

**MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS OF
ARVIN-EDISON WATER STORAGE DISTRICT
March 10, 2020**

CALL TO ORDER

President Edwin Camp called to order the monthly meeting of the Board of Directors' of the Arvin-Edison Water Storage District at the hour of 12:05 p.m., in the Board Room of District Headquarters, at 20401 East Bear Mountain Boulevard, Arvin, California, with a quorum being then and there present, to wit:

Edwin Camp, President
Jeffrey Giumarra, Vice President
John Moore, Secretary-Treasurer
Catalino Martinez
Dennis Johnston
Derek Yurosek
Kevin Pascoe

There were two absent Directors:

Charles Fanucchi
Ron Lehr

District staff present:

Jeevan Muhar, Engineer-Manager
David Nixon, Deputy General Manager
Steve Collup, Director of Water Resources
Mark Dawson, Engineer*
Fernando Ceja, Engineering Technician*
Chris Krauter, General Superintendent (departed @ 1:00 p.m.)

District consultants present:

Scott Kuney, Esq., Law Offices of Young Wooldridge, LLP
Randy Hopkins, Provost & Pritchard Engineering Group*

Visitors and Guests:

George Cappello, Grimmway Enterprises*
Matt Vickery, Grimmway Enterprises*
Domenick Buck, Anthony Vineyards*
Andrew Mason, Wonderful Citrus*
Matt Fever, Agricare (departed @ 2:00 p.m.)

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

RECOGNITION OF VISITORS AND GUESTS

All visitors introduced themselves and were formally welcomed.

**Note: Departed at the start of Closed Session 2:40 p.m.*

CORRECTIONS OR ADDITIONS TO THE AGENDA OF ITEMS, AS AUTHORIZED BY GOVERNMENT CODE §54950 et seq.

Mr. Muhar noted the posted Agenda has been revised to reflect changes to Agenda Item No. 14 (North Canal Spreading Works emergency project) and further moving Agenda Item 19.c) (Winter Maintenance) to after Consent Agenda Item (No. 8). Director Yurosek motioned, seconded by Director Pascoe, and unanimously carried to approve changes to the posted Agenda.

OPPORTUNITY FOR PUBLIC COMMENT

There were no public comments.

CONSENT AGENDA

President Camp asked if there were any questions concerning the Consent Calendar, which items were detailed with staff reports in the board packet(s). The following is the list of Consent Agenda items:

- CA-1) **Agenda Item 6:** Approval of Minutes of the Board of Directors' meeting held on February 11, 2020
- CA-2) **Agenda Item 7:** Approval of Treasurer's Report for February 29, 2020 and Internal Unaudited Financial Statements for period ending January 31, 2020
- CA-3) **Agenda Item 8:** Approval of memberships, contributions, and/or call for funds;
 - a) Agricultural Energy Consumers Association in the amount of \$4,625

Mr. Nixon responded to Director Yurosek's question with regards to the investment account in the Treasurer's Report, and Director Martinez motioned, seconded by Director Johnston, and unanimously carried to approve staff recommendations for the three (3) Consent Agenda items.

MONTHLY STAFF REPORTS

Review of Winter Maintenance Activities

Mr. Krauter reviewed a PowerPoint presentation of the 2019 Annual Winter Maintenance activities highlighting the planning activities throughout the year and consequently completion of various duties and repairs that involved both staff and subcontractors. Mr. Krauter also summarized the costs of the 2019 Winter Maintenance and compared such against a 10-year historical cost. Additionally, Mr. Krauter discussed the status of the District's ongoing replacement of antiquated SCADA PLC and radio equipment with newer technology for continued automatic operation of Pumping Plants over a phased multi-year approach.

ACTION ITEMS

RESOLUTION NO. 20-08, ORDERING PAYMENT OF ACCOUNTS AND CLAIMS (February 2020 - Warrant Numbers 41429 - 41555)

Mr. Nixon noted additional warrants totaling approximately \$99K, which brings February total payments to approximately \$1.5M. Mr. Nixon presented a form of Resolution; whereupon, Director Johnston motioned, seconded by Director Yurosek, and unanimously carried that Resolution No. 20-08, ORDERING PAYMENT OF ACCOUNTS AND CLAIMS (February 2020), be adopted. A copy of Resolution No. 20-08, is on file in the Resolution book and is hereby made a part of these minutes.

