

REDWOOD VALLEY COUNTY WATER DISTRICT

2370 Webb Ranch Road
P.O. Box 399
Redwood Valley CA 95470
(707) 485-0679

MINUTES
Regular Meeting
Board of Directors
March 18, 2010

Directors Present: Hal Voege, Granville Pool, Merle Reuser, Donald Butow
Directors Absent: Jeanette Hallman
Staff Present: General Manager Bill Koehler
Office Manager/Secretary to Board of Directors Linda Groth
Others Present: Roy Beck, Will Carson

Called to Order: 7:00 p.m.

1. ROLL CALL.

Hal Voege, Vice-President
Granville Pool, Director
Merle Reuser, Director
Don Butow, President

2. COMMENTS OR QUESTIONS FROM THE ATTENDING PUBLIC.

None

3. HEARING OF URGENT ITEMS RECEIVED SINCE THE AGENDA WAS POSTED.

None.

4. APPROVAL OF CONSENT CALENDAR.

- a. Financial Statement.
- b.-1. List of Bills Paid Since those approved at last Meeting.
- b.-2. Bills Paid as Approved at last Meeting.
- c. Bills Payable.
- d. District Activity.

MOTION: Approve Consent Calendar items other than Water Workshop expenditures.

Reuser/Pool Discussion CARRIED

AYES: Reuser, Pool, Voege, Butow

NOES: None

ABSENT: Hallman

ABSTAIN: None

Director Voege presented an urgent item for payment to the participants of the Water Workshop being held this month.

MOTION: Hear Urgent Item as presented.

Pool/Reuser Discussion CARRIED

AYES: Pool, Reuser, Voege, Butow

NOES: None

ABSENT: Hallman

ABSTAIN: None

Director Voege stated his plans for the presenters at the upcoming Using Water Wisely Workshop. Based upon his experiences for many years as a consultant, Director Voege understands that you don't just get up and talk for half an hour, you have to be paid for doing so. There is the preparation time, the amount of time putting these things together, the driving to the city where the event is being held, and then making the power-point or other presentation. One of the presenters we have scheduled is coming to Redwood Valley from Oakland, a 260 mile round trip. Director Voege suggests a stipend of \$100 to each of the consultants participating in the Using Water Wisely Workshop, plus mileage expense. Director Voege has prepared handouts for numerous topics that will be attached to clipboards so that attendee's can sign if they are interested in a day long, hands-on workshop on specific topics, such as water wise landscaping, rainwater harvesting, etc. If we end up getting a lot of interest in some of these things, he wants the presenters to be really happy to come back again. Also, refreshments will be served. Director Voege reminded the Board that the funds for this event are expected to be reimbursed by the Conservation Fund being held at the County.

Also, the Workshop will be televised by the Ukiah Community Calendar that fee is \$30 per hour. This will be aired on their channel; and they will also give the District a CD of the Workshop.

Director Pool informed the Board that when the Ukiah Community Calendar puts these types of things on the air, they usually air them at several different times, and they have a calendar showing broadcast topics and times they will air.

MOTION: Authorize and advance those additional necessary expenditures as enumerated by Director Voege for the Using Water Wisely Workshop.

Pool/Reuser Discussion CARRIED

AYES: Pool, Reuser, Voege, Butow

NOES: None

ABSENT: Hallman

ABSTAIN: None

5. APPROVAL OF MINUTES AS PRESENTED.

The Minutes of October 15, 2009 were presented.

MOTION: Approve the Minutes of October 15, 2009 as presented.

Voege/Reuser Discussion CARRIED

AYES: Voege, Reuser, Pool, Butow

NOES: None

ABSENT: Hallman

ABSTAIN: None

The Minutes of December 16, 2009 were presented.

Typo on Page 2. The money we paid Sonoma County Water Agency was \$60 per acre-foot, Not \$600 shown on Minutes. Make correction to: \$60 per acre-foot.

MOTION: Approve the Minutes of December 16, 2009 with typo correction.

Voege/Pool Discussion CARRIED

AYES: Voege, Pool, Reuser, Butow

NOES: None

ABSENT: Hallman

ABSTAIN: None

The Minutes of the January 7, 2010 Evening Meeting were presented.

MOTION: Approve Minutes of the January 7, 2010 Evening Meeting as presented.

