A. Board Committee Reports

Administrative Committee Report

Director McDonald reported the Administrative Committee (Committee) met on August 9<sup>th</sup>. The Committee discussed the General Manager position and whether the position would be considered by the Board on a full time or part time employment basis. The Committee also discussed potential dates to interview prospective General Manager candidates, which was scheduled for August 25<sup>th</sup>. Director McDonald also reported the

Committee discussed the Investment Policy proposal brought forth by Director Raley. The Committee would make a recommendation to the Board to purchase a total of twelve \$240,000 CD's to invest and would be reviewed by the Board as an action item later in the meeting.

### Resources Committee Report

Director Corneille reported the Resources Committee (Committee) met earlier that morning. Staff made a presentation on the Wash Plan and environmental issues associated, which included the US Fish and Wildlife Service (USFWS) and the Bureau of Land Management (BLM) issues. Staff presented its plan to move forward with the approval of the Wash Plan. The Committee directed staff to continue exploring the opportunities associated with the Wash Plan. Director Corneille also reported that staff presented alternatives that will need to be flushed out during meetings with the federal agencies in proceeding in that effort.

### B. Assistant General Manager's Report

Assistant General Manager/District Engineer, Claud Seal reported the following:

1. 19,627 acre feet of water has been spread in the Santa Ana River spreading grounds and the old CEMEX aggregate mining pit, and 8,833 acre feet of water has been spread in Mill Creek (MC), noting that the MC water flow has slowed down significantly.
2. The Seven Oaks Dam (SOD) gates and flow testing concluded on July 16th. Upon completion, the SOD release was set at 300 cfs; however, it was later reduced to 250 cfs, due to difficulty diverting 300 cfs because of rocks, debris, tree limbs, and grass plugging the lower 2 to 3 feet of the gate openings. On Thursday, July 22<sup>nd</sup>, Larry Jacinto Construction cleaned the rock and organic material away from the inlet structure in the four-hour time frame that the dam flow releases were stopped.
3. Downstream testing of the river channel percolation capacities, starting at 100 cfs, up to 300 cfs, 50 and finally in 100 cfs increments after the Cuttle Weir and Inlet Gates were cleared. Max Rasouli with the City of Riverside and Bob Tinchier of San Bernardino Valley Municipal Water District (SBVMWD) and District staff were the main participants in the testing. Along with finding areas of river channels with better and limited percolation capacities, the participants were able to bracket the capacities of the channel to percolate water between the Cuttle Weir and the E Street Gauge, near the area of the Santa Ana Sucker habitat. Parties that were included in ongoing email communications were US

Army Corps of Engineers (USACE), San Bernardino County Flood Control District (SBCFCD), Orange County Flood Control District (OCFCD), USFWS and others periodically.

4. Mr. Seal said he attended the Basin Technical Advisory Committee (BTAC) TOOLS Committee meeting on August 2<sup>nd</sup> and the main BTAC meeting immediately afterwards. Projects discussed included subject materials and attendance arrangements for the next Regional Water Management Plan update in Los Angeles, SOD high flow testing, the Santa Ana Sucker, and the District's diversion and spreading of SOD high flow released water.
5. Mr. Seal reported that a written report, accompanied by photos, of the effects of the SOD higher flows on the Cuttle Weir and especially the Inlet Structure, as well as downstream basins being filled, was submitted by District staff to the USACE. This report dealt primarily with the SOD releases and items the USACE would be interested in. It was not as comprehensive as the final report that will be issued in the upcoming week. The final report will include records of gate adjustments required for various diversion flows, spreading basins fillings and sequences of fillings, blockage of the inlet structure with organic debris, (tree limbs, grasses, etc.) especially rocks and the effects on the structural components of the District's spreading system.
6. Mr. Seal reported the Resources Committee met that morning and was given a PowerPoint presentation with an explanation of the Wash Plan including, past, present and future possibilities. An update on the District's current activities was also given.

#### C. Wash Plan Update

David Cosgrove reported discussions with Wash Plan Project Manager, Randy Scott regarding potential impacts to the Wash Plan if the critical habitat designation is made for the Santa Ana Sucker and revisions that may need to be made relative to that plan. Mr. Scott received initial feedback from the USFWS with respect to areas for associative actions on the Santa Ana Sucker that may be of help with the approval through the difficult snags that may get in the plan's way. Mr. Cosgrove also reported on staff's continued efforts to press both the BLM and the USFWS for their informal consultation on the Wash Plan EIS. Director Corneille commended legal counsel for his efforts with regard to preparation of the testimony presented at the USFWS hearing on the Santa Ana Sucker.

#### D. Other Reports from Staff

David Cosgrove reported that the primary working attorneys for the Santa Ana Sucker

Task Force had requested a copy of the testimony that was given by Director McDonald at the USFWS hearing on the Santa Ana Sucker, as well as a request for a staff member to have continued involvement in the Santa Ana Sucker Task Force meetings in order to highlight Wash Plan aspects. He stated that he and President Day were working out details with former General Manager, Robert Neufeld under his consultancy agreement to continue working with the Task Force.

#### E. Future Agenda Items

No future agenda items were discussed at the meeting.

