

REVISED - 12/12/02

**WESTLANDS WATER DISTRICT
NOTICE OF REGULAR MEETING AND AGENDA**

NOTICE

Notice is hereby given that a regular meeting of the Board of Directors of Westlands Water District will be held on December 16, 2002 at 10:00 a.m., at the District's Fresno Office, 3130 N. Fresno, California 93703.

Public Comment - Any member of the public may address the Board concerning any matter on the agenda before or during its consideration of that matter.

AGENDA

- 1. Approval of the Minutes of the Regular Board Meeting of November 18, 2002**
- 2. General Manager's Report (Birmingham)**
 - a. Water supply, drainage, energy and other resources activities
 - b. Federal affairs
 - c. Other District activities
- 3. Outside Agency Activities (Board)** - Reports on activities of outside agencies (CVPWA, FFA SLDMWA, ACWA, and SJVDA, etc.) will be presented.
- 4. Legal Affairs Committee (Devine)** - The Board will act upon recommendations of the Committee, if any, regarding District legal issues.
- 5. Operations & Maintenance Committee (Coelho)** - The Board will act upon recommendations of the Committee, if any, regarding District operations & maintenance issues.
 - a. Resolution No. 125-02, Accepting a Grant for Water Conservation and Measurement Enhancement
- 6. Personnel Committee (Gardner)** - The Board will act upon recommendations of the Committee, if any, regarding the following item:
- 7. Water Policy Committee (Sagouspe)** - The Board will act upon recommendations of the Committee, if any, regarding District water policy issues.
- 8. Ad-Hoc Information Systems Committee (Sheely)** - The Board will act upon the recommendations of the Committee, if any, regarding District information systems issues.
- 9. Finance & Administration Committee (Sheely)** - The Board will act upon the recommendations of the Committee, if any, regarding the following items:
 - a. Resolution No. 127-02, Authorizing Joining with Other Public Agencies as a Participant of the Investment Trust of California, Carrying on Business as Ca/Trust
 - b. Resolution No. 126-02 Objecting to the Sale of County of Kings Tax-Defaulted Properties
 - c. Resolution No. 128-02 Objecting to the Sale of County of Fresno Tax-Defaulted Properties
 - d. Budget Transfers and Augmentations
 - e. Accounts Payable Reports

WESTLANDS WATER DISTRICT
Regular Meeting of the Board of Directors
December 16, 2002 10:00 a.m.

Public Comment - Any member of the public may address the Board concerning any matter on the agenda before or during its consideration of that matter.

AGENDA

- f. Investment and Financial Reports
- 10. **Board of Directors Appointments (Errotabere)** - The Board will act upon recommendations, if any, for appointment of Board members and/or staff to various positions.
- 11. **Resolution No. 124-02, In Commendation of James F. Schmiederer (Errotabere)**
- 12. **Public Comment** - Any member of the public may address the Board concerning any matter not on the Agenda within the Board's jurisdiction.
- 13. **Closed Session** - The Board will meet in closed session pursuant to the Government Code sections noted to discuss the following:
 - a. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
 - 1) Subdivision (a) of Section 54956.9; Peck v. U.S.
 - 2) Subdivision (a) of Section 54956.9; Firebaugh v. U.S.
 - 3) Subdivision (a) of Section 54956.9; Westlands v. U.S.
 - 4) Subdivision (a) of Section 54956.9; Jean Sagouspe et al v. Westlands
 - 5) Subdivision (a) of Section 54956.9; Orff v. U.S.
 - 6) Subdivision (a) of Section 54956.9; Westlands v. State Water Resources Control Board (D-1641)
 - 7) Subdivision (a) of Section 54956.9; Westlands v. East Bay Municipal Utility District
 - 8) Subdivision (a) of Section 54956.9; Westlands v. State Water Resources Control Board (Permit to Appropriate Water)
 - 9) Subdivision (a) of Section 54956.9; Application to Appropriate Water from San Joaquin River
 - 10) Subdivision (a) of Section 54956.9; Del Puerto Water District v. U.S.
 - b. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
 - 1) Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; two potential cases
 - c. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
 - 1) Section 54956.8
 - Property: Land and/or water entitlement
 - Agency Negotiator: Thomas W. Birmingham, General Manager/General Counsel
 - Negotiating Parties: Unknown
 - Under negotiation: Instruction to negotiator will concern price and terms of payment

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF
WESTLANDS WATER DISTRICT

December 16, 2002

A regular meeting of the Board of Directors of Westlands Water District was called to order by President Errotabere at the District's Fresno Office, 3130 N. Fresno Street, Fresno, California 93703, at 10:00 a.m. on December 16, 2002.