Voege/Reuser Discussion CARRIED

AYES: Voege, Reuser, Pool, Butow

NOES: None

ABSENT: Hallman

ABSTAIN: None

6. DIRECTORS AND STAFF REPORTS AND DISCUSSION OF NON-ACTION TOPICS.

Director Voege referred to the ACWA publication of February 12, 2010 Anniversary Edition. It includes a photo and profile of Grant Davis, the current Acting Manager of Sonoma County Water Agency.

7. DIRECTORS AND STAFF REPORTS OTHER THAN THOSE LISTED IN THE GM REPORT.

Nothing presented.

8. GENERAL MANAGER'S REPORT, MARCH, 2010.

A. District Status.

On the radio communications issue, we are going to check out the OMNI receiver at the water treatment plant by borrowing a different receiver from our SCADA people, and see if that helps.

B. Recovery Operations Specialty Services.

We are expecting a few minor billings from R.O.S.S. during the close-down process of FEMA reimbursements. Out of a \$1.2 million project, we expect to receive reimbursement of all except approximately \$30,000.

C. Tire Bark.

We have received 90% reimbursement of tire bark expenditures.

D. Solar Damage Claim.

Our insurance premium will increase \$8,000 per year for three years because the assumption is that we have now entered into a high risk, high damage state. If at the end of three years, if we don't have any new significant claims, they will drop our premium back to what it was previously and refund \$8,000 per year for the following three years.

MOTION: Authorize General Manager Koehler to file the insurance claim on solar damage if there is no deductible, or a very small deductible, with the review and approval of Director Reuser. Otherwise the matter will be brought back to the Board of Directors at the next Meeting.

Pool/Voege Discussion CARRIED

AYES: Pool, Voege, Reuser, Butow

NOES: None

ABSENT: Hallman

ABSTAIN: None

E. Cellular Antenna Rental.

The District owns the property that the SW Tank sits on, and we have a utility access strictly for our pipe, nothing else. The owner of the surrounding property isn't willing, for \$200 a month, to give T-Mobile a right to stick a huge antenna on the tank which would block the view of a potential use site for future building. GM Koehler has contacted them several times asking that they at least pay the expenses that we incurred in approving the contract to this point. We have signed the contract. They keep saying, The check is in the mail. So in theory, we should get the \$800 or so that we spent for legal costs.

F. Conservation.

Director Voege invited all the Directors of the RVCWD to be at the 2:00 p.m. Opening of the Using Water Wisely Workshop this Saturday so that he can introduce them to the public.

Director Reuser stated that Director Voege has really gone the extra mile in putting the Workshop together and he really wants to support it.

G. Unfunded Mandate Reimbursement.

The State has an Unfunded Mandate to reimburse agencies that hold Meetings subject to the Brown Act. For the four years that we are allowed to retroactively request the payment, GM Koehler is expecting reimbursement of approximately \$7,000. With the financial pains in Sacramento, it's possible we will only receive an I.O.U., but that's something. He has gone to the web site and downloaded the application sheets. As long as we go with the Flat Rate, he anticipates a couple of hours would be needed to complete the paperwork. He has spoken with staff Linda Groth and if the Board authorizes this, he will immediately delegate the project to her. Legal Counsel says that if we use the Flat Rate, the chances of being audited are slim-to-none.

The Board of Directors instructed Staff to complete the paperwork and submit the applications.

H. As a point of reference, the FEMA/Cal-EMA work was published in the newspaper and it went to the Builder's Exchange. These were requirements. There were multiple phases of the pipeline project, but each one of those phases was in the Builder's Exchange and in the newspaper. It was out there big time and on one of them, we had to resubmit it for bid because we got only one responder -- and that was also in the Builder's Exchange. The other questions that were raised will be addressed at the next Meeting when there is a Full Board in attendance.

9. FINANCIAL REPORT.

The Financial Report was reviewed.

MOTION: Approve the Financial Report as presented.

Reuser/Voege Discussion CARRIED

AYES: Reuser, Voege, Pool, Butow

NOES: None

ABSENT: Hallman

ABSTAIN: None

10. LOCAL AGENCY FORMATION COMMISSION.

Nothing to report.

11. INLAND WATER & POWER COMMISSION.

President Butow said there was some confusion about the start-time of the meeting.

Member of the public Will Carson of Millview CWD reported, In a previous Commission Meeting it was discussed and everybody agreed, to start the Meetings at 6:00 p.m. Upon further review from Mr. Howard, since that topic was not on the Agenda it could not be voted on. So that Meeting that just occurred will be a Special Meeting and the next meeting at 6:00 p.m. will also be a Special Meeting, but on the Agenda will be a discussion changing their Meetings to 6:00 p.m.

