

MINUTES OF MEETING
BOARD OF DIRECTORS, ORANGE COUNTY WATER DISTRICT
April 15, 2020, 5:30 p.m.

President Sarmiento called to order the April 15, 2020 regular meeting of the Orange County Water District Board of Directors at 5:30 p.m. in the Boardroom at the District office. Following the Pledge of Allegiance to the Flag, the District Secretary called the roll and reported a quorum as follows. Due to the Governor's Executive Order N-25-20, members of the Board participated telephonically from remote locations. Directors Sarmiento and Sheldon attended in person. Public access was also provided telephonically.

Directors

Denis Bilodeau (via teleconference)
Jordan Brandman (via teleconference)
Cathy Green (via teleconference)
Dina Nguyen (via teleconference)
Kelly Rowe (via teleconference)
Vicente Sarmiento
Stephen Sheldon (via teleconference)
Tri Ta (via teleconference)
Roger Yoh (via teleconference)
Ahmad Zahra (via teleconference)

Staff

Michael R. Markus, General Manager
Jeremy Jungreis, General Counsel
Janice Durant, District Secretary

General Manager Markus advised that he received a letter today from Irvine Ranch Water District General Manager Paul Cook regarding tonight's public hearing. He stated that the letter along with his response was forwarded to the Board and posted to the OCWD website.

VISITOR PARTICIPATION

Irvine Ranch Water District Director Doug Reinhard questioned why he could not view the list of attendees at tonight's meeting. President Sarmiento reminded him that the Board/public were attending via webinar and that only the phone numbers of those individuals attending are visible to webinar attendees.

Director Bilodeau joined the meeting just prior to the vote on Resolution D.

1. Public Hearing to Consider Fiscal Year 2020-21 Replenishment Assessments, Basin Equity Assessment, Basin Production Percentage, Production Requirement Limitation and Surcharge

President Sarmiento opened the Public Hearing to consider the Fiscal Year 2020-21 Replenishment Assessments (RA), Basin Equity Assessment (BEA), Basin Production Percentage (BPP), Production Requirement Limitation and Surcharge.

Given the economic crisis in the nation due to COVID-19, Executive Director John Kennedy recommended keeping the Replenishment Assessment (RA) and additional RA at \$487/af and the BPP at 77%, the same levels as the current fiscal year. He also recommended a continued

Production Limitation of 100% and Surcharge of \$2,000/acre-foot for groundwater production above the Production Limitation.

President Sarmiento then opened the hearing for public comment and the following individuals addressed the Board.

The following Groundwater Producers expressed support for the staff recommendations: Mesa Water District Director Fred Bockmiller, East Orange County Water District Director Doug Davert, Yorba Linda Water District Director Brooke Jones and Mesa Water District General Manager Paul Schoenberger. Following discussion by the Board and, there being no other persons wishing to address the Board, President Sarmiento declared the hearing closed and the Board took the following actions:

1. Resolution A

Upon motion by Director Green, seconded by Director Zahra, the following resolution was unanimously adopted [9-0] by roll call vote.

Ayes: Brandman, Green, Nguyen, Rowe, Sarmiento, Sheldon, Ta, Yoh, Zahra

Absent: Bilodeau

RESOLUTION NO. 20-4-44

FINDING AND DETERMINING A GROUNDWATER BASIN OVERDRAFT EXISTS

WHEREAS, the report and recommendation of the General Manager on the amount of the replenishment rates, which includes a consideration of the amount of money necessary for replenishment purposes and to pay the costs of initiating, carrying on and completing any of the powers, projects and purposes of the District, has been heard; and

WHEREAS, pursuant to the provisions of the Orange County Water District Act, an engineering investigation and report concerning the condition of the groundwater supplies of the Orange County Water District has been filed and presented to the Board of said District, and a public hearing was held on March 18, 2020, for the purpose of considering the groundwater conditions of said District and to hear persons supporting or protesting the written engineering investigation and report on file with said District; and

WHEREAS, all notices as required regarding said hearing were given and all persons were permitted an opportunity to submit any evidence to this Board; and said matter was submitted to this Board of Directors for their finding and determination;

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of Directors of the Orange County Water District finds and determines that an overdraft, both annual (based on normal hydrology) and accumulated, does exist in the groundwater supplies of said District; and

BE IT FURTHER RESOLVED that this Board of Directors hereby finds and determines as follows:

1. That the average annual overdraft for the immediate past five water years without supplemental replenishment water is 136,800 AF
2. That the annual basin overdraft for the current water year, July 1, 2019 to June 30, 2020 without supplemental replenishment water is estimated to be 140,000 AF
3. That the estimated annual basin overdraft for the ensuing water year, July 1, 2020 to June 30, 2021 without supplemental replenishment water is 84,000 AF
4. That the accumulated overdraft as of the last day of the preceding water year, June 30, 2019, is 236,000 AF
5. That the accumulated overdraft as of the last day of the current water year, assuming average hydrology June 30, 2020 is estimated to be 237,000 AF
6. That the maximum amounts of water which could be purchased pursuant to the District Act from the Replenishment Fund for the replenishment of the groundwater supplies of the District for the ensuing water year is 160,000 AF
7. That the recommended amount of water to be purchased for the replenishment of the groundwater supplies of the District for the ensuing water year, excluding supplies for the Talbert seawater intrusion barrier, is 3,000 AF
8. That the amount of money necessary to purchase the recommended amount of water to replenish the groundwater supplies of the District for the water year July 1, 2020 to June 30, 2021 is \$9.1 million

2. Resolution B

Upon motion by Director Ta, seconded by Director Zahra, the following resolution was unanimously adopted [9-0] by roll call vote.

