

# **SPECIAL MEETING MINUTES**

## **SANTA YNEZ RIVER WATER CONSERVATION DISTRICT JUNE 27, 2023**

A special meeting of the Board of Directors of the Santa Ynez River Water Conservation District was held on Tuesday, June 27, 2023, at 6:30 p.m. at the Buellton City Council Chambers, 140 West Highway 246, Buellton, California.

Directors Present: Cynthia Allen, Mark Altshuler, Art Hibbits, and Steve Jordan

Director Absent: Brett Marymee

Others Present, in-person: Groundwater Program Manager Bill Buelow, Larry Lahr, Carol Redhead, Board Secretary Amber Thompson, Steve Torigiani (Young Wooldridge), and General Manager Kevin Walsh

Others Present, remote participation: Michelle Gearhart (Adamski Moroski Madden Cumberland & Green LLP, during closed session only)

### **1. CALL TO ORDER AND ROLL CALL**

President Allen called the meeting to order at 6:34 pm. Ms. Thompson called roll. Four Directors were present providing a quorum.

### **2. CLOSED SESSION**

At 6:35 p.m., President Allen closed the Open Session and the Board convened into Closed Session from 6:35 p.m. to 7:14 p.m. to discuss the following item:

- a. Conference with Legal Counsel - Pending Litigation (Gov. Code, § 54956.9, subd. (d)(1)): Wolff vs SYRWCD, Superior Court of California, County of Santa Barbara, Case No. 20CV01552 and Case No. 22CV02062

### **3. RECONVENE INTO OPEN SESSION / CLOSED SESSION REPORT**

After a 5-minute break, President Allen reconvened Open Session at 7:19 p.m. and advised there is nothing to report from Closed Session.

### **4. PLEDGE OF ALLEGIANCE**

President Allen led the Pledge of Allegiance.

### **5. PUBLIC COMMENT**

There was no public comment. Ms. Thompson announced that no written public comments were received prior to the meeting.

**6. CONSIDERATION OF THE MINUTES OF THE REGULAR MEETING OF JUNE 7, 2023**

President Allen submitted the minutes of the Regular Meeting of June 7, 2023 for Board approval. There was no discussion or public comment.

Director Altshuler made a **MOTION** to approve the minutes of the Regular Meeting of June 7, 2023, as presented. Director Hibbits seconded, there was no discussion, and the motion passed 4-0-1, with Director Marymee being absent.

**7. REVIEW RATE STUDY REPORT BY RAFTELIS AND CONSIDER ADOPTION OF RESOLUTION NO. 722 MAKING FINDINGS AND DETERMINATIONS, ESTABLISHING ZONES, SETTING RATES AND LEVYING A GROUNDWATER CHARGE FOR WATER YEAR 2023-2024**

Ms. Thompson provided copies of a memorandum from Kevin D. Walsh and Young Wooldridge, LLP, dated June 27, 2023 and copies of Resolution No. 722 to the Board of Directors and all in attendance.

Mr. Steve Torigiani reviewed the memorandum as well as the Revised Draft Final Rate Study by Raftelis, dated June 22, 2023 (Rate Study Report).

Referring to the “Discussion” section of the memorandum, Mr. Torigiani noted that a written public comment letter, dated June 6, 2023, on the initial Draft Final Rate Study, was received from Santa Ynez River Water Conservation District, Improvement District No. 1 (ID No. 1) requesting that the costs of certain District activities relating to water rights releases should only be allocated to Zone A and B pumpers, based on the argument that the pumpers in other zones do not sufficiently benefit from such activities to justify charging them for such costs consistent with Proposition 26. ID No. 1 also takes the position that the District should suspend its imposition of all groundwater charges in Zone E arguing that SGMA and the EMA GSA has supplanted the District’s authority to charge Zone E for District’s SGMA-related costs as well as another argument that the District’s EMA GSA SGMA activities, in addition to benefitting pumpers within the District, also benefit pumpers outside the District (but within the EMA) who are not subject to the District’s groundwater charge, and thus Proposition 26 would be violated if the District’s SGMA-related costs are included in District’s Zone E groundwater charges.

Mr. Torigiani also reviewed the “General Responses” provided in the memorandum. He noted that under Proposition 26, the District has considerable discretion as to how it allocates water rights release costs among the zones receiving a specific benefit for such activities. However, without setting any precedent for future years or conceding to ID No. 1’s position, as suggested by ID No. 1’s comments, the revised rate study allocates certain identifiable costs related to water rights releases and other river management functions solely to Zones A and B.