CONSIDER APPROVAL OF "FIRST AMENDMENT TO RESTATED AND FIRST AMENDED KERN RIVER WATERSHED COALITION AUTHORITY JOINT POWER AGREEMENT"

Mr. Muhar provided a brief background on the Kern River Watershed Coalition Authority Joint Powers Agreement (JPA) and noted the requested JPA amendments related to proposed changes to Section 3.02 (Officers) and Section 4.02 (Funds, Accounts). Mr. Muhar noted the changes related to the Board Officer structure changes involving a previous three-person officers to now a four-person office in order to separate the "secretary-treasurer" position into two positions, one "secretary" and one "treasurer", which position was recently appointed to District representation Director Johnston. After a brief discussion, Director Johnston motioned, seconded by Director Martinez, and unanimously carried to approve the Amended JPA for the Kern River Watershed Coalition Authority.

CONSIDER APPROVAL OF "AGREEMENT BETWEEN ARVIN-EDISON WATER STORAGE DISTRICT AND ROSEDALE-RIO BRAVO WATER STORAGE DISTRICT" FOR WATER YEAR 2020 USE OF FKC/CVC INTERTIE

Mr. Muhar provided some history of both the Cross Valley Canal Operating Agreement and specifically Article 9(C) as well as previously executed annual agreements between Arvin-Edison Water Storage District (AEWSD) and Rosedale-Rio Bravo Water Storage District (RRB) regarding use of the FKC/CVC Intertie (RRB FKC/CVC Intertie Agreement) to address potential water quality impacts to AEWSD. Mr. Muhar further stated the RRB FKC/CVC Agreement is being updated for WY 2020, which has been executed for several years since 2012. The updated RRB FKC/CVC Agreement contained two (2) major changes; one is to better balance the water quality exchange between RRB and AEWSD by incorporating provisions to incentivize RRB to increase the amount of water AEWSD receives from RRB from its banking agreement during a typical 6-month prorated period (April-September), and two confirming the water quality exchange doesn't have a term with the remaining balance to be completely exhausted over time. Director Giumarra motioned, seconded by Director Martinez, and unanimously carried to authorize staff to execute the RRB FKC/CVC Agreement for Water Year 2020.

CONSIDER APPROVAL FORREST FRICK PUMPING PLANT DISCHARGE PIPELINE INSPECTION

Mr. Ceja reminded the Board of the Forrest Frick Pumping Plant Discharge Pipeline Inspection (Inspection) presentation at the October 2019 Board meeting and noted that provided dry hydrology there was a short window of opportunity to complete such Inspection. Mr. Ceja noted staff and consultants recommend the electromagnetic type Inspection at the total cost of \$202K and potentially up to an additional \$60K for performance curves which will be determined once results are provided. Mr. Ceja presented the timeline (begin March 19 and finish up March 20) and the Professional Services Agreement, which was reviewed by legal counsel. Mr. Muhar noted the Inspection is considered confined space and the price includes professional rescue efforts, if needed. There was a discussion regarding Inspection details, costs, potential liabilities, and also confidentiality of the results. Director Martinez motioned, seconded by Director Yurosek, and unanimously carried to approve the inspection of the Forrest Frick Pumping Plant Discharge Pipeline at the potential cost of \$262K.

CONSIDER APPROVAL OF FILING "NOTICE OF EXEMPTION" FOR THE FORREST FRICK PUMPING PLANT (FFPP) - EASTSIDE CANAL INTERTIE PROJECT

Mr. Muhar provided an update of the FFPP Pipeline/Eastside Canal Intertie Project (Project) as part of District's SGMA projects and linkage to the Sunset Spreading Works. Staff and consultants determined that the Project environmental coverage qualifies for a "Notice of Exemption" since it involves a minor alteration to the existing FFPP Pipeline for discharge into Kern Delta's Eastside Canal. Director Yurosek motioned, seconded by Director Pascoe, and unanimously carried to approve the filing of the "Notice of Exemption" for the FFPP Pipeline/Eastside Canal Intertie Project.

CONSIDER APPROVAL OF: A) DECLARATION OF EMERGENCY; and B) AUTHORIZATION OF CONTRACTS FOR NEW PIPELINE AND ELECTRICAL DISTRIBUTION CONSTRUCTION ASSOCIATED WITH NORTH CANAL SPREADING WORKS NEW WELLS N22 & N23

Mr. Muhar stated the District commenced an Emergency Well Replacement Project (Project) during the drought of 2014-2016 for the purpose of enhancing the ability to support and meet the irrigation demands of landowners and water users.