Ayes: Brandman, Green, Nguyen, Rowe, Sarmiento, Sheldon, Ta, Yoh, Zahra

Absent: Bilodeau

RESOLUTION NO. 20-4-45
LEVYING REPLENISHMENT ASSESSMENT FOR WATER PRODUCED
DURING WATER YEAR 2020-21

WHEREAS, the engineering investigation and report concerning the condition of the groundwater supplies of the Orange County Water District has been made and filed; and

WHEREAS, the report and recommendation of the General Manager on the amount of the replenishment rate, which includes a consideration of the amount of money necessary for replenishment purposes and to pay the costs of initiating, carrying on and completing any of the powers, projects and purposes of the District, has been heard; and

WHEREAS, on January 15, 2020 and March 4, 2020 the District provided public documents on a potential increase to the Replenishment Assessment to be levied and imposed on each groundwater producer, and the basis and reasons for the proposed Replenishment Assessment; and

WHEREAS, a duly noticed public hearing was held on March 18, 2020 concerning the condition of the groundwater supplies of this District and a duly noticed public hearing was held on April 15, 2020 for the purpose of determining the need and desirability of levying a Replenishment Assessment; and

WHEREAS, no written protests were filed against the adoption, levy and imposition of the proposed Replenishment Assessment; and

WHEREAS, this Board has found and determined that an annual and accumulated overdraft does exist;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby resolve as follows:

Section 1: That the Board of Directors does hereby find and determine that it is necessary and desirable to levy a Replenishment Assessment and to fix the rate thereof for the purchase of water to replenish the groundwater supplies of said District and to pay the costs of initiating, carrying on and completing any of the powers, projects and purposes of the District for the ensuing water year.

Section 2: That, based upon the staff report and presentation, the proposed fiscal year 2020-21 budget presented by the General Manager, and the testimony and evidence presented at the public hearing, the Board of Directors finds and declares as follows:

- a. In accordance with Sections 23 and 27 of the Orange County Water District Act, the purposes of the Replenishment Assessment are to generate revenues sufficient to acquire water to replenish the average annual overdraft for the immediate five years plus an additional amount of water sufficient to eliminate over a period of not less than 10 years nor more than 20 years the accumulated overdraft, and to provide the services and to pay the costs of initiating, carrying on, and completing

the powers, projects and purposes for which the District was organized and which are authorized by the Board of Directors;

- b. The revenues derived from the levy and imposition of the Replenishment Assessment do not exceed the reasonable costs to the District of acquiring water, providing the groundwater management and replenishment services and carrying out the powers, projects and purposes for which the District was organized and which are authorized by the Board of Directors;
- c. The Replenishment Assessment is imposed for groundwater management and replenishment services to pay the costs of initiating, carrying on, and completing the powers, projects and purposes for which the District was organized and which are authorized by the Board of Directors, which are not provided to or which do not provide a benefit to persons who are not charged directly or indirectly the Replenishment Assessment;
- d. The manner in which the Replenishment Assessment is allocated to and imposed on any operator of a groundwater producing facility bears a fair and reasonable relationship to the operator's burdens on, or benefits received from, the District's groundwater management and replenishment services and such other projects and purposes for which the District was organized and which are authorized by the Board of Directors; and
- e. No Replenishment Assessment shall be levied or imposed upon any operator of any groundwater producing facility unless that operator produces groundwater.

Section 3: That pursuant to the provisions of Section 27 of the Orange County Water District Act, and based upon the finding that an overdraft, either annual or accumulated, exists, a Replenishment Assessment is hereby levied and assessed against all persons operating water producing facilities and producing water during the ensuing water year, from July 1, 2020 to and including June 30, 2021, from the groundwater supplies of said District at the uniform rate of \$243.50 per acre-foot of water produced by all persons during the ensuing water year. The Board of Directors finds and determines that the replenishment rate of \$243.50 per acre-foot of water produced by all persons during the ensuing water year does not exceed the amount necessary to purchase sufficient water to replenish the average annual overdraft for the immediate five years, plus an additional amount of water sufficient to eliminate over a period of not less than 10 years nor more than 20 years the accumulated overdraft, plus an amount to pay the costs of initiating, carrying on and completing the powers, projects and purposes for which the District was organized.

Section 4: That the Secretary of this District is hereby instructed and directed to give notice of the levy of this Replenishment Assessment as required by the Orange County Water District Act.

3. Resolution C

Upon motion by Director Zahra, seconded by Director Ta, the following resolution was unanimously adopted [9-0] by roll call vote.