### 6. ACTION ITEMS/NEW BUSINESS

#### A. Consider Proposal for Independent Contractor Services Agreement for Lisa Pierce

Director Day reported that the Board made a proposal to Lisa Pierce, GIS Coordinator for the District, at its July 28 meeting. Ms. Pierce responded and a revised contract has been prepared by legal counsel for the Board's review and comment. David Cosgrove distributed a redlined version of the independent contractor agreement for the Board's consideration. Mr. Cosgrove stated Ms. Pierce felt it appropriate that Engineering Work indicated within the title and throughout the body of the contract, be deleted and revised to read, "Water Resources and Land Management Consulting Work." A short term agreement is a stop-gap measure to keep access to present GIS experience and expertise until a new General Manager is hired. Mr. Cosgrove also explained the standard contract boiler plate provided by the Association of California Water Agencies' Joint Project Authority (ACWA/JPIA) requires insurance and indemnification, in which Ms. Pierce has also requested to be stricken from the agreement, due to the short term nature of the agreement.

**It was moved by Director Raley and seconded by Director McDonald to approve and authorize "Board President to Execute an Independent Contractor Services Agreement for G.I.S. and Water Resources Consulting Work between the District and Lisa Pierce." The motion carried 6-0, with Director Wright noted absent.**

#### B. Consider Increase to the FY 2010-2011 Budget, As Recommended by the Administrative Committee

**It was moved by Director Raley and seconded by Director Corneille to approve and authorize staff to "Increase the FY 2010-2011 Budget, as Requested by Director Raley; 1) increasing account #6230, staff salaries to \$700,000, including new General Manager salary and benefits package; and**

**2) increase account #5200, field operations to \$19,000 for additional field equipment, as recommended by the Administrative Committee.” The motion carried 6-0, with Director Wright noted absent.**

- C. Consider Amending Resolution No. 441, Defining Responsibilities and Authority of General Manager

A lengthy discussion ensued regarding additions and deletions outlined within Resolution No. 459, which would replace the existing resolution defining the General Manager's responsibilities and authority. Legal Counsel's involvement in day to day District operations was also discussed at length.

**It was moved by Director Corneille and seconded by Director McDonald to approve the “Amendment to Resolution 441, Defining Responsibilities and Authority of the General Manager”, as recommended by the Administrative Committee. The motion carried 6-0, with Director Wright noted absent.**

- D. Consider Equipment Purchase, as Recommended by the Resources Committee

**It was moved by Director McDonald and seconded by Director Longville to authorize staff to “Purchase a Case Front End Loader Replacement with Tooth Equipped Bucket,” as recommended by the Administrative Committee. The motion carried 6-0, with Director Wright noted absent.**

- E. Discussion and Possible Action Regarding Five Million Dollar Pre-Paid Royalty Under Lease with Robertson's Ready-Mix

Mr. Cosgrove led a discussion regarding his analysis of the District's ability to apply the pre-paid royalty for investment purposes, as requested by the Board at its July 28, 2010 regular Board meeting. Mr. Cosgrove explained in detail the terms of the original lease the District entered into with Robertson's Ready Mix (Robertson's) in 1992, as well as the 2003 agreement, which extended the time period for Robertson's to obtain mining permits. Mr. Cosgrove reported the \$5 million dollar pre-paid royalty would remain with the District, contingent upon the District working cooperatively with Robertson's on the Wash Plan. If either the District or Robertson's decides to withdraw from the Wash Plan effort, an election can be triggered by Robertson's as to when the four year permit for the period for securing would commence. A discussion ensued regarding the one year provision to reimburse Robertson's for the \$5 million and the District's ability to plan to invest the District's assets for liquidity and associated restrictions.

**It was moved by Director Raley and seconded by Director Longville to authorize staff to “Purchase Eight \$240,000 CD's to Invest in a 2 Year**

**Cycle, and direct legal counsel to research any restrictions,” as recommended by the Administrative Committee. The motion carried 6-0, with Director Wright noted absent.**

Legal Counsel asked for clarification with respect to managing the updated investment policy. Director Raley stated staff would be able to easily manage the program once implemented.

#### **7. Monthly Activity Reports and/or Comments by Board Members**

Director Corneille reported attending a Resources Committee meeting. He also reminded the Board of his attendance at the San Bernardino County Water Conference in Ontario, scheduled for August 12<sup>th</sup>.

Director Raley reported attending an Administrative Committee meeting. He also reported running into Congressman Baca, where he personally thanked him for his efforts during the meetings held in Washington D.C., regarding the Santa Ana Sucker.

Director Aranda reported his activities with regard to presentations to service clubs, chambers of commerce and schools regarding the water crisis. A schedule of presentations for the month of August through September was distributed to the Board before the meeting.

Director McDonald reported attending an Administrative Committee meeting; a Board meeting; and ACWA/JPIA presentations for member agencies. Director McDonald also reported her attendance at the upcoming ACWA State Legislative Committee meeting scheduled on August 13<sup>th</sup>.

#### **8. UPCOMING EVENTS**

There was no discussion on the upcoming events.

#### **9. CLOSED SESSION**

**At 2:35 p.m., it was moved by Director Corneille and seconded by Director Longville 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 3:00 p.m., the meeting reconvened into Open Session, with no reportable action under Government Code 54957

10. ADJOURN MEETING

At 3:00 p.m., the meeting adjourned to the regular Board meeting scheduled for August 25, 2010, at 1:30 p.m., at 1630 W. Redlands Blvd., Redlands, CA.

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Claud Seal  
Assistant General Manager/District Engineer