

NEVADA IRRIGATION DISTRICT  
BOARD OF DIRECTORS / JOINT POWERS AUTHORITY

MINUTES

January 13, 2016

The Board of Directors of the Nevada Irrigation District and the Nevada Irrigation District Joint Powers Authority convened in regular session at the District's main office located at 1036 W. Main Street, Grass Valley, on the 13th day of January 2016 at 9:00 a.m.

Present were Nancy Weber, President (Division I); Nick Wilcox, Vice-President (Division V); John H. Drew (Division II), W. Scott Miller (Division III) and William Morebeck (Division IV), Directors.

Staff members present included Rem Scherzinger, General Manager; Marvin V. Davis, Finance Manager/Treasurer; Gary King, Engineering Manager; Brian Powell, Maintenance Manager; Chip Close, Operations Manager; Keane Sommers, Hydroelectric Manager; Karen Fassler, Human Resources Manager; Peggy Davidson, Recreation Manager; Jeff Meith, District Counsel; and Lisa Francis Tassone, Board Secretary.

MINUTES – December 9, 2015 Regular Meeting

**Director Drew made a motion to approve the minutes of the regular meeting on December 9, 2015, as amended. Director Wilcox seconded the motion.**

**Motion passed on the following roll call vote:**

<b>Weber, Division I</b>	<b>Aye</b>
<b>Drew, Division II</b>	<b>Aye</b>
<b>Miller, Division III</b>	<b>Absent</b>
<b>Division IV</b>	<b>Aye</b>
<b>Wilcox, Division V</b>	<b>Aye</b>

WARRANTS

Director Drew made a motion to approve the following warrants: All Funds Nos. 71932 through 72422 and 900163 through 900199, inclusive; All Fund Nos. 71269 and 71900 being void; and Payroll Direct Deposit and Warrant Nos. 80204 through 80221 and V8246 through V8605, inclusive. Director Wilcox seconded the motion.

Motion passed on the following roll call vote:

Weber, Division I	Aye
Drew, Division II	Aye
Miller, Division III	Absent
Division IV	Aye
Wilcox, Division V	Aye

President Weber complimented Marvin Davis, Finance Manager/Treasurer, for putting the warrants in an easy to read format.

AGREEMENTS: ABBREVIATED AGREEMENT – Revisions

Director Drew made a motion to approve revisions to the Abbreviated Agreement. Director Wilcox seconded the motion.

Motion passed on the following roll call vote:

Weber, Division I	Aye
Drew, Division II	Aye
Miller, Division III	Absent
Division IV	Aye
Wilcox, Division V	Aye

WATER SERVICE RULES AND REGULATIONS – Revisions to Schedule 4-A (Treated Water Rates)

Director Drew made a motion to approve revision to Schedule 4-A of the Water Service Rules and Regulations pertaining to Treated Water Capacity Fee Rates. Director Wilcox seconded the motion.

Motion passed on the following roll call vote:

Weber, Division I	Aye
Drew, Division II	Aye
Miller, Division III	Absent
Division IV	Aye
Wilcox, Division V	Aye

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WATER SERVICE RULES AND REGULATIONS – Request for Variance

**Director Drew made a motion to approve revisions to Section 10.08 (Request for Variance) of the Water Service Rules and Regulations, and approved changes to related documents. Director Wilcox seconded the motion.**

**Motion passed on the following roll call vote:**

<b>Weber, Division I</b>	<b>Aye</b>
<b>Drew, Division II</b>	<b>Aye</b>
<b>Miller, Division III</b>	<b>Absent</b>
<b>Division IV</b>	<b>Aye</b>
<b>Wilcox, Division V</b>	<b>Aye</b>

MONTHLY INVESTMENT TRANSACTION REPORT – November and December

**Director Drew made a motion to receive and file Monthly Investment Transaction Report for November and December 2015. Director Wilcox seconded the motion.**

**Motion passed on the following roll call vote:**

<b>Weber, Division I</b>	<b>Aye</b>
<b>Drew, Division II</b>	<b>Aye</b>
<b>Miller, Division III</b>	<b>Absent</b>
<b>Division IV</b>	<b>Aye</b>
<b>Wilcox, Division V</b>	<b>Aye</b>

EMPLOYEE RELATIONS – Brady Retirement (Res. No. 2016-01)

**Director Drew made a motion to adopt Resolution 2016-01 (Resolution of Appreciation upon Retirement – Brett Brady) after 31 years of service to the District. Director Wilcox seconded the motion.**

**Motion passed on the following roll call vote:**

<b>Weber, Division I</b>	<b>Aye</b>
<b>Drew, Division II</b>	<b>Aye</b>
<b>Miller, Division III</b>	<b>Absent</b>
<b>Division IV</b>	<b>Aye</b>
<b>Wilcox, Division V</b>	<b>Aye</b>

Director Miller arrived to the meeting at 9:03 a.m.