Ayes: Brandman, Green, Nguyen, Rowe, Sarmiento, Sheldon, Ta, Yoh, Zahra

Absent: Bilodeau

RESOLUTION NO. 20-4-46
LEVYING ADDITIONAL REPLENISHMENT ASSESSMENT AND FIXED CHARGE
REPLENISHMENT ASSESSMENT FOR WATER PRODUCED
DURING WATER YEAR 2020-21, AND DETERMINING THE REPLENISHMENT
ASSESSMENT AND ADDITIONAL REPLENISHMENT ASSESSMENT
EXEMPT FROM CEQA

WHEREAS, the engineering investigation and report concerning the condition of the groundwater supplies of the Orange County Water District has been made and filed; and

WHEREAS, the report and recommendation of the General Manager on the amount of the additional replenishment rate, which includes a consideration of the amount of money necessary for replenishment purposes and to pay the costs of initiating, carrying on and completing any of the powers, projects and purposes of the District, has been heard; and

WHEREAS, on January 15, 2020 and March 4, 2020 the District provided public documents on a potential increase to the Additional Replenishment Assessment to be levied and imposed on each groundwater producer, and the basis and reasons for the proposed Additional Replenishment Assessment; and

WHEREAS, the Additional Replenishment Assessment is paid by all persons operating water producing facilities for all purposes other than irrigation as defined in the District Act; and

WHEREAS, a duly-noticed public hearing was held on March 18, 2020 concerning the condition of the groundwater supplies of this District and a duly-noticed public hearing was held on April 15, 2020 for the purpose of determining the need and desirability of levying an Additional Replenishment Assessment, and fixing the rate thereof; and

WHEREAS, no written protests were filed against the adoption, levy and imposition of the proposed Additional Replenishment Assessment; and

WHEREAS, this Board has heretofore levied a Replenishment Assessment against all persons operating water producing facilities and producing water during the ensuing water year, from July 1, 2020 to and including June 30, 2021, from the groundwater supplies of said District at the uniform rate of \$243.50 per acre-foot of water produced by all persons during the ensuing water year;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby resolve as follows:

Section 1: That the Board of Directors does hereby find and determine that it is necessary and desirable to levy an Additional Replenishment Assessment and to fix the rate thereof to pay the costs of initiating, carrying on and completing any of the powers, projects and purposes of the District for the ensuing water year.

Section 2: That, based upon the staff report and presentation, the proposed fiscal year 2020-21 budget presented by the General Manager, and the testimony and evidence presented at the public hearing, the Board of Directors finds and declares as follows:

- (a) In accordance with Sections 23 and 27.1 of the Orange County Water District Act, the purpose of the Additional Replenishment Assessment is to generate revenues sufficient to provide the services and to pay the costs of initiating, carrying on, and completing the powers, projects and purposes for which the District was organized and which are authorized by the Board of Directors;
- (b) The revenue derived from the levy and imposition of the Additional Replenishment Assessment shall not exceed the reasonable cost to the District of providing the groundwater management and replenishment services and carrying out the powers, projects and purposes for which the District was organized and which are authorized by the Board of Directors;
- (c) The Additional Replenishment Assessment is imposed for groundwater management and replenishment services and to pay the costs of initiating, carrying on, and completing the powers, projects and purposes for which the District was organized and which are authorized by the Board of Directors, which are not provided to or which do not provide a benefit to persons who are not charged directly or indirectly the Additional Replenishment Assessment;
- (d) The manner in which the Additional Replenishment Assessment is allocated to and imposed on any operator of a groundwater producing facility bears a fair and reasonable relationship to that operator's burdens on, or benefits received from the District's groundwater management and replenishment services and such other projects and purposes for which the District was organized and which are authorized by the Board of Directors; and
- (e) No Additional Replenishment Assessment shall be levied or imposed upon any operator of any groundwater producing facility unless that operator produces groundwater for purposes other than irrigation.

Section 3: That pursuant to the provisions of Section 27.1 of the Orange County Water District Act, the Board of Directors hereby finds and determines that it is necessary and advisable to levy an Additional Replenishment Assessment against all persons operating water producing facilities for all purposes other than irrigation at a uniform rate per acre-foot for water produced during the ensuing year for the purpose of paying the costs of initiating, carrying on and completing the powers, projects and purposes for which the District is organized. The Board of Directors further finds that the Additional Replenishment Assessment rate of \$243.50 per acre-foot of water produced from the groundwater supplies of the District is necessary for the protection of the water supplies of the District and that the amount is reasonable. An Additional Replenishment

Assessment is hereby levied and assessed against all persons operating water producing facilities and producing water from the groundwater supplies of said District for all purposes other than irrigation during the ensuing water year from July 1, 2020 to and including June 30, 2021 at the uniform rate of \$243.50 per acre-foot of water for a total of \$487 per acre-foot of water produced by said persons during the ensuing water year for purposes other than irrigation.

Section 4: Pursuant to Section 29 of the Orange County Water District Act, the Board of Directors of the Orange County Water District does hereby provide that the operator of any water producing facility within the District which has a discharge opening not greater than two inches in diameter and which does not provide domestic or irrigation water for an area in excess of one acre, in lieu of filing a sworn statement as to the production of groundwater, may pay a fixed Replenishment Assessment and Additional Replenishment Assessment in the amount of \$487 for water produced in the ensuing water year, namely July 1, 2020 to June 30, 2021.

