

SANTA ANA RIVER - MILL CREEK COOPERATIVE WATER PROJECT

MINUTES OF THE 133rd MEETING OF THE MANAGEMENT COMMITTEE

September 23, 2021

The 133rd Meeting of the Management Committee was called to order by Chairperson Robert Martin at 10:00 a.m. via Zoom. Mr. Martin appointed George Hanson as new chair for upcoming meetings.

Members Present

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| Daniel Cozad | San Bernardino Valley WCD |
| Robert Martin | Bear Valley Mutual Water Company |
| David B. Knight | Lugonia Water Company |
| Cecilia Griego | City of Redlands |

Guests

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|-----------------|----------------------------------|
| Betsy Miller | San Bernardino Valley WCD |
| Athena Lokelani | San Bernardino Valley WCD |
| Katelyn Scholte | San Bernardino Valley WCD |
| Dave Cosgrove | San Bernardino Valley WCD |
| Wen Huang | San Bernardino Valley MWD |
| Bob Tincher | San Bernardino Valley MWD |
| Adekunle Ojo | San Bernardino Valley MWD |
| Sam Fuller | Bear Valley Mutual Water Company |
| George Hanson | Bear Valley Mutual Water Company |
| Jeffery Szytel | Water Systems Consulting |
| Laine Carlson | Water Systems Consulting |
| Kevin Watson | City of Redlands |
| Madeline Blua | Yucaipa Valley Water District |
| Jennifer Ares | Yucaipa Valley Water District |

APPROVAL OF MINUTES OF 132nd MEETING ON APRIL 27, 2020

It was moved by Bob Tincher and seconded by Daniel Cozad to approve the minutes of the 132nd Meeting held on April 27, 2020. The motion carried with those present voting in the affirmative.

EXCHANGE PLAN UPDATE/EXPANSION-WSC

Laine Carlson, with Water Systems Consulting (WSC), presented a PowerPoint overview of Workshop 3.

Wen Huang from Valley Municipal gave a brief update on discussions with Southern California Edison (SCE). He said there was a conference call with SCE, Valley Municipal, and the Conservation District. SCE has indicated that first right of refusal is offered to local tribes prior to divesting hydropower facilities per applicable requirements. Mr. Huang indicated that there may be a possible partnership opportunity to join with local tribes to acquire these facilities. Mr. Martin provided a brief history and current status of these facilities.

Ms. Carlson provided a quick overview of the Exchange Plan. She reviewed the potential agreement changes and key topics for discussion. The proposed agreement changes discussed at the April 2020 Workshop 3 were:

1. Expand Use of Local/Import Water
2. Expand Uses of Associated Water Facilities
3. Address Recycled Water
4. Streamlined Decision Making
5. Ownership/Maintenance of Facilities
6. Unequal Exchanges
7. Edison Agreements
8. Costs
9. Form of New Agreement
10. Deferred Exchange Credits
11. Priorities

The topics on the agenda for discussion today are:

1. Overall Intent of Agreement – Mr. Cosgrove stated that the Management Committee previously was developed as an active role, although it may or may not have functioned as such. He stated that today's Exchange Plan today is more practical and discussed potential ways to move forward. Mr. Tincher provided the history of the Exchange Plan and its original intent. He envisions this agreement to be similar to that of an MOU. Mr. Martin said that the Exchange Plan is there to facilitate proper water management, grounded on the basis of voluntary exchanges. Mr. Cozad does not foresee the Conservation District as being an enforcing agency. He said that he hopes the committee may speed up exchanges based on consensus agreements between agencies. The agreement would be used to cooperatively utilize facilities to make exchanges, while serving as a clearing house to notify others and ensure that they are comfortable with the exchanges. The current draft will be updated based on this discussion.
2. Streamlined Decision Making and Role of Project Manager – Section 5, Delivery Provisions:
 - a. Project Manager notifies all parties via email of a proposed exchange. Parties have three (3) business days to object before exchange proceeds.
 - b. If there is an objection, the Project Manager convenes a meeting with the parties to the exchange and objecting parties to resolve differences
 - c. If the parties cannot resolve the differences, the issue is referred to the Management Committee for decision.