**EMPLOYEE RELATIONS – Service Awards**

The following Employees were recognized for their length of service with the District and were congratulated by their Department Manager or Supervisor prior to being presented with recognition awards:

<b><u>Employee</u></b>	<b><u>Title</u></b>	<b><u>Hire Date</u></b>
<b><u>25 Years</u></b>		
Greg M. Cornejo	Electrical Systems Technician II	09/10/1990
<b><u>20 Years</u></b>		
Jason W. Townsend	Senior Engineering Technician	09/11/1995
<b><u>15 Years</u></b>		
Matthew B. Crowe	Senior Right-of-Way Agent	07/10/2000
Christopher L. Friedman	Equipment Operator	09/05/2000
Larry Martin	Senior Vegetation Control Worker	10/09/1990
Nancy L. Alstrand	Finance Analyst	12/18/2000
<b><u>10 Years</u></b>		
Michael R. McConnehey	Vegetation Control Worker II	07/11/2005
Troy T. Texeira	Senior Storekeeper	07/11/2005
Tonia M. Tabucchi Herrera	Associate Engineer	08/29/2005
Dean R. Hunt	Engineering Technician II	11/07/2005
Anthony D. Rondoni	Right-of-Way Agent II	11/21/2005

**AGRICULTURAL WATER MANAGEMENT PLAN (Res. No. 2016-02)**

Chip Close, Operations Manager, stated that the Agricultural Water Management Plan (AWMP) was discussed at the last Board of Directors meeting and the matter was continued to this meeting to allow additional time for review and to allow for additional public comment. The AWMP is a compliance document required by the Department of Water Resources as part of SBX 7-7, as well as a recent emergency drought regulation that the Governor has implemented. The AWMP addresses:

- the District’s supply system
- a description of the service area
- a description of the District’s water uses
- how the District handles water resources
- a comparison of the water supply and demand during the planning cycle (2011 to current)
- a description of water supply reliability
- water use and efficiency measures
- water shortage allocation policies
- climate change and potential effects
- drought contingency plans
- the District’s efficient water management practices (EWMPs)

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Mr. Close stated that many of these items are contained in other District policies and have been attached to the AWMP.

The State utilizes the AWMP as a means to ensure large irrigation districts are practicing efficient water management with their systems. The AWMP also allows the District to qualify for grant funding.

After the December 9, 2015 Board meeting, notification of an extension of the comment period was sent out to all agencies that had originally been notified. The deadline for public comment was also provided. To date, the District has received two comment letters from: 1) Lily Marie-Mora; and 2) Allan Eberhart. He appreciates the comments. Staff has conducted a cursory review of the comments and would like to work with Brown and Caldwell, consultant for the District, to address the comments and decide whether or not to include all or some of the comments in the final AWMP to be submitted to the State.

President Weber addressed her concerns with the AWMP:

- Page 7-2: She referenced waters used upon landscapes. The term exceptionally high duty is in the document. The response is that NID is unaware of any lands that require high duty. She would question that flood irrigating for cattle would be considered high duty. She stated that she is not cognizant of what the definition is of high duty.

Mr. Close stated that the comment is generally directed to the areas and soil types. Some soil types command extra water to receive the same benefits.

- The document references the Cosumnes, American, Bear and Yuba (CABY) Climate Change Plan. She stated that this document needs to be included in the AWMP.

Mr. Close stated that he will include the Plan in the AWMP's appendices.

Director Wilcox stated that he scanned the comments. For the most part, he does not have any issues with the comments. He thinks the comments are in part tendered as a way of positioning groups for later discussions related to the District's Centennial Project. He does not think that the AWMP has any legal standing with regard to that process.

Mr. Close concurred. Staff would like to work with Mr. Eberhart and review the comments to ensure the appropriate comments that relate specifically to the AWMP are incorporated into the Plan.

Director Wilcox stated that he thinks Mr. Eberhart's comments are thoughtful comments and they need to be addressed.

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Mr. Close stated that the District needs to submit the Plan as soon as possible to the State because the deadline passed in December.

Discussion ensued about Staff making changes to the AWMP upon the Board's approval of the document.

President Weber stated that it appears that some of the comments are substantive.

Director Wilcox referenced comments by Mr. Eberhart regarding the service area issue. The service area has changed and will change.

Mr. Close can appreciate this comment and stated that there are two parts to this comment. One involves the Lincoln area. The Lincoln area is within the District's Service Area Boundary (exterior boundary) and is included in the Plan. The Cascade Shores area is on the planning horizon. However, the AWMP does not require the District to conduct a study of how much potential water use will be in that area. He will incorporate a sentence or two to describe the area and where the District plans on going with this area.

Director Wilcox stated that it may be appropriate to add information about the District's strategy to include all or most of the interior exclusions into the District.

Mr. Close stated that the interior exclusions are incorporated in the AWMP as if the District intends to serve water to these areas.

Jeff Meith, District Counsel, stated that if the Board wants specific changes made to the AWMP, then he would recommend that the changes be directed to Mr. Close.

President Weber asked if the Plan needs to be brought back to the Board at a future Board meeting once the changes are included.

Mr. Meith stated that the Board can delegate to Staff to include the comments or to consider the comments for inclusion. If there is discussion or debate about which comment is included or not, the Plan will need to be brought back to the Board.

President Weber asked if the Board would be comfortable having Mr. Close review the comments and provide the Board with the information that he is going to include.