Directors present:

Dan Errotabere, President
Frank Coelho
Don Devine
Gary Esajian
Ken Gardner
Ted Sheely
Wendy Turner

Staff present:

Thomas W. Birmingham, General Manager/General Counsel
Dave Ciapponi, Assistant General Manager
Jim Snow, Deputy General Manager – Water Policy
Thaddeus Bettner, Director of Resources
Karen Gatzka, Executive Assistant

Others present:

Members of the public

APPROVAL OF MINUTES

The draft minutes of the Regular Board Meeting of November 18, 2002, were approved as circulated.

WATER SUPPLY

Mr. Bettner reported on the following with respect to water use and supply for the water year, through November 2002.

1. Total supply was 1,153,474 acre-feet (AF).
2. Total use was 909,522 AF.
3. Total remaining supply was 243,952 AF.

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Mr. Bettner reported that the Bureau completed a preliminary forecast for the 2003-2004 water year indicating a 20% allocation under a dry scenario. This scenario assumes the winter would be very dry and San Luis Reservoir would not fill. With normal rainfall, the allocation would be approximately 65% and the CVP share of San Luis would fill, assuming 150,000 acre-feet of water is rescheduled.

Mr. Bettner reported that it still was projected that the District would reschedule approximately 130,000 acre-feet of water. If VAMP starts on April 15 and 130,000 acre-

feet of water was rescheduled, the District would likely lose water, assuming the reservoir fills. If VAMP starts on May 1, any loss would be minimal.

Mr. Bettner reported that CVP storage in San Luis Reservoir was approximately 605,000 acre-feet (63% full) and increasing at approximately 2,500 acre-feet per day. SWP storage dropped to 188,000 acre-feet and was starting to fill.

Mr. Bettner reported the District currently has 220,000 acre-feet of remaining water. Based on historical use, approximately 130,000 acre-feet could be rescheduled and was the upper limit of what could be delivered in March and April. The District and San Luis & Delta-Mendota Water Authority continue to meet with the Bureau on proposed 2002-2003 rescheduling guidelines.

Mr. Bettner reported on two scenarios regarding the San Luis Reservoir stating that if the reservoir does not fill, there would be unlimited rescheduling. If the reservoir does fill, water could be lost at the time the reservoir has a sustained drawdown or by "foregone pumping" at Tracy Pumping Plant. The District would continue to provide updates to water users on the reservoir fill status and water use and supply.

CALFED

Mr. Birmingham reported that Senator Dianne Feinstein scheduled a meeting on January 8, 2003 to discuss continued efforts to reauthorize federal participation in the CALFED Program. Mr. Birmingham reported that he would attend the meeting.

Contract Renewals

Mr. Birmingham reported that District representatives and other contractors met with the Assistant Secretary for Water and Science to discuss the process for resumption of contract renewal negotiations. The revised basis for negotiations was still under review and should have been completed by November; however, it was still Interior's position that it would complete consultation on a revised CVP-OCAP before entering into renewal contracts. Mr. Birmingham reported that Interior maintains its expectation to complete this consultation in January 2004. Negotiations have not been scheduled.

CVPIA Implementation and Contract Allocations

Mr. Birmingham reported that Interior would announce its draft (b)(2) policy on December 18. The Bureau planned to circulate the document for a period of 30 days to receive public comment on the draft policy that Interior would finalize prior to the beginning of the next water year.

Trinity Flow Study

Mr. Birmingham reported that on December 10, Judge Wanger found that the Department of the Interior violated the National Environmental Policy Act prior to its

adoption of the Trinity River Record of Decision. The Court ordered Interior to complete a supplemental environmental impact statement within 120 days.

Sagouspe et al. v. Westlands Water District, et al.

Mr. Birmingham reported that on December 3, the United States District Court and the Fresno County Superior Court approved the class action settlement agreement. The District Court also approved the proposed modification of the *Barcellos* Judgment. The Superior Court entered judgment in favor of the District, validating the District's authority to enter into the terms of the settlement agreement.

Sumner Peck Ranch, Inc. v. United States

Mr. Birmingham reported that on December 11, the settlement agreement was executed by all of the parties to this litigation. A joint motion to approve the settlement was filed with the District Court on December 12.

Proposed Land Retirement Program

Mr. Birmingham reported that District staff made a presentation to the Fresno County Board of Supervisors on December 10. Potential third party impacts were outlined in the presentation. Staff received very favorable comments from the Supervisors, particularly with respect to the District's efforts to involve the public in discussions concerning land retirement and potential third party impacts.

OUTSIDE AGENCY ACTIVITIES

CVPWA Director Sheely stated there was nothing to report.

FFA President Errotabere stated there was nothing to report.

SLDMWA Mr. Birmingham reported that the Authority Board adopted the 2003-2004 O&M Budget.

