

**MINUTES OF A REGULAR MEETING  
of the  
CACHUMA OPERATION & MAINTENANCE BOARD  
held at the  
Cachuma Operation & Maintenance Board Office  
3301 Laurel Canyon Road, Santa Barbara, CA  
Monday, July 27, 2009**

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**1. Call to Order, Roll Call**

The meeting was called to order at 3:40 p.m. by President Williams who chaired the meeting. Those in attendance were:

**Directors present:**

Das Williams	City of Santa Barbara
Bob Lieberknecht	Carpinteria Valley Water District
Jan Abel	Montecito Water District
Lauren Hanson	Goleta Water District
Lee Bettencourt	SYR Conservation Dist ID#1

**Others present:**

Kate Rees	William Hair
Eric Ford	Alex Keuper
Janet Gingras	Rebecca Bjork
Tom Mosby	Chip Wullbrandt
Charles Hamilton	Chris Dahlstrom
Tim Robinson	Allen Larsen
John Schock	Phil Walker
Peter Lapidus	

**2. Public Comment**

Phil Walker provided public comment on several issues not on the agenda.

**3. Closed Session: Conference with Counsel Pursuant to Government Code Section 54956.0 (b) Concerning the Risk of Litigation due to the Possible Failure to Award A Contract to the Apparent Low Bidder. One Matter.**

The Board went into closed session at 3:45 p.m. and came out of closed session at 3:58 p.m. There was nothing to report out of closed session.

**4. Reconsider, If Necessary, Award of Contract to Construct El Jaro Creek Cross Creek Ranch Fish Passage Project**

Ms. Rees reported that four bids were received on June 12, 2009 for the construction contract for El Jaro Creek Cross Creek Ranch Fish Passage Enhancement Project. At

the June 22, 2009 Board meeting the Board approved selection of Lapidus Construction, Inc. as contractor for the project. Schock Contracting, Inc., as the low bidder, submitted a protest letter regarding the bid selection. Lapidus Construction also filed a protest letter stating that Schock's bid was non-responsive. Both letters were included in the board packet.

The Board heard evidence on the protests filed regarding selection of a contractor for the project. Both contractors, John Shock and Peter Lapidus, addressed the Board regarding their filed protests. The Board considered any irregularities in the bid submittals, and the Board reconsidered its award of the construction contract for the project, exercising its discretion in making a determination of which bid to accept.

Director Bettencourt stated that COMB is not the appropriate agency to construct fish passage projects because ID#1 considers all fish projects water rights related, and COMB should not be involved in decisions regarding water rights. He stated that it was acceptable for CCRB to construct them, and that if there was an agreement between COMB and CCRB, it could be addressed that way. But if COMB was going to construct a fish passage project, it would require a unanimous vote. President Williams thought this was a reorganization issue that had not been addressed due to stalled talks between ID#1 and CCRB.

Counsel Hair was of the opinion that construction of the fish passage projects is not water rights related because these projects are required by the Biological Opinion, which is not a water rights process. It is a federal ESA requirement. He said the fisheries projects are an element before the SWRCB, but that construction of them does not affect anyone's water rights. Therefore, a unanimous approval is not required. Chip Wullbrandt said that CCRB's carrying out the fisheries projects has been problematic from the beginning, and was never intended to be part of CCRB's original purpose. In contrast, Mr. Wullbrandt pointed out that COMB certified the EIR on the Fish Management Plan and Biological Opinion, which says that COMB would implement the fish projects. Also that COMB was a defendant in a lawsuit that said COMB could implement the fish projects.

Director Abel moved that the El Jaro Creek Cross Creek Ranch Fish Passage Enhancement Project be awarded to Shock Contracting as the lowest responsible bidder, seconded by Director Lieberknecht, passed 6/0/1, Director Bettencourt voted no.

## **5. Consent Agenda**

- a. Minutes:**  
June 22, 2009 Regular Board Meeting
- b. Investment Funds**  
Financial Reports  
Investment Report
- c. Payment of Claims**

Director Lieberknecht moved to approve the consent agenda with the changes to the minutes, seconded by Director Hanson, passed 7/0/0.

**6. Annual Reorganization of Cachuma Operation & Maintenance Board**

**a. Election of President**

Director Abel nominated Director Williams as President of COMB for FY 2009-2010, seconded by Director Lieberknecht, passed 5/0/2, Director Williams abstained.

**b. Election of Vice-President**

Director Lieberknecht nominated Director Hanson as Vice-President of COMB for FY 2009-2010, Director Hanson withdrew her nomination due to other commitments.

Director Abel then nominated Director Lieberknecht as Vice-President of COMB for FY 2009-2010, seconded by Director Hanson, passed 6/0/1, Director Lieberknecht abstained.

**c. Appointment of ACWA/JPIA Representative and Alternate**

Director Abel moved to appoint Director Lieberknecht as the ACWA/JPIA Representative for the FY 2009-2010, seconded by Director Bettencourt, passed 6/0/1, Director Lieberknecht abstained.

