

**MINUTES  
REGULAR BOARD OF DIRECTORS MEETING  
THREE VALLEYS MUNICIPAL WATER DISTRICT**

**Wednesday, April 19, 2017  
8:00 a.m.**

**1. Call to Order**

The Board of Directors meeting of the Three Valleys Municipal Water District (TVMWD) was called to order at 8:00 a.m. at the TVMWD office located at 1021 East Miramar Avenue, Claremont, California. The presiding officer was President Bob Kuhn.

**2. Pledge of Allegiance**

The flag salute was led by President Kuhn.

**3. Roll Call**

Roll call was taken with a quorum of the Board present. Director Brian Bowcock had an excused absence.

**Directors Present**

Bob Kuhn, President  
David De Jesus, Vice President  
Joseph Ruzicka, Treasurer  
Dan Horan, Director  
Carlos Goytia, Director  
John Mendoza, Director

**Directors Absent**

Brian Bowcock, Secretary (excused)

**Staff Present**

Rick Hansen, General Manager  
Steve Kennedy, Legal Counsel  
Liz Cohn, Sr. Financial Analyst  
Ray Evangelista, Engineer  
Vicki Hahn, District Clerk/Executive Assistant  
Kirk Howie, Assistant GM-Administration  
Steve Lang, Water Operations Manager  
James Linthicum, Chief Finance Officer  
Ben Peralta, Project Manager  
Esther Romero, Accounting Technician

Guests and others present: Roger Bradley, City of Claremont; Tom Coleman, Rowland Water District; Paul DiMaggio, Suburban Water Systems; Director Ted Ebenkamp, Walnut Valley Water District; Fred Lantz, Pomona resident; Director Ed Hilden, Walnut Valley Water District; Erik Hitchman, Walnut Valley Water District; Maria Kennedy, Kennedy Communications; Ben Lewis, Golden State Water Company; Director Tony Lima, Rowland Water District; Director Szu Pei Lu-Yang, Rowland Water District; Dean McHenry, League of Women Voters; Darron Poulsen, City of Pomona; Brian Teuber, Walnut Valley Water District; Dave Warren, Rowland Water District

**4. Additions to Agenda**

President Kuhn inquired if there were any additions to the published agenda. Staff did not have any additions to the published agenda.

**5. Reorder Agenda**

President Kuhn inquired if there was any reason to reorder the published agenda. Staff did not have any reason to reorder the published agenda.

## 6. Public Comment

President Kuhn called for any public comment. There were no requests for public comment.

## 7. Consent Calendar

The Board was asked to consider the Consent Calendar Items (7.1-7.6) for the April 19, 2017 Board meeting that included: (7.1) Receive, approve and file, March 2017 Board minutes for March 1, 2017 and March 15, 2017; (7.2) Receive, approve and file, March 2017 Financial Reports; (7.3) Approve Resolution No. 17-04-795 Support of the ACWA Policy Statement on Bay Delta Flow Requirements; (7.4) Approve Resolution No. 17-04-796 Declaring Certain District Property as Surplus; (7.5) Approve FY 16-17 Project Encumbrance; (7.6) Adopt Operations Reliability Reserve Category.

Upon motion and second the floor was opened for discussion. Director Ruzicka informed that as the Treasurer he will be receiving the bank statements and will check against our financial reports. Discussion ensued as to whether Director Ruzicka should provide a separate report than what is already included on the consent calendar. It was determined that unless there is a discrepancy, the Board will continue to approve, receive and file the financial reports under the consent calendar. There being no further discussion, President Kuhn called for the vote.

**Moved: De Jesus; Second: Horan**  
**Motion No. 17-04-5131 to approve the April 19, 2017 Consent Calendar items 7.1-7.6. The motion passed with a 6-0 vote. Director Bowcock had an excused absence from the meeting.**

## 8. General Manager's Report

### 8.A – Administration

#### 8.A.1 Legislative Update, April 2017

Assistant General Manager, Kirk Howie provided the Board with a legislative update as follows:

The legislature is back in session following their spring recess.

