

**SAN GORGONIO PASS WATER AGENCY**  
**1210 Beaumont Avenue, Beaumont, CA**  
**Board of Directors Meeting**  
**Agenda**  
**September 18, 2017 at 1:30 p.m.**

- 1. Call to Order, Flag Salute, Invocation and Roll Call**
- 2. Adoption and Adjustment of Agenda**
- 3. Public Comment:** Members of the public may address the Board at this time concerning items relating to any matter within the Agency's jurisdiction. To comment on specific agenda items, please complete a speaker's request form and hand it to the board secretary.
- 4. Consent Calendar:** If any board member requests that an item be removed from the Consent Calendar, it will be removed so that it may be acted upon separately.
  - A. Approval of the Minutes of the Regular Board Meeting, September 5, 2017\* (p. 2)
  - B. Approval of the Minutes of the Engineering Workshop, September 11, 2017\* (p. 6)
- 5. Reports:**
  - A. General Manager's Report
    1. Operations Report
    2. General Agency Updates
  - B. General Counsel Report\* (p. 8)
  - C. Directors' Reports
  - D. Ad Hoc Committee Report – Capacity Fee\* (p. 10)
- 6. New Business:**
  - A. Further Discussion of Funding for Nickel Water and Other Potential Water Supply Acquisitions\* (p. 11)
  - B. Discussion of Possible Revisions and Updates to Resolution 2008-03 Defining a Day of Service\* (p. 21)
- 7. Topics for Future Agendas**
- 8. Announcements:**
  - A. Finance and Budget Workshop, September 25, 2017 at 1:30 p.m.
  - B. San Gorgonio Pass Regional Water Alliance, September 27, 2017 at 5:30 p.m. – Banning City Council Chambers
  - C. Regular Board Meeting, October 2, 2017 at 1:30 p.m.
- 9. Adjournment**

**\*Information included in Agenda Packet**

(1) Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the Agency's office at 1210 Beaumont Avenue, Beaumont during normal business hours. (2) Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection at the Agency's office, located at 1210 Beaumont Avenue, Beaumont, California 92223, during regular business hours. When practical, these public records will also be made available on the Agency's Internet Web site, accessible at: [www.sgpwa.com](http://www.sgpwa.com) (3) Any person with a disability who requires accommodation in order to participate in this meeting should telephone the Agency (951 845-2577) at least 48 hours prior to the meeting in order to make a request for a disability-related modification or accommodation.

**SAN GORGONIO PASS WATER AGENCY**  
**1210 Beaumont Avenue Beaumont, California 92223**  
**Minutes of the Board of Directors Meeting**  
**September 5, 2017**

**Directors Present:** David Fenn, President  
Ron Duncan, Vice President (left at 3:32pm)  
Lenny Stephenson, Treasurer  
Blair Ball, Director (arrived at 1:32pm – left at 3:04pm)  
David Castaldo, Director  
Stephen Lehtonen, Director  
Michael Thompson, Director

**Staff Present:** Jeff Davis, General Manager  
Tom Todd, Jr., Finance Manager  
Jeff Ferre, General Counsel  
Cheryle Rasmussen, Executive Assistant

1. **Call to Order, Flag Salute, Invocation, and Roll Call:** The meeting of the San Gorgonio Pass Water Agency Board of Directors was called to order by Board President Fenn at 1:30 p.m., September 5, 2017 in the Agency Boardroom at 1210 Beaumont Avenue, Beaumont, California. President Fenn led the Pledge of Allegiance to the flag. Director Lehtonen gave the invocation. A quorum was present.
2. **Adoption and Adjustment of Agenda:** *President Fenn asked if there were any adjustments to the agenda.* There being none, the Agenda was adopted as presented.
3. **Public Comment:** *President Fenn asked if there were any members of the public that wished to make a public comment on items that are within the jurisdiction of the Agency.* (1) Dan Jagers (BCVWD Interim General Manager) informed the Board that he will be submitting a Water Order to the Agency. He wishes to receive as much Table A water as is available. (2) David Armstrong (SMWC – General Manager) commended the Board for its creativity in securing additional water for the area. There were no other members of the public that wished to comment at this time.
4. **Consent Calendar:**
  - A. Approval of the Minutes of the Regular Board Meeting, August 21, 2017
  - B. Approval of the Minutes of the Finance and Budget Workshop, August 28, 2017
  - C. Approval of the Finance and Budget Workshop Report, August 28, 2017

Director Lehtonen made a motion, seconded by Director Duncan, to adopt the consent calendar as presented. Motion passed 7-0.

**5. Reports:**

**A. General Manager's Report:**

**(1) Operations Report: (a) SWP Water Deliveries:** The Agency delivered a total of 1303 acre-feet to the Noble Creek Connection, for the month of August. Deliveries were short due to the some restrictions and a full day shut-down for Southern California Edison. Deliveries averaged 21cfs - goal is 24-25 cfs. The

Agency will deliver all of the water for priorities 1,2,3, and 4 that was requested this year, by mid-October; for the rest of the year the Agency will be delivering additional water. YVWD sent in a request to add several delivery points. The request is being analyzed and will likely be brought to the Board in the near future for consideration.

**(2) General Agency Updates:** **(a) BARF:** The Agency will be advertising this month. General Manager Davis explained why advertising was delayed. A contract to award should be brought before the Board in November or December. **(b) SB 623:** General Manager Davis stated that he included an op-ed piece from the Sacramento Bee that was written by Kathleen Tiegs and Brent Hastey of AWCA. **(c) ACWA Field Trips:** Regions 9 and 10 are sponsoring a field trip to Prado Dam on Friday, October 6<sup>th</sup>. **(d) Public Comment:** General Manager Davis proposed adding a sentence under Public Comment of the Agenda that would state that should a member of the public wish to address the Board on any an item listed on the Agenda, or that is within the jurisdiction of the Board, to go to the Agency's website and click on the link for Public Comment located on the website front page. General Counsel Ferre asked for further discussion between himself and General Manager Davis before proceeding with the proposed action.

**B. General Counsel Report: SB 632:** General Counsel Ferre reported to the Board that SB 632 will not be considered this year, as it became a two year bill. This bill was intended to be a special fund for disadvantaged communities, however, a Public Goods charge was added on; every water retailer throughout the state would have to pay a public goods charge (tax) on water.

**C. Directors Reports:** **(1) Director Lehtonen** reported that he attended an Inland Empire Resource Conservation District class that the Agency funded. The class took place at Banning High School. He was impressed with the quality of the presentation and the knowledge that the students have pertaining to water conservation. **(2) Director Duncan** also attended an IERCD class and was also impressed with the presentation. **(3) Director Thompson** reported on the San Geronio Pass Water Alliance meeting that he attended. Riverside County Flood Control and Water Conservation District presented an overview of current and future projects that they are involved in.

## 6. New Business:

**A. Discussion on Funding of New Water Supplies:** A staff report was included in the agenda packet. General Manager Davis stated that this item is primarily for Board discussion. He stated that upon purchasing the Nickel water the Board discussed funding the lease by increasing water rates, capacity fees, or a combination of both, but came to no decision. The Board had asked staff to bring this back for further discussion after talking it over with retail water agency managers. Staff contacted several retail water managers. It was the consensus of those retail water managers that they would prefer to see the Agency fund this through the water rate. They did not see the Nickel water as a permanent source and preferred not to use it for Water Supply Assessments. General Manager Davis suggested that the Agency conduct a new nexus study on the water rates. The

fixed costs of the Nickel water is \$1.7 million with an annual escalator. The water has not been delivered to date, however an agreement with DWR is being drafted for the scheduling of the water delivery this year. Once the agreement is signed the water will be delivered. Director Ball requested a written report from staff on the pros and cons of rolling the funding through the water rate. President Fenn commented that the water retailers are interested in using the Nickel water for basin replenishment and sustainability for the area. Dan Jagers (BCVWD Interim General Manager) provided input for the funding of additional water, stating that in his opinion the funding should come directly from developers. He would like the Agency to provide a draft memorandum of understanding so that he can give a monetary figure to the developers. After discussion, direction was given to staff to provide the pros and cons at the September 18<sup>th</sup> Board meeting on purchasing the Nickel water now and waiting for water retailers to buy it from the Agency later. Director Ball stated that he wants the pros and cons of the Agency funding the Nickel water up front verses receiving money from our customers to simply pay the bill. He commented that we are here to serve their needs, and if this doesn't serve their needs then why are we willing to purchase the water. In addition to an Ad Hoc Capacity Fee Committee report, staff is to provide information on:

- What will it take to put a service study together, how long will it take to do the study, and the cost of said study.
- What are all the funding options (capacity fee, water rate or General Fund revenues).
- What are the options for paying for the Nickel water.
- Reliability vs. New Growth or a combination of both.
- Discussion on the \$1.4 million that should have been paid back to the General Fund from 2008, to help pay for the first year payment.
- Discussion on the legality of bullet item #5.