In the Rate Study Report, he noted the rate differences for Zones A and B were established using long-term average amounts of water rights releases from the Above

Narrows Account (ANA) and Below Narrows Account (BNA) as a basis.

With respect to the arguments about Zone E charges, Mr. Torigiani said he respectfully disagrees with ID No. 1 on this point. He noted the SGMA statute expressly did not supplant or limit the District's authority to impose a groundwater charge in Zone E (or elsewhere within the District) or otherwise. With respect to the arguments about Zone E charges, like the initial Final Draft Rate Study (the subject to ID No. 1's June 6, 2023 comment letter), the Revised Final Draft Rate Study, without setting a precedent for future years or conceding to any of ID No. 1's arguments, uses property tax and other District revenues not subject to Proposition 26's restrictions to cover SGMA-related (and certain other) costs. Thus, such costs have not been included in the groundwater charge rates proposed to be levied, and thus, this is not a valid Proposition 26 issue. District Staff and legal counsel do not agree with ID No. 1's position that Proposition 26 prohibits SGMA-related or other costs from being included in the groundwater charge rates for Zone E for reasons summarized in the memorandum, among others.

Discussion followed. No public comment was received.

Mr. Torigiani reviewed Resolution No. 722, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA YNEZ RIVER WATER CONSERVATION DISTRICT MAKING FINDINGS AND DETERMINATIONS, ESTABLISHING ZONES, SETTING RATES, AND LEVYING A GROUNDWATER CHARGE WITHIN THE DISTRICT FOR THE WATER YEAR 2023-2024. There was no discussion and no public comment.

Director Jordan **MOVED** to adopt No. 722, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA YNEZ RIVER WATER CONSERVATION DISTRICT MAKING FINDINGS AND DETERMINATIONS, ESTABLISHING ZONES, SETTING RATES, AND LEVYING A GROUNDWATER CHARGE WITHIN THE DISTRICT FOR THE WATER YEAR 2023-2024, as presented. Director Hibbits seconded the motion. There was no public comment or additional discussion. The motion passed 4-0-1 by the following roll call vote:

AYES, Directors: Allen, Altshuler, Hibbits, Jordan

NOES, Directors: None

ABSENT, Directors: Marymee

## **8. CONSIDER APPOINTMENTS OF REPRESENTATIVES AND ALTERNATES TO GSA COMMITTEES**

Mr. Buelow reviewed his memorandum dated June 27, 2023 regarding Board Representation on SGMA GSAs in the SY Basin. Discussion followed. There was no public comment received.

Director Altshuler made a **MOTION** to appoint Director Steve Jordan (primary representative) and President Cindy Allen (alternate) to the WMA GSA Committee; President Cindy Allen (primary representative) and Director Steve Jordan (alternate) to the CMA GSA Committee; Director Brett Marymee (primary representative) and Director

Steve Jordan (alternate) to the EMA GSA. Director Hibbits seconded the motion and it passed 4-0-1 by voice vote, with Director Marymee absent.

**9. CONSIDER SCHEDULING SPECIAL MEETING TO REVIEW APPLICATIONS AND APPOINT DIRECTOR FOR DIVISION 4**

Discussion followed. By consensus, Tuesday, August 15, 2023 was chosen as a tentative date to hold a special meeting to review applications and consider appointing a Director for Division 4. The Board directed Ms. Thompson to secure either the Buellton City Council Chambers or Vandenberg Village Community Services District Meeting Room for the meeting, prepare an application for completion by potential candidates, prepare and properly notice a Notice of the Vacancy.

**10. CONSIDER SDRMA 2023 BOARD OF DIRECTORS ELECTION PACKET AND APPROVE BALLOT**

There was discussion.

Director Hibbits made a **MOTION** to vote for candidates Robert Swan, Jesse Claypool, and Sandy Siefert-Raffelson to serve on the Special District Risk Management Authority Board of Directors and approve the Official 2023 Election Ballot. Director Altshuler seconded. There was no public comment, no additional discussion, and the motion passed 4-0-1 with Director Marymee being absent.

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

Director Hibbits thanked staff and legal counsel for their timely work on the rate study report and groundwater charge rates efforts.

Mr. Torigiani thanked Director Hibbits for his 18 years of service to the District.

