

MINUTES OF MEETING
BOARD OF DIRECTORS, ORANGE COUNTY WATER DISTRICT
April 17, 2019, 5:30 p.m.

President Sarmiento called to order the April 17, 2019 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.

Directors

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

Staff

Michael R. Markus, General Manager
Joel Kuperberg, General Counsel
Janice Durant, District Secretary

1. Public Hearing to Consider Fiscal Year 2019-20 Replenishment Assessments, Basin Equity Assessment, Basin Production Percentage, Production Requirement Limitation and Surcharge

President Sarmiento opened the Public Hearing to consider establishing the Fiscal Year 2019-20 Replenishment Assessments (RA), Basin Equity Assessment (BEA), Basin Production Percentage (BPP), Production Requirement Limitation and Surcharge. Executive Director John Kennedy presented staff's recommendations for a Replenishment Assessment (RA) of \$243.50 per acre-foot (af) for water produced during water year 2019-20; levying an Additional RA of \$243.50/af and Fixed Charge RA of \$487/af; and establishing the BPP at 77%. He stated a Production Limitation of 100% would be established along with a 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.

East Orange County Water District Director Doug Davert expressed support for the staff recommendations. Mesa Water District General Manager Paul Schoenberger expressed support for the staff recommendations. Yorba Linda Water District Director Brooke Jones expressed support for the staff recommendations.

Following discussion by the Board and, there being no 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 Brandman, 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. 19-4-51
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 20, 2019, 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 159,600 AF
2. That the annual basin overdraft for the current water year, July 1, 2018 to June 30, 2019 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, 2019 to June 30, 2020 without supplemental replenishment water is 138,000 AF
4. That the accumulated overdraft as of the last day of the preceding water year, June 30, 2018, is277,000 AF
5. That the accumulated overdraft as of the last day of the current water year, assuming average hydrology June 30, 2019 is estimated to be 252,000 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 187,000 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 68,000 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, 2019 to June 30, 2020 is.....\$59.6 million

2. Resolution B

Upon motion by Director Zahra, seconded by Director Yoh, 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. 19-4-52
LEVYING REPLENISHMENT ASSESSMENT FOR WATER PRODUCED
DURING WATER YEAR 2019-20**

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, in February 2019, the District transmitted written notice to each person and entity operating a groundwater producing facility within the District of the April 17, 2019 public hearing on the proposed Replenishment Assessment, which notice set forth date, time and location of the public hearing, the amount of the proposed 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 20, 2019 concerning the condition of the groundwater supplies of this District and a duly-noticed public hearing was held on April 17, 2019 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 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 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, 2019 to and including June 30, 2020, 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 Yoh, seconded by Director Rowe, 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. 19-4-53
LEVYING ADDITIONAL REPLENISHMENT ASSESSMENT AND FIXED CHARGE
REPLENISHMENT ASSESSMENT FOR WATER PRODUCED
DURING WATER YEAR 2019-20, 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, in February 2019, the District transmitted written notice to each person and entity operating a groundwater producing facility within the District of the April 17, 2019 public hearing on the proposed Additional Replenishment Assessment, which notice set forth date, time and location of the public hearing, the amount of the proposed Additional Replenishment Assessment proposed 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 20, 2019 concerning the condition of the groundwater supplies of this District and a duly-noticed public hearing was held on April 17, 2019 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, 2019 to and including June 30, 2020, 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 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 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, 2019 to and including June 30, 2020 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, 2019 to June 30, 2020.

Section 5: 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 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 Bilodeau, seconded by Director Yoh, 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. 19-4-54

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 20, 2019; and

WHEREAS, a duly noticed public hearing was held on April 17, 2019 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 and 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, which the setting of a Production Limitation and a Surcharge will discourage.

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, 2019 to June 30, 2020 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 328,000 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 395,000 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 to protect the water supply of the District.
- f. The District will implement the Coastal Pumping Transfer Program in FY2019-20 on a limited basis as directed by the General Manager.
- g. The Basin Equity Assessment shall be set at \$0 per acre-foot for agricultural irrigation use for producers who do not have a supplemental water connection, and that such amount is reasonable.
- h. 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	232
City of Buena Park	484
East Orange County Water District	502
City of Fountain Valley	531
City of Fullerton	552
City of Garden Grove	575
Golden State Water Company	560
City of Huntington Beach	592
Irvine Ranch Water District	540
City of La Palma	516
Mesa Water District	563
City of Newport Beach	574
City of Orange	557
City of Santa Ana	541
City of Seal Beach	530
Serrano Water District	524
City of Tustin	520
City of Westminster	558
Yorba Linda Water District	481
All producers for agricultural irrigation use	746
Producers for agricultural Irrigation Use without MWD Access	0
All Others	542

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

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

Director Brandman - Item No. 2, *Cash Disbursements*-items relating to *Butier Engineering* due to a previous business relationship; and the *Gas Company* due to a prior political contribution.