ACWA Mr. Borba reported on the activities of the Association from the November 20-22 Fall Conference.

SJVDA Director Coelho stated there was nothing to report.

OPERATIONS & MAINTENANCE COMMITTEE

Resolution No. 125-02, Accepting a Grant for Water Conservation and Measurement Enhancement

Director Coelho reported that consideration of this item would be deferred until the next board meeting.

FINANCE & ADMINISTRATION COMMITTEE

Resolution No. 127-02, Authorizing Joining with Other Public Agencies as a Participant of the Investment Trust of California, Carrying on Business as Ca/Trust

Director Sheely reported that the Finance & Administration Committee met and approved the investment of District funds in the Investment Trust of California (Ca/Trust), a public joint powers authority.

Upon motion duly made and seconded, the Board unanimously approved Resolution No. 127-02, authorizing the District's joining and participation in Ca/Trust.

Resolution No. 126-02, Objecting to the Sale of County of Kings Tax Defaulted Properties

Director Sheely reported that Resolution No. 126-02 was prepared in order to object to the sale of a tax-defaulted parcel by Kings County, APN 036-010-014, thereby allowing the District to preserve its claims for delinquent assessments, penalties and interest against the parcel listed in the resolution.

Upon motion duly made and seconded, the Board unanimously adopted Resolution No. 126-02, objecting to Kings County's tax-defaulted sale of APN 036-010-014.

Resolution No. 128-02, Objecting to the Sale of County of Fresno Tax-Defaulted Properties

Director Sheely reported that Resolution No. 128-02 was prepared in order to object to the sale of tax-defaulted parcels by Fresno County, APN 019-140-56s and APN 019-050-21, thereby allowing the District to preserve its claims for delinquent assessments, penalties and interest against the parcels listed in the resolution.

Upon motion duly made and seconded, the Board unanimously adopted Resolution No. 128-02, objecting to Fresno County's tax-defaulted sale of APN 019-140-56s and APN 019-050-21.

Monthly Report of Payables Reviewed

Director Sheely reported that the Committee had reviewed the cash disbursements after the November 2002 meeting and the December 2002 payables and found they were in order.

Upon motion duly made and seconded, the Board unanimously approved the accounts payable reports and the disbursement of funds.

Investments and Financial Reports

Mr. Ciapponi reported on the District's investments and financial statements, of which copies are attached.

Upon motion duly made and seconded, the Board unanimously approved the financial reports as presented.

BOARD OF DIRECTOR APPOINTMENTS

Mr. Birmingham reported that with the resignation of Jim Schmiederer from the Board of Directors and the San Luis & Delta-Mendota Water Authority board, and the anticipated approval to participate in the Ca/Trust investment JPA, the Board had a number of positions to consider filling.

Upon motion duly made and seconded, the Board appointed Dan Errotabere to fill the vacant Authority Director position, appointed Dave Ciapponi as Alternate for both Director Errotabere and Mr. Birmingham on the Authority Board, in order to provide adequate coverage if the directors were absent from meetings, and appointed Dave Ciapponi to the board of Trustees for the Investment Trust of California (Ca/TRUST).

RESOLUTION NO. 124-02, IN COMMENDATION OF JAMES F. SCHMIEDERER

President Errotabere reported that upon Mr. Schmiederer's resignation from the Board of Directors, it was appropriate that he be recognized for his many contributions.

President Errotabere read the resolution and upon motion duly made and seconded, the Board unanimously approved Resolution No. 124-02, in commendation of Jim Schmiederer, expressing its sincere appreciation for his years of loyal and dedicated service and extending to him its best wishes for good health and happiness in the future.

CLOSED SESSION

The Board met in closed session to confer with legal counsel (1) on existing litigation, pursuant to Government Code section 54956.9(a), regarding Peck v. U.S., Firebaugh v. U.S., Westlands v. U.S., Jean Sagouspe et al v. Westlands, Orff v. U.S., Westlands v. State Water Resources Control Board (D-1641, Permit to Appropriate Water), Westlands v. East Bay Municipal Utility District, Del Puerto Water District v. U.S., and the Application to Appropriate Water from the San Joaquin River; (2) on anticipated litigation, pursuant to Government Code section 54956.9(b), regarding significant exposure to litigation in two potential cases; and (3) on real property negotiations, pursuant to Government Code section 54956.8, regarding land and/or water entitlement.

Upon returning from closed session, Mr. Birmingham reported that while in closed session the Board authorized District staff to accept a proposal from the Department of the Navy that would provide a stream of income that would allow capital acquisitions of approximately \$16.5 million for the purposes of resolving the issues related to the detachment of the Lemoore Naval Air Station from the District.

Dave Ciapponi, Secretary