

MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT

APPROVED: OCTOBER 7, 2014

MINUTES OF THE REGULAR BOARD MEETING HELD TUESDAY, SEPTEMBER 2, 2014 AT THE OFFICES OF THE MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT ("THE DISTRICT")

CALL TO ORDER.

The meeting was called to order at 4:20 p.m.

PLEDGE OF ALLEGIANCE.

The Pledge of Allegiance was led by Steve Buck.

ROLL CALL.

Present: Charles B. ("Chip") Sherrill, Jr., Chairman, Director District III
Vince Vasquez, Director District II
John Kai, Director District I
Perry Muscelli, Treasurer, Director At Large
Clay Vanderslice, Director At Large
Mark R. Clark, CCM, Manager
Jamie Kelley, District Counsel
Cecily ("CeCe") Preusser, Administrative Assistant

WAIVER MOTION. Motion to waive the reading of full minutes and resolutions presented for approval or adoption.

Mr. Muscelli made a motion to waive the reading of full minutes and resolutions presented for approval or adoption. Mr. Vanderslice seconded the motion. All were in favor, motion passed.

1. REPORTS.

A. Staff report on water use.

Mr. Clark stated that District water usage year to date has been 25,022 acre feet, just through July. Last year for the full 12 months the District used 25,283 acre feet of water. The District's water usage is up 2,600 acre feet from 2013. It is anticipated that the District's water usage will drop as we move into the cooler months. The amount of water being used by the District in 2014 is well over the amount used in 2013. Mr. Clark stated that we are forecasting approximately 37,000 acre feet as our usage for 2014. Mr. Clark

also advised that, at this point, the District is about 594 acre feet over what was ordered, however, it is anticipated that water usage will drop back down over the next few months and falling below the total number of acre feet that was ordered for this year.

- B. Bureau of Reclamation Lower Colorado Water Supply Report as of July, 2014; Upper Colorado River Basin Snowpack Report; Lake Powell Water Data Graph; and Lake Mead Water Data Graph.

Chairman Sherrill stated that the report is showing current storage at Lake Powell at 51%, Lake Mead at 39%, Lake Mohave 96% and Lake Havasu at 96%. Keep in mind that Lake Mohave and Lake Havasu are tiny lakes. Total system contents are at 51%, which was at 50% last year. Chairman Sherrill stated that the reported numbers did not sound right to him as it is lower than it was last year, and he feels that the report is in error. Chairman Sherrill stated that we are at a lower level than we were last year, but there will be an equalization between Lake Powell and Lake Mead, so that might skew the numbers a little bit.

Chairman Sherrill stated that he would go through the Colorado Snowpack but there is none.

Mr. Muscelli asked what the number was before a shortage was declared, and Mr. Clark responded that the number was 1075. Right now Lake Mead is at 1080.89. Chairman Sherrill stated that there will be an equalization between Lake Powell and Lake Mead and that the Bureau will not let Lake Mead get to 1075.

Mr. Clark added that Lake Mead would actually drop below 1075 for a short time and then will come back up before January.

Mr. Muscelli asked if it was the elevation measurement that counts. Mr. Clark responded yes it was, but the Bureau does an estimate in October of what they anticipate the levels to be in January. Mr. Muscelli asked if the levels were being regulated and Chairman Sherrill responded yes, the levels were being regulated.

Mr. Vackar asked how could we get a true picture of exactly what is happening. Chairman Sherrill responded that the forecast was very bleak and very low and that we are very close to the trigger.

District Counsel stated that the Annual Operating Report adopted and issued by the Bureau annually that describes what the Bureau is going to do relative

to the releases between Lake Powell and Lake Mead. She explained that you could obtain the Annual Operating Report from the Bureau's website.

A question was posed as to how much water was left down river. District Counsel answered that the treaty obligations had to be met. Ms. Kelley reiterated that those questions would be answered in the Bureau's Annual Operating Report.

Mr. Vackar stated a person had to put a lot together in order to determine what is really happening with regard to the water shortage, other than the fact that the Colorado Snowpack is down so there is not much water coming into Lake Powell. He stated that when you hear what the difference is between what the level is this year as compared to last year's level. He added that there was a difference but that it was being regulated, so the level reports really don't mean anything. District Counsel stated that there are certain factors relative to Lake Powell because it did not have the Colorado Snowpack run off that it depends on.

Mr. Vackar asked how much excess water can be transferred from Lake Powell to Lake Mead.

Mr. Muscelli asked if the 3606 elevation measurement was a critical number. In other words, if Powell gets to 3500, will the Bureau will no longer be able to conduct the equalizations? Chairman Sherrill stated that that was not anticipated because of the in-flows coming into Lake Powell.

