REGULAR MEETING MINUTES

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT June 01, 2022

A regular meeting of the Board of Directors of the Santa Ynez River Water Conservation District was held on Wednesday, June 01, 2022. As a result of the existing State of Emergency in California due to the COVID-19 pandemic, Santa Barbara County Public Health recommendations to protect public health by limiting public gatherings and recommending social distancing, and as authorized by State Assembly Bill 361, this meeting occurred in-person at the Buellton City Council Chambers, 140 West Highway 246, Buellton, CA with remote participation via video and teleconference.

Directors Present, in-person: Cynthia Allen, Art Hibbits, Steve Jordan and Brett Marymee

Director Absent: Mark Altshuler

Others Present, in-person: Board Secretary Amber Thompson, General Manager Kevin Walsh

Others Present, remote participation: Paeter Garcia, Curtis Lawler (Stetson Engineers), Legal Counsel Steve Torigiani, and one member of the public who was unannounced.

I. CALL TO ORDER AND ROLL CALL

President Allen called the meeting to order at 6:32 pm. Ms. Thompson called roll. All Directors except for Director Altshuler were present providing a quorum.

II. PLEDGE OF ALLEGIANCE

President Allen led the Pledge of Allegiance.

III. CONSIDER CONTINUING USE OF TELECONFERENCE MEETING PROCEDURES UNDER GOVERNMENT CODE SECTION 54953(E) (AB361)

Ms. Thompson reported that the Board of Directors passed Resolution No. 713, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA YNEZ RIVER WATER CONSERVATION DISTRICT AUTHORIZING REMOTE TELECONFERENCE MEETINGS UNDER AB361 on May 31, 2022 and explained that the California Governor's State of Emergency due to the COVID-19 pandemic is still in effect and the Santa Barbara County Public Health Department issued recommendations to protect public health by limiting public gatherings and recommending social distancing, and as authorized by State Assembly Bill 361. Therefore, pursuant to AB361 and the passing of Resolution No. 713 within the last 30 days, Directors may participate in this meeting via teleconference.

IV. CONSIDERATION OF THE MINUTES OF THE SPECIAL MEETINGS OF APRIL 27 AND MAY 11, 2022

President Allen submitted the minutes of the special meeting of April 27, 2022 and May 11, 2022 for Board approval. There was no discussion. Director Marymee made a <u>MOTION</u> to approve the minutes. Director Jordan seconded the motion and it passed by the following roll call vote:

AYES, Directors: Cynthia Allen, Art Hibbits, Steve Jordan, Brett Marymee

NOES, Directors: None

ABSENT, Directors: Mark Altshuler

V. PUBLIC COMMENT

There was no public comment. Ms. Thompson announced she did not receive any public comments on non-agenda items prior to the meeting.

VI. PUBLIC HEARING ON THE 44TH ANNUAL ENGINEERING AND SURVEY REPORT ON WATER SUPPLY CONDITIONS OF THE SANTA YNEZ RIVER WATER CONSERVATION DISTRICT, 2021-2022

At 6:37 p.m., President Allen opened the continued public hearing and announced this is a continued public hearing to receive public comment on the 44th Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District for 2021-2022 (Report). Ms. Thompson announced that the June 1, 2022 public hearing on the was continued from the public hearing of April 27, 2022; the June 1, 2022 public hearing was properly noticed on May 21, 2022; the Report had been available for a 30-day review period including availability to the public on the District website (SYRWCD.com) and at the District office; and the action for June 1, 2022 is to review any comments or additional information and consider approval of the Report, including its findings and determinations, which are required to maintain the groundwater charge program.

President Allen further stated the purpose of this public hearing was to receive any public comments and evidence on the Report concerning the groundwater conditions and the surface water supplies of the District. She announced that the establishment of zones and levying groundwater charges for Fiscal Year 2022-2023 will be subject of another board meeting.

President Allen announced that the District received one public letter on June 1, 2022 and distributed it to the Board of Directors. She asked Legal Counsel Steve Torigiani to summarize that public comment letter. Legal Counsel Steve Torigiani stated that a public comment letter dated June 1, 2022 from Mr. Jeff Clay, President, Board of Trustees, Santa Ynez River Water Conservation District, Improvement District No. 1 (ID No. 1) was received by email on June 1, 2022. He summarized the letter.