General Manager Davis reminded the Board that the Board adopted a Urban Water Management Plan which states that this region needs 5800 acre feet more water a year, by 2025.

**7. Topics for Future Agendas:** 1. Director Thompson requested discussion on Agency email accounts for the Directors. General Counsel Ferre stated that he will discuss this topic during his next General Counsel report. 2. Director Castaldo requested a meeting for the Ad Hoc Board Handbook Committee. He also requested staff to send out an email on Rosenberg Rules of Order. 3. President Fenn requested information on the rules for redistricting from General Counsel.

**8. Announcements:**

- A. Engineering Workshop September 11, 2017 at 1:30 p.m.
- B. Regular Board Meeting, September 18, 2017 at 1:30 p.m.
- C. Finance and Budget Workshop, September 25, 2017 at 1:30 p.m.

**President Fenn requested a break at 3:07 p.m.**

**9. Closed Session (Three Items)**

**Time: 3:14 p.m.**

- A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Pursuant to Government Code section 54956.8  
Property: Potential water rights/supplies offers from the South Mesa Water Company  
Agency negotiator: Jeff Davis, General Manager  
Negotiating parties: David Armstrong, General Manager, South Mesa Water Company  
Under negotiation: price and terms of payment
  
- B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Pursuant to Government Code section 54956.8  
Property: Potential water rights acquisition regarding Westlake Farms, Kings County APN's 036-070-007-000, 036-070-014-000, 036-070-004-000, 036-070-013-000  
Agency negotiator: Jeff Davis, General Manager  
Negotiating parties: Ceil Howe  
Under negotiation: Price and terms of payment
  
- C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION  
(Paragraph (1) of subdivision (d) of Government Code Section 54956.9  
Name of case: San Geronio Pass Water Agency vs. Beaumont Basin Watermaster  
Case No. RIC 1716346

**The meeting reconvened to open session at 3:50 pm.**

*General Counsel Ferre stated that there was no action taken during closed session that is reportable under the Brown Act.*

**10. Adjournment**

**Time: 3:51 pm**

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Jeffrey W. Davis, Secretary of the Board

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**SAN GORGONIO PASS WATER AGENCY**  
**1210 Beaumont Avenue, Beaumont, CA 92223**  
**Minutes of the**  
**Board of Directors Engineering Workshop**  
**September 11, 2017**

**Directors Present:** David Fenn, President  
Blair Ball, Director (arrived at 1:38 pm)  
Ron Duncan, Director  
Steve Lehtonen, Director  
Leonard Stephenson, Director  
Michael Thompson, Director

**Directors Absent:** David Castaldo, Director

**Staff Present:** Jeff Davis, General Manager  
Jeff Ferre, General Counsel

**1. Call to Order, Flag Salute and Roll Call.** The Engineering workshop of the San Gorgonio Pass Water Agency Board of Directors was called to order by Director Duncan at 1:30 p.m., September 11, 2017 in the Agency Board room at 1210 Beaumont Avenue, Beaumont, California. President Fenn led the Pledge of Allegiance to the flag. A moment of silence was observed for the victims of 9/11 and of Hurricanes Harvey and Irma. A quorum was present.

**2. Public Comment.** No members of the public wished to speak at this time.

**3. Continued Discussion of Updating 2012 Strategic Plan.** A copy of the 2012 strategic plan with updated water demand projections was included in the agenda package. General Manager Davis reminded the Board that they had instructed him to update the demand numbers to match the 2015 UWMP. No other changes have been made to the 2012 document. He noted that the Board had three options—do nothing, update the strategic plan, or start over with a new plan. After discussion, the Board decided that an ad hoc committee should be appointed to work with the General Manager to update the plan. President Fenn appointed Director Lehtonen as Chair of the committee, with President Fenn and Director Duncan as members. The committee will report back to the board with a redlined version of the plan for consideration at a future Board meeting.

**4. Discussion of Wheeling Policy and Wheeling Charges.** A brief summary of potential policy issues and costs associated with moving water through the conveyance system were included in the agenda package. The Board discussed the policy aspects of wheeling and directed the General Manager to include wheeling for entities both inside and outside of the Agency's service area, with inside entities holding a higher priority. Regarding wheeling charges, The Board discussed the expenses listed by the General Manager and directed the General Manager and General Counsel to talk to a BB&K partner who is knowledgeable about wheeling rates to determine what should be included and what could be excluded. In addition, the Board directed staff to find examples of other wheeling policies and rates for further discussion. General Manager Davis said he would do the research and bring this item back to that Board at a future date.

**5. Announcements**

A. Regular Board Meeting, September 18, 2017 at 1:30 pm.

- B. Finance and Budget Workshop, September 25, 2017 at 1:30 pm.
- C. San Geronio Pass Regional Water Alliance Meeting, September 27, 2017, 5:30 pm—Banning City Hall.

## **7. Adjournment**

Director Duncan adjourned the meeting at 2:33 pm.

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Jeff Davis, Secretary to the Board

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**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

**Memorandum**

**To:** President and Members of the Board of Directors  
San Geronio Pass Water Agency

**From:** Jeff Ferre, General Counsel

**Date:** September 18, 2017

**Re:** General Counsel Report - Board of Directors Meeting – September 18, 2017

RULING IN PUBLIC RECORDS ACT CASE

In *City of San Jose v. Superior Court*, the California Supreme Court held that electronic communications held on the private, nongovernmental accounts of local agency officials could be considered “public records” and subject to disclosure under the Public Records Act (“Act”). The case resulted from a request made by a private citizen seeking electronic communications on the private devices of San Jose’s former mayor, councilmembers and city employees regarding a real estate development. The City denied the request for the communications, asserting that since the City did not prepare, own, use or retain the communications, it could not, therefore, produce them.

The court applied a 4-part test to determine whether communications on a private device could qualify as “public records” subject to the Act. A communication will be deemed to be a “public record” if it is: (1) a writing, (2) with content relating to the conduct of the public’s business, which is (3) prepared by, or (4) owned, used, or retained by a local agency. The court concluded that a public record does not lose its status as such because it is located in an employee’s/official’s personal account, and that a writing has been “retained” by the public agency even if the writing is located in the employee’s/official’s personal account. The court noted that any personal information contained within communications otherwise disclosable under the Act could be redacted.

LEGAL OBLIGATIONS

The court concluded that as to requests seeking public records held in nongovernmental accounts of officials and employees, an agency’s first step should be to communicate the request to the employees/officials in question. The agency may then reasonably rely on these employees to search their own personal files, accounts and devices for responsive materials. The court suggested that in the case where an employee/official withholds a document, the agency could require the employee/official to submit an affidavit stating a factual basis upon which to determine whether the contested item is a public record or private material and the reasons that the employee/official is withholding the document.





**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

RECOMMENDATIONS

1. Require employees/officials to use Agency email accounts and perhaps issue Agency-owned devices;
2. If employees/officials have previously used their personal email to send/receive messages regarding Agency business, such employees/officials should begin to forward any emails related to Agency business from their personal accounts to an Agency email address so that such communication will be copied to the Agency server;
3. Previous emails that were sent to the Agency are already on the Agency's server so there is no need to send them again to the Agency;
4. Even if an employee/official does not wish to have an Agency-owned device, that employee/official should be required to only conduct Agency business through an Agency email account.

## MEMORANDUM

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**TO:** Board of Directors

**FROM:** Ad Hoc Capacity Fee Committee

**RE:** Current Status

**DATE:** September 18, 2017

The capacity fee ad hoc committee has met several times with the General Manager to discuss how to encourage retailers to sign cooperative agreements with the Agency to collect the fee, to draft a new cooperative agreement, and to discuss the amount of the fee.

Several months ago the Committee directed the General Counsel to draft a cooperative agreement for discussion. After agreeing on the language, the Committee sent it to the Directors of the Yucaipa Valley Water District and to Calimesa City Council members for their review and input. The Agency never heard back from either body.