**12. REQUESTS FROM THE BOARD OF DIRECTORS FOR ITEMS TO BE INCLUDED ON THE NEXT AGENDA**

There were no requests.

**13. NEXT REGULAR MEETING IS SCHEDULED FOR WEDNESDAY, SEPTEMBER 6, 2023, AT BUELLTON CITY COUNCIL CHAMBERS, 140 WEST HIGHWAY 246, BUELLTON, CALIFORNIA**

The next scheduled regular meeting of the Board meeting will be Wednesday, September 6, 2023, at 6:30 p.m., at the Buellton City Council Chambers, 140 West Highway 246, Buellton, California.

President Allen reminded all that a Special Meeting will be required in August to consider applicants and appoint a Director for Division 4. The date of the Special Meeting is tentatively set for Tuesday, August 15, 2023.

**14. CLOSED SESSION**

There was no Closed Session.

**15. RECONVENE INTO OPEN SESSION / CLOSED SESSION REPORT**

There was no Closed Session.

**16. ADJOURNMENT**

There being no further business, President Allen adjourned the meeting at 7:55 p.m.

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Cynthia Allen, President

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Amber M. Thompson, Secretary

**14. CLOSED SESSION**

There was no Closed Session.

**15. RECONVENE INTO OPEN SESSION / CLOSED SESSION REPORT**

There was no Closed Session.

**16. ADJOURNMENT**

There being no further business, President Allen adjourned the meeting at 7:55 p.m.

  
Cynthia Allen, President

  
Amber M. Thompson, Secretary

**RESOLUTION NO. 722**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE SANTA YNEZ RIVER WATER CONSERVATION DISTRICT  
MAKING FINDINGS AND DETERMINATIONS, ESTABLISHING ZONES,  
SETTING RATES, AND LEVYING A GROUNDWATER CHARGE  
WITHIN THE DISTRICT FOR THE WATER YEAR 2023-2024**

**WHEREAS**, the District duly noticed a public hearing, pursuant to Water Code Section 75570 et seq. and in accordance with Section 6061 of the Government Code, for the April 26, 2023 meeting of the District’s Board of Directors (“Board”), which notice, among other information, provided notice of receipt of the engineering investigation and report (described below) and hearing thereon and invited all operators of water-producing facilities within the District to examine such report and appear and submit evidence concerning the groundwater conditions and the surface water supplies of the District; and

**WHEREAS**, said public hearing was adjourned to and held at the adjourned special Board meeting on April 28, 2023, at which time the Board invited members of the public and other interested persons, including representatives of operators of water producing facilities within the District, to appear and submit evidence and public comment; and

**WHEREAS**, evidence presented at the April 28, 2023 meeting of the District’s Board of Directors was in accord with and in support of the continuation of such a charge on all water-producing facilities within the District to finance the District activities and purposes as set forth in Water Code Section 74000 et seq., for the water year 2023-24; and

**WHEREAS**, evidence was presented at said meeting regarding benefits of the District’s activities which different areas of the District enjoy; and

**WHEREAS**, evidence was presented, and it is hereby found, that continuation of such a charge is exempt from the provisions of the California Environmental Quality Act by Public Resources Code Section 21080(b)(8); and

**WHEREAS**, an engineering investigation and report (entitled Forty-Fifth Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District, A Summary of Findings for the Previous Water Year (2021-2022), Current Water Year (2022-2023), and Ensuing Water Year (2023-2024), Draft dated March 10, 2023) was duly prepared by the District’s consulting engineer, Stetson Engineers, Inc., made available for examination as required by law, and submitted to the Board at said meeting pursuant to Water

Code Section 75570 et seq., which report provides specific factual data to permit the District to make findings and determinations as required by law; and

**WHEREAS**, the only comments submitted prior to or at said hearing regarding said report were submitted by Santa Ynez River Water Conservation District, Improvement District No. 1 (“Improvement District No. 1”), and as revised to address Improvement District No. 1’s comments the final Engineering and Survey Report was approved and accepted by the Board of Directors at said April 28, 2023 board meeting and is dated April 28, 2023, and made the findings and determinations set forth on pages 10 and 11 of the Report (“Annual Report”); and

**WHEREAS**, this District performs essential regulatory activities in managing, protecting, conserving, augmenting, replenishing, and enhancing the water supplies for users within the District, including groundwater resources within the District. The groundwater charge rates herein establish a reasonable relationship to each user’s burdens on or benefits of the District’s activities including those activities described on pages 1 through 4 of the Annual Report; and