Mr. Vackar asked for clarification as to whether Lake Powell was receiving in-flow. Chairman Sherrill stated yes, Lake Mead was getting in-flows through Lake Powell.

Mr. Muscelli stated that Lake Mead was definitely down. Mr. Muscelli stated that this year the in-flow was at 97% and we had nearly a normal year, which did not catch up anything. Mr. Muscelli stated that we are over taxing the system and still drawing more than is being produced. Mr. Clark stated that in the Lower Basin there was a systemic loss because of all of the evaporation, which is not taken into consideration.

C. USDA National Agricultural Statistics Service Reports for the month of July, 2014:

1. Arizona Agri-Weekly for the month of July, 2014;

Chairman Sherrill reported that crop progress, Cotton, Seeding Bolls last week was 75%, compared to last year's 91%. The five (5) year

average is 87%, so it might be a little bit less but we have had a really good summer so far.

2. News Release: Cattle On Feed - Arizona and United States;

Cattle on Feed in Arizona and United States, Chairman Sherrill stated that everybody will be paying more for meat in the store. Feed is going up and there is a shortage of water.

3. News Release: Crop Production - August 2014 - Arizona and United States;

Crop Production for August, 2014 in Arizona and the United States fluctuates but is basically the same as it was before, as far as what cotton reserves exist and the carryover, except for corn which is projected to be the biggest crop we ever had. Ethanol is beginning to kick back in and our exports are going up by 20% to 30%, so there may not be a whole lot of corn left.

4. News Release: USDA to Measure Small Grain Production.

Chairman Sherrill reported that the USDA was going to measure small grain production, including wheat, oats, barley and rye.

5. Regional News Release dated August 28, 2014 - August Farm Prices Received Index Unchanged.

Chairman Sherrill reported that August farm prices received index was unchanged.

- D. Arizona Meteorological Network Monthly Summary for July, 2014.

Chairman Sherrill stated that it has been a really mild summer so far.

2. **AGENDA MODIFICATION.** Possible action to withdraw from, or move, any item on the Agenda, including the removal of an item from the Consent Agenda.

Mr. Muscelli made a motion that Agenda Items 4B and 4D be removed from the Regular Agenda. Mr. Kai seconded the motion. All were in favor, motion passed.

3. **CONSENT AGENDA.** The items listed below will be considered as a group and acted upon by one motion with no separate discussion of said items, unless a Board Member requests an item or items be removed for separate discussion and action.

- A. Approve the August 5, 2014 Meeting Minutes.
- B. Ratify payment of expenses for August, 2014.
- C. Approve the Snell & Wilmer Billing Statement for the month of July, 2014.

Mr. Muscelli made a motion that the Consent Agenda be approved in its entirety. Mr. Kai seconded the motion. All were in favor, motion passed.

4. **REGULAR AGENDA.**

- A. **Water Inventory.** Discussion and possible action to approve the District water inventory guidelines.

Mr. Clark stated that, through the work that has been done on the District's Water Inventory as well as the Water Conservation Plan, it has been discovered that the amount of water used by residential customers is less than what is set forth in the ADWR guidelines. ADWR guidelines set forth that 0.42 acre feet per year is the standard for residential use. Mr. Clark explained that the District's usage, at 0.34 acre feet per year, is somewhat lower than set forth by the ADWR guidelines. Mr. Clark has spoken to ADWR with regard to this matter, and proposed that the District be allowed to reduce its residential water numbers to 303 gallons per day or .34 acre feet on an annual basis and ADWR agreed that that would be a reasonable change for the District. Mr. Clark stated that the Board had reviewed the Water Inventory in the past and had approved the Water Conservation Plan, and he has provided to the Board information with regard to the proposed residential reduction. Mr. Clark stated that staff was recommending approval of the reduction of acre feet for residential use from 0.42 acre feet per household per year to 0.34.

Mr. Muscelli asked what the result of this reduction would be. What does the reduction mean?

Mr. Clark responded that we will re-evaluate the units that have already been allocated water. If we have allocated 0.42 acre feet of water to each unit in the past, they are not using all of that water. By reducing the allocation from 0.42 to 0.34 acre feet per household per year, the District will bring the water that is not being used back into its inventory. The District can then beneficially use that water.

Mr. Muscelli asked that, if by this action, the District would bring additional water back into its inventory. Mr. Clark responded that yes, we would bring additional water back into the District's inventory.

