

## MINUTES OF REGULAR MEETING – AUGUST 10, 2009

The regular meeting of the Board of Directors of the Irvine Ranch Water District (IRWD) was called to order at 5:00 p.m. by President Reinhart on August 10, 2009 in the District office, 15600 Sand Canyon Avenue, Irvine, California.

Directors Present: LaMar, Matheis, Reinhart, Swan, and Withers.

Directors Absent: None.

Also Present: General Manager Jones, Assistant General Manager Cook, Director of Engineering and Construction Burton, Director of Planning and Water Resources Heiertz, Director of Finance Cherney, Assistant Secretary Savedra, Legal Counsel Arneson, Mr. Jim Reed, Mr. Bruce Newell, Ms. Soha Vazirnia, Mr. Mike Hoolihan, Mr. Steve Malloy, Ms. Kirsten McLaughlin, Mr. Bruce Willey of HDR Engineering, and other members of the public and staff.

WRITTEN COMMUNICATION: None

ORAL COMMUNICATION:

Mrs. Joan Irvine Smith addressed the Board of Directors with respect to the Dyer Road Wellfield. Mrs. Smith said it was her understanding that currently wells 2, 5, C-8, C-9, 10, 12, 14 and 16 are in operation in accordance with the District's annual pumping plan. Wells 4, 13, 15 and 17 will operate a portion of the week. Wells 1, 3, 6, 7 and 18 are inactive. The District's planned pumping for July is 2,350 acre-feet. This was confirmed by Mr. Jones, General Manager of the District.

With respect to the Orange County Basin Groundwater Conjunctive Use Program being coordinated by Municipal Water District of Orange County (MWDOC) and Orange County Water District (OCWD), a Notice of Completion was approved by the OCWD Board of Directors on March 19, 2009. Metropolitan Water District has given notice to OCWD that it will begin extracting a portion (i.e. 22,000 acre feet) of its 48,500 acre feet in storage beginning in fiscal year 2008/09. It is expected that an additional 22,000 acre feet will be extracted in fiscal years 2009/10. The extraction is being performed by agencies that constructed conjunctive use wells under this program. IRWD is not a participant. This was confirmed by Mr. Jones.

With respect to the OCWD annexation of certain IRWD lands, on June 5, 2009, IRWD received a letter from OCWD noting that within the past 30 days, OCWD has completed the formal responses to comments they previously received on the draft program Environmental Impact Report. The letter further noted that with this task completed, OCWD has exercised its right to terminate the 2004 Memorandum of Understanding regarding annexation. OCWD also indicated that due to the lack of progress on the annexation issue, the draft program Environmental Impact Report will not be completed. On June 8, 2009, OCWD completed the Long-Term Facilities Plan which will be recommended to the OCWD Board to be received and filed in July 2009. OCWD will continue to work with IRWD on the annexation issue to determine if a satisfactory arrangement can be developed with both parties. Mr. Jones stated that no active negotiations were being conducted at present.

With respect to the Groundwater Emergency Service Plan, IRWD has an agreement in place with various south Orange County water agencies, MWDOC and OCWD, to produce additional groundwater for use within IRWD and transfer imported water from IRWD to South County in case of emergencies. IRWD has approved the operating agreement with certain south Orange County water agencies to fund the interconnection facilities needed to affect the emergency transfer of water. MWDOC and OCWD have also both approved the operating agreement. This was confirmed by Mr. Jones.

ITEMS TOO LATE TO BE AGENDIZED – None.

### WORKSHOP

General Manager Paul Jones reported on July 29, 2009, staff met with HDR Engineering to review a critical task of the Energy Efficiency Master Plan and Biosolids Handling Preliminary Design Report, and the System-wide Biosolids Management Alternatives Report, which addresses solid handling at the Michelson Water Reclamation Plant (MWRP). Mr. Jones reported that the focus of this second workshop is to assist the Board with narrowing down the alternatives for long-term biosolids handling and to briefly discuss alternative and project delivery methods, including design/bid/build versus design/build.

Using a PowerPoint presentation, Principal Engineer Steve Malloy provided an overview of the findings of the report. Mr. Malloy reported that staff had met with HDR Engineering to review the draft System-Wide Biosolids Management Alternatives Report, and that seven alternatives were evaluated:

1. Baseline Alternative – continue diverting MWRP biosolids to Orange County Sanitation District (OCSD);
2. Digestion of primary and waste activated sludges at MWRP; residuals to OCSD;
3. Digestion of primary sludge at MWRP; waste activated sludge and residuals to OCSD;
4. Digestion and dewatering at MWRP; private partner for hauling; further processing and reuse;
5. Digestion and dewatering at MWRP; public partner for regional incinerator;
6. Digestion of primary and waste activated sludges at MWRP; drying at MWRP; and
7. Digestion of primary and waste activated sludges at MWRP; public partner for an offsite regional dryer.