President Butow said there was a Water Meeting in Sacramento earlier today. Representatives from the Farm Bureau were in attendance.

GM Koehler said he asked Sean White how the meeting went, and Sean said this particular meeting was basically housekeeping items. The SWRCB had expected there to be just a small group in attendance, but a lot of people did show up and they said, this meeting is subject to the Bagley-Keene Act (the State equivalent to the Brown Act which requires this to be an Open Meeting). Mr. Hoffman was unhappy because with a public meeting, a whole chunk of it is taken up with public comment and they don't get anything done. GM Koehler continued, So that was Sean's comment to me, that it wasn't likely that they were going to get anything done anyway. Basically Victoria Whitney is not going to budge from any of her stated positions.

President Butow reported, There is no update to report on the Hopland Utility District's request from the Tribes. Also, the frost-water task force for the Russian is still meeting and they are still working on things.

President Butow reported that the Russian River Flood Control District, on their process to License their Water Right, is having map issues with the State Water Resources Control Board. The GPS is not quite completed yet.

GM Koehler commented, For the Application, theirs is done. But there are some other things that Sean wants added to the GPS mapping for their own uses, and essentially, RV is just piggy-backing all that.

President Butow continued, The big discussion was the Friends of the Eel River and their blatant disregard for the facts. They are trying to keep repeating all those lies until they sound true. This has been going on for a couple of years and Janet and Roland are still dragging their feet about responding to their allegations. It seems that now they are finally going to try to go get something done. SEE TRANSCRIPTION CORRECTION DETAILS (ON LAST PAGE).

Director Pool asked for more details.

President Butow stated, About 2-years ago, Friends of the Eel came out with this 'white paper' about how bad we were and how good they were, and how the dam ought to be pulled out and that we are responsible for all the fish dying in the Eel River Watershed, etc., etc., etc. And the latest 'broadside' was their statement that we are taking 80-90% of that water out of that Fork of the Eel River and into the Russian River. I asked Janet if they could get that much out of the tunnel, and she said that 300 cfs would be about the most, and they very rarely put that much through because of the old timbers in there. So everybody is getting pretty anxious to get a formal response to this. At the urging of the Commission, Roland and Janet are supposed to get on the ball and come up with a response to this in the very near future.

Director Voegel reported that this Saturday, the same day as our Water Workshop, there is a Conference having to do with stream flow in the Eel. There is a guy named Patrick Higgins who is a fishery biologist with 30 years experience on the river. Director Voegel said he heard Patrick Higgins when he was a guest on Larry Desmond's Ecology Hour on the KZYX radio station and he was sounding so impassioned and so reasonable, for a while. He talks about, Well you know, we had these bad logging practices when they cut hillsides which caused road problems and that was bad, and we've got these illegal diversions and these are bad, and we really need to start planting the streambeds, AND WE'VE GOT TO GET RID OF THE DAMS! Director Voegel continued, He's one of the instigators of this thing. They went to the State Water Resources Control Board to say the flow needs to be reduced. The theory being that if they reduce the flow, PG&E will get tired of running the thing and will shut down the plant. And then they can get rid of the dam.

Director Voegel said, I sent a note off to Janet Pauli and also to Sean White, saying that somebody's got to be there to present another point of view because these people are just going to keep talking and we are going to get snowed, we're just going to get bulldozed. And I got this really interesting response. Janet has reasonable reasons for not being there; she's got a full plate. Sean's response was, Well you know, I don't want to have to go convert them, myself. SEE TRANSCRIPTION CORRECTION DETAILS (ON LAST PAGE). Director Voegel continued, That's not the point. The point is all the people that are listening to the zealot. And it's like Sean didn't get it, he didn't want to be bothered. And you know what? I don't understand that, because we are going to get something handed to us. If you think we've got water problems now, you ain't seen nuthin'. We're going to have an absolutely dry lake! You know, Bill offered to go to the Conference and I talked him out of it because he'd be a lamb to the slaughter. What you need is somebody that has a fishery degree that is comparable with what this guy Higgins has.

President Butow added, One of the responses that came out in the IW&PC was that they were more worried about the reaction of people in Sonoma County because the Eel River folk have a very active group down there trying to get the environmentally inclined folk to support them.

Director Voegel stated, They have nothing else to believe and they will believe that.