Mr. Muscelli then asked if the Board needed to ratify this measure and Mark responded that yes, the Board needed to ratify this change in the guidelines. Mr. Muscelli asked that, if beyond Board ratification, the District would need to go to the State or any other official to seek ratification. Mr. Clark answered no, that he had already talked to the State and they had agreed that this change to the guidelines was reasonable. Chairman Sherrill added that it was not the high and it was not the low, it was right in the middle.

Mr. Vasquez asked if this was just for residential use and did not apply to commercial use. Mr. Clark responded that this was just for single family equivalent. If someone is developing a subdivision and they have 100 lots in the subdivision with some green belt, this number would only be applied to the 100 lots, not the green belt that is part of that subdivision.

Mr. Muscelli made a motion that the proposed reduction to 0.34 acre feet per year per household be approved. Mr. Kai seconded the motion. All were in favor, motion passed.

- B. **Agri-Business and Water Council of Arizona.** Discussion and possible action to approve the appointment of Mark Clark to the Board of Directors and Executive Committee of the Agri-Business and Water Council of Arizona.

This Item removed from the Agenda.

- C. **Charles B. Sherrill, Jr., Maverick Farms; T18N, R22W, Section 35, APN Nos. 225-27-042D and 225-27-043.** Discussion and possible action to approve the Application for Water Entitlement submitted by Charles B. Sherrill, Jr. of Maverick Farms, requesting a water allotment in the amount of 35.42 acre feet for 5.06 irrigable acres.

Mr. Clark stated that staff has received an application from Maverick Farms for this water allocation, as well as the farm plans and relevant documents. Staff is recommending approval of this allocation, with the understanding of the Board's previous approval of the change in the amount of water that is used for single family units, approximately 1,400 acre feet is being added to the District's water inventory. There is now water available to be allocated and staff is recommending approval of Maverick Farms' application.

Mr. Kai made a motion to approve the Application for Water Entitlement submitted by Charles B. Sherrill, Jr. of Maverick Farms, requesting a water allotment in the amount of 35.42 acre feet for 5.06 irrigable acres. Mr. Vanderslice seconded the motion. Chairman Sherrill abstained from the vote. The remaining four Board Members were in favor, motion passed.

- D. **Arizona Power Authority.** Discussion and possible action regarding Arizona Power Authority Schedule D Power Allocation. (This item placed on the Agenda at the request of Board Member John Kai.)

This Item was removed from the Agenda.

- E. **Clean Water Act.** Discussion and possible action to approve proposed Resolution No. 2014-02, *Resolution Objecting To The Environmental Protection Agency's Proposed Rule Regarding Clean Water Act.*

Mr. Clark advised that the Board had a copy of the proposed Resolution. Mr. Clark advised that this is a proposed rule change by the Army Corps of Engineers and the Environmental Protection Agency ("EPA"). These changes being requesting could potentially significantly change the jurisdiction of the Army Corps of Engineers and the EPA. What is being proposed is a change to a number of the definitions in the term, including navigable waters of the US, to include ephemeral washes which run dry most of the year. It would include areas like man-made ditches, farm land lying within flood plains. The City of Bullhead City has already adopted a similar resolution in opposition, as has Mohave County, the Federal Farm Bureau, the U.S. Chamber, as well as the Mohave County Water Authority. Over half of the U.S. House of Representatives are now in opposition to this proposed rule change. Mr. Clark stated that he had made a presentation to the Greater Arizona Mayors Association a few weeks ago asking them to come out in opposition. They are still going through all the paperwork they have been provided. There are a number of entities that oppose this rule change and that list is continuing to grow because this rule change will leave a wide open opportunity for the Army Corps of Engineers and the EPA to do anything they want. The legislation is too broad and needs to be re-written.

Mr. Muscelli asked when this rule change was going to be considered. Mr. Clark responded that the comment period ends around the 15th of October. Mr. Clark stated that he could not remember right off the top of his head what the time frame is for this to be implemented.

Mr. Muscelli asked where the language contained in the proposed Resolution came from. Mr. Clark stated that he drafted the District's proposed Resolution based on the resolution that he helped draft for Bullhead City. Mr. Muscelli asked if that resolution came from another organization. Mr. Clark said no, that he and another staff member from the City of Bullhead City drafted the original, and this proposed Resolution is an adjusted version of the resolution drafted for Bullhead City.

Mr. Muscelli asked District Counsel if she had reviewed the proposed Resolution. Ms. Kelley responded that she had reviewed the Resolution but not the proposed legislative rule change.

Chairman Sherrill stated that the rule change gives the EPA more power than they need to have. They need to leave the waterways alone as they have enough to deal with enforcing the Clean Water Act, without trying to get into this, trying to include washes and everything else, federalizing everything.