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

Abstain: Brandman - partial abstention on Item No. 2

CONSENT CALENDAR

2. Approval of Cash Disbursements

MOTION NO. 19-53

APPROVING CASH DISBURSEMENTS

Payment of bills for the period March 28, 2019 through April 10, 2019 in the total amount of \$6,201,846.63 is ratified and approved.

3. Approval of Minutes of Board Meeting

MOTION NO. 19-54

APPROVING MINUTES OF BOARD MEETINGS

The minutes of the Board of Directors meeting held March 20, 2019 are approved as presented.

ITEMS RECOMMENDED FOR APPROVAL AT COMMUNICATION AND LEGISLATIVE
LIAISON COMMITTEE MEETING HELD MARCH 7

4. State Legislative Update

MOTION NO. 19-55
ADOPTING POSITIONS ON STATE LEGISLATION

The following positions on State Legislation are hereby adopted:

Bill Number	Topic	Recommendation
AB 1180 (Friedman)	Recycled Water	Support
AB 533 (Holden)	Water Conservation Tax Parity	Support
AB 1486 (Ting)	Local Agencies - Surplus Land	Oppose Unless Amended
SB 204 (Dodd)	State Water Project – Contracts	Oppose Unless Amended
AB 441 (Eggman)	Groundwater – Beneficial Use	Watch
AB 217 (E. Garcia)	Safe Drinking Water for All	Oppose Unless Amended
AB 756 (C. Garcia)	Public Water Systems	Oppose

RESOLUTION NO. 19-4-55

SUPPORTING THE USE OF STATE GENERAL FUND DOLLARS, DURING TIMES OF SURPLUS, TO IMPROVE WATER SYSTEMS IN DISADVANTAGED COMMUNITIES, AND THE CREATION OF SMALL SYSTEM WATER AUTHORITIES TO ABSORB, IMPROVE, AND OPERATE NON-COMPLIANT WATER SYSTEMS.

WHEREAS, the Orange County Water District (OCWD) along with 13 cities, five retail water districts, and one investor owned water utility that OCWD serves, (namely: the cities of Anaheim, Buena Park, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, La Palma, Newport Beach, Orange, Santa Ana, Seal Beach, Tustin, Westminster, East Orange County Water District, Irvine Ranch Water District, Mesa Water District, Serrano Water District, Yorba Linda Water District, and Golden State Water Company), recognize that safe drinking water accessibility is truly a concern in a number of regions throughout California; and,

WHEREAS, in February 2019, the State Water Resource Control Board identified approximately 264 public water systems in California that are chronically serving contaminated water to customers and are in violation of primary state and federal drinking water standards. A great percentage of these failing systems are primarily located in economically-distressed or rural counties; and,

WHEREAS, locally, a small failing, private mutual water system, Diamond Park Mutual Water Company consolidated with the surrounding City of Santa Ana public water system in 2014. State funding, in the amount of nearly one million dollars from Proposition 84, were secured by the City of Santa Ana to install approximately 4,000 feet of new distribution piping, along with necessary appurtenance, hydrants, and water services. Properties, located in a disadvantaged community, were previously served water that exceeded maximum nitrate levels by the mutual water company. Thanks to this funding and the city's willingness to consolidate, the impacted mutual water company's well was abandoned and destroyed and distribution systems and water meters were

installed to connect each impacted property to safe drinking water. The City of Santa Ana, a reliable water agency with decades of experience operating safe drinking water systems, now provides potable water to each of these connections; and,

WHEREAS, based on experience since 1933 in providing safe groundwater, and its work with the City of Santa Ana to consolidate failing private water system, OCWD supports solutions, as provided by the Small System Water Authority Act of 2019, SB 414 (Caballero, D-Salinas), that authorizes the creation of a Small System Water Authority that will be authorized to absorb, improve, and competently operate currently non-compliant public water systems with either contiguous or non-contiguous boundaries; and,

WHEREAS, by establishing lasting changes to the governance structures of failing water systems, the State of California will take substantial steps toward achieving the goal of making safe, clean, and reliable drinking water a reality for all Californians; and,