Citing the receipt of the June 1, 2022 comment letter received from ID No. 1 and the current status of the May 26, 2022, the Court of Appeal for the Second Appellate District, Division 6, published decision in *City of San Buenaventura v United Water Conservation District* (2022) 79 Cal.App.5th 110, invalidating section 75594 as unconstitutional, although this decision is not yet final, Legal Counsel Steve Torigiani proposed the following changes be made to the Report:

- Delete the second to last sentence of Section 1.4, at page 9: "The State Water Code requires that non-agricultural rates cannot be less than three times, nor more than five times the rate established for agricultural water and special irrigation water rates shall not be less than the rate for agricultural water and shall not be more than the rate for on-agricultural water."
- Add to the end of the last sentence of Section 1.4, at page 9, the words "and consistent with applicable law."
- Delete from Appendix A, page A-2, the following 3 sentences: "Within any given zone, the fixed and uniform rate per acre-foot for other than agricultural water must be not less than three times nor more than five times the fixed and uniform rate established for agricultural water in that zone. A 1984 amendment to the Water code established a rate for special irrigation water (irrigation water for parks, golf courses, cemeteries, schools and publicly owned historic sites). The rate shall not be less than the rate for agricultural water and shall not be more than the rate for non-agricultural water."

Legal Counsel Steve Torigiani further advised that the May 26, 2022 published opinion is not final, could be modified if the Supreme Court reviews the case, and that the recommended changes do not change the material aspects of the Report including the findings and determinations set forth in Section 1.4 a-j, inclusive, on page eight of the Report.

Mr. Paeter Garcia, General Manager, ID No. 1 explained ID No. 1's intent of the June 1, 2022 dated comment letter and thanked the Board for giving attention to the letter. He stated the proposed changes by Legal Counsel Steve Torigiani should allow the Report to carry forward and support future work and decisions by the Board for this year. There were no other public comments and no discussion.

President Allen closed the public hearing at 6:45 p.m.

Director Jordan asked if the District Annual Report and the three SGMA GSA management area annual reports could be combined in future years. Discussion followed.

VII. GENERAL MANAGER REPORT

A. Consider Approval of 44th Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District, 2021-2022

President Allen submitted the 44th Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District, 2021-2022 (Report) for Board approval. There was no discussion. Director Jordan made a MOTION to approve the Report incorporating all changes as recommended by Legal Counsel Steve Torigiani. Director Marymee seconded the motion and it passed by the following roll call vote:

AYES, Directors: Cynthia Allen, Art Hibbits, Steve Jordan, Brett Marymee

NOES, Directors: None

ABSENT, Directors: Mark Altshuler

B. Financial Reports, Monthly Warrants, and 3rd Quarter Investment Report

Mr. Kevin Walsh reported that the Period 10 financial report required corrections and were not available to present at this time. He presented the Warrant Lists for February, March 2022 for Board approval and ask Ms. Thompson to explain the error with April 2022 warrant list. Ms. Thompson distributed a revised April 2022 Warrant List and explained the clerical error found on the posted warrant list that was corrected in the revised version. She also explained the higher-than-normal dollar amount recorded in the April 2022 warrants are due to check #s 5438-5440, totaling \$106,284.49, were to transfer funds from Mechanics Bank accounts. Discussion followed.

Director Jordan made a MOTION to approve the February, March and revised April 2022 warrant lists paid from Mechanics Bank account by check #s 5401-5438, ACH transactions, and one stop payment of check #5389, totaling \$312,985.80 and approve April 2022 warrant list paid from Five Star Bank account by ACH transaction and one voided check #1000, totaling \$3,113.61. Director Hibbits seconded the motion and it passed by the following roll call vote:

AYES, Directors: Cynthia Allen, Art Hibbits, Steve Jordan, Brett Marymee

NOES, Directors: None

ABSENT, Directors: Mark Altshuler

Mr. Walsh presented the 3rd Quarter Investment Report.

