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REGULAR MEETING OF THE BOARD OF DIRECTORS November 5, 2009

President Bitter Smith called to order a regular meeting of the Central Arizona Water Conservation District (“CAWCD” or “CAP”) Board of Directors on November 5, 2009, at 10:09 a.m. The meeting was held at the Hilton Tucson El Conquistador Resort, 10000 N. Oracle Road, Tucson, Arizona in the Turquoise I Ballroom.

Board members present were President Susan Bitter Smith, Maricopa County; Timothy R. Bray, Maricopa County; Paul Hendricks, Maricopa County; L.M. "Pat" Jacobs, IV, Pima County; Terri Kibler, Pinal County; Jean McGrath, Maricopa County; Sharon B. Megdal, Pima County; Pamela Pickard, Maricopa County; Warren Tenney, Pima County; Janie Thom, Maricopa County; and Carol Zimmerman, Pima County.

Lisa Atkins, Maricopa County and Mark Lewis, Maricopa County were in attendance by conference call.

Board Members Gayle Burns, Maricopa County and Dan Donahoe, Maricopa County were absent.

Staff members present were David Modeer, General Manager; Larry Dozier, Deputy General Manager; Ted Cooke, Assistant General Manager, Finance; Tom Delgado, Assistant General Manager, Employee Services; Tom McCann, Assistant General Manager, Operations, Planning & Engineering; Douglas K. Miller, General Counsel; John Newman, Assistant General Manager, Maintenance Administration; Marie Pearthree, Assistant General Manager, Business Planning; Kathryn Schmitt, Director of Communications, Public Affairs, & Governmental Relations; and Donna Micetic, Management Liaison to the Board.

1. PLEDGE OF ALLEGIANCE TO THE FLAG, MOMENT OF SILENCE AND SAFETY MINUTE

Ms. Zimmerman led the Directors and public in reciting the pledge of allegiance to the flag of the United States of America and a moment of silence. Ms. Zimmerman presented a safety minute on safety and health tips for the holiday season.

2. CONSIDERATION OF ACTION TO APPROVE ITEMS ON THE CONSENT AGENDA

On a motion (Jacobs) and second, the Board approved minutes of the October 1, 2009, Regular Board Meeting, as corrected; approved the agreements for water storage at the Agua Fria and Hieroglyphic Mountains Recharge Projects between CAWCD and Vidler Water Company; and approved the amended and restated agreement among the United States, the Gila River Indian Community and CAWCD.

Approved Oct 1, 2009 minutes; agrmts for water storage, Agua Fria & Hieroglyphic Mts; amended & restated agrmt among US, GRIC & CAWCD

3. **REPORT OF COMMITTEES AND CONSIDERATION OF ACTION TO APPROVE COMMITTEE RECOMMENDATIONS**

Finance, Audit & Power Committee:

Approval of the Recommended CAWCD Biennial Budget and Business Plan for Calendar Years 2010 and 2011

Ms. Pickard reported that Directors had an opportunity to meet individually with staff to review the budget prior to its review and recommendation for approval by the Finance, Audit & Power Committee. **Ms. Pickard moved to approve the 2010/2011 recommended budget; delegate to the General Manager the authority to execute the approved operating budget and approve expense variances per budget line item of up to 15% (but at least \$250,000) or \$1 million, whichever is less, within any fund, provided that the total expense within the affected fund does not exceed 102% of the budget. In the case of the General Fund, non-operating expenses are considered separately from other operating expenses and purchased power is excluded from this process due to market volatility. Also to delegate to the General Manager the authority to execute the approved capital budget and to approve budget variances for total capital spending up to 102% of the annual budget. The motion was seconded.**

The Board discussed the recommended budget with respect to increasing overhead and funding required to maintain the infrastructure and reliability, protecting CAP's water and power supply, addressing legislative and rulemaking initiatives, and the need for an adequate revenue stream.

Public Comment:

Tom Buschatzke, City of Phoenix, spoke in favor of the recommended 2010/2011 budget.

By roll call vote the motion passed. Mses. Atkins, Bitter Smith, Kibler, Megdal, Pickard, Thom and Zimmerman and Messrs. Bray, Hendricks, Jacobs, Lewis, and Tenney voted in favor of the motion. Ms. McGrath voted against the motion.