President Butow continued, I think somebody said that if you repeat a lie long enough, it becomes fact – at least until somebody trips over it and falls flat on their face.

So, that took up a lot of the Meeting time.

President Butow reported that they are still going round and round with the Army Corps of Engineers regarding the various things in regards to financing the deal, and so forth.

The Commission did discuss the Agreement, and they asked if everybody was on board in regards to them signing a new Participation Agreement. It has finally been signed by the City of Ukiah. President Butow said, he answered Yes for Redwood Valley. He added, It's been so long since we agreed to do it; I couldn't recall if we actually signed the Agreement or if we agreed that we would sign it when it was finalized. SEE TRANSCRIPTION CORRECTION DETAILS (ON LAST PAGE).

GM Koehler stated that the Board did agree to sign it as is. He said the revision is not any different than it was 6-months ago; it's just that it hadn't been approved by the City and, technically, by Flood Control. They finally approved it.

Director Pool also recalled that the Board has agreed to sign it when it is ready to sign.

Will Carson added, And at this point, basically what it is, is procedural. They have finally gotten around to where they know that Redwood is happy with it, they know that everybody else is happy with it, Ukiah is finally happy with it, and now that they have finally gotten all of the nods from all the different Boards and Districts and whatever, they are actually going to start shuffling paperwork all around. I think the paperwork is going to start with the City of Ukiah and I think that there are either 6 or 7 copies that are going to be distributed to the different participants, and that way, everybody will have an Original Signed Copy and IW&PC will have an Original Signed Copy.

President Butow continued his report from the IW&PC Meeting, stating that the 2121 Draft Regulations are out. And the D1610 Comment Period was extended 45 days from March 21st. He also said that Janet Pauli announced the Eel River Tour sponsored by the Farm Bureau will be held in the local area including Lake Mendocino and the powerhouse, etc., on Thursday, April 22nd and the 2-day tour where you traverse the whole Eel River drainage, will be held on May 6th and 7th.

Will Carson said, The Potter Valley tour which includes the diversion and the dams should be a required obligation of every Board Member of every District in the County, because the enlightenment that you receive, once you see what is on the ground, and see the volume of some of these diversions in real life, it just brings it all home. The trough is about 1/4th the width of this small room we're meeting in tonight and only a few feet deep.

Director Pool stated that the point in going on the 2-day tour is that you get a pretty good tour of all the different parts of the Greater Eel River Watershed, and that it puts in perspective the entire watershed versus this Middle Fork of the so-called Main Stem -

Director Voege interjected, We've got to stop letting them get away with that. That is the Middle Fork. Of the four Forks, that is the Middle Fork, that's all it is. It is not the Main Stem. The South Fork carries more water than that does. Friends of the Eel say that is the Main Stem; this sounds like a small point, but it isn't.

More discussion ensued. Also President Butow mentioned The Press Democrat newspaper published an article titled, Group Seeks to Halt Eel River Diversion.

12. MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL & WATER CONSERVATION IMPROVEMENT DISTRICT.

President Butow reported on his attendance at the Flood Control District Meeting. He thought the most interesting item was discussion of the status of the GIS Mapping project. This topic has already been discussed tonight, under Agenda Item No. 11, Inland Water & Power Commission. Also, the FCD is having some problems with finding a supplier for the special electronic meters they need.

The FCD did approve the cost-sharing agreement with the IW&PC.

Victoria Whitney from the SWRCB attended the URSA Group meeting about frost protection held at the Farm Bureau and she was uncooperative.

GM Koehler added, The description of her attitude was 'callous' and 'smug'. Everybody came away from it pretty discouraged. Also, as to the Hopland Utility District, the Indian Tribe is threatening to sue Russian River Flood if they won't supply the Tribe with water, and the FCD is responding back, saying, you are out of our District. But it looks like Sean and Lee Howard will go down there and talk with them.

GM Koehler reported that Sean White stated that the Corps of Engineers is hoping to run Lake Mendocino up to the level of 761'. It is at 745' now and if we get rain in April, they are going to try for 761'. He talked to the maintenance superintendent out there, Dave Serafini, a couple of days ago and asked him how they were doing with raising the road to the Bushay Campground and he said that that money did get dropped from the Stimulus Package that they are using to relocate the sewer pipes at the campgrounds, but he thinks they are going to get it back in, in the future.