Since that time that agreement has also been sent to the interim General Manager of Beaumont Cherry Valley Water District for his review. This was discussed at the BCVWD Board meeting last week. The BCVWD interim General Manager has told our General Manager that he believes that his District must adopt a fee or agree to collect the Agency's fee in order to fund new water supplies. He has called this one of his top priorities. The BCVWD Board directed the interim GM to work with the Agency to find a way to make this happen

Banning city staff has also notified our General Manager that they would like to roll our capacity fee into the City's fee structure by the end of the year. This would require a cooperative agreement as well.

In the meantime, Agency staff has been working with David Taussig & Associates to revise the water component of the fee. It is likely that this component will increase significantly due to current market conditions. We anticipate that staff will bring a newly revised fee to the Board for a public hearing and consideration in the near future.

## **MEMORANDUM**

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**TO:** Board of Directors

**FROM:** General Manager

**RE:** Funding of Additional Water Supplies

**DATE:** September 18, 2017

At the September 5 Board meeting, the Board asked staff to prepare a report outlining options for funding additional water supplies, along with the advantages and disadvantages of the various options. In response, staff has prepared the attached "white paper" which summarizes the issues.

Staff suggests that the Board use the white paper as a basis for discussions at the Board meeting.

## **Funding of Additional Water Supplies**

**September 2017**

### **Purchase of Nickel Water**

On June 19, the Agency Board approved a twenty year lease agreement for 1700 acre-feet of 100% reliable water with the Antelope Valley-East Kern Water Agency (AVEK). The Agency had been in negotiations with AVEK for several months prior to this action. As part of those negotiations, the Agency insisted on a minimum 20-year lease (AVEK originally offered a much shorter lease), as retail water agencies had informed the Agency that they would require at least a 20-year supply of water in order to issue will-serve letters or water supply assessments. It was the Board's intent to utilize this 20-year water supply (with the opportunity to extend it to 40 years) for new development in the region, and to fund the purchase with a capacity fee paid by developers.

Since that time, staff has met with retail water managers and they have indicated a strong preference for utilizing this water to shore up the reliability of the Agency's annual supplies to help make up for reduced reliability of the State Water Project. They are uncomfortable utilizing this 20-year supply to issue will-serve letters, preferring SWP Table A water or Sites Reservoir water for that purpose.

This leaves the Board with a decision to make—to fund the annual supply of Nickel water through a capacity fee (which no retailer has yet agreed to do), or through other means. These other means will be described in this report.

### **Growth vs. Enhanced Reliability**

Every water purveyor that sets rates must wrestle with the philosophical issue of how new infrastructure and water supplies are funded. They must be funded by current customers (typically through the water rate), by future customers (typically through some type of development, impact, or capacity fee), or by some combination of both. There is no right or wrong answer here—this is typically a decision made by governing boards that meets the need of that particular purveyor. Many boards look at this as a political issue more than a finance issue. This has come about primarily as a result of Prop 218, which defines a process for raising water rates that allows customers input into the process and the opportunity to try to overturn rate increases if they are deemed to be egregious.

The Agency is not subject to Prop 218 as a wholesale water purveyor. However, it is still subject to oversight and input from customers, including retail water agencies as well as the general public.

As the Agency procures additional supplies, the Board should consider whether it wants those supplies to enhance the reliability of existing supplies (to make up for the loss in SWP reliability over the years), to provide water for new growth, or some combination of the two, and ideally would fund the new water supplies accordingly.

For example, Yuba water was procured to enhance current supplies, and the cost of this is included in the water rate. Surplus water from Valley District (further discussed below) has been considered by the Board to also be an enhancement of existing supplies, and therefore should probably be funded by current residents. Nickel water was originally intended by the Board to be used for new growth, but retail water agencies have indicated a preference for using this to enhance existing reliability. The Board will have to decide how it wants to use this water and thus how to fund it. It could do a combination of both; the details of how to do this would just have to be worked out.

It should be pointed out that the procurement of new supplies helps both existing residents as well as new development, so theoretically, both should pay a portion of the cost for new supplies. Realistically, over time future users should pay more than existing users, as over the years far more water will be procured for new development than for enhancement of reliability for current residents.

### **Agency's Urban Water Management Plan**

The Agency produced a 2015 Urban Water Management Plan, and the Board adopted it on March 20. The Plan lays out a range of potential water demands on the Agency, based on both input from retail water agencies and the realities of the pace of proposed development. According to the Plan, the Agency will experience a shortfall of water by 2020 of approximately 2,200 acre-feet, assuming average hydrologic conditions.

Based on water orders from retail water agencies, there is a small shortfall currently in water supplies, assuming average conditions. Agency supplies currently are 11,000 acre-feet on average. This assumes 10,700 acre-feet of Table A water and 300 acre-feet of Yuba water. In 2017, water orders from retailers totaled 12,425 acre-feet. For 2018, water orders from retailers total 11,650 acre-feet. Both of these are more than the 11,000 acre-feet that the Agency has for an average year (60% of SWP water).

In 2017, the Agency is able to meet the water orders plus some additional replenishment requests, due to the fact that this is an 85% year on the State Water Project. From 2012 through 2016, the Agency was not able to meet the orders of retailers due to the drought. During those years, water was drawn out of storage in the Beaumont Basin to meet retailers' demands. The Agency is currently lacking in dry year supplies so in drought years is not able to meet the needs of its customers.

This demonstrates that, under average conditions, there is a small shortfall of water currently in the region (and under dry conditions, a larger shortfall). This shortfall is expected to increase as new homes are constructed. As indicated above, this shortfall is expected to be approximately 2,200 acre-feet by 2020 (again, based on average conditions).

### **Proposed Agreement with San Bernardino Valley Municipal Water District**

As an example of paying for additional water supplies, the Agency's Board has approved the principals of an agreement with the San Bernardino Valley Municipal Water District (Valley District) whereby the Agency could purchase up to 5,000 acre-feet of additional water in surplus years. This agreement will be brought to the Board for formal approval in the near future. Under the principals, this water would be purchased at a sliding scale rate based on hydrologic conditions. The higher the SWP allocation, the less expensive the water would be. Under this sliding scale, the Agency would pay between \$95 and \$400 per acre-foot for this water when it is available. In all likelihood, the rate would be between \$95 and \$100, since the higher prices would be for lower SWP allocations, under which conditions there would likely be no surplus water to buy.

This water has been intended by the Board specifically to increase reliability of the Agency's current water supplies as wet year yield, and therefore would likely be paid by existing customers—presumably through the water rate, though that decision has not been made as yet, as the agreement is still pending. This proposed new supply is included in the Agency's urban water management plan.

### **Current Rate Structure**

The Agency adopted its current water rate structure in February 2009. That structure, based on a nexus study, raised rates in July 2009. The current rate has been in effect since that time.

The current rate, as discussed in several Finance and Budget workshops over the past few months, includes an effort to recover costs of pumping the water to the Agency's delivery point, costs for purchasing Yuba water (to enhance reliability), costs for operating the East Branch Extension, and a small portion of Agency administrative costs, as well as funds to create a reserve to procure additional water supplies. The rate is currently \$317 per acre-foot.

The purpose of including the Yuba water in the rate structure was based on the concept that current residents should pay for supplies that enhance the reliability of the State Water Project. The Yuba water was intended to enhance reliability, not to use for growth; hence the cost of it was included in the water rate.

By including a \$22 per acre-foot charge to fund purchase of new water supplies, the current rate also include funds to procure additional water supplies for current residents. However it is not based on the actual cost of new water supplies but is only intended to provide for a constant

source of revenue that could be used to pay for, or at least defray, a portion of the cost of a new water purchase. For example, it is not nearly enough to pay for the Nickel water that the Agency recently obtained. But it does show that the Board knew in 2009 that additional supplies would be required to enhance the reliability of the State Water Project.

The current rate structure enables the Agency to recover most of the costs it was intended to recover but, as pumping costs have increased, the current rate structure is barely able to recover the costs desired by the Board in 2009. Regardless of any procurement of additional supplies, the Board should review its rate structure in the near future to determine if it meets the needs of the Agency by recovering the costs it is intended to recover.