Approved:
2010/2011 Budget

Approval of Property & Casualty Coverage and Funding for Captive Insurance for Calendar Year 2010 in the Approximate Amount of \$2,105,000

On a motion (Pickard) and second, the Board approved the funding for the 2010 calendar year property and casualty insurance program of \$2,105,000 of which \$1,351,350 is funding for the Captive.

Adopted Prop
& Casualty
Ins.

Executive Committee:

The Board reviewed the Board Procedures Manual draft and provided comments and suggestions for revisions to the sections on Conduct, Open Meeting Law, Public Comment, and Conference Attendance and Reimbursement. The Procedures Manual will be redrafted for further review by the Executive Committee and Board.

4. **REPORT ON ACTIVITIES ASSOCIATED WITH TUCSON RELIABILITY STUDIES**

Bureau of Reclamation

Carol Erwin, U.S. Bureau of Reclamation, provided an update on Tucson reliability planning, specifically the proposed northwest reliability reservoir site selection. If a reservoir with recreation facilities is selected, Reclamation will need a cost sharing partner.

Work in 2010 will focus on National Environmental Protection Act compliance and design. If the reservoir is to be constructed expeditiously, Reclamation will need \$15-20 million in its 2012 budget.

Northwest Water Providers

Joe Herrick, Herrick Consultants, representing the Northwest Water Providers, referred to the letter that was sent to CAP on October 29, 2009, which addresses Tucson area reliability of the CAP under the federal commitment and the 1986 Plan 6 Agreement. The Northwest Water Providers are moving forward with the plan for the northwest CAP water treatment plant and delivery system. A route analysis of the delivery system and an analysis of the treatment plant site have been completed.

Tucson Water

Jeff Biggs, Director, Tucson Water, reported that Tucson has been assisting the Northwest Water Providers and Reclamation with pilot testing of alternate technologies for a surface water treatment plant.

Directors discussed issues associated with reliability for all Pima County users of CAP water, cost sharing, and the need for completion.

5. REPORT ON LEGISLATIVE ACTIVITIES (Item heard out of order)

Ms. Pearthree provided background information on the Navajo Generating Station (NGS) and an update on CAP's response to the August 28, 2009, Environmental Protection Agency (EPA) Advanced Notice of Proposed Rulemaking on the "Assessment of Anticipated Visibility Improvements at Surrounding Class I Areas and Cost Effectiveness of Best Available Retrofit Technology for Four Corners Power Plant and Navajo Generating Station." CAP is seeking consideration by EPA to authorize the installation of low NOx combustion control technology at NGS to meet requirements for reducing haze and improving visibility in Class I areas. The low NOx technology provides similar visibility improvement results at less than one-tenth the cost of the selective catalytic reduction technology that has been indicated by EPA as the best available retrofit technology. Costs associated with complying with EPA requirements could significantly increase the cost of power and water.

Public Comment:

Mark Myers reported that the Hopi Tribe has been actively working with congressional staff, the administration and representatives of other tribes to oppose the rulemaking.

President Bitter Smith thanked CAP customers and others for submitting comments to the EPA supporting CAP's position regarding EPA's proposed rulemaking on NGS.

Doug Miller gave an update on CAP legislative activities:

- No bills have been filed on the Navajo Nation or Hopi Tribe water rights settlements;
- A substitute version of the White Mountain Apache Tribe water rights settlement bill passed out of the Senate committee;
- Members of the delegation have been receptive to discussions regarding the post-2017 Hoover reallocation proposals;

- Western Urban Water Coalition members (including CAWCD) are seeking language to exempt water conveyance facilities from legislation in the Senate that would expand the definition of “Waters of the United States” under the Clean Water Act; and
- The 11th Circuit Court of Appeals’ recent favorable ruling that water transfers do not require NPDES permits is being challenged.

Mr. Modeer reported that he testified at a hearing of the joint committees of the Arizona House and Senate on the sunset provisions of the Arizona Department of Water Resources (ADWR). The joint committee unanimously approved the continuance of ADWR for ten years.