GM Koehler further commented that if the lake is operated at 761' our staff will be taking a boat over to the pump station until the level drops to about 750'. This is fine with us. He added, we are over the conservation pool, and we have been since that first storm. Even though the customer demand for water through our system is low because of all these storms, any water we do pump is under our own license.

On another topic, GM Koehler reported the Flood Control District did rescind their drought rate increase because they are going to full allocation. What came out of that meeting with Victoria Whitney is that there will absolutely not be any regulation this year; they just can't get it in place in time. They listed their focus of the 'Tribes of interest' which are Feliz, Dooley, McNab, York and the West Fork Main Stem, but not the tribes to the West Fork. Also they won't go after the pot growers because it's too dangerous.

Director Reuser asked, Are you serious? They said that?

Director Pool and GM Koehler both confirmed with, They said that.

Director Reuser responded, So what they are saying is that the vineyard owners need to arm themselves. If you don't want to be regulated, just get dangerous! I cannot believe that a public official would stand up there and say that – that's amazing! Who was this?

Everyone responded, Victoria Whitney.

Director Reuser commented, You know, that's what California does: They regulate the regulated. Everybody else gets to slide.

GM Koehler added, In fact, Sean told me that Victoria Whitney said that the process they are going to use, is that they are going to go out and when they feel that the stream flow is being negatively impacted by diverters, they are going to call up the most junior legal diverter, and tell the most junior legal diverter to quit diverting. But they are not going to go after the illegal diverters; they are going to go after the legal juniors.

Director Pool commented, The illegal diverters are not just the pot growers.

GM Koehler answered, No, there are also grape growers without licenses or permits. There are people that haven't even applied, if only because if you look at your neighbors applying and spending hundreds of thousands of dollars and years and years and years of getting nowhere –

Director Reuser added, And the State comes out and says, Well we're not going to go after you anyway so don't worry about it.

On another topic, President Butow reported the Flood Control District is talking about charging the RV District for water at a flat water cost of \$47.00 per acre-foot, and totally ignoring the Stipulated Judgment.

GM Koehler said he had read the whole enormous packet, and he then got back to Sean and asked how he came up with this \$47 figure that was on the first page. Sean said, OK, Lee and I sat down and we came up with \$47 because that's what we were charging our customers before we doubled the rates on them. They paid \$94, so we think \$47 is fair. But I stated to him that it isn't a question of what's fair, it's a question of the Stipulated Judgment. So Sean responded by using the same formula of how much money it costs them to run their business, and divided it by 4,000 because that's how many acre-feet they had available to them, not the 8,000 during normal years. And the figure went up to \$52.69 per acre-foot. They used the same formula used to generate the Stipulated Judgment cost to us, which is what they think their gross cost is and subtract out anything that is used for acquisition of new water, because Redwood does not benefit from that, and again, this is what the Stipulate Judgment says, and they divide that by 8,000. Well, in 2009 they didn't have 8,000 acre-feet, they had 4,000. So if they take the gross cost of \$245,000, subtract out the \$34,000 they spent for searching for new water and legal fee's etc, and divide that by 4,000 they come up with \$52.69 per acre-foot.

President Butow said, The problem is that the Stipulated Judgment doesn't say anything about, 'when available'; it says 8,000.

GM Koehler said answered, I did not reread it as to whether it says water available, or water sold, or 8,000. Also keep in mind, for 2008 the water that's available is at the \$18.42 rate.

Director Voege stated, In 2008 when they sent us the letter that said, 'they have no surplus water', so we started buying water from Sonoma County Water Agency, putting it into a conservation escrow account. A lot of money remains in that conservation escrow account, and I don't want to lose that.

GM Koehler commented, Well, it's only for this 184 acre-feet. I am convinced that once we sit down and negotiation with Sonoma County Water Agency, we will be able to leave that money in there. We are going to be putting another \$90,000 in there and I'm guessing that whatever we subtract, we subtract from the \$90,000.

Director Voege added, You see, I believe that at this point, it's in an escrow account at the bank and they can't get it back. I have no confidence that with a change in management in Sonoma County, that in fact, they will pursue that same policy; so, I want that \$47,000.

GM Koehler reported that he spoke with Todd Schram last week. Todd is essentially their replacement for Chris Murray at SCWA, and he assured GM Koehler that they are making progress, they are discussing us, and they are going to retroactively approve the agreement and free-up the conservation money. This means that the \$47,000 would be augmented by something around \$90,000. It's been sitting there all along; it's a liability.