### **Options for Funding Nickel Water**

A number of years ago, when the Agency realized that it would have to procure a large volume of new supplies over a period of years, it developed a plan to fund the additional supplies. The plan included funding the additional supplies both from new development and from existing customers, on the theory that additional water supplies help both. The plan included having four sources of revenue available to pay off any indebtedness incurred as a result of procuring additional water supplies. Those four revenue sources include the Agency's water rate, a capacity fee, a withdrawal from reserves, and general fund revenues. With these four streams, it was felt that the Agency could easily qualify for a debt-service purchase of new water. Bond underwriters like to see multiple streams of revenue, especially from public agencies that have never sold bonds before, as a measure to reduce risk to bondholders.

That plan assumed that the Agency would likely have to take on debt in order to make one or more large water purchases—either debt by loan or by other debt instruments, such as bonds. The repayment of the debt then could come from a variety of sources, the primary one of which would be capacity fee revenues.

The concept was that, in any year, if one or more of these streams was low, the others could make up the difference to pay off incurred debt. The \$22 per acre-foot component of the water rate was expected to be enough for the sales component of this revenue stream.

For example, in a dry year when water sales were low, the other three sources could be used to make annual debt payments. In a recession year when capacity fee revenues were low, the other three could make up the difference, and so on. Some years would be both wet and prolific building years; in those years excess cash could be stockpiled to make future debt payments. The Agency always envisioned using all of these, as needed, to procure additional water supplies. The intent was for the capacity fee to be the largest, though not the only, source of revenue.

At that time, it was envisioned that the Agency would have to execute one large purchase of water every few years; that there would likely never be small blocks of water available for

purchase. This assumption was based on history—virtually all sales of water, in particular sales of Table A water, had been very large transactions.

Since the time that that plan was put together (circa 2009), the water world has changed. Sales, exchanges, and transfers have become more common in California simply because of the need for them. These are all structured differently, and most end up being exchanges and single or multi-year transfers, but sales no longer appear to be large blocks only. The Agency has in the past negotiated, and is currently negotiating, Table A sales that are relatively small in nature. We have also seen other opportunities arise, as with the Nickel water (a long-term lease) and another opportunity that the Agency recently declined to pursue (a large block of one-time excess water). Thus, with the options growing, the Agency should consider flexibility in discussing options to finance water purchases.

Today, with a different environment in the water industry due to new and proposed environmental regulations reducing the reliability of the State Water Project, SGMA, the proposed construction of the Cal Water Fix, and several years of drought, the likelihood is that the Agency will find numerous smaller opportunities to procure new supplies, as opposed to a few opportunities for large purchases. There will likely be few opportunities to purchase Table A water. Every opportunity should be looked at differently—no two are the same. For example, some sellers may want cash up front for their water. Others, such as the Nickel deal, don't want up front money but instead an annual payment for the water. This makes planning for these deals more complicated, and was the reason for the Agency's plan described above, which allowed flexibility to use both water rates and capacity fee revenues to procure new supplies. Following is a list of options for financing new water supplies, including the Nickel water:

- Water rates. This concept is a simple one. Acquire a new water supply, and include the cost of that water in the Agency's water rate paid by retail water agencies (such as with the Yuba water). This would obviously increase the Agency's water rate, and it would be paid by residents and businesses that purchase water from retail agencies. This places the burden of financing the new supply on existing residents.
- Capacity fees. The idea behind a capacity fee is that a developer pays the fee and the Agency would use that fee to procure a new water supply. In theory this is an ideal situation because it would not impact rates for existing residents. With the Agency collecting a capacity fee, it could seek opportunities that require a one-time upfront payment for water and scale the purchase to meet the needs of a particular development and the financial assets of the Agency. For example, the Agency could collect this for several years before making a purchase using the funds collected. The capacity fee was not designed to make a large number of individual purchases for individual developers, as noted in the Agency's plan described above, nor was it designed to make annual payments—it was intended as a one-time cash payment for a permanent new water supply.



- General Fund. Use of general fund tax revenues to procure additional water supplies is not recommended unless it would be a loan that would be paid back through other sources of revenue at a later time. The Agency receives approximately \$2.2 million in general fund tax revenues each year and uses these funds to run the Agency—salaries, equipment, engineering, legal, water conservation, and administrative costs. While a small portion of this might be able to be used on occasion to help with a water purchase, to try to utilize a large portion of this for new supplies, or even a relatively small portion on an annual basis, could impact the Agency’s ability to carry on current programs.
- Reserves. The Agency has set aside a rather large reserve to procure additional water supplies. Currently, the reserve for new water is approximately \$6.5 million. Of this, approximately \$2 million was contributed through the water rate and \$4.5 million came from general fund tax revenues. Obviously, any use of reserves to fund new water supplies would deplete these reserves, so it could not be counted on as a regular periodic payment for any purchase.
- State Water Project tax revenues. The tax rate set by the Board each year raises revenues to pay all costs associated with the State Water Project, with the exception of pumping the water to the region. These funds could be used to procure additional Table A water (though they would not have to be used for this) as that would be part of the State Water Project. These funds could not be used to finance purchase of any supplies outside of the State Water Project.

**Advantages and Disadvantages**

Each of the revenue sources listed above has inherent advantages and disadvantages in their use for funding new water supplies, as detailed below.

**Water Rates**

Advantages:

- Board has control over the water rate, so it could be adjusted as needed to generate additional revenues needed to procure new supplies.
- Represents a relatively steady monthly income stream that can be used to make monthly, quarterly, or annual payments for new supplies.
- Agency already does this to some extent, by including the \$22 per acre-foot charge in its current rate.
- Agency has not raised rates in over eight years, so an increase at this time or in the near future would not be surprising to anyone.
- Very useful and appropriate for enhancing the reliability of existing supplies for current residents.
- Board does not need approval from any other body or individual in order to raise rates.

- Used by many water agencies, both retail and wholesale, to enhance their existing supplies.

Disadvantages:

- Board must justify rate increases to the public and demonstrate why the increase is needed.
- If used to procure supplies that would be used for new development, could be considered unfair to current residents.
- Could involve multiple rate increases over the next several years if rates are used to fund each new supply. This could cause rates to be too high for the region to afford.
- If used only for enhancement of existing supplies for current residents, new supplies funded through water rate increases would not allow any water for new development.

Capacity Fee

Advantages:

- Funds water supplies for new development through the development process, not impacting rates for current residents.
- Commonly used by other wholesale and retail water agencies to procure additional supplies, as well as to construct infrastructure.
- Board has already adopted a fee.
- As development increases, increasing the need for water supplies, the development itself funds the additional water needed. If there is no development and no need for new supplies, no fees would be collected or paid.

Disadvantages:

- Requires cooperative agreements with retail water agencies or land use planning agencies in order to implement. No such agreements are in place at this time.
- Takes time to raise significant amounts of money for a large purchase.
- Best suited for deals where seller wants cash up front; not all sellers want this arrangement.
- Assumes a long-term or permanent source of water supplies; could be less suited for deals where water supplies are for a finite period of time, such as less than 20 years.
- Annual revenues could be reduced during recessions, thus requiring other sources of revenue if used to finance debt purchases.

General Fund

Advantages:

- Agency has a steady revenue source of \$2.2 million per year
- Could be used in conjunction with other methods to make up shortfalls in some years.

#### Disadvantages

- Yields only a small amount of cash each year, as Agency depends on these funds to run the Agency.
- Agency could have to cut back on other expenses in order to use these funds.
- Would not be useful in a medium-sized or large purchase requiring larger amounts of money.

#### Reserves

##### Advantages:

- These funds were set aside with the specific intent of procuring new water supplies.
- Could be used in conjunction with other funding methods to make up shortfalls in some years (for example, a dry year in which sales revenues are lower or a recession year in which capacity fee revenues are lower).
- Could be used as a loan, to pay cash up front or in a given year, to be repaid in a future year with revenues from other sources.

##### Disadvantages:

- These funds are limited. Once they are used up, they are no longer available, unless the Agency continually replenishes them from other sources.
- Since they emanate from existing residents, may not be as appropriate to fund water supplies used for new development.

#### Summary

The Agency's current plan, to fund new water supplies from a variety of sources, still makes sense. Since every opportunity that will come the Agency's way will be different, the Agency should have the ability to be flexible in how it funds each opportunity. As the Board considers each opportunity, it will probably want to consider whether it sees each individual opportunity as a water supply for enhanced reliability or for new development. This would likely provide guidance to the Board in how to fund each individual deal.

The Nickel water could be justified as water used to enhance our existing reliability to make up for lost reliability of the State Water Project. Under this scenario, funding the purchase by increasing the Agency's water rate would be entirely appropriate.