**d. Appointment of General Counsel through December 31, 2009**

Due to Mr. Hair's impending retirement, Director Abel moved to appoint Mr. Hair of Nordman, Cormany, Hair & Compton as General Counsel through December 31, 2009, and recommended that a special legal search ad hoc committee be appointed to evaluate Mr. Hair's firm and other law firms for a new General Counsel by January 1, 2010, seconded by Director Williams, passed 7/0/0.

**e. Appointment of Secretary, Treasurer and Auditor-Controller**

Director Williams moved to appoint General Manager, Kate Rees, as Secretary, Treasurer and Auditor-Controller for FY 2009-2010, seconded by Director Abel, passed 7/0/0.

**f. Appointment of Assistant Secretary**

Director Williams moved to appoint Administrative Manager, Janet Gingras, as Assistant Secretary for FY 2009-2010, seconded by Director Abel, passed 7/0/0.

**7. Proposed Annual Resolutions**

- a. Resolution No. 487 Adopting and Annual Statement of investment Policy
- b. Resolution No. 488 Establishing a Supplemental Account Agreement for Telephone Transfers
- c. Resolution No. 489 Authorizing Signatories for Revolving Fund Account at Santa Barbara Bank and Trust
- d. Resolution No. 490 Authorizing Investment of Monies in the Local Agency Investment Fund

- e. Resolution No. 491 Establishing a Check Signing policy for General Fund Account for Payment of claims
- f. Resolution no. 492 Authorizing Signatories for General Fund Account at Santa Barbara Bank & Trust
- g. Resolution No. 493 Establishing a Check Signing Policy for Cachuma Project Trust Fund and Master Contract Renewal Fund Accounts for Payment of Claims
- h. Resolution no. 494 Authorizing Signatories for Trust Fund and Renewal Fund Accounts at Santa Barbara Bank and Trust
- i. Resolution no. 495 Establishing Time and Place for Board Meetings

Director Abel moved to approve Resolutions No. 487 through 495, seconded by Director Williams, a roll call vote was taken, passed 7/0/0.

**8. Appointment of Outside Auditor to Prepare Financial Statements for the Fiscal Year Ending June 30, 2009 and the independent Auditor's Report**

Director Williams moved to engage Bartlett Pringle Wolf, LLP to perform the Fiscal Year Ending 6/30/2009 audits for both COMB and CCRB, seconded by Director Lieberknecht, passed 7/0/0.

**9. Reports From the Manager**

**a. Cachuma Water Reports**

The water reports prepared by Janet Gingras were included in the Board packet.

**b. Operations Report**

The Operations Report was included in the board packet.

**c. COMB Operating Committee Meeting, July 1, 2009**

The agenda and minutes of the July 1, 2009 meeting were included in the board packet, Ms. Rees had nothing further to add.

**d. Quagga Mussel Inspection Report – County of Santa Barbara**

Included in the board packet was the June quagga mussel survey from the County of Santa Barbara.

**e. 2008 Surcharge Accounting**

In order to meet target flows established by the Cachuma Biological Opinion, Ms. Rees reported that 1,022 AF have been provided from project yield for the month of June. Target flows must continue to be met at the Alisal Bridge until October 1, 2009, at which time they will be reduced to meet target flows at the Highway 154 bridge only.

**f. Cachuma Reservoir Current Conditions**

**Date 07/27/2009**

Lake Elevation	738.00 feet
Storage	153,293 acre feet
Rain (for the month to date)	0.00 inches

Rain YTD (for the season to date)	7.54 inches
Fish Release-Hilton/Outlet Works	24 acre feet per day
Month to Date Fish Release	1101.4 acre feet
Month to Date Spill	0 acre feet
Year to Date Spill	0 acre feet

- g. **City of Santa Barbara TV Inside Santa Barbara CCRB/COMB Overview**  
Ms. Rees had nothing more to add beyond what she reported during the CCRB meeting.

## 10. COMB Capital Improvement Program

### a. CIP Bond

#### 1) Revised Schedule

Included in the board packet was a revised schedule of the approvals that need to take place at the Member Unit Board meetings for the COMB bond.

#### 2) Letter from CVWD Requesting Acceptance of Proposed Cost Distribution Methodology for Bond Debt Service Repayment

Ms. Rees reported that she had received a letter from Charles Hamilton, General Manager CVWD, stating that the CVWD Board is unanimously opposed to approving COMB bond issue documents that commit CVWD to the current cost sharing methodology based on the 1950's Project yield percentages. Mr. Hamilton enclosed a proposed a cost share methodology with his letter, which was also included in the board packet. The COMB Board discussed this issue at the June 22, 2009 Board meeting, and it was apparent the other COMB Directors were unwilling to evaluate a different cost share methodology for repayment of the bond in isolation. However, they were willing to carry out a full cost benefit analysis that addressed all of the issues affecting the distribution of cost to COMB Member Units.