C. Downstream Users Accounting

Mr. Walsh presented the Downstream Users Accounting. He reported that a combined release of ANA and BNA accounts is likely to happen possibly mid-August through November of 2022. Discussion followed.

D. Reservoir and Rainfall Status

Mr. Walsh presented the Santa Barbara County Flood Control District Rainfall and Reservoir Summary dated May 23, 2022. There was no discussion.

VIII. DISCUSS EXECUTIVE ORDER N-7-22

Mr. Walsh reported that staff is proceeding to work with the three GSAs, as a member of each of the GSAs, on developing a process, preferably a uniform process through the Basin. Discussion followed.

IX. ATTORNEY REPORT

Mr. Steve Torigiani provided information about AB22-01 and Executive Order N-7-22.

X. REPORTS, ACTS BY BOARD MEMBERS, QUESTIONS OF STAFF, STATUS REPORTS, ANNOUNCEMENTS, OBSERVATIONS, AND OTHER MATTERS, AND/OR COMMUNICATIONS NOT REQUIRING ACTION

President Allen announced that she went to CSDA Legislative Days in May. The legislators were expected to attend. However, our local legislators did not attend.

XI. REQUEST FOR ITEMS TO BE INCLUDED ON THE NEXT AGENDA. THE NEXT MEETING IS SCHEDULED AS A REGULAR MEETING FOR SEPTEMBER 7, 2022, AT 6:30 PM.

President Allen announced the next scheduled meeting is a Regular Meeting for September 7, 2022, at 6:30 p.m. with the location to be determined. There were no requests.

XII. CLOSED SESSION

At 7:06 pm, the Board convened into Closed Session until 7:16 pm.

XIII. RECONVENE OPEN SESSION / CLOSED SESSION REPORT

At 7:16 pm, the Board reconvened into open session. President Allen advised there is nothing to report from Closed Session.

XIV. ADJOURNMENT

There being no further business and by MOTION from Director Jordan, President Allen adjourned the meeting at 7:17 pm.

ynthia Allen, President

Amber M. Thompson, Secretary



June 1, 2022

SENT VIA FIRST CLASS AND ELECTRONIC MAIL

(ATHOMPSON@SYRWCD.COM; KWALSH@SYRWCD.COM)

HONORARY TRUSTEE: Harlan J. Burchardi 1969-2020 Board of Directors Santa Ynez River Water Conservation District P.O. Box 719

Santa Ynez, California 93460

TRUSTEES:

DIVISION 1 Jeff Holzer Forty-Fourth Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District, 2021-2022

DIVISION 2 Jeff Clay

Dear Board Members:

Re:

DIVISION 3 Lori Parker

DIVISION 4 Michael Burchardi

TRUSTEE-AT-LARGE Brad Joos

GENERAL MANAGER Paeter E. Garcia The Santa Ynez River Water Conservation District, Improvement District No.1 (ID No.1) respectfully submits the following comments in connection with the Forty-Fourth Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District, 2021-2022 (Annual Report) prepared by and for the Santa Ynez River Water Conservation District (SYRWCD). As further set forth below, ID No.1 looks forward to working with SYRWCD in these matters.

ID No.1's primary comment on the Annual Report is that it must be revised to ensure consistency with the recent ruling of the California Court of Appeal in *City of San Buenaventura v. United Water Conservation District*. For many years the SYRWCD has relied upon its Annual Engineering and Survey Report to establish and levy groundwater charges against water production within SYRWCD. Similar to prior years, this year the Annual Report states, in part:

Implementation of a groundwater charge within the District requires an engineering investigation report on the groundwater conditions of the District. . . . The Board must then establish the groundwater charge to be levied in any zone or zones and proceed to assess such charge against all persons operating groundwater producing facilities within such zone or zones during the ensuing water year. The charge must be a fixed and uniform rate per acre-foot for agricultural water and for other water in each zone. Different rates may be established for different zones. Within any given zone, the fixed and uniform rate per acre-foot for other than agricultural water must be not less than three times nor more than five times the fixed and uniform rate established for agricultural water in that zone. (Annual Report, Appendix A, pp. A-1 to A-2.)