The Board was provided with a comprehensive Legislative Status Report (LSR) which listed activity on the bills TVMWD is supporting, opposing or watching. Below is a list of the bills TVMWD has taken a support or oppose position on. All remaining bills on the LSR remain in a watch position.

TVMWD has taken a **support** position on AB 554 (Cunningham) – Desalination: Statewide Goal; AB 968 (Rubio) – Urban Water Management Planning; AB 979 (Lackey) – Local Area Formation Commissions: District Representation; and, AB 1654 (Rubio) – Water Shortage: Urban Water Management Planning.

TVMWD has taken an **oppose** position on AB 732 (Frazier) – Delta Levee Maintenance; AB 791 (Frazier) – Sacramento-San Joaquin Delta: State Water Project and Federal Central Valley Project: New Conveyance Facility; AB 792 (Frazier) – Sacramento-San Joaquin Delta: Delta Plan: Certificate of Consistency; AB793 (Frazier) – Sacramento-San Joaquin Delta: Financing; AB 1427 (Eggman) – Water: Underground Storage; and, SB 496 (Cannella) – Indemnity: Design Professionals.

TVMWD has not taken an official position on SB 231 (Hertzberg) – Funding: Stormwater Cleanup and will continue to watch. MWD and some other local agencies have taken a support position; several cities have taken an opposition position. Based upon counsel from our lobbyist we will continue to watch for the time being.

### **8.A.2 Approve Director Expense Reports for March 2017**

The Board was asked to approve March 2017 expense reports. Upon motion and second the floor was opened for discussion. There being no discussion, President Kuhn called for the vote.

**Moved: Ruzicka; Second: Goytia**  
**Motion No. 17-04-5132 to approve payment of the Director Expense reports for March 2017. The motion passed with a 6-0 vote. Director Bowcock had an excused absence from the meeting.**

## **8.B – Engineering and Operations**

### **8.B.1 Bid Results for the LeRoy’s Meter Connection Project No. 58154**

Staff provided the Board with an update on the bids received and the financial soundness of the apparent low bidder, CP Construction. Staff is seeking approval from the Board to approve and enter into an agreement with CP Construction to complete the work in the amount of \$136,000. Prior to work commencing staff will reach out to affected stakeholders, City of La Verne, LeRoy’s and residents to coordinate the construction efforts. Upon motion and second the floor was opened for discussion. There being no discussion, President Kuhn called for the vote.

**Moved: De Jesus; Second: Ruzicka**  
**Motion No. 17-04-5133 to authorize the General Manager to enter into an agreement with CP Construction to complete the work on the LeRoy’s Meter Connection Project 58154. The motion passed with a 6-0 vote. Director Bowcock had an excused absence from the meeting.**

### **8.B.2 Calendar Year Imported Water Purchases, March 2017**

Project Manager, Ben Peralta reviewed the March 2017 imported water purchases. Three months year-to-date approximately 8,000/AF of Tier 1 water has been delivered to the Member Agencies. To date, imported water deliveries are trending as per norm for this time of year. Staff will continue to monitor trends and will be working with the Member Agencies as we approach the peak flow season commencing in May to ensure we do not exceed our projections.

### **8.B.3 Miramar Operations Report – March 2017**

Water Operations Manager, Steve Lang provided an overview of the Miramar Plant operations and activities for the month of March 2017. Water quality continues to meet or exceed state and federal drinking water standards without any violations reported by SWRCB. One notable change was a slight elevation on Haloacetic Acids (HAA) which is a disinfection byproduct. This has not been previously experienced at the treatment plant. Research has revealed that other agencies receiving State Project water are also experiencing this.

The production and sales statistics were reviewed. Current production/sales data month and year-to-date were reviewed as follows: total potable water produced

1212.5/AF; Well #1 ran for a total of 23 days; Well #2 was online for 22 days. Combined, both wells produced a total of 70.9/AF produced a slight elevation of the prior month; total potable water sales for the month were 1283.4/AF; total year-to-date potable water sold is at 121.5% of what was budgeted.