President Butow said he is concerned because what they're claiming is that they only have 4,000 ac-ft because they had to cut 50%. Well in that case they had 'zero' to sell us, but the other thing is, we also had to cut back 50% and we sold maybe 60% less. So it just came on down the line. My questions are, why are we changing the Stipulated Judgment, and can they change the Stipulated Judgment just because there is 50% less water to go around? Can they say, in 2009 we didn't really use all that water, we can give you 100 ac-feet, or whatever it was, but we want \$47 per acre-foot for that water?

Director Voegel said, I agree, and I guess there is an historic thing there as well. There have been other years when they have sent us letters in the middle of the year saying, There is no surplus water to sell.

President Butow responded, Oh, this has been going on ever since I've been on the Board. But is it allowable now, for them to try to change the rules? And does it say, well in the event of a drought such as in '76, '77 and we've only got this number of acre-feet to sell, we can therefore modify the Stipulated Judgment and the formula that's used?

Will Carson commented, You just made a point that I was going to make. If both parties to a Judgment agree to no longer follow the rules and regulations of the Judgment, does the Judgment cease to exist and now it's a free for all?

President Butow continued, Or, are you in violation of the Judgment, the Order that was handed down by the Court, and finding yourself in contempt of court?

Will Carson concluded, So if you both disagree, then one of the Parties has leverage over the other because they can say, well, if you don't agree to this new price because of 'x' condition, then at that point we no longer have any surplus water.

Director Reuser asked if we have to buy our water from the Flood Control District and GM Koehler said we don't, it is strictly optional. He noted that we have already paid Sonoma County Water Agency for 2008 water, we have not paid anyone for 2009.

GM Koehler added, As far as the language of the Stipulated Judgment, I will read this to you: The purchase price of surplus water drawn on subsequent years shall be determined subsequent to the '79-'80 water year, which is when this started. The purchase price of surplus water drawn on subsequent years shall be determined as follows: The cost of operation of Mendocino shall be divided by 8,000 acre-feet or such other sum as is reserved to Mendocino pursuant to State Water Right Board Decision D1030 or amendments thereto.

GM Koehler commented, Now I would say that, technically, Vicky Whitney saying that you halve your water, may or may not be considered as an amendment to Decision D1030. So, that would be the point which we say, is the requirement to go to 50% to be considered as an amendment? Or was that in response to the Temporary Urgency Change Petition that is not technically an amendment? But essentially the language of this Clause 4B says, you take the cost and you divide it by the amount of water you've got if the State Board tells you that's how much water you've got. So I would say, fighting about the cost probably isn't worth the effort. The decision really is, do you want to pay the Flood Control, at all. And let's assume that the cost is \$52.69.

President Butow stated, We ought to think about something that Will brought up earlier. The first thing we have to do is, make sure that we are not breaking the Stipulated Judgment. What you just read here, is very foggy to me, as to whether or not we're breaking the Stipulated Judgment by agreeing to something that doesn't seem to be in there. They did stipulate in that, 8,000 ac-ft, then it goes on to say, unless it's amended by the State Water Board. Was there an amendment by the State Board or was it a

request to go to 50% due to an emergency situation and to get us through that year. We have to get Counsel Minasian to reread this thing because the last thing I want to do is end up giving away anything. I have no interest in hurting Russian River Flood in any way; it's just strictly, business is business.

Director Reuser stated, I think an excellent way to approach it and not ruffle any feathers, is to say, We don't even know if we're in a position to agree to pay this high a price because of what the Judgment says. We've got to make sure we're saying what the Judge said to do.

GM Koehler added, I'll have Paul's office review the Stipulated Judgment to see if the \$52.69 is a legitimate number and I'd like to have him find out if we can align our years. I want to do those two items. But again, it has to be based on whether or not it is legal; or if we have to go back to the original Court that issued the Stipulated Judgment in the first place, and get their permission to make any changes. The difference in water years is part of the reason why we keep getting hit with this. Now, as far as the 180 ac-ft for '08, Sean admitted that that was an arithmetic error on his part by using the inherited bookkeeping system from Barbara when he came on-board. She was there the first part of '08. Now, the 410 ac-ft for '09 is based upon the fact that yes, their water year ends December 31st. So it's just recently that they've been able to actually calculate the number of acre-feet that they did use. But they don't know until, basically, February.