**WHEREAS**, groundwater charges herein established are levied upon those electing to pump groundwater (as defined in Water Code section 75502) and to the extent of groundwater pumping, and such charges enable the District to perform its essential regulatory activities to manage, protect, conserve, replenish, augment, and enhance the water supplies for users within the District, including groundwater resources within the District; and

**WHEREAS**, it is necessary for the District to continue to provide these activities, which require concentrated, coordinated action on behalf of all District water users, including groundwater users within the District, who by their extraction of groundwater burden the underlying groundwater basin and benefit from the District’s services in a manner that non-payers do not, rather than to leave such activities to individuals who could neither afford nor effectively act to protect or augment their water resources as individuals; and

**WHEREAS**, the groundwater charges fund the continuation of groundwater management services performed by the District to mitigate the burdens imposed on the groundwater basin within the District by groundwater extractors for the benefits of the groundwater basin; and

**WHEREAS**, the District has commissioned preparation of a Rate Study Report by Raftelis to, among things, develop a financial plan and conduct a costs of service study for the District and demonstrate its groundwater charge rates are necessary to cover the reasonable costs of the District’s activities and are allocated to persons extracting groundwater within the District in a manner that bears a fair or reasonable relationship to the benefits received from the District’s activities consistent with Proposition 26 (California Constitution, Article 13C, § 1); and



**WHEREAS** Raftelis prepared a Rate Study Report (Draft Final Report / May 30, 2023), which report was made available for public inspection and review and distributed to the members of the Board; the District received comments on said report from Santa Ynez River Water Conservation District, Improvement District No. 1, dated June 6, 2023; and Raftelis prepared a revised Rate Study Report (Revised Draft Final Report / June 22, 2023), hereinafter “Rate Study Report,” which Rate Study Report was made available for public review and has been presented to, discussed with, and considered by the Board; and

**WHEREAS**, such groundwater charges do not exceed the reasonable costs of the District carrying out its activities, and the manner in which the costs are allocated bear a fair or reasonable relationship to the payor’s burden on or benefits received from the District’s activities consistent with applicable law, including Proposition 26; and

**WHEREAS**, while property taxes can be used to finance a portion of the costs of the District’s activities, existing limitations on property tax revenues, which historically were used to finance District purposes, preclude continuation of District activities without additional financing; and

**WHEREAS**, the District first implemented a groundwater charge prior to January 1, 1982, to implement the transition from the property taxation system in effect prior to June 1, 1978; and

**WHEREAS**, the groundwater charges are reasonably related to the District’s activities, including regulatory and groundwater management services, and the need to maintain appropriate financial reserves for such purposes, and do not generate a surplus for general revenue purposes; and

**WHEREAS**, this Board determines that it is in the best interest of the residents, landowners, and water users within the District, including persons operating ground water-producing facilities, that a groundwater charge and several zones be established within the District, and that a groundwater charge be levied at the rates provided for herein within those zones upon those persons who elect to produce groundwater from a water-producing facility within the District.

**NOW, THEREFORE, BE IT RESOLVED**, by this Board of Directors as follows:

1. The foregoing recitals of fact are true and correct;
2. The Board hereby approves the “Rate Study Report” prepared by Raftelis dated June 22, 2023;

3. The Board hereby makes the following findings and determinations pursuant to Water Code Section 75574:
- (a) The average annual overdraft for the immediate past ten (10) water years (July 2012-June 2022): 4,180 ± acre-feet;
  - (b) The estimated annual overdraft for the current (2022-23) water year (July 2022-June 2023): 300 ± acre-feet;
  - (c) The estimated annual overdraft for the ensuing (2023-24) water year (July 2023-June 2024): 6,200 ± acre-feet;
  - (d) The accumulated overdraft as of the last day of the preceding (2021-22) water year (June 30, 2022): 153,800 ± acre-feet in terms of accumulated dewatered storage. Accumulated overdraft as defined in Water Code Section 75505 is nominal, at this time;
  - (e) The estimated accumulated overdraft as of the last day of the current (2022-23) water year (June 30, 2023): 142,100 ± acre-feet in terms of accumulated dewatered storage. Accumulated overdraft as defined in Water Code 75505 is nominal, at this time;
  - (f) The estimated amount of agricultural and special irrigation water to be withdrawn from the groundwater supplies of the District for the ensuing (2023-24) water year (July 2023-June 2024): 31,680 acre-feet of agricultural water and 2,570 acre-feet of special irrigation water;
  - (g) The estimated amount of water other than agricultural water or special irrigation water to be withdrawn from the groundwater supplies of the District for the ensuing (2023-24) water year (July 2023-June 2024): approximately 13,280 acre-feet;
  - (h) The estimated amount of water necessary for surface distribution for the ensuing (2023-24) water year (July 2023-June 2024): approximately 300 acre-feet scheduled to be delivered by the Central Coast Water Agency to contractors within the District;
  - (i) The amount of water, which is necessary for the replenishment of the groundwater supplies of the District: 142,100 ± acre-feet to completely replenish accumulated dewatered storage;
  - (j) The amount of water the District is obligated by contract to purchase: The District is not obligated by contract to purchase water.