Miramar Hydro 1 continues to be offline due to lower pressures and flows on the Rialto Feeder. Staff is working with contractor to remediate the flows on Miramar Hydro 1 and return it to service. Miramar Hydros 2 and 3 are operating. Year-to-date Miramar Hydro 3 is at 114% over what was budgeted. Williams and Fulton Hydros produced greater than budgeted month-to-date. YTD overall hydrogeneration is at 62.1% of budget.

There was one planned power outage at the Mills connection to allow Edison to make repairs to their electrical system. Special activities were also reviewed. The full report is available upon request.

## **8.C – Finance and Personnel**

### **8.C.1 Adopt FY 17-18 Budget**

Chief Finance Officer, James Linthicum presented the TVMWD FY 17-18 Budget, Draft 1.2 for consideration of approval by the Board. The final budget under deliberation includes updates provided during the April 5, 2017 Board Meeting, and input received from the Member Agency Managers during their April 11, 2017 meeting. The final budget provides for a \$5/AF surcharge discount versus MWD Weymouth rates on all treated water sold. There will not be any surcharge discount applied to raw water deliveries.

Upon motion and second the floor was opened for discussion. Discussion took place on the MWD readiness-to-serve charge (RTS) portion of the budget, and what causes the fluctuation on an annual basis. The RTS charges are approved and allocated on a fiscal year basis, however they are applied over two rate years. The increase or decrease also depends upon what MWD does with its capital projects, and how these costs are allocated to the Member Agencies. The original standby charge was assessed 12 years ago with a maximum of \$29.41. Presently, it is not anticipated that we will reach this maximum prior to 2024. The standby charge is evaluated every two years, which is the same time frame in which MWD adopts their rates. As we get closer to reaching the maximum, further evaluation will need to occur as to whether we should pursue legislative intervention or another method for covering these costs.

There being no further discussion, President Kuhn called for the vote.

**Moved: Ruzicka; Second: Horan**

**Motion No. 17-04-5134 to adopt FY 17-18 TVMWD Budget, Version 1.2. The motion passed with a 6-0 vote. Director Bowcock had an excused absence from the meeting.**

### **8.C.2 Adopt Resolution No. 17-04-797 Approving Water Rates and Charges for CY 2018**

Mr. Linthicum informed the Board that now that a budget has been adopted, action can be deliberated to approve the rates and charges for CY 2018. The Resolution attached is reflective of applying a \$0 discount surcharge to all raw water sold, and a \$5/AF discount charge for any treated water sold. Also included are the drafts of the Fixed and Capacity Charge summaries. It was noted that two weeks ago minor updates to include the North Azusa and Pomelo connections were added, resulting in

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minor changes to these summaries. This was discussed and agreed upon by the Member Agencies at their last meeting.

Mr. Kennedy led discussion based upon inquiries from the April 5, 2017 meeting as to whether Director De Jesus had a probable conflict of interest due to his position as President/CEO at Covina Irrigating Company (CIC).

Mr. Kennedy acknowledged that there was a potential conflict, or at least the appearance of a conflict. From a very conservative approach, this opinion was based upon several factors, pursuant to the following three perspectives:

1. Appearance. As a public agency, doing the public's business, maintaining public trust and confidence, and how decisions are reached, is extremely important. Thus, even if a direct conflict does not exist, the appearance of one still needs to be addressed.
2. Penalties. If the legal opinion is wrong, and a conflict does exist, penalties are imposed upon the individual director, not the client, and could result in penalties up to and including removal from office.
3. FPPC Regulations. There is a provision in the FPPC Regulations that defines when the Public Generally Exception (PGE) would apply. This provision cites that the PGE would not apply if it impacts a significant segment of the population equally. For the purposes of a business conflict this is defined as 25% of all businesses or non-profit entities within the official's jurisdiction. The Resolution that will be deliberated will affect 14 agencies, of which CIC is one. Half of those agencies are private companies, and do not represent 25% of all private companies within the official's jurisdiction.