Mr. Muhar continued by stating in light of the increasingly dry hydrological conditions, the District is in need of additional well capacity, and noted construction of new North Canal Spreading Works (NCSW) wells identified as N22 and N23 are covered by the Bakersfield Well & Pump contract, however, production from these new wells will only be of value if additional improvements are made to facilities related to the wells; namely, electrical improvements and also the construction of a new collector mainline in order to discharge well production into the North Canal.

Mr. Muhar further explained that under normal circumstances the District would be required under the Public Contract Code to publicly

bid this additional work, which is currently anticipated to be completed in the September timeframe but, the Code authorizes the District to forego the public notice bidding process in the event of an emergency.

Mr. Muhar continued stating the Code defines an emergency as "a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of, "among other things, "essential public services" and the District "may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids for contracts."

Mr. Muhar then stated the current hydrological conditions could not have been foreseen with any certainty, and the District's region is prone to drought conditions, but zero rainfall in the month of February is unprecedented. Combined with the recent low declaration from the U.S. Bureau of Reclamation, the production of these two (2) new wells could supplement the potential 6-month Prorate Period by an additional 3,500 acre-feet of previously banked groundwater that could be completed in June or nearly three (3) months ahead of schedule and thus, the electrical and pipeline improvements, which relate directly to the construction of Wells N22 and N23, are urgently needed to enable the District to properly administer its public water service obligations to its landowners and water users in-District this irrigation season.

Mr. Muhar continued by stating if the District publicly bids this work the additional time required to procure the services will come at the expense of its public water project and the District's customers that depend on necessary irrigation water being delivered in dry conditions such as 2020.

Mr. Muhar noted staff and Legal Counsel therefore recommend the Board avail itself of its authority under the Public Contract Code to deem an emergency exists consistent with the definition previously quoted and advises the Board that in making such a finding each member must do so based on "substantial evidence" before it, that demonstrates "the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency."

After a brief discussion, Director Martinez motioned, seconded by Director Giumarra, and provided the 4/5 vote with unanimous vote to approve the Declaration of Emergency (Public Contract Code Section 22050):

- Ayes: Camp, Giumarra, Moore, Martinez, Pascoe, Yurosek, and Johnston
- Noes: None
- Absent: Fanucchi and Lehr

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Then as a result of the Declaration of Emergency, Director Martinez motioned, seconded by Director Yurosek, and unanimously carried to authorize the Engineer-Manager to execute construction contracts related to the new NCSW well pipeline and extension of electrical distribution NCSW New Wells N22 & N23, with addendums to assist with temporary services for pipelines and electrical connections as deemed appropriate:

Ayes: Camp, Giumarra, Moore, Martinez, Pascoe, Yurosek, and Johnston

Noes: None

Absent: Fanucchi and Lehr

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CONSIDER APPROVAL OF CHANGE IN ARVIN-EDISON WATER STORAGE DISTRICT'S POWER AND WATER RESOURCES POOLING AUTHORITY DIRECTORS AND ALTERNATES - DAVID NIXON DIRECTOR, MARK DAWSON ALTERNATE DIRECTOR AND JEEVAN MUHAR ALTERNATE DIRECTOR

Mr. Muhar stated staff recommends the District make a change in PWRPA Directors as follows: David Nixon as Director (currently PWRPA Treasurer), Mark Dawson and Jeevan Muhar as Alternate Directors. President Camp voiced concern of potential conflict of interest related to Nixon's officer position as a Treasurer and now also a Director; however, Mr. Nixon stated PWRPA General Manager/Legal Counsel confirmed it was not a conflict and further this structure is allowed per the PWRPA Joint Powers Agreement. Director Pascoe motioned, seconded by Director Moore, and unanimously carried to approve staff's recommendation to change PWRPA Director and Alternates.

REPORT ITEMS

San Joaquin River Restoration Program (SJRRP)

Mr. Collup provided an updated summary of February 2020 Restoration Allocation and the projected runoff for Water Year ending September 30, 2020, actual releases including use of buffer flows, estimated Unreleased Restoration Flows (URF), estimated Recapture/Recirculation (R/R) supplies, exchanges including a potential call on AEWS, Arvin's share of such allocations and overall net losses to the SJRRP, and on-going work to complete Restoration Flow Guidelines.