Board of Directors Santa Ynez River Water Conservation District June 1, 2022 Page 2

Similarly, SYRWCD's Annual Report indicates that "[t]he State Water Code requires that non-agricultural rates cannot be less than three times, nor more than five times the rate established for agricultural water" and that SYRWCD's groundwater charges and rates "are based on a ratio of 1:3.5 with other water rates three and one-half times the agricultural rates." (Annual Report, pp. 10-11.) The State Water Code being referenced in SYRWCD's Annual Report necessarily includes Water Code section 75594.

The recent ruling in *City of San Buenaventura v. United Water Conservation District* held that Water Code section 75594 is facially unconstitutional. Quoting a related decision from the California Supreme Court, the Court of Appeal ruled as follows:

There may be circumstances in which the three-to-one ratio is justified, but justification will not have anything to do with . . . section 75594. Instead, the justification will be that the fees imposed on ratepayers bear 'a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.'

SYRWCD has not shown that its non-agricultural production charge of at least three times the agricultural charge bears a fair or reasonable relationship to non-agricultural producers' burdens on or benefits received from SYRWCD. As demonstrated in the Annual Report and in previous annual reports, SYRWCD has relied upon Water Code section 75594 to establish and impose its not less than three-to-one ratio in pump charges, and that basis has been ruled unconstitutional.

For decades ID No.1 and SYRWCD have worked closely together in evaluating water rights and water supply issues in the Santa Ynez Valley. Indeed, ID No.1 is a longstanding producer of groundwater in the Santa Ynez Uplands (Zone E) and underflow in the Santa Ynez River alluvium (Zone A), and on behalf of our ratepayers we have paid the pump charges assessed by SYRWCD. Accordingly, we look forward to working with SYRWCD as you develop new charges in response to the Court's decision.

Sincerely,

Jeff Clay

President, Board of Trustees

cc:

ID No.1 Board of Trustees
Paeter Garcia, ID No.1 General Manager
Kevin Walsh, SYRWCD General Manager
Gary Kvistad, Brownstein Hyatt Farber Shreck
Lutfi Kharuf, Best Best & Krieger

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT FEBRUARY 2022 WARRANT LIST FOR BOARD APPROVAL

NUMBER	DATE	PAYEE	DESCRIPTION	_1	AMOUNT
ACH	2/2/2022	Payroll	January 16-31, 2022 Salary	\$	9,244.59
ACH	2/2/2022	Cynthia Allen	1/3/22 CMA, 1/6/22 EMA Meetings	\$	138.52
ACH	2/2/2022	Art Hibbits	1/3/22 CMA Meeting	\$	69.26
ACH	2/2/2022	Steve Jordan	1/5/22 WMA Meeting	\$	69.26
ACH	2/2/2022	Brett Marymee	1/6/22 EMA Meeting	\$	69.26
ACH	2/2/2022	Employment Development Dept.	EDD Tax Deposit (January 16-31, 2022)	\$	925.05
ACH	2/2/2022	Mechanics Bank (Payroll Acct)	Payroll Tax Deposit (January 16-31, 2022)	\$	5,249.70
ACH	2/2/2022	Lincoln Financial Group	457 Plan Combined Contributions (#1 February)	\$	3,113.61
5401	2/8/2022	Bartlett Pringle Wolf	FY 2020-21 Financial Audit	\$	7,500.00
5402	2/8/2022	County of Santa Barbara	IRWM Participation Cost 7/1-12/31/2021	\$	99.10
5403	2/8/2022	Jim Heyerly	February 2022 Rent	\$	1,500.00
5404	2/8/2022	JDL Mapping	2022 Redistricting & DAC mapping	\$	280.00
5405	2/8/2022	Alex Pappas	January 2022 GW, SGMA, and Fish Research Service	\$	792.00
5406	2/8/2022	Pacific Gas & Electric	January 2022 Electric Service	\$	93.61
5407	2/8/2022	Shirley Scales Bookkeeping	January 2022 GW Admin Service	\$	3,006.00
5408	2/8/2022	Staples Credit Plan	Office Supplies	\$	212.23
5409	2/8/2022	Stetson Engineers	December 2021 Engineering Service	\$	4,195.57
5410	2/8/2022	US Bank Corp	January 2022 CalCard	\$	1,628.91
5411	2/8/2022	Valley Bookkeeping Services	January 2022 Bookkeeping	\$	380.00
5412	2/8/2022	Young Wooldridge	January 2022 Legal Service	\$	10,213.43
ACH *	2/9/2022	Guardian	January & February 2022 Dental, Vision, Life, LTD & ADD Insurance	\$	810.54
ACH	2/16/2022	Payroll	February 1-15, 2022 Salary	\$	9,244.59
ACH	2/16/2022	Employment Development Dept.	EDD Tax Deposit (February 1-15, 2022)	\$	925.05
ACH	2/16/2022	Lincoln Financial Group	457 Plan Combined Contributions (#2 February)	\$	3,113.61
ACH	2/16/2022	Mechanics Bank (Payroll Acct)	Payroll Tax Deposit (February 1-15, 2022)	\$	5,192.30
			TOTAL	S	68,066.19
5389*	2/1/2022	Guardian - STOP PAYMENT	Stop Payment, paid online with February 2022 Benefits (Check Issued 1/13/2022 for January 2022 Benefits)		