Mr. Close stated that the comment letter will be attached as an appendices to the AWMP. He reviewed some of the comments that would likely be included in the AWMP:

- 1) Public Notification Process: Mr. Eberhart claimed that the District did not follow the process appropriately. Mr. Close stated that the District followed the process as established in Regulation 6066. The one deviation is that the District did not publish notification in the Press Democrat. Mr. Eberhart is correct, and Staff will

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strike that publication from the AWMP. Mr. Close added that the District did publish notification in The Union and the Auburn Journal.

- 2) Size of Service Area: Mr. Eberhart commented that the District is considering expansion in the Lincoln area and the Cascade Shores area. Mr. Close stated that Lincoln is within the District's boundary. Mr. Close will add a brief explanation to the AWMP indicating the District's plan to expand the District's boundaries in the Cascade Shores area.
- 3) Water Supply Reliability: The AWMP states that the only other source of water, other than rain and snow, for the District is recycled water. Mr. Eberhart's comment is that this statement ignores the potential to develop water with aggressive demand side management and efficiency programs. The water supply created by such means and the effect expands the systems reliability. Mr. Close agrees with that comment and will add information to Section 5.4 describing the District's conservation efforts and how this will bolster the District's water supply.
- 4) Climate Change: Mr. Eberhart's comment is in response to long term program response to climate change. The AWMP is correct to note that it is not possible to accurately model what form of climate change will take in any given area. However, it is also important to note that the best preparation for climate change is to develop the most efficient system possible to steward whatever precipitation occurs. Mr. Close agrees with this comment and would add that the District must take every action possible to defend against and to prepare for climate change.

Mr. Close stated that the remainder of Mr. Eberhart's comments do not fit with the AWMP, but can be addressed elsewhere within other District policies and documents.

President Weber requested that Mr. Close prepare the comments he will add to the AWMP and to distribute these comments to the Directors and Mr. Eberhart by the next Board meeting.

Mr. Close stated that he will do so.

**Adopted Resolution No. 2016-02 (Adopting, Filing and Implementing the Nevada Irrigation District Agricultural Water Management Plan Update), include appropriate changes as a result of a public comment letter, and include the CABY Climate Change Plan as an appendices to the Plan. M/S/C Wilcox/Drew, unanimously approved**

#### EXEMPT EMPLOYEE RECLASSIFICATIONS

Karen Fassler, Human Resources Manager, presented a recommendation from the Administrative Practices Committee to approve reclassification of certain exempt Superintendent positions and their related job specifications and compensation. The Labor Management Committee met during 2015 to discuss potential classification adjustments for certain exempt employees. During these meetings, three superintendent positions in the Water Operations Department and two supervisor positions in the Hydroelectric Department were identified as classifications that needed to be updated by either job specifications and compensation or both. The Water

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Operations Department completed a reorganization in previous years, and many duties, responsibilities and certifications shifted during this period. The three superintendent positions identified by the Labor Management Committee are:

- Treated Water Superintendent
- Water Superintendent
- Electrical Systems Superintendent

These positions need to be realigned organizationally to compensate for the additional education, certification and responsibilities that have been assigned during the past couple of years.

The Hydroelectric Department has a need to adjust internal structure. The new structure includes separating the previously filled Hydroelectric Maintenance and Operations Superintendent position. The Labor Management Committee proposes to divide this previously filled position into two new superintendent positions:

- Hydroelectric Generation Superintendent
- Hydroelectric Maintenance Superintendent

These new specifications have been created utilizing the existing Generation Supervisor and Maintenance Supervisor specifications as starting points. Some of the key changes between the supervisor and superintendent positions include higher level responsibility for coordination of department activities overall, less supervision by the Hydroelectric Manager, additional personnel to supervise, more responsibility in guiding the Department overall as demonstrated by the development of divisional goals, objectives, policies, procedures, etc., and the development and oversight of the budget. Added requirements are included to oversee administration of a variety of contracts as well as research and the preparation of technical and administrative reports and written correspondence. These positions also require higher level experience, education and certification.

Ms. Fassler stated that the budgetary impact to the Water Operations Department as a result of the reclassification is an increase of \$15,204.80 in 2016. The budgetary impact to the Hydroelectric Department is an increase of \$27,372.80 in 2016. She pointed out that the Hydroelectric Generation Supervisor position and the Hydroelectric Maintenance Supervisor position will remain vacant and unfilled.

**Approved reclassification of certain exempt Superintendent positions and their related job specifications and compensation. M/S/C Drew/Wilcox, unanimously approved**

#### CENTENNIAL RESERVOIR AND POWER SUPPLY PROJECT – Update

Rem Scherzinger, General Manager, stated that at the request of President Weber, he will provide the Board with an update on the Centennial Project:

- The Notice of Preparation will be issued during the first week of February, 2016.