For each of these reasons it is the guidance of legal counsel that Director De Jesus recuse himself from any discussion or action in this matter.

Mr. Kennedy informed the Board that an alternate opinion was received from legal counsel at Walnut Valley Water District. Their opinion was that a conflict does not exist. This opinion was based on the following provision of the FPPC Regulations that cites, *the financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally, if the official establishes that the decision establishes or adjusts assessments, taxes, fees or rates for water, utility or other broadly provided public services, or facilities that are applied equally, proportionately or by the same percentage to the official's interests in other businesses, properties or individuals subject to the assessment, tax, fee or rate.* This is an important provision. It is one that retail agencies typically look to that permits their board members to make rate decisions that apply to them as well as everyone else within the district.

From the most conservative of positions, Mr. Kennedy cited that if these two competing provisions were to be interpreted by the FPPC or the courts, the Walnut Valley proposed citation may apply. This is because in statutory matters, more specialized language typically prevails over general language. However, without any precedent from either the courts or the FPPC, it is better to err on the side of caution. Therefore, Mr. Kennedy stands by his opinion to take a more conservative approach and encourage Director De Jesus to recuse himself from this matter.

President Kuhn asked whether Walnut Valley Water District was willing to provide Director De Jesus with a hold harmless agreement to permit him to act on this matter. Staff present from Walnut Valley Water District were unable to authorize this for today's action. Walnut Valley Water District, is requesting this matter be reviewed further prior to future rates and charges being deliberated in outlying years, to ensure the elected official representing their interest at the dais in these matters, has equal authority to discuss, deliberate and vote.

Director De Jesus left the dais at 9:53 a.m. citing that based on the appearance of a potential conflict of interest in this matter he is recusing himself from this vote only, without prejudice, and, that he reserves that right to vote in future rate resolutions that may come up. There being no further discussion, President Kuhn called for the vote.

**Moved: Ruzicka; Second: Horan**

**Motion No. 17-04-5135 to Adopt Resolution No. 17-04-797 approving water rates and charges for CY 2018. A roll call vote was taken with the following results:**

**Goytia: Yes**

**De Jesus: Abstain/Recused**

**Bowcock: Absent (excused)**

**Kuhn: Yes**

**Ruzicka: Yes**

**Mendoza: Yes**

**Horan: Yes**

**The motion passed with a 5-0 vote.**

Director De Jesus returned to the dais at 9:58 a.m.

### **8.C.1 Adopt Resolution No. 17-04-798 Approving Initiation of FY 17-18 Standby Charge Procedures**

Staff returned Resolution No. 17-04-798 for Board consideration and approval to initiate FY 2017-18 standby charge procedures. The MWD Board adopted the RTS charge at their April 11, 2017 meeting, and there were some minor changes. For 2017-18 the proposed rate for a typical homeowner will be \$18.51 per equivalent dwelling unit. A copy of the draft engineer's report prepared by Willdan Financial is available for review. As required, TVMWD published the Notice of Intent to adopt this resolution in the Daily Bulletin and San Gabriel Valley newspapers on 4/12/2017.

Upon motion and second the floor was opened for discussion. Staff responded to director questions related to how the charge is determined, and where the charge can be found by a residential dweller. Staff informed the charge is based upon the emergency and repair of MWD's infrastructure in total for emergency supply deliveries into southern California. This is allocated annually to MWD's Member Agencies. The standby charge is shown as a line item on the residential dweller's tax bill, shown as Three Valleys MWD. It was further noted that because the rate decreased over the prior year, that it will be unnecessary to hold a public meeting and a public hearing resulting in a cost savings on public noticing. The final action

in this matter will be to hold a public hearing that is scheduled for June 21, 2017. Noticing of same will occur on June 7 and June 14, 2017 respectively. There being no further discussion, President Kuhn called for the vote.