Section 5: Based upon the staff report and presentation, the proposed fiscal year 2020-21 budget presented by the General Manager, and the testimony and evidence presented at the public hearing, the Board of Directors finds and declares that the adoption, levy and imposition of the Replenishment Assessment and Additional Replenishment Assessment do not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) and are exempt from CEQA under Public Resources Code Section 21080(b)(8) and State CEQA Guidelines §§ 15378(b)(4) and 15273, because the Replenishment Assessment and Additional Replenishment Assessment: (a) involve the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and (b) are for the purposes of meeting operating expenses (including employee wage rates and fringe benefits), purchasing or leasing supplies, equipment or materials, meeting financial reserve needs and requirements, and obtaining funds for capital projects necessary to maintain the level of service within the District’s existing boundaries.

Section 6: That the Board of Directors does hereby find and determine that a producer who operates a groundwater production facility for irrigation purposes as defined in the District Act is not subject to payment of the Additional Replenishment Assessment due to the benefits the District receives from agricultural activity. These benefits include:

- Open tilled agricultural fields contribute to natural incidental recharge of the groundwater basin;
- The District does not incur the costs to provide water quality groundwater testing for agricultural users, which is provided to the operators of water producing facilities for purposes other than agriculture;
- The District and the operators of water producing facilities for agricultural purposes have little to minimal interaction in annual operations. Conversely the District and the operators of facilities for non-agricultural purposes regularly interact and/or coordinate operations. Examples include the MWD Conjunctive Use Program, the Coastal Pumping Transfer Program, attending meetings, coordinating on MWD issues, legislative advocacy, public outreach and the In-lieu program; and
- Some agricultural irrigation water migrates back into aquifer reducing the net impact of groundwater production for agricultural purposes.

Section 7: That the Secretary of this District is hereby instructed and directed to give notice of the levy of the Replenishment Assessment and this Additional Replenishment Assessment as required by the Orange County Water District Act, and to file a Notice of Exemption in accordance with CEQA.

4. Resolution D

Upon motion by Director Zahra, seconded by Director Ta, the following resolution was unanimously adopted [10-0] by roll call vote.

Ayes: Bilodeau, Brandman, Green, Nguyen, Rowe, Sarmiento, Sheldon, Ta, Yoh, Zahra

RESOLUTION NO. 20-4-47

ESTABLISHING THE BASIN PRODUCTION PERCENTAGE, PRODUCTION LIMITATION, PRODUCTION LIMITATION SURCHARGE AND DETERMINING THE NEED AND DESIRABILITY TO LEVY BASIN EQUITY ASSESSMENTS AND AMOUNT THEREOF, AND DETERMINING SUCH ACTIONS TO BE EXEMPT FROM CEQA

WHEREAS, pursuant to Section 31.5 of the Orange County Water District Act, an engineering report on water production and the condition of water supplies within the Orange County Water District has been filed and presented to the Board of Directors of said District, and a hearing relating to said production and condition of water supplies was held on Wednesday, March 18, 2020; and

WHEREAS, a duly noticed public hearing was held on April 15, 2020 and evidence submitted for the purpose of determining the need and desirability of levying Basin Equity Assessments and the amount thereof, as well as the need for establishing production requirements, limitations, and surcharges to enforce said limitations, and the extent thereof, and said matters having been submitted to the Board of Directors for its findings and determinations;

WHEREAS, as documented with Resolution A – Finding and Determining a Groundwater Basin Overdraft Exists, an annual and accumulated overdraft exists with the groundwater basin and the District does not want excessive unexpected quantities of groundwater to be produced, or production of groundwater to occur in a manner that has the potential to harm users of groundwater within the District, which the setting of a Production Limitation and a Surcharge will discourage and penalize.

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby resolve as follows:

Section 1: That the Board of Directors does hereby find and determine for the ensuing water year July 1, 2020 to June 30, 2021 as follows:

- a. The estimated total amount of water to be produced by all persons or operators within the District from the groundwater within the District is 247,000 acre-feet. Approximately 24,000 acre-feet of this amount has been determined to receive either a partial or full Basin Equity Assessment exemption pursuant to Section 38.1 of the OCWD Act.
- b. The estimated total amount to be produced by such persons and operators from groundwater and supplemental sources is 396,000 acre-feet.
- c. The Basin Production Percentage is 77 percent. There are no basin Production Requirements.
- d. The Production Limitation is 100 percent for all 19 retail Groundwater Producers and is necessary for the protection of the water supply of the District. The Surcharge for production in excess of the Production Limitation is \$2,000 per acre-foot.
- e. The Basin Equity Assessment and production requirements and limitations from groundwater within the District established by this resolution are necessary to prevent excessive groundwater production and to protect the water supply of the District and users of groundwater within the District.
- f. The District will not implement the Coastal Pumping Transfer Program in FY 2020-21.
- g. The Basin Equity Assessment shall be set at \$0 per acre-foot for agricultural irrigation use producers who do not have a supplemental water connection, and that such amount is reasonable.
- h. The Basin Equity Assessments for the cities of Fountain Valley, Huntington Beach, Newport Beach and Westminster are reduced by \$350/acre-foot to encourage additional groundwater pumping.
- i. The Basin Equity Assessments to be levied against all other persons and operators in a dollar amount per acre-foot of water produced from the groundwater supply (in excess of the basin production percentage) for all purposes including irrigation are as follows:

Table 1 - Basin Equity Assessments

<u>AGENCY</u>	<u>BEA (\$/AF)</u>
City of Anaheim	260
City of Buena Park	528
East Orange County Water District	575
City of Fountain Valley	235
City of Fullerton	594
City of Garden Grove	600
Golden State Water Company	604
City of Huntington Beach	267
Irvine Ranch Water District	586
City of La Palma	543
Mesa Water District	612
City of Newport Beach	260
City of Orange	599
City of Santa Ana	581
City of Seal Beach	582
Serrano Water District	561
City of Tustin	575
City of Westminster	250
Yorba Linda Water District	564
All producers for agricultural irrigation use	790
Producers for agricultural Irrigation Use without MWD Access	0
All Others	587

j. The amount of each such Basin Equity Assessment is reasonable.

k. During the ensuing water year, upon the District giving published notice thereof, pursuant to Section 6061 of the Government Code, in a newspaper of general circulation printed and published within the District at least 10 days prior to such hearing, a subsequent public hearing may be held to modify the basin production percentage, any Basin Equity Assessments, any surcharge, or any production requirement or limitation established by the District.

Section 2: That pursuant to Section 31.5(h) of the Orange County Water District Act, all persons and operators who produce 25 acre-feet or less of water from groundwater within the District shall be excluded from the levy of the Basin Equity Assessments and production requirements and limitations provided for herein.

Section 3: The Board of Directors finds and determines that the establishment of the basin production percentage, production limitations, and the adoption, levy and imposition of basin equity assessments and surcharges are exempt from the California Environmental Quality Act (“CEQA”) under State CEQA Guideline §15378(b)(2) since they involve continuing administrative activities such as general policy and procedure making.

Section 4: Based upon the staff report and presentation, the proposed fiscal year 2019-20 budget presented by the General Manager, and the testimony and evidence presented at the public hearing, the Board of Directors finds and declares that the adoption, levy and imposition of the basin equity assessments and surcharges do not constitute a “project” within the meaning of CEQA and are exempt from CEQA under Public Resources Code Section 21080(b)(8) and State CEQA Guidelines §§ 15378(b)(4) and 15273, because the basin equity assessments and surcharges: (a) involve the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and (b) are for the purposes of meeting operating expenses (including employee wage rates and fringe benefits), purchasing or leasing supplies, equipment or materials, meeting financial reserve needs and requirements, and obtaining funds for capital projects necessary to maintain the level of service within the District’s existing boundaries.

Section 5: That the Secretary of this District is hereby instructed and directed to give notice of the Basin Equity Assessments as required by the Orange County Water District Act, and to file a Notice of Exemption in accordance with CEQA.

CONSENT CALENDAR

General Manager Markus requested that Item No. 7, *Contract No. SC-2020-2, Smith Basin Rehabilitation*, be removed from tonight’s Agenda and deferred to a later date. Director Ahmad requested discussion of Item No. 4, *State Legislative Update*. The balance of the Consent Calendar was approved upon motion by Director Green, seconded by Director Nguyen and carried [10-0] by roll call vote as follows, with the following partial abstention:

Director Brandman - Item No. 3, *Cash Disbursements* - items relating to the *Orange County Conservation Corps* due to a current business relationship.

Ayes: Bilodeau, Brandman, Green, Rowe, Nguyen, Sarmiento, Sheldon, Ta, Yoh, Zahra

Abstain: Brandman - partial abstention on Item No. 3

Calendar was approved upon motion by Director Green, seconded by Director Nguyen and carried [10-0] by roll call vote as follows, with the following partial abstention:

Director Brandman - Item No. 3, *Cash Disbursements* - items relating to the *Orange County Conservation Corps* due to a current business relationship.

Ayes: Bilodeau, Brandman, Green, Rowe, Nguyen, Sarmiento, Sheldon, Ta, Yoh, Zahra

Abstain: Brandman - partial abstention on Item No. 3

2. Approval of Cash Disbursements

MOTION NO. 20-36 APPROVING CASH DISBURSEMENTS

Payment of bills for the period March 26, 2020 through April 8, 2020 in the total amount of \$3,504,350.49 is ratified and approved.

3. Approval of Minutes of Board Meeting

MOTION NO. 20-37
APPROVING MINUTES OF BOARD MEETING

The minutes of the Board of Directors meeting held March 4, 2020 are approved as presented.

ITEMS RECOMMENDED FOR APPROVAL AT COMMUNICATION AND LEGISLATIVE LIAISON COMMITTEE MEETING HELD APRIL 2, 2020

4. State Legislative Update

This item was removed from the Consent Calendar and considered later in tonight's meeting.

ITEMS RECOMMENDED FOR APPROVAL AT WATER ISSUES COMMITTEE MEETING HELD APRIL 8, 2020

5. Notice Inviting Bids for Contract No. PB-2020-1, Prado Basin Sediment Demonstration Project Excavation and Dredging

MOTION NO. 20-38
AUTHORIZING PUBLICATION OF NOTICE INVITING BIDS FOR CONTRACT NO. PB-2020-1, PRADO BASIN SEDIMENT DEMONSTRATION PROJECT EXCAVATION AND DREDGING

Publication of Notice Inviting Bids for Contract No. PB-2019-1, Prado Basin Sediment Demonstration Project Dredging and Excavation is hereby authorized.