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- Staff is meeting with AECOM on January 13, 2016 to review the initial geotechnical results. The document will be considered by the Board as a 'receive and file' matter.
- Work will begin on the conceptual design and an analysis of unit costs driving the financial components around the Project.
- Staff will be meeting in February 2016 with regional water suppliers, partners, etc. of the Project to discuss the hydrologic model.
- Met with the US Army Corps of Engineers regarding the pre-application document. He anticipates submitting this document in February 2016. The Army Corps of Engineers will issue their Notice of Intent in May 2016.
- Environmental studies should commence in the spring of 2016.
- Staff will be meeting with the United Auburn Indian Community (UAIC) next week as part of the AB 52 requirements.
- Three parcels on Peaceful Valley have been acquired; seven additional properties are in line to be acquired by the District.
- The California Department of Fish and Wildlife (CDFW) contacted the District as it relates to the Project and the properties that CDFW is in stewardship over along the Placer County side of the Project.
- The District has received a letter from the Bureau of Land Management (BLM) regarding the properties within the Centennial Project. Staff will be presenting this matter to the Board of Directors to discuss the next steps (i.e. legislation, etc.). He stated that there is another BLM parcel not related to the Centennial Project, but related to the Deer Creek Project that may be included in a transaction with the BLM.
- The Project website should be up and running this week. The site will be populated with the studies, maps, etc. pertaining to the Project.

President Weber asked about public meetings regarding the Project.

Mr. Scherzinger explained that the initial geotechnical report will be presented to the Board, in addition to the Memorandum of Understanding (MOU) with the regional water suppliers, and environmental studies will be presented to the Engineering Committee. The Agreement with the CDFW will also be presented to the Board.

Director Wilcox asked if the Notice of Preparation to be issued the first week of February will be issued as a 30-day notice.

Mr. Scherzinger responded affirmatively.

Director Wilcox asked if parties request an extension, will they need to send a written request to the District regarding the extension.

Mr. Scherzinger stated that this is correct.

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NEVADA COUNTY BOARD OF SUPERVISORS – Marijuana Nuisance Ordinance and Ballot Initiative

Rem Scherzinger, General Manager, reported that he attended the Nevada County Board of Supervisors meeting on January 12, 2016 to support the Sheriff's marijuana nuisance ordinance and ballot initiative. He spoke at the meeting about the danger of the marijuana grows to District employees working along the canals. The meeting was very well attended.

TOWN HALL MEETING – California Assembly Members

Rem Scherzinger, General Manager, reported that he will attend the Town Hall Meeting hosted by Assembly Members Dahle, Gordon, Biglelow and Levine on January 14, 2016 at the Nevada City Elks Lodge. He will be discussing sediment in the reservoirs.

SOUTH YUBA RIVER CITIZENS LEAGUE – Wild and Scenic Film Festival

Rem Scherzinger, General Manager, reported that he and Director Wilcox have been invited to participate on a panel at the South Yuba River Citizens League Wild and Scenic Film Festival on January 17, 2016. The discussion will be with regard to surface storage.

Director Wilcox stated that he looks forward to participating on the panel.

HYDROELECTRIC DEPARTMENT – Commendation

Rem Scherzinger, General Manager, commended the employees in the Hydroelectric Department for the manner in which they handled an emergency event. During the holidays, the Dutch Flat Powerhouse went offline for nine days as a result of a failure of one of the transformers. Employees rose to the occasion by working during the holiday and working extra hours to dismount the transformer and to ship the unit to Southern California. During this event, employees problem-solved and came up with a safe solution. The expense to the District in terms of lost revenue and repair of the transformer ranges between \$300,000 and \$400,000. While this was occurring, the Combie South Powerhouse went down. The Department demonstrated its flexibility and its dynamic ability to address multiple threats. It is apparent that the District currently only has enough Staff in-house to address one major threat at a time.

COMBIE PHASE I – Bond Issuance

Rem Scherzinger, General Manager, reported that Staff and consultants are preparing a bond issuance for the Combie Phase I Project in the amount of \$20 million.

REGIONAL WATER SUPPLY PROJECT – Draft Environmental Impact Report

Rem Scherzinger, General Manager, reported that the Draft Environmental Impact Report (DEIR) has been released for public review and comment. This document will be presented to the Engineering Committee. When the document is final, the City of Lincoln and the District will need to decide whether or not the Project will move forward.

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WATERSHED PLANNER – Neysa King

Rem Scherzinger, General Manager, reported that Neysa King has accepted the position of Watershed Planner. Some of the projects she will be working on include partnering with the US Forest Service to develop watershed projects and the South Yuba River Citizens League regarding meadow restoration work.

LOMA RICA POWERHOUSE – Update

Rem Scherzinger, General Manager, updated the Board on the Loma Rica Powerhouse. The Project is moving forward. There are real opportunities for that Powerhouse not only to offset the power demand for the Loma Rica Water Treatment Plant, but to provide emergency backstop power to the fire base, the airport and the County's yard.

COSUMNES, AMERICAN, BEAR AND YUBA (CABY) – Joint Exercise of Powers Agreement

Rem Scherzinger, General Manager, reported that the CABY JPA is in process of becoming formalized. CABY will then move forward with its program.

NEVADA IRRIGATION DISTRICT / PLACER COUNTY WATER AGENCY – Joint Powers Agreement

Rem Scherzinger, General Manager, reported that the District and Placer County Water Agency (PCWA) are in the process of developing a Joint Powers Agreement (JPA) so that when Pacific Gas and Electric Company divests itself of the Lower Drum Spaulding Project, there is an appropriate receptacle for that system.

WATER STORAGE AND CONSERVATION – Update

Rem Scherzinger, General Manager, reported that the District has 150,986 acre feet in storage, which is 95 percent of average and 60 percent of capacity. Precipitation as of January 6, 2016 is 104 percent of average.