WHEREAS, there currently exists a funding gap for operation and maintenance (O&M) costs for the treatment of drinking water by community water systems in disadvantaged communities. O&M costs generally cannot be financed with existing one-time federal and state safe drinking water funding sources that are available for capital costs; and,

WHEREAS, in some situations, the consolidation of a failing community water system with one or more systems may be the most effective solution. The Safe Drinking Water Trust, proposed in SB 669 (Caballero D-Salinas), would provide a durable funding source to provide financial assistance for replacement water as a short-term solution, consolidation and ongoing O&M costs; and

WHEREAS, OCWD supports SB 669 (Caballero D-Salinas), which would create the Safe Drinking Water Trust (the Trust) at the State Treasury, the purpose of which would be to provide a durable funding source to help community water systems in disadvantaged communities provide their customers with access to safe drinking water; and,

WHEREAS, OCWD believes the Trust is a better approach than a statewide water tax because it is not sound policy to tax a resource that is essential to life. Unlike a regressive water tax and the associated implementation costs at about 3,000 local water systems, the Trust would not drive up water costs and work against the state's Human Right to Water policy of affordable water; and

WHEREAS, during a state-wide poll conducted in February 2018, California residents opted to use General Fund dollars over a new tax on water to resolve the need to provide safe and affordable drinking water to all residences - especially during times of a state budget surplus; and,

NOW, THEREFORE, be it resolved that the Orange County Water District supports use of general fund dollars during a state surplus as a better approach than a statewide water tax and supports fixing the infrastructure and management problems of small water systems in disadvantaged communities to sustainably provide safe drinking water to all California residents, as was successfully achieved in the City of Santa Ana in 2014.

ITEMS RECOMMENDED FOR APPROVAL AT WATER ISSUES COMMITTEE MEETING
HELD APRIL 10

- 5. Agreement to Best Contracting Services, Inc. to Replace the Roof on the Five Covs Rubber Dam Building

RESOLUTION NO. 19-4-56
 APPROVING AGREEMENT TO BEST CONTRACTING SERVICES, INC. TO REPLACE
 ROOF ON THE FIVE COVES RUBBER DAM BUILDING

RESOLVED, that issuance of an Agreement is authorized to Best Contracting Services Inc. in the amount of \$22,469 to replace the roofs on the Five Covs Rubber Dam control building and generator building; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

- 6. Potential Additional Metropolitan Water District In-Lieu Water Purchases

MOTION NO. 19-56
 APPROVING POTENTIAL ADDITIONAL METROPOLITAN WATER DISTRICT
 IN-LIEU WATER PURCHASES

Staff is authorized to take an additional \$43.9 million of MWD imported water and execute a new Cyclic Program Letter Agreement with MWD and MWDOC detailing the delivery and payment for the water.

- 7. SARCCUP: EIR, Subgrantee Agreement, Project Budget, and Agreement to Conduct Arundo Removal Work

RESOLUTION NO. 19-4-57
 CONSIDERING THE FINAL ENVIRONMENTAL IMPACT REPORT (STATE
 CLEARINGHOUSE No. 2016101079) FOR THE SANTA ANA RIVER CONSERVATION AND
 CONJUNCTIVE USE PROGRAM (SARCCUP), APPROVE OCWD-SAWPA SUBGRANTEE
 AGREEMENT, ESTABLISH PROJECT BUDGET AND ASSOCIATED ACTIONS

WHEREAS, the Orange County Water District (District) is a partnering agency to the Santa Ana River Conservation and Conjunctive Use Program (SARCCUP); and,

WHEREAS, the District relies on approximately 15 to 30 percent of water imported from the Sacramento-San Joaquin Bay Delta and the Colorado River Aqueduct to meet demands; and,

WHEREAS, the curtailment of imported supplies due to natural or manmade interruptions has the potential to impact the District’s imported water supply reliability; and,

WHEREAS, invasive plants such as *Arundo donax* use significantly more water than native plant species and have aggressively altered the habitat for native birds and fish species, such as the Santa Ana Sucker (*Catostomus santaanae*), a federally protected species under the Endangered Species Act, by inhibiting conditions for spawning, foraging, and refugia; and,

WHEREAS, SARCCUP is a watershed-scale collaborative program designed to improve the Santa Ana River watershed's water supply resiliency and reliability by implementing various watershed-wide projects that would increase available dry-year yield (DYY) from local groundwater basins; and,