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT MARCH 2022 WARRANT LIST FOR BOARD APPROVAL

]	NUMBER	DATE	<u>PAYEE</u>	DESCRIPTION	A	AMOUNT
	ACH	3/2/2022	Payroll	February 16-28, 2022 Salary	\$	9,244.59
	ACH	3/2/2022	Cynthia Allen	2/28/22 CMA, 2/24/22 EMA Meetings	\$	138.52
	ACH	3/2/2022	Art Hibbits	2/28/22 CMA Meeting	\$	69.26
	ACH	3/2/2022	Steve Jordan	2/23/22 WMA Meeting	\$	69.26
	ACH	3/2/2022	Brett Marymee	2/24/22 EMA Meeting	\$	69.26
	ACH	3/2/2022	Employment Development Dept.	EDD Tax Deposit (February 16-28, 2022)	\$	925.05
	ACH	3/2/2022	Mechanics Bank (Payroll Acct)	Payroll Tax Deposit (February 16-28, 2022)	\$	5,249.70
	ACH	3/2/2022	Lincoln Financial Group	457 Plan Combined Contributions (#1 March)	\$	3,113.61
	5413	3/9/2022	Bartlett Pringle Wolf	FY 2020-21 Financial Audit	\$	2,500.00
	5414	3/9/2022	Guardian	March 2022 Dental, Vision, Life, LTD & ADD Insurance	\$	405.36
	5415	3/9/2022	Jim Heyerly	March 2022 Rent	\$	1,500.00
	5416	3/9/2022	Andy Iorio	Tenant Improvements - Install Outside Display case, front door slot, replace light switch	\$	227.19
	5417	3/9/2022	Alex Pappas	February 2022 GW, SGMA, and Fish Research Service	\$	315.00
	5418	3/9/2022	Pacific Gas & Electric	February 2022 Electric Service	\$	105.76
	5419	3/9/2022	Shirley Scales Bookkeeping	February 2022 GW Admin Service	\$	4,185.00
	5420	3/9/2022	Stetson Engineers	January 2022 Engineering Service	\$	4,063.15
	5421	3/9/2022	US Bank Corp	February 2022 CalCard	\$	2,166.50
	5422	3/9/2022	Valley Bookkeeping Services	February 2022 Bookkeeping	\$	380.00
	5423	3/9/2022	Willow Creek Ranch / Judy Adams	February 2022 GW Admin Service	\$	637.50
	5424	3/9/2022	Young Wooldridge	February 2022 Legal Service	\$	19,287.74
	ACH	3/17/2022	Payroll	March 1-15, 2022 Salary	\$	9,244.59
	ACH	3/17/2022	Lincoln Financial Group	457 Plan Combined Contributions (#2 March)	\$	3,113.61
	ACH	3/17/2022	Employment Development Dept.	EDD Tax Deposit (March 1-15, 2022)	\$	925.05
	ACH	3/17/2022	Mechanics Bank (Payroll Acct)	Payroll Tax Deposit (March 1-15, 2022)	\$	5,192.30
				TOTAL	\$	73,128.00