President Butow said, I just want to say one more thing, because of that water year issue. This goofy little mess that we were always in with Russian River Flood Control was the reason for 2-1/2 years worth of effort on the part of this Board to work out an agreement with Randy Poole and the Sonoma County Water Agency, so that when we weren't pumping Mendocino-Russian River Flood Control water, we were pumping Sonoma County Water Agency water.

Director Pool commented, I just want to bring up one more point. I hope that aligning our water years together will lessen that problem of what they do to us every year.

GM Koehler stated, It will lessen, but not eliminate.

Director Pool added, Right, it will not eliminate. So another big part of that is their always funky metering situation, their own accounting for their water, so that they don't know what they will have had to have sold until the end of the year. With all the stuff they are going through about metering, is there some reasonable prospect in your view, that that will somehow eventually change.

GM Koehler answered, Yes. I believe that to be the case. They have installed a new meter as a test case. And now Sean is going to try to get grant money to pay for 50% of the meters. They've gotten to the point of agreeing that Flood Control will own the meters, which cost about \$3,000 - \$5,000 a pop, as they've actually got some fairly large meters out there.

Ultimately, let's assume they have 50 customers. If they all have new meters, they will know accurately, how much water is going through all those meters. They are always going to be having discussions with their customers over whose water is being pumped out of the river. The issue is going to be, let's say they have a very accurate meter, they're really not going to know until say, September, or let's assume they are going to want to do post-harvest, that could be October maybe. So they won't know until October what did get pumped out of the river, and they're really not going to be able to close out their books until December 31st, which means on January 1st of 2011 they could call us up and say, We have contracted for 7,000 acre-feet, therefore we guarantee you that you can sign up to purchase 1,000 acre-feet. Then in October and November they're going to come back to us and say well, yes, we did contract to sell 7,000 but we actually only sold 6,200, do you want to buy another 800? That part of the situation is not going to go away.

President Butow said, The thing is, we could coordinate it easier with Sonoma County Water Agency if we can know that before we have to pay Sonoma. Right now, we're in this bind that we have to go back 6 months to figure out and then ask for a refund from Sonoma so we can pay it to Russian River Flood, and that's really tough.

GM Koehler remarked, I think that when we actually get a chance to sit down with Pam, we need to bring all that up. These are the issues, we need to sit down and do an accounting in March for February, for the previous year. That's when we'll actually know. We need permission from you to pump up to but not exceeding 3,000 ac-ft and we're going to take the first 1,000 from FCD and we're going to adjust that in March, and since FCD water is maybe going to be cheaper. GM Koehler continued, the \$18 that we paid was based on Barbara's low earnings versus Sean's executive earnings and benefits. So that's had a significant impact on the cost of water. The FCD is looking at \$50 from their contractors.

Will Carson added, I just want to dovetail on what Bill has been talking about. In my conversations with Chet, who is the money man when it comes to their financials, Flood Control is concerned about their cash flow. This is why they want the meters set, so that they can bill on a regular basis. But, there have also been discussions about getting the ag guys to commit on a more frequent basis, as to whose water they had used. They can't just wait until the end of the year and then figure out which way is most beneficial to them, like, if it's Flood Control's water do I say that I used this under my own rights? Are the guys going to use their own rights so they can preserve them? At the same time, do they only have rights for so much water during a month period? If they don't really have to declare anything at the end of the year they can kind of juggle things around.

Director Pool stated, In fairness to Flood Control, this mess is not entirely of Flood Control's making. It's the nature of the State Water Rights law that everybody is involved in a goofy metering year, and the Stipulated Judgment.

GM Koehler commented, My understanding is that I am going to let Sean know that we are not going to purchase FCD water for 2008, and for 2009 I can't give him any kind of answer until we have been advised by Counsel. I will be asking Counsel to advise us regarding the coordinating of the water years; in addition, I will do some preliminary, letting SCWA know that since it's probably going to be an ongoing thing, that we're going to be purchasing some of our water from them. Depending on what happens with D1610, if flow down the river is going to be reduced, there may end up being more water available to us from Flood Control, and if they actually manage to crack down on frost protection water, Flood Control may have more water to sell us although there is no limit on the amount of M&I water they can sell. The assumption is that we are going to continue purchasing some water from SCWA. So we need to get this organized as to how this is going to continue to happen.