6. **CONSIDERATION OF ACTION TO GO INTO EXECUTIVE SESSION**

On a motion (Pickard) and a second, the Board convened in Executive Session pursuant to A.R.S. §§38-431.03.A.1 and 38-431.03.A.3 to consult with the attorneys for the District regarding lobbyist performance and to consider the District's position and instruct its attorneys regarding lobbyist services and the District's involvement in legislation; Pursuant to A.R.S. §§38-431.03.A.3 and 38-431.03.A.4 to consult with the attorneys for the District and consider the District's position and instruct its attorneys regarding: Navajo Nation v. United States, pending in the United States District Court for the District of Arizona, and related settlement negotiations; Federal legislation to authorize a settlement of the water rights claims of the White Mountain Apache Tribe; Grand Canyon Trust v. U.S. Bureau of Reclamation, pending in the United States District Court for the District of Arizona; Clean Water Act Legislation; Regulation of nitrogen oxide emissions at the Navajo Generating Station; Litigation regarding funds of the Arizona Water Banking Authority; Litigation relating to the clean up of perchlorate contamination at Henderson, Nevada; and Litigation relating to the EPA Water Transfer Rule.

The discussions and minutes of the executive session shall be kept confidential. The Board convened in executive session from 12:52 p.m. until 2:26 p.m. and reconvened in open session at 2:26 p.m.

7. **REPORT ON COLORADO RIVER ISSUES, INCLUDING BUT NOT LIMITED TO WATER SUPPLY, BASIN STUDIES, AND YUMA DESALTING PLANT PILOT RUN**

Mr. McCann reported that:

- The Yuma Desalting Plant Pilot Run is projected to begin on May 1, 2010;
- Discussions are taking place between the United States and Mexico related to Mexico participating in intentionally created surplus and shortage sharing; and
- The Bureau of Reclamation has approved the proposal by the Basin States for a study of future supply and demand imbalances within the Colorado River Basin.

Mr. Dozier reported that:

- The end-of-the-year water accounting processes are being studied and procedures for meeting and reporting intentionally created surpluses, overrun paybacks, Drop 2 credits, etc., will be developed; and
- There may be opportunities to store additional water for Nevada in 2009.

8. **REPORT ON CAP OPERATIONS ISSUES INCLUDING BUT NOT LIMITED TO CAP WATER DIVERSIONS, CAP DELIVERIES, 2010 WATER ORDERS, AND FALL OUTAGE SCHEDULE**

Mr. McCann reported that:

- Water diversions for 2009 are projected to be about 1.6 million acre-feet;
- Water deliveries for 2009 are projected to be around 1.58 million acre-feet; and
- Water orders for 2010 are being processed and it appears that the Access to Excess Policy provisions may be required to address approximately 50,000 acre-feet in orders that exceed supply.

Mr. Newman reported on equipment repairs and aquatic weed infestation at Mark Wilmer and on maintenance activities taking place during the outage on the south end of the system.

9. **DIRECTORS' REPORTS**

Mr. Bray will speak to the Phoenix Chapter of the Arizona Hydrological Society on November 10 concerning the Central Arizona Groundwater Replenishment District (CAGR) and NGS issues.

Ms. McGrath has been attending various meetings on the west side of Phoenix, speaking about the NGS and cap and trade issues.

Ms. Megdal spoke at a meeting for a Tucson environmental organization concerning future water supplies and the ADD Water process.

Ms. Pickard spoke to a women's group on the NGS situation. She participated in the Colorado River Trip sponsored by the Bureau of Reclamation.

Mr. Tenney met with the Northwest Chamber of Commerce and spoke with them about the NGS. Last month he met with the Southern Arizona rural property section and spoke to them about NGS, water supply and CAGR issues.

Ms. Thom spoke with a group in her legislative district concerning NGS as well as cap and trade issues.

Ms. Zimmerman reported that CAP staff has been summarizing comments from the Strategic Plan Retreat. A draft plan will be posted to the website prior to the December 3, 2009, Board meeting. The revised Strategic Plan should be ready for approval in early 2010.

10. **PRESIDENT'S REPORT**

President Bitter Smith reminded the Board of upcoming meetings. The Colorado River Water Users Association will meet December 9-11 in Las Vegas. Eight Board members have registered to date. Actions taken by the Board are now being posted to the meetings page on the website. In December the Board will begin to discuss the General Manager's 2009 performance and 2010 goals.

11. **GENERAL MANAGER'S REPORT**

Mr. Modeer provided information concerning several films that are being aired on PBS and in theaters concerning coal and power production. Mr. Modeer reported on upcoming

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meetings and events at CAP. He will be speaking at several meetings in the next few weeks concerning NGS and CAP issues.

12. **PUBLIC COMMENT**

None.

There being no further business to come before the Board, the meeting adjourned at 3:10 p.m.

Timothy R. Bray, Secretary