**Moved: Ruzicka; Second: Goytia**  
**Motion No. 17-04-5136 to adopt Resolution No. 17-04-798 approving initiation of FY 17-18 standby charge procedures. The motion passed with a 6-0 vote. Director Bowcock had an excused absence from the meeting.**

**9. Directors' / General Managers Oral Reports**

**9.A Local Agency Formation Commission (LAFCO)**

Director Ruzicka reported on the April 12, 2017 meeting. The LAFCO Commission is currently reviewing the merger of two water districts. Initially, the Commission was informed that 14/15 board members of the respective agencies were in favor of the merger. Since that time, there has been a good amount of public comment in opposition of the merger. LAFCO has prepared a letter protesting a bill introduced by a state legislator to approve the merger of the two districts. The state legislature does have the authority to do what is proposed by the legislation, however it bypasses the authority that LAFCO has in these matters. There are concerns about potential precedents that may be set should this legislation pass. The General Manager and Board President were asked to review the information, and to advise on any position or feedback to be provided to the LAFCO Commission on behalf of TVMWD.

**9.B Six Basins Watermaster**

General Manager, Rick Hansen provided an update in Director Bowcock's absence. The 6BWM Board is continuing their work on the Strategic Master Plan. The parties are consolidating around specific projects to enhance the Six Basins. Mr. Poulson, City of Pomona, inquired about the abandoned well in the Six Basins. Mr. Hansen informed that there are some issues that are under review with Six Basins legal counsel and TVMWD's legal counsel.

**9.C Main San Gabriel Basin Watermaster**

Director De Jesus provided an update in Director Bowcock's absence. The groundwater level in the Main Basin peaked at 183.1'; currently the Key Well is at 183'. The canyon reservoirs are at approximately 67% capacity. Watermaster is moving forward to accumulate funds to have sufficient resources to purchase supplies in future dry years. The proposed rate assessment has not yet been passed. It is anticipated that this will be done over a period of several years.

**9.D Chino Basin Watermaster**

President Kuhn reported that the judge issued a revised preliminary opinion on the safe yield on April 18, 2017. A special meeting is scheduled for Friday, April 21, 2017. The final hearing in the matter is scheduled for April 28, 2017. The preliminary opinion fixes the safe yield at 135.

## 9.F San Gabriel Basin Water Quality Authority

President Kuhn reported that he, along with the Board Chair, Executive Director and Gabriel Monares will be in Washington, DC to meet with legislators April 25-27, 2017. Eleven meetings have been set to discuss groundwater remediation issues. The next WQA Board Meeting is scheduled for this afternoon. Mr. Hansen informed that next month the SGV Water Association will hold their quarterly luncheon with engineer, Steve Johnson providing an update of the basin clean-up.

## 9.F MWD Board

Director De Jesus reported on recent action taken at the April 11, 2017 MWD Board Meeting. Debra Man will be retiring as the Chief Operating Officer on June 7, 2017 after 31 years of service. Staff is working with the Department of Fish and Game and LA County to gain confidence that what is occurring with Quagga Muscles along the East Bay is not occurring along the Colorado River. It is anticipated that the necessary information to help compel LA County to permit greater flow of water from the Colorado River into the SGV Basin, thus allowing MWD to take advantage of Article 21 surplus water will be available in the next week. Department of Water Resources has increased the state allocation from 65% to 85%. The MWD Board will also be acting on remediation to desert housing for the MWD employees. Director De Jesus has been named to serve as the alternate on the Colorado River Board representing both MWD and the State of California. Governor confirmation is anticipated by the end of June.

## 9.G Additional Board Member or Staff Reports / Comments

Director Mendoza encouraged continued outreach via digital media, versus just print media. He requested TVMWD publish the District newsletter to the TVMWD website.

## 10. Future Agenda Items

There were no requests for future agenda items.

## 11. Adjournment

President Kuhn adjourned the meeting at 9:35 a.m. **The next regular Board meeting is scheduled for May 3, 2017 at 8:00 a.m.**

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/s/ Bob Kuhn  
*President, Board of Directors*  
Three Valleys Municipal Water District

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Recorded by: Victoria A. Hahn,  
District Clerk/Executive Assistant