District Counsel stated that the Clean Water Act applies to navigable waters, and should not be changed so that it includes dry washes.

Mr. Kai made a motion to approve proposed Resolution No. 2014-02, *Resolution Objecting To The Environmental Protection Agency's Proposed Rule Regarding Clean Water Act*. Mr. Vasquez seconded the motion. All were in favor, motion passed.

- F. **District 2014 417 Report.** Discussion and possible action to approve the submission of the District 2014 417 Report to the Bureau of Reclamation.

Mr. Clark advised that this is an annual report that is prepared for submission to the Bureau of Reclamation. The Bureau sends to the District a letter with questions that they want answered. The attached report is the District's response to those questions. Mr. Clark stated that there will be some additional appendices that will be attached to the report and it will then be forwarded to the Bureau. It must be received by the Bureau by September 15, 2014. The Bureau will review our report and contact us to schedule a meeting sometime in October. They will ask for additional information based on what we have given them for clarification of our responses and may ask additional questions beyond what is contained in their letter. Mr. Clark stated that he has been educating the Bureau over the last few years because this District is different from most irrigation districts and we have come a long way with them in the last few years.

Mr. Muscelli asked if the Bureau asked the same questions every year. Mr. Clark responded that some of the questions were the same, some were different. The Bureau has been highlighting this year water conservation measures.

Mr. Muscelli requested that Mr. Clark explain operating efficiency. Mr. Clark responded that operating efficiency referred to how much water have we actually withdrawn from the aquifer or used beneficially compared to our total allocation. In other words, how much of our total allocation has been used. Last year, the District used approximately 25,000 acre feet. This year,

however, it is anticipated that the District will use approximately 37,000 acre feet. Mr. Clark stated that he had advised the Bureau that the District had brought much more of the farmland into production which accounted for the rise in the water usage. Therefore, our operating efficiency for 2014 will be much higher than it was in 2013.

Mr. Muscelli asked if the Bureau asked that question every year. Mr. Clark responded that they asked it every year. Mr. Muscelli asked if the Bureau asked if our usage was what we expected it to be. Mr. Clark advised that they did not ask that, they ask what the District's operating efficiency was for the prior year. It is important to show that the District is using its water. The water report that was discussed earlier tonight, the Bureau gets a copy of that report.

Mr. Muscelli wanted some clarification as to whether or not we were advising the Bureau that we were using all of our water. Mr. Clark responded that was correct. In March of this year, Mr. Clark advised that he approached the Bureau regarding the obtaining of extra effluent, the Bureau countered that the District did not need effluent because it was not using all of its water allocation. Mr. Clark stated that when he pointed the Bureau to the District's Water Usage Report showing how much more water we were using in 2014 as opposed to 2013, they agreed that the District had a need for effluent. Mr. Clark advised that we need to bring the Bureau along to understand that while the District didn't use its full allocation, it was because we had a lot of farmland that was not in production.

Chairman Sherrill clarified that these were not new farms, but were old farms that had been idle. Now those farms have been taken over by different entities and brought into production. All told, the District now has a lot more farm land that has been brought into production than in the past.

Mr. Muscelli made a motion to approve the District 2014 417 Report and that it be forwarded to the Bureau of Reclamation. Mr. Kai seconded the motion. All were in favor, motion passed.

5. PUBLIC INPUT.

Mr. Buck commented that Bella Vista was making progress with the Conservation District on their agreement. There was a little hiccup that put them a little back on their timing. Mr. Buck stated that he and Tom were still in agreement, it was just the logistics of getting it approved and having Ms. Kelley review it.

Chairman Sherrill stated that he had heard a rumor that Mr. Buck was selling his business. Mr. Buck stated that he had sold the business as of September 1, 2014, but he was remaining on as Senior Vice President of the corporation for at least

another year. Chairman Sherrill asked if Mr. Buck was going to continue to work on the Bella Vista process. Mr. Buck advised that he was too invested in the process and he was not going anywhere.

Mr. Buck also advised that Michael Aversa, the manager from Marina Coves had passed away. Mr. Buck stated that he had taken over the management of Marina Coves and was not sure where Marina Coves was with its payments. He advised that the District had to change that address and he would email the new address to the office. In the interim, Mr. Buck needs to be brought up to speed as to where Marina Coves stands. Chairman Sherrill directed staff to get with Mr. Buck and answer any questions he might have.

6. ADJOURNMENT.

There being no further business to discuss, Mr. Kai made a motion that the meeting be adjourned. Mr. Vanderslice seconded the motion. All were in favor, the meeting adjourned at 4:43 p.m.