6. Purchase Order to Bearcom for Integration of OCWD Field Radio System

RESOLUTION NO. 20-4-48
AUTHORIZING PURCHASE ORDER TO BEARCOM FOR INTEGRATION OF OCWD FIELD RADIO SYSTEM

RESOLVED, that issuance of a Purchase Order is authorized to Bearcom in the amount of \$78,250 to for integration of the OCWD field radio system.

7. Contract No. SC-2020-2 Smith Basin Rehabilitation – Adopt Mitigated Negative Declaration and Authorize Notice Inviting Bids

This item was removed from the Consent Calendar and deferred to a later date.

8. Purchase Order to Nixon-Egli for an Elliott 40105R Crane Truck

RESOLUTION NO. 20-4-49
AUTHORIZING PURCHASE ORDER TO NIXON-EGLI FOR AN
ELLIOTT 40105R CRANE TRUCK

RESOLVED, that issuance of a Purchase Order is authorized to Nixon Egli Equipment Company in the amount of \$584,110 for an Elliott Model 40105R 40-ton capacity crane truck and surplus and sale of the existing T-72 crane truck is authorized.

9. Contract No. TAL-2020-2, Talbert P-Well Vault and Pipeline Decommissioning – Reject All Bids and Authorize Notice Inviting Bids for Contract No. TAL-2020-3

RESOLUTION NO. 20-4-50
REJECTING ALL BIDS FOR CONTRACT NO. TAL-2020-2, TALBERT P-WELL VAULT
AND PIPELINE DECOMMISSIONING, AND AUTHORIZING PUBLICATION OF NOTICE
INVITING BIDS FOR CLARIFIED CONTRACT NO. TAL-2020-3

Whereas, a Notice Inviting Bids for Contract No. TAL-2020-2, Talbert P-Well Vault and Pipeline Decommissioning was published in The Orange County Register on March 5, 2020; and

WHEREAS, staff has advised that the following bids were received on March 31, 2020;

T.E. Roberts	\$	567,650
Mike Purlich & Sons	\$	627,400
Doty Bros.	\$	662,942
W.A. Rasic	\$	689,125
Pacific Hydrotech	\$	789,800
Kana Subsurface	\$	851,517

WHEREAS, the District staff has reported that there was a misunderstanding of the contract documents and has therefore recommended rejection of all bids, clarification of the contract documents, and re-publishing a Notice Inviting Bids for the clarified contract No. TAL-2020-3;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby resolve as follows:

Section 1: The Affidavit of Publication of Notice Inviting Bids for Contract No. TAL-2020-2 is received and filed.

Section 2: All bids submitted for such Contract are hereby rejected, and staff is instructed to return the Bid Bonds to the bidders.

Section 3: Publication of a Notice Inviting Bids for the clarified Contract No. TAL-2020-3, Talbert P-Well Vault and Pipeline Decommissioning, is hereby authorized.

10. Authorization for Request for Proposal from Engineering Analytics for NCP Consulting Services for South Basin Remedial Investigation / Feasibility Study

MOTION NO. 20-39

AUTHORIZING REQUEST FOR PROPOSAL FROM ENGINEERING ANALYTICS, INC. TO PROVIDE NATIONAL CONTINGENCY PLAN CONSULTING SERVICES FOR SOUTH BASIN REMEDIAL INVESTIGATION / FEASIBILITY STUDY

Staff is authorized to request a proposal from Engineering Analytics, Inc. to provide National Contingency Plan consulting services to address groundwater contamination in the South Basin area

11. Mid-Basin Injection: Centennial Park – Notice of Completion to Pacific Hydrotech Corp. and Ratify Change Orders No. 6 – 12

RESOLUTION NO. 20-4-51

ACCEPTING COMPLETION OF CONTRACT NO. MBI-2017-1, MID-BASIN INJECTION: CENTENNIAL PARK (PACIFIC HYDROTECH)

WHEREAS, the District staff has reported that Pacific Hydrotech Corp. has completed work under Contract No. MBI-2017-1, Mid-Basin Injection: Centennial Park; and

WHEREAS, staff has advised of issuance of Change Order Nos. 6 through 12 to such contract in the total amount of \$697,424; and

WHEREAS, staff has recommended that the District accept completion of said work and that a Notice of Completion be filed for recordation and the balance of payment be made, pursuant to the terms and conditions of such contract;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby resolve as follows:

Section 1: Issuance of Change Order Nos. 1 through 12 to such contract is hereby ratified.

Section 2: Work under such Contract is accepted as complete, and the District staff is authorized and directed to execute a Notice of Completion and record said Notice in the Office of the County Recorder.

Section 3: Upon expiration of the interim lien period, providing no liens have been filed, payment of the balance due under such contract shall be made.

ITEMS RECOMMENDED FOR APPROVAL AT ADMINISTRATION AND FINANCE
ISSUES COMMITTEE MEETING HELD APRIL 9, 2020

12. Monthly Cash Control Report

MOTION NO. 20-40
RECEIVING AND FILING SUMMARY CASH AND
CASH EQUIVALENTS CONTROL REPORTS

The Summary Cash and Cash Equivalents Control Reports dated March 31, 2020 is hereby received and filed.