The Nickel water could also be justified as supplying water for new development, since it is a firm 20-year (and probably 40-year) supply. Under this scenario, funding it using a capacity fee

would be entirely appropriate, assuming the Agency could sign a cooperative agreement with a retailer or land use planning agency that would accept the supply.

The Nickel water could be some of both. The Board could decide to use some of it for reliability (entirely appropriate) and therefore roll this cost into its water rate, and to use some of it for new development and thereby collect a capacity fee for this portion of the water (also entirely appropriate).

The Agency continues to work with retail water agencies to sign cooperative agreements to collect the capacity fee. In particular, staff has had positive conversations with BCVWD and Banning in the last month regarding accepting the Agency's capacity fee. The BCVWD Board discussed this at its September meeting. Its interim GM stated that implementation of the Agency's capacity fee is a "9 or 10" in importance on a scale of 10, and the General Counsel agreed with this assessment. Agency staff is currently re-evaluating the fee, which is low, considering current market conditions and reliability projections. Staff expects to come to the Board in the near future with a recommendation to increase the amount of the fee.

Various methods have been proposed by Board members to fund the Nickel water, or at least the first year of it. This includes the use of Agency reserves and the possible use of funds owed by the Debt Service Fund to the General Fund. Either of these could be used to fund the 2017 Nickel water, if the Board wishes to consider discussing this issue further or rolling the cost of this water into a new water rate which would not be implemented until sometime in 2018.

The Board should continue to discuss this issue and to seek input from the public, including retail water agencies, as it deliberates on how to fund the Nickel water. The Board should also be prepared to look at a variety of funding methods, or a combination of revenue sources, for any future opportunities that arise to augment the Agency's current water supplies.

## **MEMORANDUM**

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**TO:** Board of Directors

**FROM:** General Manager

**RE:** Potential Updates and Revisions to Resolution 2008-03  
Regarding Defining a Day of Service

**DATE:** September 18, 2017

**Summary:**

At the August Finance and Budget workshop, the Board discussed the possibility of increasing the number of paid days of service and also the definition of a day of service. The purpose of this agenda item, for discussion only, is to determine if the Board wishes to revise or update Resolution 2008-03, which defines a day of service. A copy of the resolution, along with some similar policies from other water agencies, is included in the agenda package for reference.

**Recommendation:**

This item is for discussion only at this time. Should the Board wish to make changes to this policy, staff will draft a new resolution with the changes and bring it to the Board for consideration.

**RESOLUTION NO. 2008-03**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE SAN GORGONIO PASS WATER AGENCY  
ESTABLISHING GUIDELINES FOR COMPENSATION OF DIRECTORS  
AND  
RESCINDING RESOLUTION NO. 2007-08**

**WHEREAS**, on May 18, 1998, The Board of Directors adopted Ordinance No. 7 which provides for the compensation to be received by the Directors of San Gorgonio Pass Water Agency (hereinafter Agency) in accordance with Chapter 2 of Division 10 of the Water Code of the State of California (Water Code Section 20200 et seq.);

**WHEREAS**, the Water Code of the State of California, Section 20202 allows for members of the Board to be compensated for up to a total of ten (10) days in any calendar month, and;

**WHEREAS**, the Agency's Directors are regularly called upon to spend in excess of five (5) days per month in the performance of their duties, including the attendance of Board meetings, committee meetings, and other functions related to carrying on the business of the Agency; and

**WHEREAS**, it is the policy of the Board that the Directors receive fair and reasonable compensation for their service to the Agency so that they may devote as much time as is necessary or beneficial to the full performance of their roles:

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the San Gorgonio Pass Water Agency as follows:

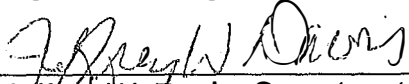
1. That the Board of Directors rescinds Resolution No. 2007-08 regarding Compensation of Directors.
2. That Resolution No. 2008-03 is effective March 3, 2008.
3. That the maximum number of days per month which a Director of the Agency may receive compensation and reimbursement of expenses for each day's service rendered as a member of the Board of Directors is set forth in Ordinance No. 7.
4. That the definition of a day of service shall be:
  - a. Attendance at any meeting of the San Gorgonio Pass Water Agency that requires public notice in accordance with the Brown Act.
  - b. Attendance at any meeting of a San Gorgonio Pass Water Agency ad hoc committee, that committee having been established by the president of the Board.
  - c. Attendance at regular, special or committee meetings of any organization in which San Gorgonio Pass Water Agency is a member.

- d. Attendance at Beaumont Basin Watermaster meetings, San Timoteo Watershed Management Authority Commission meetings, Santa Ana Watershed Project Authority Commission meetings and Regional Coordination Conferences of Pass Water Officials Serving Pass Area Communities.
  - e. Attendance at special events, programs, or symposiums (not to exceed 1 day) or conferences (not to exceed 3 days) for the following organizations:
    - 1. Association of California Water Agencies
    - 2. Special District Association of Riverside County
    - 3. State Water Contractors
    - 4. Water Education Foundation
    - 5. Special District's Board Management Institute
    - 6. Riverside County Water Symposium
    - 7. American Water Works Association
    - 8. Association of Ground Water Agencies
  - f. Attendance at any meeting related to or informing the Board members on matters within the jurisdiction of the statutory powers of the Agency, provided that such meetings deal with substantive issues and consume more than a minor amount of the Board member's time.
  - g. Attendance of any meeting submitted for consideration and approved as a day of service by the Agency's Board of Directors.
5. That the Finance and Budget Committee of the Agency shall determine by examination and vote, that the meetings submitted for payment of Director's fees are in accordance with these guidelines. The Directors shall have the right to appeal the decision of the Finance & Budget Committee to the Board of Directors.

Resolution #2008-03 was adopted upon roll call by the following vote:

AYES: Larsen, Voigt, Morris, Andersen, Snyder, Mann and Jeter  
NOES: None  
ABSTAIN: None  
ABSENT: None

I certify that the foregoing is a true, full and correct copy of Resolution #2008-03 adopted by the Board of Directors of the San Gorgonio Pass Water Agency at its regular meeting held on March 3, 2008.

  
\_\_\_\_\_  
Jeffrey W. Davis, Secretary to the Board

**Palmdale Water District**  
**Rules and Regulations**



**4.07.3 DIRECTOR COMPENSATION (Revised 12-11-09, Appendix Updated 6-8-16)**

(a) The District has set Director compensation as provided herein, pursuant to Water Code, Section 20200, *et seq.* and Government Code, Section 53232, *et seq.* The Board of Directors shall be compensated for attendance at regular and special meetings of the Board, including committee meetings, and other functions as approved in advance by the Board of Directors, at a rate of \$150.00 per day up to the maximum number of days per month and the maximum annual compensation allowable by law. In addition, Directors shall be entitled to compensation for a day of service in attendance at all meetings and occurrences listed and as indicated in Appendix V, as the Board of Directors has determined those meetings and occurrences constitute performance of official duties rendered as members of the Board. Each Director shall submit, on a form provided by PWD and signed by the Director, the number of days of attendance for which compensation shall be made. Email or FAX submittal of the form shall be acceptable with signature to follow. Compensation for purely social functions is not allowable.

(b) Requests for compensation and expense reimbursement relating to any meeting or event not listed in Appendix V shall not be approved, unless the Board determines that the meeting constitutes one of the following:

(i) A conference or organized educational activity conducted in compliance with Government Code Section 54952.2, including, but not limited to, required ethics training pursuant to Government Code Section 53234, *et seq.*

(ii) A meeting or event attended at the formal request of the Board, including an event to recognize, any employee of the District, or members of the public.

(iii) A meeting or event necessary to further communications with representatives of regional, state and national government on District functions.

(iv) A meeting or event of regional, state and national organizations whose activities affect the District's interests.

#### **4.07.4 DIRECTOR EXPENSES**

The District has set the reimbursement for Director expenses as provided herein, pursuant to Water Code, Section 20200, *et seq.* and Government Code, Section 53232, *et seq.* Directors shall be compensated for actual, reasonable and necessary expenses incurred for participating in activities approved in advance by the Board of Directors or as allowed as indicated in Appendix V attached hereto, and that further the goals and interests of the District.

Directors shall exercise prudence in all expenditures. Requests for reimbursement must be accompanied by receipts and documentation and shall be submitted on a form provided by the District and signed by the Director. Email or FAX submittal of the form shall be acceptable with signature to follow.