13. STATE WATER RESOURCES CONTROL BOARD/ PLACE OF USE ISSUES. (Agenda Item Numbers 15. and 16.)

GM Koehler reported, In addition to the information I provided regarding Victoria Whitney earlier in the meeting, the current status is that we've got a deadline of another two days. I've been in communication with David Steffenson at the law firm. Within a couple of days, he will file a request that we be named as Lead Agency. The next step is 180 days out from that, we will have to actually identify who is going to be our Consultant to proceed with CEQA or prove that we don't have to do CEQA. So we will have to sign MOU's. The State has at least agreed that the 180 day period will start when they respond to our Request to become a Lead Agency. They do have authority to insist that they be the Lead Agency. In fact, they have the right to refuse our Request. So as usual, the ball is largely in their court and they have infinite time to respond to us and we have very tight time constraints to when we respond to them.

This process could take two to three years at which point the extension will be over; it's a 10-year extension which took them 7-years to get it to this point.

14. REPORT OF ATTENDANCE AT MEETINGS NOT LISTED SEPARATELY HEREIN. (Agenda Item No. 13.)

GM Koehler reported on his attendance at the Farm Bureau meeting, stating that County D. A. Lintott also attended the meeting.

He said, One of the specific questions that I asked, was about the rumors that the Water Board folks are going to piggy-back with the Fish and Game Wardens who have a Right of Entry without a warrant. Well it turns out to be not quite that simple. The Fish and Game people do have a right of entry without a warrant if they're in something analogous to a 'hot pursuit' such as, seeing a deer go into bushes and then hearing a gunshot going off. But when you get your 1600 Permit you're essentially saying, I give you permission to come on my property and investigate the 1600 Permit. The other interesting thing about the whole 1600 Permit, is that if you stick a siphon into the river, it is now being interpreted by Fish and Game to say, All right, O.K. your got your 1600 to modify the bed, bank or channel, you've got your pump on a slide that is ready to go down into the river or whatever, but before you flip that switch to turn the pump on, you now need to go get a new permit to pump out of the river. The historical interpretation of a 1600 Permit was, bed, bank or channel modification. There are even people who put in a flashboard dam 20 years ago, and now they are being told they need a permit to install the boards every spring.

The Water Board will give you a Permit from the State; there will be no more piggy-backing with Fish and Game.

Also, there is no longer a roving D.A. for the Fish and Game Department. Any cases will now be referred to the local, County of Mendocino District Attorney's Office.

In reference to Van Arsdale releases, they are to mimic the natural flow. So there it should not actually see 125 cfs. On March 15th, for instance, there was 1,656 cfs below Van Arsdale and 46 going through the tunnel. The minimum requirement is 140, so obviously there is a failure of the entire storage curve. Then there is this issue of what happened in Sacramento which is that Chair Hoppin's staff have convinced him that in order for the SWRCB to regulate frost water, that frost water has to be declared as an unreasonable use of water. Even though they were all sitting there kind of straight-faced saying, yeah, but it doesn't count. We just have to do it in order to be able to regulate it, we need to declare it unreasonable. And it's only for you guys in the Russian River and in reality everybody else that is sitting back there saying, you declare this an unreasonable use, and you're talking about strawberry growers in the Central Valley. So the hope of the meeting that is occurring today is to lay groundwork to get this concept of two things; one, the concept of unreasonableness of frost water thrown out, as well as throwing out the issue of the closely connected groundwater, which is to also be regulated. Those are the two main goals of the group. Their projection is that Vicky is not going to give up on either one of those. With AB2121, basically, they are going to go after total cumulative flow. Nobody on any tributary is going to be able to divert much of anything. Even if the new version of AB2121 goes through, the one that's just recently been released for draft comments, it doesn't change a whole lot. Again, Victoria Whitney is saying, It must be good because everybody dislikes it equally.

The Meeting Ended at 9:15 p.m.

The next Regular Meeting is scheduled for Thursday, April 15, 2010 at 7:00 p.m. at the Water District Office, 2370 Webb Ranch Road, Redwood Valley, California.

APPROVED AS CORRECTED: Board of Directors

DATE APPROVED: July 15, 2010

SIGNED: Linda Groth
Secretary, Board of Directors

TRANSCRIPTION CORRECTION DETAILS:

PAGE 6. PARAGRAPH 1. LINE 4 "to the original agreement" CHANGED TO: to their allegations.

PAGE 6. PARAGRAPH 5. LINE 5 INSERT WORD "them" CHANGE: to go convert them, myself.

PAGE 7. PARAGRAPH 2. LINE 1 "everybody was on the boat in regards to"
CHANGE TO: "everybody was on board in regards to"