13. Investment Portfolio Holdings Report

MOTION NO. 20-41
RECEIVING AND FILING INVESTMENT PORTFOLIO HOLDINGS REPORTS

The Investment Portfolio Holdings Reports dated March 31, 2020 is hereby received and filed.

14. Proposed Orange County Local Agency Formation Commission Dues Restructuring

MOTION NO. 20-42
VOTING TO APPROVE PROPOSED LAFCO DUES RESTRUCTURING
FUNDING FORMULA

OCWD hereby authorizes approval of the new proposed Orange County Local Agency Formation Commission (LAFCO) dues funding formula.

15. Authorizing Amendment to Agreement with Lhoist North America for the Supply and Delivery of Lime

RESOLUTION NO. 20-4-52
APPROVING AMENDMENT TO AGREEMENT WITH LHOIST NORTH AMERICA FOR
CONTINUED SUPPLY AND DELIVERY OF HYDRATED LIME

WHEREAS, pursuant to Resolution No. 18-4-50 adopted April 18, 2018, OCWD authorized issuance Agreement No. 1298 to Lhoist North America for supply and delivery of hydrated lime at the rate of \$237 per ton for a period of two years with an option to renew for one additional two-year period; and

WHEREAS, the Administration and Finance Issues Committee has recommended renewal of such Agreement for supply and delivery of hydrated lime at the rate of \$260.22 per ton for a period of two years, with an option to renew for an additional term of two years at an amount agreed to by both parties;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby approve the Agreement with Lhoist North America as outlined herein; and upon approval as to form by District General Counsel, its execution by the District officers is authorized.

16. Appointment for Orange County LAFCO Regular Special District Member Seat

RESOLUTION NO. 20-4-53
NOMINATING JIM FISLER FOR ORANGE COUNTY LAFCO REGULAR SPECIAL DISTRICT MEMBER SEAT AND AUTHORIZING BOARD PRESIDENT TO CAST OCWD VOTE

RESOLVED, that OCWD hereby nominates Mesa Water District Director Jim Fislser for the Orange County Local Agency Formation Commission (OC LAFCO) Regular Special District seat; and the Board President is designated to cast OCWD’s vote in the upcoming election.

17. Temporary Waiver of Rent for District Lessees Required to Shut Down Business Due to Statewide Order to Stay at Home and Shut Down all Nonessential Businesses

MOTION NO. 20-43
APPROVING TEMPORARY WAIVER OF RENT FOR DISTRICT LESSEES REQUIRED TO SHUT DOWN BUSINESS DUE TO COVID-19 STATEWIDE ORDER TO SHUT DOWN ALL NONESSENTIAL BUSINESSES

The General Manager is hereby granted discretionary authority to waive the rent for District Lessees required to shut down business while Executive Order N-33-20 (COVID-19) is in place.

ITEM REMOVED FROM CONSENT CALENDAR FOR CONSIDERATION

4. State Legislative Update

Director Zahra requested that AB 2093, *Public Records Retention*, recommended for an “Oppose” position on tonight’s Agenda, be brought back to the Communication and Legislation Liaison Committee for further discussion. The Board took the following action approving the remainder of the legislative positions and requested staff to agendize AB 2093 for Committee consideration.

MOTION NO. 20-43
ADOPTING POSITIONS ON LEGISLATION

Upon motion by Director Zahra, seconded by Director Brandman and unanimously carried [10 -0] by roll call vote, the following positions on legislation are hereby adopted.
Ayes: Bilodeau, Brandman, Green, Nguyen, Rowe, Sarmiento, Sheldon, Ta, Yoh, Zahra

BILL No.	SHORT TITLE	POSITION
SB 996 (Portantino)	State Water Resources Control Board: Constituents of Emerging Concern Program	Support
SB 1099 (Dodd)	Emergency Backup Generators: Critical Facilities: Exemption	Support
AB 2182 (Rubio)	Emergency Backup Generators, Water and Wastewater Facilities: Exemption	Support
AB 2178 (Levine)	Emergency Services: De-Energization Definition	Support

MATTERS FOR CONSIDERATION

18. Proposed Fiscal Year 2020-21 Budget

District Treasurer/Chief Financial Officer Randy Fick stated that the proposed budget totaling \$230.3 million has been reviewed in detail with the Board and Groundwater Producers over the past two months. Due to the financial instability caused by the COVID-19 crisis, he stated staff set the budget based upon keeping the Basin Production Percentage at 77% and the Replenishment Assessment (RA) and Additional RA at \$487/acre-feet (af). Mr. Fick explained that this was possible by providing an incentive for four Groundwater Producers to increase their groundwater pumping which will increase total expected pumping from 241,800 af to 246,800 af; using \$5 million in Refurbishment & Replacement Reserves; and reducing the PAYGO budget for Producer's PFAS treatment systems and small capital projects by \$1.4 million. The Board noted that the RA will significantly increase in the coming years to make up for the lack of increase this year and to support the GWRSFE, maintain basin storage levels, and support MWD rate increases and the new PFAS treatment program.