All requests for reimbursement shall be submitted monthly to the General Manager after the expenses were incurred or expenditures made. The General Manager shall ensure prompt payment of the reimbursable expenses and all questions regarding payment of reimbursable expenses to the staff shall be directed to the General Manager. The Finance Committee shall periodically review Director's expense reports and shall prepare such reports and documents as may be required under Government Code Section 53065.5 and Government Code 53232.3.

This policy is intended to result in no personal gain or loss to a Director and no reimbursement shall be allowed for transportation, lodging, meals or

## APPENDIX V

Palmdale Water District Guidelines for Director Compensated Meetings and Activities				
Organization/Affiliation	Meeting, Event, or Function	Criteria	Director Fee	Expenses
Palmdale Water District	Business Functions: Board meetings, Committee meetings, Appointed Position meetings (i.e. AVSWCA, Plant 42 ERAB), and General Manager initiated meetings.	All meetings and functions sponsored or conducted by the District; all Board-approved chair, member, and alternate committee and liaison assignments as provided; legislative meetings and trips for District related business.	YES	YES
	Internal District Activities: Staff meetings, Employee Lunches, Employee Appreciation Events, and Christmas Lunch/Dinner, etc.		NO	NO
	Water Awareness Activities: Landscape Workshops, Blue Ribbon Water Week, Water Awareness Month Activity, etc.	Director compensation only if scheduled to work a booth or some aspect of the event.	YES	YES
Antelope Valley water purveyors	Public Board and committee meetings of AVEK, LCID, QHWD, RCSD, LACWW District 40, and mutual water companies.	All meetings in this category can be claimed for compensation during the first year of a new director's term. All meetings and functions sponsored or conducted by these organizations where business with PWD is directly referenced as an agenda item can be claimed for compensation by all directors.	YES	YES
Areas Served by the District	Meetings of the Palmdale City Council, Palmdale Planning Commission, Los Angeles County Regional Planning, and Los Angeles County Board of Supervisors.	All meetings in this category can be claimed for compensation during the first year of a new director's term. All meetings and functions sponsored or conducted by these organizations where business with PWD is directly referenced as an agenda item can be claimed for compensation by all directors.	YES	YES
Antelope Valley Integrated Regional Water Management Group	Monthly meetings scheduled through completion of Plan.	Meetings will be compensated for one director per month unless an Ad-Hoc Committee is formed for this issue. Both assigned directors would then be eligible for attendance compensation.	YES	YES
Association of California Water Agencies (ACWA)	ACWA Spring and Fall Conferences (including ACWA/JPIA meetings), Federal and State Legislative Conferences, Region 8 meetings, ACWA-appointed committee meetings, Public Water Agency Group meetings, and other ACWA-sponsored events.	All meetings, functions, and tours, sponsored or conducted by this organization and confirmed in advance by PWD Board action.	YES	YES
California Special Districts' Association (CSDA)	Annual Conference, educational functions, legislative meetings, CSDA-appointed committee meetings, and other CSDA-sponsored events.	All meetings, functions, and tours, sponsored or conducted by this organization and confirmed in advance by PWD Board action.	YES	YES
Water Education Foundation	Annual briefings and water-related tours.	All meetings, functions, and tours, sponsored or conducted by this organization and confirmed in advance by PWD Board action.	YES	YES
Director Training Programs	CSDA Governance Academy and Special District Institute Certificate of Completion.	All new directors are encouraged to complete one or both of these programs in their first two years on the Board in addition to any legally required training.	YES	YES
Palmdale Chamber of Commerce	Annual dinner, monthly business meetings, business mixers, monthly luncheons, Christmas Parade, and other special events.	Attendance not compensable unless speaking on behalf of the District.	NO	YES
Other Antelope Valley Non-Governmental Organizations	Meetings of the A.V. Board of Trade, A.V. Building Industry Association, Palmdale Sheriff Boosters, Chambers of Commerce, etc.	Attendance not compensable unless speaking on behalf of the District.	NO	YES
Other Antelope Valley Governmental Organizations	Meeting of the Sanitation Districts of Los Angeles County Districts 14 and 20, Lahontan Regional Water Quality Control Board (Southern California), Lancaster City Council, town councils, etc.	Attendance not compensable unless speaking on behalf of the District.	NO	YES
Other Community Events	Antelope Valley Fair, Home & Garden Show, Palmdale Fall Festival, Palmdale Thursday Nights at the Square, Summer Concerts, Poppy Festival, etc.	Attendance not compensable unless speaking on behalf of the District, scheduled to work a booth on behalf of the District, or otherwise act as a formal representative of the District.	NO	NO

27/43

**RESOLUTION NO. 996-14**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE MOJAVE WATER AGENCY  
ESTABLISHING POLICIES FOR ITS  
COMPENSATION, REIMBURSEMENT AND ETHICS TRAINING  
RESCINDING RESOLUTION NO 964-13**

WHEREAS, the Board of Directors of the Mojave Water Agency finds as follows:

A. The Mojave Water Agency (“the Agency”) is a special district organized and operating pursuant to California Water Code Appendix Section 97-1 et seq.

B. The Agency is governed by an elected Board of Directors (“the Board”) whose activities are subject to the requirements of California law, including but not limited to the “Local Government Sunshine Bill” (“AB 1234”).

C. The purpose of this Resolution is to ensure compliance with AB 1234 and to establish policies with respect to (1) Board member compensation and expense reimbursement, (2) Reporting, and (3) Board member ethics training.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS of the Mojave Water Agency as follows:

**I. BOARD MEMBER COMPENSATION AND EXPENSE REIMBURSEMENT**

Section 1. **DIRECTOR FEES.** This section deals only with the payment to a Board member for attending a meeting. Related expenses are included in subsequent sections.

1.1. **Amount.** The amount of Board member compensation by the Agency shall be determined in accordance with all applicable requirements of the California Water Code. Pursuant to said requirements, the Board shall set the rate of such compensation for a day's service rendered by a Board member on behalf of the Agency,

and shall set the maximum number of day's service for which a Board member may receive compensation each month from the Agency. The current rate is \$179.57 for a day's service.

1.2. Day's Service.

1.2.1. Meetings. For purposes of determining eligibility for compensation of Board members, the term "day's service" is defined as attendance or participation of a Board member, in person, at a meeting with one or more other parties for the performance of official duties on behalf of the Agency. A meeting is defined as any meeting that falls under Categories A or B in the attached Exhibit "1".

1.2.1.1. Category A Meetings. Meetings under Category A are deemed to be pre-authorized for attendance and pre-approved for payment.

1.2.1.2. Category B Meetings. Meetings falling under Category B are deemed to be pre-authorized for attendance, however is not deemed approved for payment until approved by the Board. Category B meetings will be submitted to the Board of Directors at the next regular Board meeting, at which time the Board will consider approval thereof through the Consent Calendar. Any meeting which the Board of Directors later deems non-payable will be deducted from the next reimbursement check for that Director. This applies only to the per diem amount. Expenses for attendance will be covered under the Expense Reimbursement Allowance (Section 2 below).

1.2.1.3. Meetings Not Listed. Meetings not listed are not deemed pre-authorized or pre-approved. A request for attendance at a conference or meeting **not** listed in Exhibit "1" is to be submitted to Agency staff for pre-approval by the Board of Directors through the Consent Calendar as long as time permits; however, if this is not possible, the request for payment for attendance will be made at the next Board meeting. Any meeting or conference which the Board of Directors later deems non-

payable will be deducted from the next reimbursement check for that Director. This applies only to the per diem amount. Expenses for attendance will be covered under the Expense Reimbursement Allowance (Section 2 below).

1.2.2. Daily Limitation. If a Board member attends or participates in multiple meetings in a single day, the Board member shall be eligible for compensation for only one meeting on that day, not to exceed a maximum of ten (10) meetings per month pursuant to California Water Code Section 20202.

Section 2. **EXPENSE REIMBURSEMENT ALLOWANCE.**

2.1. Eligible Expenses. The Agency shall reimburse Board members for costs incurred related to attendance or participation at approved meetings as defined in Exhibit 1 of this Resolution, as provided herein. Expenses eligible for reimbursement shall be limited to (1) registration or tuition costs, or other charges for participation at the meeting; (2) transportation to and from conferences, including airfare, car rental, or mileage for use of a Board member's own automobile for travel to conferences, and other miscellaneous transportation costs (shuttle, taxi, parking, etc.); (3) lodging at the single-room rate; and (4) reasonable costs of meals, not including alcohol.