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT APRIL 2022 WARRANT LIST FOR BOARD APPROVAL

(Account held at Mechanics Bank) REVISED 6/1/2022

NUMBER	DATE	PAYEE	DESCRIPTION	_	AMOUNT
ACH	4/4/2022	Payroll	March 16-28, 2022 Salary	\$	9,244.59
ACH	4/4/2022	Cynthia Allen	3/9 SYRWCD, 3/21 CMA, 3/24/22 EMA Meetings	\$	207.79
ACH	4/4/2022	Art Hibbits	3/9 SYRWCD, 3/21 CMA, 3/23/22 WMA Meetings	\$	207.79
ACH	4/4/2022	Steve Jordan	3/9 SYRWCD, 3/23/22 WMA Meetings	\$	138.52
ACH	4/4/2022	Brett Marymee	3/9/22 SYRWCD Meeting	\$	69.26
ACH	4/4/2022	Employment Development Dept.	EDD Tax Deposit (March 16-28, 2022)	\$	925.05
ACH	4/4/2022	Mechanics Bank (Payroll Acct)	Payroll Tax Deposit (March 16-28, 2022)	\$	5,295.58
ACH	4/4/2022	Lincoln Financial Group	457 Plan Combined Contributions (#1 April)	\$	3,113.61
5425	4/12/2022	William Buelow	March 2022 Expense Reimbursement	\$	34.52
5426	4/12/2022	Guardian	April 2022 Dental, Vision, Life, LTD & ADD Insurance	\$	405.36
5427	4/12/2022	Jim Heyerly	April 2022 Rent	\$	1,500.00
5428	4/12/2022	JDL Mapping	2022 Redistricting & DAC mapping	\$	490.00
5429	4/12/2022	Onsite Computers & Design	Troubleshoot technology issues	\$	157.50
5430	4/12/2022	Alex Pappas	March 2022 Fish Research Service	\$	210.00
5431	4/12/2022	Pacific Gas & Electric	March 2022 Electric Service	\$	98.18
5432	4/12/2022	Shirley Scales Bookkeeping	March 2022 GW Admin Service	\$	2,619.00
5433	4/12/2022	Stetson Engineers	February 2022 Engineering Service	\$	11,071.65
5434	4/12/2022	US Bank Corp	March 2022 CalCard	\$	1,312.08
5435	4/12/2022	Valley Bookkeeping Services	March 2022 Bookkeeping	\$	380.00
5436	4/12/2022	Young Wooldridge	March 2022 Legal Service	\$	12,891.35
5437	4/12/2022	Staples	Office Supplies	\$	178.62
5438	4/13/2022	SYRWCD - Transfer to NEW Bank	Money Market: Mechanics #7311 to Five Star #5986	\$	100,000.00
5439	4/13/2022	SYRWCD - Transfer to NEW Bank	Money Market: Mechanics #7313 to Five Star #5986 CLOSE ACCOUNT: Mechanics #7313.	\$	3,187.15
5440	4/13/2022	SYRWCD - Transfer to NEW Bank	Money Market: Mechanics #7314 to Five Star #5994 CLOSE ACCOUNT: Mechanics #7314.	\$	3,097.34
ACH	4/18/2022	Payroll	April 1-15, 2022 Salary	\$	9,244.59
ACH	4/18/2022	Employment Development Dept.	EDD Tax Deposit (April 1-15, 2022)	\$	925.05
ACH	4/18/2022	Mechanics Bank (Payroll Acct)	Payroll Tax Deposit (April 1-15, 2022)	\$	5,192.30
			TOTAL	\$	172,196.88

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SANTA YNEZ RIVER WATER CONSERVATION DISTRICT

APRIL 2022 WARRANT LIST FOR BOARD APPROVAL

NUMBER	DATE	PAYEE	DESCRIPTION		A	MOUNT	
1000	4/10/2022	VOID	VOID (verify requested change in bank account)		\$	-	
ACH	4/18/2022	Lincoln Financial Group	457 Plan Combined Contributions (#2 April)		\$	3,113.61	
				TOTAL	S	3.113.61	