FRIANT DIVISION AND FRIANT WATER AUTHORITY (FWA)

Temperance Flat

Mr. Collup provided an update on Temperance Flat Dam Project which included: Stantec completing the technical report and a forthcoming

refund of approximately \$50K per participant, the MOU Group presented the Technical Report to the TFRA, San Luis and Friant Water authorities, a Willow Springs Water Bank proposal to buy 344 TAF share using the WSIP funding of \$171M, reviewed timeline and commitments to maintain eligibility for WSIP funding, and requesting USBR to complete a "concluding report - with deferral," designation, which would allow for renewal of the project at a later time. Staff was asked to schedule a similar presentation by Stantec to the AEWSB Board.

Friant-Kern Canal Subsidence

Mr. Collup provided an update on the timeline of the Friant-Kern Canal Capacity Correction highlighting the memorandum enclosed in the Board packet and the Friant financing strategies.

Miscellaneous

Mr. Collup provided an update which included; USBR Commissioner Burman and Regional Director Conant District tour during President Trump's visit; FWA staff has met with Tule Basin GSA's in the subsidence area to discuss mitigation from pumping fees on transitional pumping to generate revenue for subsidence fix; temporary agreements with to convey recapture/recirculation water were approved (Banta Carbona ID and Patterson ID); changes in Board provisions were approved to encourage participation by other Friant contractors; comments prepared to the Central Valley Project Improvement Act final cost allocation study; San Luis Delta-Mendota Water Authority rates to Friant contractors are increasing (20%); Friant O&M Agreement (through 2053) with input from Muhar and Pascoe attending Sacramento meetings on the topic; title transfer investigations; and Agreement with Ron Milligan was ratified to provide ongoing Delta water supply modeling and particularly to monitor effects to Exchange Contractors.

AGENCY/AUTHORITY/COMMITTEE REPORTS

White Wolf Subbasin GSA

Mr. Muhar provided an update on the White Wolf Subbasin GSA and noted Director's Martinez and Giumarra attended the last Board meeting, stating the basin was successful in obtaining a draft Prop 68 Grant (\$513K with a cost share of about \$71K); EKI Consultants were approved for a task order to work on some time sensitive items, such as the groundwater dependent ecosystems, groundwater modeling, options related to management areas (by district boundary, land use, or single area).

Power and Water Resources Pooling Authority (PWRPA)

Mr. Nixon provided an update on the District's recent nine (9) megawatts of solar participation in PWRPA's 26 megawatts of the Slate Solar Project (Project). Mr. Nixon further stated the Project also has battery technology to store solar energy if desired, and the battery technology, besides the potential for energy arbitrage, would also

CORRESPONDENCE

Mr. Muhar noted legislative reports from FWA, VAWC and KCWA, a report from Agricultural Energy Consumers Association, a KGA memorandum regarding the Department of Water Resources process for GSP adoption and review, a news article regarding biological opinions being completed and a separate news article regarding a lawsuit on such biological opinions.

MATTERS OF DISTRICT COUNSEL

Legal Counsel Kuney stated there is no issues for open session.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL

Legal Counsel Kuney then advised the Board he would like to discuss existing litigation, and anticipated litigation, namely: Potential Litigation (Two Items); NRDC vs. Murillo, et al (SJRRP); Appeal of Regional Board General Order for Third Party Groups for Tulare Lake Basin (Resol #R5-2013-0120) to State Water Resources Control Board; City of Fresno, et al vs. USA, Court of Federal Claims; and Tejon Indian Tribe/Casino Project Negotiations; and based upon advice from Legal Counsel, discussing such matters in open session would cause prejudice to the District; therefore, the Board adjourned into closed session in accordance with Government Code Section §54956.9 at 2:40 p.m., and upon returning to open session at 3:25 p.m. there was no reportable action taken.

OTHER ITEMS TO BE DISCUSSED PURSUANT TO GOVERNMENT CODE SECTION §54954.2 (RELATING TO ITEMS NOT APPEARING ON THE POSTED AGENDA); AND ADJOURNMENT

President Camp asked if there were any further matters that needed to be brought before the Board of Directors, and there being none; Director Moore motioned, seconded by Director Johnston, and by unanimous vote, adjourned the meeting at 3:35 p.m.



David A. Nixon, Deputy General Manager
/Assistant Secretary-Treasurer