Mr. Malloy said the analysis looked at non-cost criteria, capital costs, and operational and maintenance costs. In addition to the non-cost criteria, he presented a financial comparison of the alternatives based on life-cycle cumulative cost and a payback analysis.

Mr. Malloy said OCSD is currently designing solids handling facilities which include capacity for MWRP's solids and a decision is needed by the Board for IRWD to avoid capital costs associated with OCSD's current project; therefore, time is of the essence for IRWD to select an alternative.

After combining the non-economic benefits scores and the lifecycle costs, the alternatives recommended for further analysis were Alternative 6, Alternative 4 and, to provide a baseline for comparison, Alternative 1. The next step is refinement of the selected alternatives. Vice President Swan said he would prefer not to eliminate Alternative 5 yet, and proposed that an Alternative 5A be added to look at a process similar to that being used in New Zealand, which proceeds to drying and combustion without the need for an intermediate step of digestion, and could be done either onsite or offsite. Director Withers asked if OCSD has reviewed the alternative report and Mr. Heiertz said OCSD is aware of it and has looked at options similar to these for itself, but is pursuing an approach to have a portfolio of alternatives. OCSD needs to know what IRWD is planning to do so that OCSD can refine its own planning. Mr. Malloy reviewed implementation schedules using design-bid-build and design-build. President Reinhart said the schedule shortening achieved by design-build can only produce an advantage if bidding can be done by early 2010.

Following discussion, staff was asked to refine selected alternatives and bring back recommendations at a Board meeting in October.

#### CONSENT CALENDAR :

On MOTION by Matheis, seconded and unanimously carried, CONSENT CALENDAR ITEMS 4 AND 5 WERE APPROVED AS FOLLOWS:

4. MINUTES OF REGULAR BOARD MEETING

Recommendation: That the minutes of the July 27, 2009 Regular Board Meeting be approved as presented.

5. RATIFY/APPROVE BOARD OF DIRECTORS' ATTENDANCE AT MEETINGS AND EVENTS

Recommendation: That the Board ratify/approve the meetings and events for Steven LaMar, Mary Aileen Matheis, Douglas Reinhart, Peer Swan and John Withers.

#### ACTION CALENDAR

##### IRWD/CITY OF ORANGE SEWER FLOW ACCOMMODATION AGREEMENT

General Manager Jones reported that staff and legal counsel have worked with the City of Orange staff to develop the Agreement between the City of Orange and the Irvine Ranch Water District regarding wastewater flow, collection facilities and sewer service in Orange Park Acres (OPA) (IRWD/City Sewer Flow Accommodation Agreement). He said this agreement will allow for sewage from the portion of OPA served by IRWD to flow through existing City sewers to Orange County Sanitation District (OCSD) regional conveyance facilities. This is a cooperative agreement between the City and IRWD that will minimize the construction of duplicate sewer facilities in the OPA area.

Director of Planning and Water Resources Greg Heiertz reported that in December of 2007, the IRWD Board approved an Annexation and Acquisition Agreement between Orange Park Acres Mutual Water Company (OPAMWC) and IRWD, and in June 2008, the merger of the two water agencies was completed. Concurrent with the water service area annexation, IRWD formed Improvement District (ID) 256 to facilitate future sewer service by IRWD in the OPA area. The Sewer Flow Accommodation Agreement is one of the first steps toward the goal of converting homes in this part of the IRWD service area from septic systems to a municipal sewer system. In addition, a Sewer Flow Accommodation Agreement with OCSD and the completion of a Sub-Area Master Plan (SAMP) to analyze the physical, institutional, and financial feasibility are being completed. With these documents, staff can then develop alternatives for financing the construction of the sewer infrastructure. The OPA residents potentially responsible for financing the improvements will be included in the approval of the most acceptable financing mechanism.