#### 3) Recommendation to Carry Out Cachuma Project Cost of Services/Cost Benefit Analysis

Staff recommended that a scope of work be developed with input from all Member Unit General Managers, and that the Board hire AECOM to carry out a comprehensive Cost of Service/Cost Benefit Analysis for all Cachuma Project facilities, for a not-to-exceed amount of \$80,000.

Director Abel moved to develop a scope of work with input from all of the Cachuma Member General Managers, and to interview two additional consultants in addition to AECOM to carry out a comprehensive Cost of Service/Cost Benefit Analysis for all Cachuma Project facilities, for a not to exceed amount of \$80,000, and to authorize the Cost of Service/Cost Benefit Analysis to begin immediately after the COMB Capital Improvement Program Bond had been issued, with a goal of completing the analysis in one year, seconded by Director Williams, passed 6/0/1, Director Bettencourt abstained.

**4) Status of Indemnification Agreement with ID No. 1**

Director Hanson asked if Counsel Hair had been able to work with GWD's Counsel concerning the suggested changes GWD had made to the Indemnification Agreement at the June 22, 2009 Board meeting. Language changes were proposed to address how funding for the COMB office would be handled among the Member Units. The Board asked that any suggested changes be submitted to Bill Hair who will rewrite the draft agreement and distribute it to COMB and Member Units staff for consideration.

**b. SCC/Upper Reach Reliability Project**

**1) Prequalified Contractors**

A list of the top five rated prequalified contractors that were selected to submit bids for the Upper Reliability Project was included in the board packet. After a lengthy discussion, the Board decided to extend the bid invitation to all prequalified contractors in order to get the most competitive bids and most qualified contractor for construction of the 2<sup>nd</sup> Pipeline Project.

Director Lieberknecht moved to extend the bid invitation for construction of the Upper Reach Reliability Project to the entire prequalified contractor list, there was no second, the motion died.

Director Hanson asked if action could be taken on an agenda item that was identified as a report. Counsel Hair responded that the Board could take action.

Director Lieberknecht again moved to extend the bid invitation for construction of the Upper Reach Reliability Project to the entire prequalified contractor list, as the intent of the Board was to receive *at least* five qualified contractors for the bidding process, seconded by Director Abel, passed 7/0/0.

**2) Project Status Report**

A status report was included in the board packet for the Upper Reach Reliability Project.

**c. Mission Creek Pipeline and Fish Passage Project**

**1) Project Status Report**

A status report for the Mission Creek Pipeline and Fish Passage Project was included in the board packet.

**d. SCC Laterals Rehabilitation Project**

Ms. Rees reported that a scope of work would be developed in the near future to carry out a feasibility and reliability study for the purpose of identifying the options for rehabilitation of the laterals in that section of the SCC from Ortega Reservoir to Carpinteria Reservoir.

**e. COMB Office Building Project**

Ms. Rees reported that the architect is looking into cost estimates based on the conceptual drawings for the office building project. Director Hanson requested an opportunity to discuss her comments on the conceptual drawings at a future meeting.

## **11. Proposition 50 and Proposition 84 Activities**

Ms. Rees reported that the Prop 50 grant funding has been released by the State of California, and that the Prop 50 participants are starting to get some reimbursements for expenditures on their Prop 50 projects.

She also reported that the MOU for Prop 84 will need to be revised to be more inclusive of other non-public agency stakeholders. The Region Acceptance Process (RAP) is progressing and Ms. Rees was part of the Santa Barbara team for an in person interview with Department of Water Resources. She reported that the interview went well, and it appears that Santa Barbara County will be accepted as a region. This is a requirement to be eligible for grant funding from Prop 84.

*Director Bettencourt requested a point of order. He stated that the COMB Board had a special meeting that included a discussion in closed session regarding a COMB employee, and that a modification to the employee's duties and salary had occurred but was not reported out of closed session.*

*Counsel Hair acknowledged the oversight and reported out of closed session for the June 29, 2009 COMB Special Board meeting that the Board did discuss and make an interim appointment to the Operations Foreman and established his compensation.*

## **12. Directors' Request for Agenda Items for Next Meeting**

Director Abel requested the appointment of an ad hoc legal search committee. She also requested that discussion continue regarding suggestions presented by MWD and ID#1 for engineering construction oversight for the El Jaro Cross Creek Fish Passage Project. ID#1 suggested utilizing County abilities and Montecito suggested forming a sub-committee of General Managers to review in advance engineering and construction project oversight.

Director Hanson requested a discussion on the existing conceptual design for the new COMB office building.

## **13. Meeting Schedule**

The next regular Board meeting will be held August 31, 2009 following the 2:15 p.m. CCRB regular Board meeting, at the COMB office.

The Agendas and Board Packets are available on the COMB website, [www.cachuma-board.org](http://www.cachuma-board.org)

## **14. COMB Adjournment**

There being no further business, the meeting was adjourned at 6:45 p.m.

Respectfully submitted,

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Kate Rees, Secretary of the Board

**APPROVED:**

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Das Williams, President