He stated that the State Water Resources Control Board (SWRCB) continues to move forward with emergency conservation measures and legislation regulations which present the District with a significant threat.

The State is also watching the balance of the Delta. The SWRCB will use Term 91 which means if the Delta is not in balance, the SWRCB could curtail water and this may preclude the District from placing water in storage.

Director Drew stated that he is anticipating a good water year. Most of the District's reservoirs are showing increased water levels.

PLACER COUNTY FARM BUREAU – Meeting

Director Morebeck reported that he attended the Placer County Farm Bureau meeting to discuss the Centennial Project. Most of the attendees are aware of the proposed Project. They expressed some concern about the location of the Project and when it will be constructed. He added that the attendees did not have any fears about loss of water for farms.

GOALS FOR 2016 – President Weber

President Weber stated that as Chair of the Board, she would like to work on the District’s environmental impact reports and studies as a Board focus. She has asked that all of the Environmental Impact Reports be presented to the Engineering Committee prior to the Board of Directors so that there is an opportunity to comment on them before they reach the Board level.

President Weber stated that procedures are important to her. As Chair, she will ask the Board to treat everyone that comes before the Board with respect, and that the audience and Staff respect the Board as well. She stated that she will call people out of order if disrespectful behavior occurs.

She stated that the Board has a “big job” and needs to govern the District wisely and honestly so that the Board can serve the District’s constituents.

She thanked the Board for electing her as President of the Board for 2016.

BOARD COMMITTEES FOR 2016

The President’s 2016 Board Committee appointments are as follows:

Meeting Day/Time    Committee and Members (Staff Attendance)

1 <sup>st</sup> Tuesday 9:00 A.M.	<u>ADMINISTRATIVE PRACTICES</u> <b>Weber, Wilcox</b> (Scherzinger, Crough, Davis, Tassone, Fassler) <ul style="list-style-type: none"><li>➤ Personnel matters and employee benefits</li><li>➤ Annexation requests</li><li>➤ Office Procedure</li><li>➤ Internal Board policy (per diem, travel, etc.)</li><li>➤ District memberships and subscriptions</li><li>➤ Board and management objectives</li><li>➤ Budgets and financial reporting</li><li>➤ Audit control</li><li>➤ Collection of accounts</li><li>➤ Insurance and Bonds</li></ul>
2 <sup>nd</sup> Tuesday 9:00 A.M.	<u>WATER &amp; HYDROELECTRIC OPERATIONS</u> <b>Drew, Morebeck</b> (Scherzinger, Crough, Sommers, Close) <ul style="list-style-type: none"><li>➤ Water supply and utilization</li><li>➤ Water delivery policy</li><li>➤ Hydroelectric power policy</li><li>➤ Hydroelectric Division activities</li></ul>

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3<sup>rd</sup> Tuesday  
9:00 A.M.

ENGINEERING

**Weber, Miller** (Scherzinger, Crough, King, Matteoni)

- Develop and revise engineering policies
- Priorities and funding for system development
- Capital improvement projects (treated and raw water)
- Hydroelectric power contracts

4<sup>th</sup> Tuesday  
9:00 A.M.

MAINTENANCE & RESOURCE MANAGEMENT

**Drew, Morebeck** (Scherzinger, Crough, Powell, Davidson)

- Maintenance policy (including funding)
- Resource management policy
- Recreation
- Safety
- Building activities

As Needed  
During the Year

WATER RATES

**Drew, Wilcox**

OTHER COMMITTEES/ASSOCIATIONS/COUNCILS

LABOR

**Weber, Miller**

(Scherzinger, Crough, District Counsel)

ECONOMIC RESOURCE COUNCIL

**Scherzinger or Designated Representative**

- Support and enhance the local economic vitality by supporting the retention, creation, and attraction of quality jobs while at the same time preserving the unique environment

Quarterly

WATER COMMITTEE – PCWA & NID

**Miller, Morebeck**

- Mutual programs and/or projects
- Meet together on the need for cooperation on water and power issues facing and affecting both agencies.
- Advisory committee to initiate policy level dialogues between PCWA and NID
- Facilitate communication / outreach between Boards (7/6/2000 1<sup>st</sup> meeting)

MOUNTAIN COUNTIES WATER RESOURCES ASSN

**Morebeck (Miller as alternate)**

PLACER COUNTY WATER RESOURCES COUNCIL

**Morebeck**

CITY OF GRASS VALLEY OVERSIGHT BOARD

**Wilcox (Drew as alternate)**

CABY JPA & COORDINATING COMMITTEE

**Morebeck (Drew as alternate)**

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ACWA JOINT POWERS INSURANCE AUTHORITY  
**Weber (Crough as alternate)**

ACWA Spring Conference – May 3 – 6 (Monterey)  
***Volunteers Needed***

ACWA Legislative Symposium – March 9 (Sacramento)  
***Volunteers Needed***

Meeting recessed at 10:35 a.m. and reconvened at 10:41 a.m.

NEWTOWN CANAL ENCASEMENT PROJECT – Director Weber’s Actions and Involvement

President Weber asked the Board Secretary to distribute copies of two emails to the Board, Staff and members of the audience.