- d. An alternative was added that “If parties cannot resolve the differences, the proposed exchange shall not proceed.”
 - i. Mr. Martin said that the alternative language could hinder the process and Mr. Tincher indicated that he does not see a need for the notification process. Mr. Noelte asked what the risk is of an exchange being proposed and conceptually worked out of the proposed parties in a way that does not fully address potential harm to other agencies. If the risk is close to zero, then the objection procedure is unnecessary. Mr. Cozad said that parties would be able to move forward with exchanges, but if there were impacts to other entities then the parties would be responsible for any harm to other entities. Discussion ensued. It was the consensus of the Committee to revise the agreement to remove the objection process and have the Project Manager report all exchanges to all Committee members.
- e. Section 6, Management:
 - i. Removal of the following language – The Management Committee shall be responsible for approving or disapproving any challenged requests for scheduling deliveries of water; unchallenged requests would not require approval.
 - ii. Addition of the following language – The Project Management role is primarily ministerial, implementing exchanges agreed to by the parties, tracking and monitoring deliveries and referring issues to the Management Committee if needed. Mr. Cozad said that the Project Manager will provide information and any comments received related to exchanges to Committee without further obligation of the Project Manager.
- 3. Section 7, Ownership/Maintenance of Facilities – Ms. Carlson reviewed the intent of this section. The proposed changes are as follow: If a Party alleges that a facility owned by another requires maintenance, that Party advises the owner and Management Committee in writing. Mr. Cosgrove said that the proposed revisions were meant to address issues that may be caused by agencies’ lack of maintenance of their facilities. He said that based on discussion today it will likely need to be revised. Mr. Hanson indicated his opinion that this section is over-engineered. He said that it should be revised to be more of an MOU, with less control as consistent with the discussion. Mr. Tincher said that the goal was a mechanism to allow an agency that, for instance, did need a segment that was not needed by another agency to purchase it. Mr. Cozad said that one party may deem a facility to be unnecessary while another party believes it to be important, and may be willing to pay to maintain and/or purchase the facility. He suggested revising the language to reduce requirements and incorporate a collaborative approach.
- 4. Section 5g, Priorities – Revised recommendation for discussion, 1) Party which is the entitled user of the water or owner of the facility, 2) Effectuating exchanges that will avoid forfeiture of Deferred Exchange Water Credits and 3) All other uses equally.
 - a. Mr. Tincher said that it seems fine as written. Ms. Carlson indicated that the parties would agree to timing of the deferred exchanges but should keep a default time for each exchange. Mr. Cozad supported including a standard timeframe unless otherwise documented. Mr. Martin said that in the absence of another

agreement, he recommends a default time limit of three years for deferred exchanges.

5. Section 13, Withdrawal from Agreement - Ms. Carlson requested feedback on this section. Mr. Tincher noted that he feels the language is unnecessary. Mr. Cosgrove suggested inclusion of a notification process of one year prior to withdrawing from the Exchange Plan in order to allow affected parties to prepare for and address any potential impacts. It was the consensus of the Committee to support this recommendation.
6. Section 14, Transfer of Water Rights – Ms. Carlson reviewed the original language. It was the consensus of the Committee to replace the current language with the requirement to notify all affected parties within 30 days.
7. Facilities Included (Plate 1) – Ms. Carlson suggested that Plate 1 is not needed. She asked if there is a need to designate specific facilities or exclude any particular facilities. It was the consensus of the Committee that the plate is not needed nor are there any restrictions to facilities.
8. Recycled Water – Ms. Carlson reviewed the proposed recital and definition. Mr. Cosgrove asked if there is enough of a water quality difference in recycled water that the receiving party may want an opportunity to object. Ms. Carlson believes this to be covered by the Regional Boards’ existing regulations regarding recycled water discharge. Mr. Noelte concurred that existing regulations cover that.

NEXT STEPS

Ms. Carlson reviewed the proposed timeline and said that any additional comments should be provided to Mr. Cosgrove and WSC by October 1. The final draft is estimated to be prepared by Mr. Cosgrove and sent out to the members by October 15. Any comments to that draft should be submitted by November 5, and the final restated agreement should be ready for approval by November 19. Mr. Cosgrove noted that any comments can be sent to his District email and provided that to the Committee. The next meeting will be scheduled through Doodle poll.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:39 a.m.

Respectfully submitted,



George Hanson, Chairperson