2.1.1. Rates.

2.1.1.1. Registration, Tuition, and Meeting Charges. The Agency reimbursement rate for registration or tuition costs, or other charges for participation at a meeting, shall be the actual amount incurred, not to exceed the maximum rate published by the conference or activity sponsor for timely registration after applying all applicable deductions for any available discounts.

2.1.1.2. Transportation.

(a) Members of the Board must use government and group rates

offered by a provider of transportation services for travel when available. If such rates are not available, the Agency reimbursement rate for Board member transportation shall be the actual amount incurred (except for airfare, which shall not exceed the cost of round-trip coach airfare – see Section 2.1.1.2.c).

(b) The Agency reimbursement rate for mileage by use of a Board member's own vehicle for travel to a conference shall be calculated on the basis of total miles driven for Agency purposes at the rate specified in the Internal Revenue Code in effect at the time of the vehicle usage. See Section 3 for all other mileage reimbursements.

(c) Travel to conferences or seminars where air travel is available may be reimbursable through a mileage rate should the Board member choose to drive their own vehicles; however, the total reimbursable amount for mileage may not exceed the cost of round trip coach airfare.

(d) The Agency reimbursement rate for vehicle parking by a Board member shall be the actual amount incurred.

2.1.1.3. Lodging. Members of the Board must use government and group rates offered by a provider of lodging services when available. If the lodging is in connection with an accepted conference or organized educational activity, lodging costs must not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the member of the Board at the time of booking. If a government or group rate is not available, the Agency reimbursement rate for Board member lodging shall be the actual amount incurred, not to exceed the rate for comparable lodging.

2.1.1.4. Other. The following are allowable reimbursements for expenses related to the performance of duties as a Board member:

- Telephone charges for non-local, long distance calls
- Memberships and dues. Memberships may include but not be limited to Chambers of Commerce, Rotary and professional organizations.
- Subscriptions. Subscriptions may include but not be limited to local newspapers and water-related publications.
- Agency reimbursement of all other actual and necessary expenses incurred by a Board member shall be computed using the applicable Internal Revenue Service rates for reimbursement as established in Publication 463, or any successor publication. All expenses that do not fall within this reimbursement policy or the Internal Revenue Service reimbursable rates, as provided above, shall be approved by the Board in a public meeting before the expense is incurred.

2.2. Ineligible Expenses. Board members shall not be eligible for Agency reimbursement of any expenses incurred by any person traveling or attending a meeting as a guest of the Board member. No Board member shall be eligible for Agency reimbursement of any expenses for personal services not related to Agency business.

2.3 Limits. A pool of funds established through the annual budget process will be available for expenses related to attendance by Board members at major conferences, meetings, and seminars, to be identified in the budget as "Directors expenses". **The intent is for no individual Board member to exceed one-seventh of the monies established in this pool account, specific circumstances notwithstanding.**

### Section 3. MILEAGE REIMBURSEMENT.

3.1 Allowable Charges. Except for travel to a conference or for Legislative



Travel, mileage will be paid through the Agency-wide mileage reimbursement budget and will not be reported as a monthly Board member expense. The Agency reimbursement rate for mileage by use of a Board member's own vehicle for travel to a conference shall be calculated on the basis of total miles driven for Agency purposes at the rate specified in the Internal Revenue Code in effect at the time of the vehicle usage.

Section 4. **LEGISLATIVE TRAVEL.**

4.1 Purpose. The purpose of this pool of funds is to provide funds for the Chair of the Legal Legislative & Public Information Committee and the Board President, or their designee, to meet with State and Federal Representatives or attend meetings relevant for legislation affecting the Agency. In addition, the funds are available for a Board member elected as the Region 9 Board of the Association of California Water Agencies (ACWA). Other Board members may be designated to utilize these funds upon prior Board approval.

4.2 Allowable Charges. Expenses allowed under Expense Reimbursement Allowance in Section 2 above shall be chargeable against these funds. The Expense Form shall identify when the travel is for legislative purposes.

4.3 Limits. A pool of funds will be established through the annual budget process. This amount is not reported as a monthly Board member expense but rather as a lump sum amount on the monthly Board member expense report.

Section 5. **HEALTH INSURANCE.**

5.1 Insurance Premiums. The Agency provides health, dental, vision, and life insurance to Board members. Board members may elect to participate in the Agency's

health plan or be reimbursed for actual premiums for health insurance.

5.2 Section 125 Medical Reimbursement Plan. Board members may elect to participate in the Agency's medical reimbursement plan. The annual amount contributed by the Agency is \$1,500 per year and must be used for medical expenses only. Any unused amount shall be forfeited.

## II. REPORTING

Section 1. **EXPENSE FORMS.** The Agency shall provide expense report forms to be filed by the members of the Board for reimbursement for actual and necessary expenses incurred on behalf of the Agency in the performance of official duties. The expense reports shall document that expenses meet the policy reflected in this Resolution for expenditure of public resources. In order for a Board member to receive compensation for attendance or participation at the meetings, or for reimbursement of out-of-pocket expenses, the Board member is to submit to the Agency's Accounting Department a payment request on the appropriate form provided in order to be considered for reimbursement. All reimbursement requests for the end of year (July 1<sup>st</sup> through June 30<sup>th</sup>) should be turned in by July 15<sup>th</sup>. The expense report shall be accompanied by receipts documenting each expense. If the reimbursement requests listed by the Board member on said form satisfy the provisions of the policy set forth herein as relates to Category A expenses, then the Agency's General Manager is hereby authorized to approve the reimbursement requests. If any of the reimbursement requests identified by the Board member on said form for the calendar month fall under Category B of the policy set forth herein, then the Agency's General Manager shall include the reimbursement request on the agenda for the next regular meeting, at which time the Board will consider approval thereof. The Board reserves the right to approve

reimbursement of eligible expenses above the budget limit on a case-by-case basis. All documents related to reimbursable Agency expenditures are public records subject to disclosure under the California Public Records Act.

Section 2. **REPORT.** Board members shall provide brief reports on Category B meetings attended at the expense of the Agency at the next regular meeting of the Board. Such reports may be made either orally, or in writing, or by reference to any minutes thereof included in the agenda materials for said Board meeting. The inclusion of the Category B meetings on the consent calendar may also satisfy this requirement.

### **III. ETHICS TRAINING**

Section 1. **REQUIREMENT.** Each local agency official in Agency service must receive training in ethics laws at least once every two years.

1.1. **Local Agency Official.** As used in Section 1 of this Resolution, the term “local agency official” means all of the following:

- (a) All Board members; and
- (b) All executive staff of the Agency.

1.2. **Ethics Laws.** As used in Section 1 of this Resolution, the phrase “ethics laws” includes, but is not limited to, the following:

- (a) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict of interest laws;
- (b) Laws relating to claiming prerequisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of

public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies;

(c) Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws; and

(d) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.

### 1.3 **Agency Responsibilities.**

1.3.1. Records. The Agency shall maintain records indicating (a) the dates that local agency officials satisfied the requirements of Section 3 of this Resolution and (b) the entity that provided the training. The Agency shall maintain these records for at least five years after local agency officials receive the training. These records are public records subject to disclosure under the California Public Records Act.

1.3.2. Notice. The Agency is required to provide information on training available to meet the requirements of Section 3 of this Resolution to its local agency officials at least once every two years.

## IV. GENERAL PROVISIONS

Section 1. **REVIEW OF RESOLUTION ON ANNUAL BASIS.** Each year the Board shall review this Resolution to determine its effectiveness and the necessity for its continued operation. The Agency's General Manager shall report to the Board on the operation of this Resolution, and make any recommendations deemed appropriate,

including proposals to amend the Resolution. Upon conclusion of its review, the Board may take any action it deems appropriate concerning this Resolution. Nothing herein shall preclude the Board from taking action on the Resolution at times other than upon conclusion of the annual review.

Section 2. **SEVERABILITY**. If any provision of this Resolution, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are declared to be severable. Should a conflict occur between this resolution and any other resolution or ordinance of the Board, this resolution shall prevail.

Section 3. **EFFECTIVE DATE**. This Resolution shall become effective immediately upon adoption and shall supersede Resolution No. 964-13, adopted by the Board on January 10, 2013.