Mr. Heiertz said that the IRWD/City of Orange Sewer Flow Accommodation Agreement will allow sewage from the portion of Orange Park Acres served by IRWD to flow through existing City sewers to Orange County Sanitation District (OCSD) conveyance facilities. The key terms of the agreement are as follows:

- A SAMP will be completed to identify capacity requirements in City sewer lines being purchased by IRWD. The City will have the opportunity to participate in the development of the SAMP.
- Three methods for purchasing sewer capacity have been identified: 1) IRWD purchase capacity in existing City sewer lines, 2) IRWD purchasing the entire sewer with capacity retained by the City, and 3) IRWD purchasing the entire sewer with no capacity retained by the City. The agreement will also allow for the City to purchase capacity from IRWD if necessary in the future.
- Definition of a cost sharing methodology for the operation and maintenance (O&M) and replacement costs for shared-flow sewers. The agency with capacity rights would pay to the agency owning and operating the sewer its average annual sewer collection O&M cost per lineal foot times the proportional connected capacity.
- Existing City sewer customers outside the City's boundaries (customers with existing Out of Area Service Agreements with the City) and within IRWD's boundaries will be transferred to IRWD 60 days after this agreement is executed.
- Staff from both IRWD and the City will be form a Joint Engineering and Management Committee to resolve outstanding issues such as the location of the service boundaries, sewer capacity acquisitions, points of connection, and replacements or upgrades to sewers with shared capacity.

Mr. Heiertz said that IRWD's SAMP for the OPA area is scheduled to be complete by September 2009. In addition, IRWD staff and legal counsel are working with OCSD staff and legal counsel to finalize the Flow Accommodation Agreement with OCSD that will allow the OPA area to be administratively transferred into OCSD Revenue Area 14. This will allow staff to develop a financing plan to fund the new sewer infrastructure. Staff will also develop an outreach plan for OPA residents within the IRWD service area to approve an acceptable financing mechanism.

Mr. Heiertz said that this agreement will be submitted to the City of Orange Council in August 2009. If the City Council has substantive changes to the agreement, the revised agreement will be brought back to the IRWD Board in September. Staff recommends that the Board approve the IRWD/City Sewer Flow Accommodation Agreement in its current form, subject to non-substantive changes. If approved by both governing bodies, the agreement will be executed in September 2009.

Director Withers reported that this item was reviewed by the Engineering and Operations Committee meeting on July 21, 2009. In response to Vice President Swan inquiry relative to purchasing capacity by IRWD in the City's sewer systems, Mr. Hoolihan said that the purchase would only include the City system, and there would be a separate agreement with OCS. There being no further discussion, on MOTION by Swan, seconded and unanimously carried **THE BOARD APPROVED THE AGREEMENT BETWEEN THE CITY OF ORANGE AND THE IRVINE RANCH WATER DISTRICT REGARDING WASTEWATER FLOW, COLLECTION FACILITIES AND SEWER SERVICE IN ORANGE PARK ACRES, SUBJECT TO NON-SUBSTANTIVE CHANGES AS MAY BE APPROVED BY THE GENERAL MANAGER AND LEGAL COUNSEL.**

CASA'S REQUEST FOR FINANCIAL ASSISTANCE TO FUND AN APPEAL OF THE TRIAL COURT DECISION IN THE CITY OF VACAVILLE NPDES PERMIT

General Manager Jones reported that staff and IRWD's legal counsel have reviewed a request from the California Association of Sanitation Agencies (CASA) for financial assistance to fund an appeal of the trial court decision in the City of Vacaville. Since IRWD is a member of CASA and this case has potential long-term implications to IRWD, staff requests that the Board authorize a \$5,000 contribution for CASA to assist in funding the appeal.

The City of Vacaville owns and operates the Easterly Wastewater Treatment Plant which provides sewerage service to the City of Vacaville. In March 2001, the Central Valley Regional Water Quality Control Board adopted a revised NPDES permit for the City of Vacaville's Easterly Wastewater Treatment Plant (Order No. R5-01-044). The Permit was one of the first issued to a discharger after the adoption of the California Toxics Rule (CTR) and State Implementation Policy. The State Water Resources Control Board (SWRCB) accepted Vacaville's petition for review of the Permit. CASA was a party to the administrative proceedings. CASA argued against the "drinking water" beneficial use applied to the agricultural channel into which the Easterly Wastewater Treatment Plant discharges, the application of overly stringent effluent limits and overall costs of compliance. CASA emphasized the statewide impacts of using a similar approach to permit other effluent-dependent waterbodies (EDWs) discharges in the state. CASA estimated the capital costs of compliance (which in the Vacaville case included reverse osmosis treatment and ultraviolet disinfection), would be in excess of \$300 billion, along with millions of dollars annually in operations and maintenance costs, and associated increases in energy demand.