Upon motion by Director Green, seconded by Director Zahra, the following resolution was unanimously adopted [10-0] by roll call vote:

Ayes: Bilodeau, Brandman, Green, Nguyen, Rowe, Sarmiento, Sheldon, Ta, Yoh, Zahra

RESOLUTION NO. 20-4-53 APPROVING FISCAL YEAR 2020-21 BUDGET

WHEREAS, the Orange County Water District Board of Directors has reviewed the proposed OCWD Budget for fiscal year 2020-21 as presented by the General Manager and District Chief Financial Officer/Treasurer;

NOW, THEREFORE, the Board of Directors of the Orange County Water District does hereby approve and adopt the fiscal year 2020-21 budget as follows:

\$ 71.1 million	General Fund
\$ 9.1 million	Water Purchase Fund
\$ 36.0 million	Debt Service Fund
\$ 97.9 million	Capital Improvement Program
\$ 1.5 million	Retiree Health Insurance Fund
\$ 0.5 million	New Capital Equipment Fund
\$ 14.2 million	Replacement and Refurbishment Fund

19. Polyfluoroalkyl Substances (PFAS) Agreement with the Impacted Groundwater Producers

Executive Director John Kennedy advised that staff and legal counsel have been preparing an agreement to implement the PFAS policy approved by the Board in November 2019. The agreement would be executed with impacted Groundwater Producers desiring to participate in the program. Mr. Kennedy reviewed the terms of the agreement and noted that 11 groundwater producers are expected to execute the agreement with OCWD. The District and the impacted Groundwater Producers will have to work very closely over the next few years to successfully design and construct the new PFAS treatment systems as quickly as possible. The attached agreement documents the responsibilities of OCWD and the Producers who choose to participate in the District's program.

IRWD representative Paul Weghorst thanked staff and counsel for taking a leadership role on developing the PFAS agreements, noting that the IRWD Board has approved both agreements.

East Orange County Water District President Doug Davert expressed support for the agreements, noting however that they are still waiting input from their insurer regarding Section 7.3 Subsection A.1. He stated EOCWD has concerns that a third part-lawsuit against them for injury caused by this contaminant would require EOCWD to file a cross complaint as part of their defense and this agreement would limit their ability to do this.

Director Bilodeau expressed support for moving forward with the agreements but noted that the agreements might require modification in the future. President Sarmiento and General Counsel Jungreis noted that provisions in the agreement allow adjustment of the agreement by OCWD.

Upon motion by Director Green, seconded by Director Zahra, the following resolution was unanimously adopted [10-0] by roll call vote:

Ayes: Bilodeau, Brandman, Green, Nguyen, Rowe, Sarmiento, Sheldon, Ta, Yoh, Zahra

RESOLUTION NO. 20-4-54
APPROVING POLYFLUOROALKYL SUBSTANCES (PFAS) AGREEMENT WITH THE
IMPACTED GROUNDWATER PRODUCERS

WHEREAS, pursuant to Motion No. 19-148 adopted November 20, 2019, OCWD approved the Per-and Polyfluoroalkyl Substances (PFAS) Response Program Policy to Assist Groundwater Producers with Treating Groundwater Supplies to Remove Per and Polyfluoroalkyl Substances; and

WHEREAS, to implement such Program, the District staff has presented and recommended approval of the PFAS Agreement with the Groundwater Producers desiring to participate in the Program; and

WHEREAS, the OCWD Board has reviewed such Agreement and has determined it to be in the best interests of OCWD to enter into the Agreement with those Producers wishing to participate;

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of Directors of the Orange County Water District does hereby approve the PFAS Agreement with Groundwater Producers desiring to participate in the program; and, upon approval as to form and minor changes approved by legal counsel and the General Manager, its execution by the District staff is authorized.

INFORMATIONAL ITEMS

20. PFAS Update

General Manager Markus advised that the Division of Drinking Water has not yet issued testing orders to retail agencies, noting that staff does not expect them to be issued this month due to the COVID-19 crisis. With regard to the producers impacted by PFAS, he stated that OCWD is proceeding with matching up the impacted Groundwater Producers with engineers.

21. Santa Ana Watershed Project Authority Activities

Director Rowe provided a brief update on SAWPA activities.

22. Water Resources Summary

There was no discussion of this item.

23. Committee/Conference/Meeting Reports

The Board reported on attendance at the following Committee meetings, noting the Action Agendas were included in tonight's Board packet.

April 02 - Communication and Legislative Liaison Committee

April 08 - Water Issues Committee

April 09 - Administration and Finance Issues Committee

VERBAL REPORTS

General Manager Markus complimented staff for its efforts on implementing the COVID-19 mandates. President Sarmiento reported that the new Environmental Protection Agency Administrator has continued to short list the North Basin project.

RECESS TO CLOSED SESSION

The Board adjourned to Closed Session at 6:38 as follows:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION -
INITIATION OF LITIGATION [Government Code Section 54956.9(d)(4): One potential case

RECONVENE IN OPEN SESSION

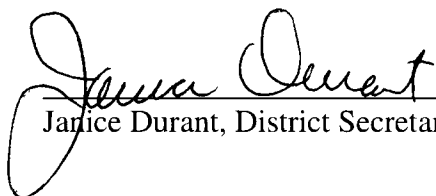
The Board reconvened in Open Session at 7:38 p.m. whereupon General Counsel Jungreis advised that no reportable action took place in Closed Session.

ADJOURNMENT

There being no further business to come before the Board the meeting adjourned at 7:38 p.m.



Vicente Sarmiento, President



Janice Durant, District Secretary