Director Wilcox stated that he requested that this matter be placed on the agenda so that the Board can discuss the email chain that the Board of Directors received via email and certified mail. Director Wilcox explained that his email stated that he found certain aspects of the communication contained in the email chain troubling. He requested that Rem Scherzinger, General Manager, place this matter on the Board of Directors agenda. What is up for discussion is whether or not any issues pertaining to the Newtown Canal Encasement Project in the future be discussed in the Engineering Committee meetings or brought to the full Board in open session. His feeling is that it is appropriate for these kinds of issues to be dealt with in open session by the full Board. When reviewing the email chain, Loraine Webb states “A good aside is that Nancy is now the NID Board President and will appoint herself to the Engineering Committee. Yes!” Any item that goes before a Committee does not go to Committee for a decision. The Committee reviews matters and advances recommendations to the Board of Directors. The Newtown matter is an important matter, and it should not be filtered through the Engineering Committee. This was his request. The corollary question is whether or not these issues are discussed by the Board at all. On January 5, 2016, the General Manager sent a letter to the effected property owners of the Newtown Project cancelling a meeting scheduled for January 11, 2016 to discuss the Project. Director Wilcox stated that since there is now litigation filed regarding the environmental document for the Project, it is inappropriate to meet with the property owners or to discuss these matters in open session with the Board of Directors.

Director Drew concurred with Director Wilcox’s comments. As a result of the litigation, the most appropriate path to take is for any matters associated with the Newtown Project to be brought to the full Board. This removes all possibility of conflict of interest and will protect the integrity of the process.

Jeff Meith, District Counsel, explained why he added the consideration of exclusion of President Weber from closed session discussions regarding the Newtown Project. First

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of all, this matter is not about anyone having a financial conflict of interest. This is not about President Weber's position on the Board. She is a duly elected Director. It is not about President Weber's dissent from the Board action that was taken on November 18, 2015 regarding the environmental document for the Newtown Project.

Mr. Meith stated that what concerns him is that he thinks there is a reality of bias or certainly a perception of bias. He referenced District Policy No. 4010.1.7 (Code of Ethics) which states: "Once the Board of Directors takes action, Directors should commit to supporting said action without creating barriers to the implementation of said action." He referenced District Policy No. 4050.5 (Members of the Board of Directors) which states in part "Directors shall recuse themselves from participating in the discussion or vote on any item where they have a personal interest or bias that prevents them from evaluating the facts and from making an objective decision."

Mr. Meith stated that what concerns him most is the opening paragraph of President Weber's email: "Loraine, Am not carrying this information forward to anyone at NID. Rem did get that there was something up when I asked for the Notice of Determination. Told him I didn't know what."

Mr. Meith stated that there is nothing confidential in Loraine Webb's email. As he understands it, the email went out to a broad group of people. From his perception, there is nothing about which a Director should feel constrained not to tell the General Manager what is going on. Frankly, he favors dissent, and one of the things he admires about President Weber is that she dissents and makes her opinions very well known. What concerns him is why she did not tell the General Manager what is going on.

Mr. Meith is also concerned about why there is nothing in the email that states that now that the District has taken action on the Newtown Project, as an elected Board of Director, her interest is the District, and she cannot be involved in discussions or deliberations. Nothing like that jumps out at him. He could not help but notice "A good aside is that Nancy is now the NID Board President and will appoint herself to the Engineering Committee. Yes!" When he reads this, he feels there are reasonable grounds and facts to suggest that there is bias. Recusal is something that has been recommended in the District's policies. It is up to the individual Directors. As the Board enters closed session, there will be discussion about strategy and positions in the litigation, etc. As the District's Counsel, he is concerned about the confidentiality of these discussions, given this chain of communications.

President Weber asked Mr. Meith if he ever had reason to question her ability to keep something confidential.

Mr. Meith stated that he has not questioned her ability to keep something confidential, but he does now.

President Weber stated that she did not write a letter to Mr. Mooney (Counsel for the Bear Yuba Watershed Defense Fund) that Loraine Webb refers to as Director Weber's

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letter to the Board. She submitted comments for the Draft Environmental Impact Report (EIR) and the Final EIR.

The reason that she mentioned appointing herself to the Engineering Committee (she had done this before the date of the email, and submitted her 2016 Committee assignments to the Board Secretary) is because at the last Board meeting, the property owners affected by the Newtown Project were not treated with respect. She had no intention of lobbying for them in any way, other than to be sure that the meeting would be conducted with respect. She chose not to tell the General Manager about the possibility of the lawsuit, because it has been mentioned before. The neighbors working on this have been inconsistent about what they were or were not going to do. She does not want to be in a position of carrying information back and forth. This has gone on for 10 years and there has been a great deal of drama connected to it. The only information she has provided to the neighbors is public information.

President Weber stated that the comment that Loraine Webb refers to about the Newtown Project setting a precedent was not a comment she had made within the last year. The comment was made prior to the EIR. She stated that she is an honest person and she thinks that at times this may have been a bit of a rub, but she is honest. She will certainly honor the fact that the Project is in litigation at this time. She would like to know where Mr. Scherzinger "got" the email.

Mr. Scherzinger stated that he received the email from an employee through the chain of command. This creates a whistleblower situation.