Adopted this 11<sup>th</sup> day of December 2014.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Beverly Lowry, President

ATTEST:

\_\_\_\_\_  
Doug Shumway, Secretary

## EXHIBIT “1”

### DEFINITION OF MEETINGS

This schedule of meetings defines those meeting that meet the requirement for payment for a day’s service. In addition, meetings on this schedule are also eligible for expense reimbursements, including mileage.

**CATEGORY “A”** – Meetings requiring no pre-approval and for which no reporting is required since minute action for these Agency meetings meets the reporting requirement through AB 1234.

- MWA Board of Directors
- Watermaster
- MWA Advisory Committees
- MWA Ad Hoc Committees
- Morongo Basin Pipeline Commission
- MWA Technical Advisory Committee

**CATEGORY “B”** – Meetings not requiring Board pre-authorization, but which require reporting through AB 1234 and which will be considered for approval on the Consent Calendar at an upcoming Board of Directors meeting.

- Subarea Advisory Committees
- MWA tours
- MWA seminars
- Board meetings for water districts/agencies
- City Council
- City of Victorville Water Management Committee meetings
- Community Service Districts
- Chamber of Commerce – if requested to speak at meeting
- Chamber of Commerce Local Government Subcommittee, if on committee
- Meetings with MWA Board members
- Meetings with MWA General Manager
- Meetings with other water districts and managers
- Meetings with city managers
- Association of San Bernardino County Special Districts
- Organization meetings, such as Building Industries Association
- ACWA and CSDA conferences
- High Desert Opportunity Business Conference
- Legal proceedings involving MWA
- Meetings with legislators (State or Federal)
- Educational seminars legally required, such as ethics training
- Meetings regarding community issues such as, but not limited to:
  - Lucerne Valley Economic Development Association
  - Johnson Valley Improvement Association

- Homestead Valley Community Council
- Joshua Tree Community Association
- Silver Valley S.D.A.
- Spring Valley Lake Association
- Newberry Springs-Harvard Property Owners Association
- El Mirage Community Group
- Municipal Advisory Committees
- Hinkley Community Advisory Committee
- Copper Mountain Mesa Community Association
- Flamingo Heights Community Association
- Newberry Springs Community Alliance
- Morongo Basin Conservation Association, Inc.

EMWD

District, the certification that checks presented for Board approval in payment of obligations of the District are correct and supporting documents available, and the investment of District funds.

**2.207            COMPENSATION<sup>1</sup>**

(a)     Each director shall be paid up to \$216.00 for each day's attendance at meetings of the Board, and for each day's service rendered as director by request of the Board, not exceeding a total of ten (10) days in any calendar month. A director shall be compensated for no more than one authorized meeting per day even if more than one meeting is attended in one day. This compensation shall be in effect for meetings attended commencing in January 2017.

(b)     Each representative of the District on the Board of Directors of the Metropolitan Water District of Southern California shall be paid up to \$216.00 for each day's attendance at meetings of the Board of Directors of the Metropolitan Water District of Southern California or committees thereof, and for each day's service rendered as director, not exceeding a total of ten (10) days in any calendar month. The representative shall be compensated for no more than one meeting per day per agency even if more than one meeting is attended in one day per agency. This compensation shall be in effect for meetings attended commencing in January 2017.

(c)     On the first Board meeting in January of each year, compensation to each director and each representative of this District's Metropolitan Water District of Southern California Board of Directors may be increased up to a maximum of five percent (5%), upon approval by the Board for each calendar year following the operative date of the last adjustment. The Board shall adjust its compensation

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<sup>1</sup>Section 2.207 amended by Resolution No. 2014-054 on May 21, 2014; Section 2.207 amended by Resolution No. 2014-141 on November 5, 2014; Section 2.207 amended by Resolution No. 2014-150 on January 7, 2015; Section 2.207(b) amended by Resolution No. 2015-011 on March 18, 2015; Section 2.207 amended by Resolution No. 2016-019 on February 3, 2016; Section 2.207 amended by Resolution No. 2017-002 on January 4, 2017.



by the percentage change in the Consumer Price Index (Los Angeles-Riverside-Orange County) for the prior year as measured by October to October published statistics, up to five percent (5%), and rounded to the nearest whole dollar unless a majority of the Board declines to accept the indexed change.

(d) The following meetings are designated by this policy as "requested by the Board" and do not require any further authorization or ratification to receive compensation pursuant to sections 2.207 (a) and (b) above and to receive reimbursement of expenses pursuant to section 2.208:

- (1) Board meetings;
- (2) Committee meetings;
- (3) Designated Ad Hoc Committee meetings;
- (4) Designated representatives to outside agencies, such as Metropolitan Water District of Southern California, Santa Ana River Watershed Project Authority or the Western Riverside Council of Governments; and
- (5) Designated representatives to non-profit professional organizations or working coalitions in which the District is an active participant such as ACWA, CASA, CalDesal or CSDA

(e) Other meetings which may be compensable under sections 2.207 (a) and (b) and eligible for reimbursement of expenses pursuant to section 2.208 include the following meetings and other activities related to the District's business, subject to ratification of the Board's Executive Committee at a regularly scheduled meeting:

- (1) Non-profit organization meetings, if the nonprofit organization is one created by or supported with funds or other contributions from the District;
- (2) Service club meetings where a Director is making a presentation on behalf of the District;
- (3) Meetings with District executive staff;
- (4) Meetings a Director has with other elected officials or their employees, which do not include District staff;
- (5) Meetings of the governing body of another agency, where a

matter directly affecting the interests of the District is on the agenda and the Director is not a board member, employee or official compensated by the other agency;

- (6) Educational seminars conducted by various organizations on topics related to water and wastewater issues;
- (7) Meetings with vendors and/or contractors of the District; and
- (8) Meetings with property owners on matters in which the property owner is seeking District approval or other consideration or on matters otherwise affecting the interests of the District.

(f) If advance approval of the Board is obtained, other meetings related to the District's business which may be compensable under sections 2.207 (a) and (b) and eligible for reimbursement of expenses pursuant to section 2.208 include:

- (1) Social or ceremonial events;
- (2) Service club meetings; and
- (3) Nonprofit organization events, other than for non-profit professional organizations or working coalitions noted in 2.207 (d).

(g) Directors will not receive compensation or expense reimbursement for any of the following:

- (1) Social or ceremonial events not pre-approved by the Board;
- (2) Service club meetings not pre-approved by the Board;
- (3) Nonprofit organization events (other than those noted in 2.207 (d)) not pre-approved by the Board;
- (4) District-sponsored employee events including but not limited to luncheons or retirement events;
- (5) Parades, festivals, funerals, weddings or holiday events; and
- (6) Meetings of partisan political organizations.

(h) At least annually, the Board shall determine its designated representatives to committees, outside agencies and other organizations.

(i) Directors shall submit claims for compensation. The Secretary of the Board shall authorize payment for meetings and service and shall report such payments at the next regular meeting of the Executive Committee following the month of submittal at which time the Board may ratify or disapprove payment of the claim(s). Any recommendations of the Executive Committee to disapprove payment of a claim will be forwarded to the full Board for action.”

## **2.208 EXPENSES<sup>2,3</sup>**

(a) A Director shall receive reimbursement for travel, meals, lodging, registration and other actual, reasonable and necessary expenses incurred on District business. Reimbursements for meals, lodging and other actual and necessary expenses allowed under this Policy, excluding conference registration fees and airfare(s), shall not exceed \$500 per day. However, in the event the Director provides a reasonable written explanation adequately justifying why his/her daily expenses exceeded the allowable amount, it is within District’s discretion to authorize reimbursement in excess of the daily maximum.

(b) Reimbursement for lodging in connection with a conference or organized educational activity shall not exceed the maximum group rate. If the group rate is not available, reimbursement shall be comparable to the group rate. Reimbursement for travel and meals shall not exceed reasonable and necessary amounts.

(c) Transportation - Use of a District vehicle, air, train, rental car, or private transportation shall be selected on the basis of the most reasonable and appropriate method, taking into consideration distance, time and total costs to the District. Should a Director elect to travel by private transportation rather than commercial airfare, the Director will be entitled to reimbursement based upon the mileage rates established each year by the U.S. General Services

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<sup>2</sup> Section 2.208 amended by Resolution No. 5178 on September 4, 2013

<sup>3</sup> Section 2.208 amended by Resolution No. 2014-141 on November 5, 2014.