4. The Board hereby establishes the following zones within the District:

Zone A: District portion of the Santa Ynez River alluvial channel from San Lucas Bridge downstream to the Lompoc Narrows, as depicted on Figure 2, Page 14, of the “Forty-Fifth Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District, A Summary of Findings for the Previous Water Year (2021-2022), Current Water Year (2022-2023), and Ensuing Water Year (2023-2024)” FINAL dated April 28, 2023, which is incorporated herein by reference.

Zone B: District portion of the Lompoc Plain, Lompoc Upland, and Lompoc Terrace groundwater subareas as depicted on said Figure 2;

Zone C: All other portions of the District not included in Zones A, B, D, E, and F as depicted on said Figure 2;

Zone D: District portion of the Buellton Upland subarea as depicted on Figure 2;

Zone E: District portion of the Santa Ynez Upland subareas as depicted on Figure 2;

Zone F: District portion of the Santa Rita Upland subarea as depicted on Figure 2;

5. A groundwater charge is hereby levied against all persons operating ground water-producing facilities, and the following rates are hereby established and applied to all water produced from such facilities within each zone as shown below for the fiscal year 2023-24:

Zone A (all water types)	\$20.42 per acre-foot
Zone B (all water types)	\$14.24 per acre-foot
Zone C (all water types)	\$12.41 per acre-foot
Zone D (all water types)	\$12.41 per acre-foot
Zone E (all water types)	\$12.41 per acre-foot
Zone F (all water types)	\$12.41 per acre-foot

6. The Board hereby finds and determines, based on substantial evidence including information provided in the above-referenced Annual Report and Rate Study Report, that the rates set forth above bear a fair or reasonable relationship to the groundwater producers’ benefits on, or burdens received from, the District’s activities that are funded by these fees.

7. The Board hereby establishes the following methods to compute the amounts of water produced from a ground water-producing facility within the District:
  - (a) If the well production is metered by a flow meter, then the meter reading will be utilized.
  - (b) If the well is not metered, but has a separate electric meter, then production may be determined from electrical consumption and pump test results, if available. Annual pump tests shall be run whenever possible with the results of the most recent test used to verify and/or adjust meter readings.
  - (c) Production may be estimated based upon type of water use, estimated applied unit use, area irrigated, and types of crops grown on land, or number of connections or persons served, or type and quantity of units produced.
  - (d) Other criteria may be recommended by the District's engineer from time to time which will allow the Board to determine with reasonable accuracy the amount of water produced from a ground water-producing facility.
  
8. In accordance with Public Resources Code Section 21080(b)(8), the Board hereby finds said groundwater charges are for the purposes set forth therein including meeting the District's operating expenses, purchasing or leasing supplies, materials or equipment, and meeting financial reserve needs and requirements, as demonstrated in the Rate Study Report.

The foregoing resolution being on motion of Director Jordan, seconded by Director Hibbits, was authorized by the following vote:

**AYES**, and in favor thereof, Directors: Allen, Altshuler, Hibbits, Jordan

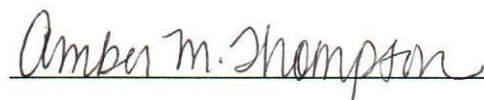
**NOES**, Directors: None

**ABSENT/ABSTAINING**, Directors: Marymee (absent)

I HEREBY CERTIFY that the foregoing resolution is the resolution of said district as duly passed and adopted by said Board of Directors on the 27th of June 2023.



Cynthia Allen, President



Amber M. Thompson, Secretary