President Weber stated that she has consulted an attorney because she did not feel that she was going to be represented. She understands that she has not committed any offense that would disenfranchise her. She believes that most of her constituents would like her to continue to serve, and she would like to continue to serve in all capacities.

Director Drew stated that he thinks the question lies with the pending litigation for the Newtown Project, and the absolute need for full disclosure, full involvement and full openness at the Board level. He would like to take this matter out of the Engineering Committee and put it in the Board venue.

President Weber never had the intent to take the matter to the Engineering Committee, because the Project is in litigation.

Mr. Scherzinger stated that as the District discusses the canal abandonment process, those discussions will be heard by the Board of Directors in open session.

President Weber stated that she feels that the canal abandonment policy needs review. She has communicated this with Mr. Scherzinger both verbally and in an email. It was agreed that the policy will not be discussed as long as the litigation for the Newtown Project is in process.

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Director Wilcox asked if it is appropriate to make a motion to see whether or not the Board wishes to move these issues to the full Board and take these issues from the Engineering Committee.

Mr. Meith responded affirmatively.

**Approved any matters regarding the Newtown Canal Encasement Project be presented to the Board of Directors in open session, and not the Engineering Committee (unless it involves litigation). M/S/C Wilcox/Drew, unanimously approved**

Director Wilcox agreed that recusal from closed session would be at President Weber's discretion. The Board cannot force her to recuse herself. He asked if a motion could be made that would state the Board's preference regarding the recusal of President Weber from closed session regarding the Newtown Project.

Mr. Meith stated that he hoped President Weber did not hear any of his comments as questioning her honesty. This is not a comfortable discussion, but it is a good discussion. When reviewing the email chain, Mr. Meith assumed that President Weber wanted a copy of the Notice of Determination because it is a key document to setting the timetable for filing a lawsuit. He wants President Weber to understand that she has every right to ask the General Manager for the Notice of Determination because the neighbors are thinking of filing a lawsuit.

President Weber stated that she did not ask for a copy of the Notice of Determination. She asked for the date it was filed.

Director Wilcox stated that this indicates that President Weber had been in discussions with the neighbors affected by the Newtown Project regarding litigation. The date the Notice of Determination is filed is a critical step in knowing when to file a lawsuit. This is procedural involvement with the parties.

President Weber stated that Director Wilcox is making assumptions that she had conversations with the neighbors, and she did not. She has not met with the neighbors for a year as a group. She would appreciate it if Director Wilcox did not read things into the email chain that are not the case.

Director Wilcox stated that this is why the Board is discussing this matter.

President Weber stated that the Directors should ask instead of accuse.

Director Miller stated that people can only be who they are. He is very sad. He was raised a Protestant Christian child with ethics of charity and forgiveness. This has carried his mother and grandmother quite well. He stated that he was the first Director to nominate Director Weber for President many years ago. His motion was shot down. He nominated President Weber in past rotations and he nominated her in December 2015. Other Directors had taken him aside to explain the concerns about the trust of

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Director Weber. He accepted this, but later on he sought to see people evolve. It is a twisting of the trust that is so painful. You can still twist the trust and be honest. There were other voices that claimed that Director Weber was difficult to deal with. Trust is a precious thing.

President Weber stated that she went through anguish when she wrote her comments to the Draft EIR and the Final EIR. This is because even though she had met with the General Manager on several occasions, something happened last July that changed the orientation. So she has documentation of several emails and notes from meetings. There was one point that she requested the General Manager to come before the full Board with the discrepancies in the EIR. This did not occur. She had no place to go, but to provide her opinion about the Draft EIR. This cost her a great deal emotionally. She does not like being in that position. It is the role of Staff to develop an adequate EIR.

Director Miller stated that he has not heard President Weber accept any responsibility in the matter being discussed. This is the trust element.

President Weber stated that she made an unwise decision by not informing the General Manager. She does not feel that she has done anything but represent her constituents. She wants to be able to represent them in all aspects. She can be trusted and she does not lie. She has been a Board member for 17 years. She is not a "yes" person. She studies to find out what is appropriate and then she comments on it. She would not like to recuse herself from the closed session discussions regarding the Newtown Project litigation.

Mr. Meith pointed out that the constituents are all of the property owners in the District, not only the Division. It is important to keep this in mind. A decision has been made on the Newtown Project, and the Board must move forward with that decision representing the entire District.

President Weber stated that some of the decisions made regarding the Newtown Project will be significant District-wide.

Director Drew stated that he does not see any reason at this point in time based on the conversation that has taken place with the Board, and the honesty he has heard, that President Weber should be excluded from the closed session. He reiterated that litigation regarding the Project will be discussed in closed session. Anything discussed during the closed session should remain in closed session.

Director Morebeck stated that when he first decided to apply for the Board vacancy in July, he perceived that the Board members have to be a vociferous advocate for their constituents in their Division. When he spoke during the appointment process, he stated that not only would he be an advocate for his Division, but he would represent the entire District. Once a decision is made, the Board should come together. He has had discussions with President Weber before he was appointed and during these discussions, he heard mostly positive statements from President Weber. He never

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heard adversarial comments. He does not have any reason to distrust President Weber, and he takes her for her word. There is an overwhelming bit of evidence of goodness, and the point has been made. He feels that it should be up to President Weber whether or not she wants to recuse herself. These things that are being discussed should not have happened, but the point has been made. A vote on this matter will not accomplish anything perhaps except acrimony among the Board members. He is always looking for solutions. Having this discussion out in the open is a solution. He trusts President Weber's leadership.