In the 2002 Order, the SWRCB generally affirmed the Permit as issued. The 2002 Order sets precedent for other similar permitting decisions by Regional Water Boards throughout California. In 2002, CASA and Vacaville each filed suit in Superior Court challenging the Permit, associated Basin Plan provisions and State Water Board Order. On April 7, 2009, the Contra Costa Superior Court issued a final order upholding the precedential SWRCB Order regarding the permit issued to the City

of Vacaville (WQO 2002-0015). After lengthy proceedings, the Court's final decision rejected challenges filed by CASA and Vacaville.

CASA's Board of Directors has approved the filing of an appeal of Contra Costa County Superior Court's trial court decision for the NPDES Permit (WQO 2002-0015), issued to City of Vacaville. CASA is requesting financial assistance from each of its member agencies to represent their interests in the appeal. Based on the capacity of Irvine Ranch Water District's two wastewater treatment facilities, CASA is requesting a \$5,000 contribution from IRWD.

The appeal will address significant legal issues that have potential implications for IRWD. The precedential effect of the SWRCB's decision in regard to beneficial use designations and the associated incorporation of standards and water quality objectives would be followed by other Regional Water Quality Control Boards, and, therefore, could potentially result in decisions that would impact IRWD in future permitting. If CASA is successful, the Regional Water Quality Control Boards could adopt effluent limits for discharges to EDWs based upon more appropriate beneficial use designations, and without the requirement for expensive and cumbersome Use Attainability Analyses (UAAs). The appeal is also important to ensure that the State and Regional Water Quality Control Boards follow the law in adopting and applying Basin Plan provisions that may result in significant expenditures of public resources.

On MOTION by Swan, seconded and unanimously carried, THE BOARD AUTHORIZED A \$5,000 CONTRIBUTION TO CASA FOR FINANCIAL ASSISTANCE TO FILE AN APPEAL OF CONTRA COSTA COUNTY SUPERIOR COURT'S TRIAL COURT DECISION FOR THE CITY OF VACAVILLE.

#### GENERAL MANAGER'S REPORT

General Manager Jones reported that he met last week with Los Angeles Department of Water & Power to review the water banking program and a proposal for a cooperative operating exchange agreement with Metropolitan Water District. Mr. Jones said that he had received correspondence from MWDOC regarding a meeting with the South County agencies for August 21 to consider a proposal from MWDOC to resolve South County issues, however, the meeting was cancelled and will be rescheduled in the near future. He said the MWDOC Governance Study will be presented to the LAFCO Commission on September 10 which indicates that a South County Water Authority is a feasible alternative without adverse financial impacts.

#### DIRECTORS' COMMENTS

Director LaMar said that he is working with NWRI to establish an advisory committee to update Metropolitan on their work on desalination and recycling efforts. He also reported on his attendance at MWDOC meetings and WACO, and that he is looking forward to the first Bay-Delta Ad Hoc meeting to begin discussing the District's policies relative to this matter.

Director Withers reported that on Wednesday, he will attend the LAFCO Strategic Planning session in Santa Ana.

Director Matheis reported that she and Director Withers attended the State Board of Equalization's Open House in Irvine.

Director Swan reported on his attendance at WACO. He said that ACWA's Board adopted policies on Bay-Delta. He said he participated in a conference call with Region 8-10, to plan a joint conference for the first week in October. He also reported that the Nominating Committee for Region 10 has recommended he be President and that Orange County representatives be Ms. Jan DeBay and Ms. Sandra Jacobs.

Director Reinhart reported that he met with Supervisors Moorlach, Bates and Campbell relative to the 1% property tax matter.

CLOSED SESSION

President Reinhart said that a Closed Session would be held with legal counsel relative to: Existing litigation – Government Code Section 54956.9(a) – SEMA Construction v. City of Tustin; City of Tustin v. IRWD.

OPEN SESSION

Following the Closed Session, the meeting was reconvened with Directors LaMar, Matheis, Reinhart, Swan and Withers present. President Reinhart said that there was no action to report.

ADJOURNMENT

APPROVED and SIGNED this 24<sup>th</sup> day of August, 2009.

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President, IRVINE RANCH WATER DISTRICT

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Assistant Secretary, IRVINE RANCH WATER DISTRICT

APPROVED AS TO FORM:

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Legal Counsel - Bowie, Arneson, Wiles & Giannone