Director Wilcox stated that he appreciates Director Morebeck's comments. The question is has the lesson been learned and how does the Board behave going forward. He would request that the Newtown neighbors leave President Weber alone, and do not put her in this position. It is a compromising position that the neighbors have created. President Weber has been a fierce advocate for her constituents and that is to be admired. She has created enormous good for her constituents. Without her tireless advocacy, the Cement Hill Project would not exist, and the Lower Cascade Canal Project would not exist, etc. He is willing to agree with Directors Drew and Morebeck on this matter, but this kind of interference has to stop.

President Weber stated that she feels the Board is here to represent the people. The Board should not have to choose between the District's practices and the needs of the community. They should be one.

Director Wilcox stated that from his perspective, Newtown Canal is a critical water source for thousands of treated water customers in his Division who are potentially impacted by the moratorium on the Newtown Canal. He realizes the moratorium does not apply to treated water customers, but it may in the future. His constituents are injured by the Newtown Canal Project not moving forward.

Director Wilcox stated that there appears to be consensus of the Board that President Weber does not need to recuse herself from closed session discussions regarding the Newtown Canal Project.

Loraine Webb, property owner impacted by the Newtown Canal Project, extended her deepest apologies to President Weber.

President Weber asked Ms. Webb if she called Ms. Webb or involved her in any way after the email was sent.

Ms. Webb stated that President Weber did not.

Ms. Webb stated that repeatedly, President Weber has told the neighbors "I can't talk about that." Ms. Webb admitted that her email was inadvisable to other Newtown property owners. In her long experience with the District, she has found this Board to be reasonable, to be willing to listen and work together. The Newtown neighbors perceive a problem with the Engineering Department, not the General Manager. Actions and inactions with the Engineers on the Project have occurred, and that is her

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personal bias that she was expressing. President Weber has spoken about wanting to affect the culture of the interaction with the District in terms of respect. There have been incidents with herself and her son where she feels they have been overtly disrespected. She has to say that any woman that has a voice and fired up opinion will be perceived as difficult. She has a history of being perceived as being difficult, and she is working on it.

Ms. Webb has heard today descriptions of all that Mr. Scherzinger is handling. She especially heard all that he is open to. A few of the neighbors felt that they had no alternative but to pursue litigation because they have not yet been addressed cohesively as a watershed whole in terms of the drainage problems. Her property is said to be flooded from the Project as it currently stands. She is hoping that in a mitigation process, to have some input as to who is going to be performing the canal abandonment and how it will be done. The neighbors do not want to be adversarial. She has never sued anyone in her life. But a few of the neighbors felt that this was the only recourse they had to be heard in terms of this drainage problem. She is very happy to hear that these issues will be discussed by the Board, and she is gratified to hear about the District's openness. None of the neighbors want to see the property owners downstream from the Newtown Canal not receive water. She apologized for any reactionary and contentious behavior. She has never met a person with more integrity than President Weber.

Director Miller asked Ms. Webb if she is currently having drainage issues with the rains that have occurred.

Ms. Webb responded affirmatively, and added that with the proposed Project, the situation will be exacerbated.

President Weber pointed out that she did not know that the Newtown neighbors had filed a lawsuit until she found out from the General Manager.

CLOSED SESSION was declared at 11:34 a.m. pursuant to Government Code Section 54956.9 to confer with District Counsel regarding pending litigation – Claim of Sandra Tremayne.

CLOSED SESSION was declared at 11:34 a.m. pursuant to Government Code Section 54956.9 (d)(1) to confer with District Counsel regarding the Newtown Canal Encasement Project – Existing Litigation; Name of case – Bear Yuba Watershed Defense Fund v. Nevada Irrigation District, Nevada County Case No. CU15-081478.

MEETING RECONVENED in regular session at 12:05 p.m.

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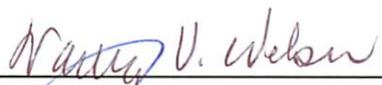
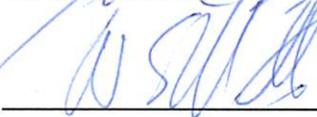
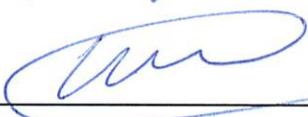
CLAIMS & SUITS – Tremayne

**Returned claim of Sandra Tremayne for lateness. M/S/C Drew/Wilcox, unanimously approved**

MEETING ADJOURNED at 12:05 p.m. to reconvene in regular session on January 27, 2016, at 9:00 a.m. at the District's main office located at 1036 W. Main Street, Grass Valley, California.

  
\_\_\_\_\_  
Board Secretary

Attest a true record of actions had and taken at the above and foregoing meeting our presence thereat and our consent thereto.

 _____	Director Division I
 _____	Division II
 _____	Division III
 _____	Division IV
 _____	Division V