WHEREAS, SARCCUP would provide approximately 60,000 acre-feet per year (AFY) in DYY during dry years to the Santa Ana Watershed, remove up to 640 acres of the invasive plant species *Arundo donax*, and create 3.5 miles (18,250 linear feet) of restored in-stream habitat and 40.5 acres of restored riparian habitat along the Santa Ana River for Santa Ana sucker; and,

WHEREAS, SARCCUP would initiate additional water conservation measures throughout the Santa Ana Watershed including conservation-based rate structures, an educational outreach and communication service that provides support in the design, installation and maintenance of drought tolerant landscapes that is estimated to provide up to 2,400 AFY of water supply; and,

WHEREAS, SARCCUP activities support the goals of the One Water One Watershed 2.0 Plan (2014), which is the Santa Ana River Watershed's Integrated Regional Watershed Management Plan (IRWMP); and,

WHEREAS, the Inland Empire Utilities Agency (IEUA), in IEUA's capacity as the designated Lead Agency under the California Environmental Quality Act (CEQA) certified an Environmental Impact Report for SARCCUP on February 20, 2019; and,

WHEREAS, the District, as a designated Responsible Agency to the certified Environmental Impact Report for SARCCUP and pursuant to the responsibilities specified in State of California CEQA Guidelines Section 15096, has reviewed and considered the comments on the Draft EIR and provided responses to applicable comments to the Lead Agency; and,

WHEREAS, the District, as a designated Responsible Agency to the certified Environmental Impact Report for SARCCUP and pursuant to the responsibilities specified in State of California CEQA Guidelines Section 15096, has considered the environmental effects of SARCCUP as disclosed in the Environmental Impact Report and finds the Environmental Impact Report to be adequate for use by the District; and,

WHEREAS, the Board of Directors of the Orange County Water District has reviewed and considered the information and recommendations of the Final EIR, at a regularly scheduled board meeting held on April 17, 2019 and determined that there are no feasible alternatives or mitigation measures that will significantly lessen or avoid significant impacts that might arise within the portions of SARCCUP that the Orange County Water District will carry out; and,

WHEREAS, the Santa Ana Watershed Project Authority (SAWPA) executed an agreement with the California Department of Water Resources (DWR) on November 1, 2016 for the 2015 Proposition 84 Integrated Regional Water Management (IWRM) Implementation Grant, which included \$55M for the Project, with each partner agency having to enter into a subgrantee agreement with SAWPA in order to receive grant funds; and,

WHEREAS, OCWD's portion of SARCCUP for Arundo removal and other project related activities totals \$4,425,858 with \$1,472,057 of grant funding; and,

WHEREAS, the District recognizes the Santa Ana Watershed Association (SAWA) as a non-profit organization with subject-matter expertise in the coordination and implementation of the removal of invasive species, native habitat enhancement, and the protection of endangered species within the Santa Ana River watershed.

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

Section 1. The Board of Directors of the Orange County Water District finds that the Final EIR (State Clearinghouse #2016101079) has been completed in compliance with CEQA and the State CEQA Guidelines. The Board of Directors, having approval authority as a designated Responsible Agency as specified in the State CEQA Guidelines Section 15096 over the Santa Ana River Conservation and Conjunctive Use Program, considers as complete and adequate the Final EIR for the Santa Ana River Conservation and Conjunctive Use Program.

Section 2. The Final EIR consists of the following (which is attached hereto as Exhibit "A"):

- A. The SARCCUP Draft EIR
- B. The Technical Appendices to the Draft EIR
- C. Comments and Responses to comments to the Draft EIR
- D. Findings of Fact
- E. Mitigation Monitoring Reporting Program

Section 3. The Board of Directors finds that the Final EIR reflects the independent judgment and analysis of the District as a Responsible Agency for the Project, that the Final EIR was presented to the Board of Directors, as the decision-making body for the Responsible Agency, and that the Board of Directors has reviewed and considered the information contained in the Final EIR, and the comments received during the public review process, as well as the responses to the comments, prior to taking any action on the Final EIR or the Project.

Section 4: As documented in the Findings of Fact in the Final EIR, which are attached hereto as Exhibit "A" and incorporated herein by this reference, the Final EIR identifies certain significant effects that would potentially result from the implementation of the Santa Ana River Conservation and Conjunctive Use Program. The District has considered the environmental effects of the SARCCUP and finds that all of the potentially significant environmental impacts identified in the Final EIR have been mitigated to a less than significant level. Accordingly, there are no additional

alternatives or mitigation measures that the District can take as Responsible Agency that would lessen or avoid significant impacts arising from the components of SARCCUP.

Section 5: SARCCUP, as described in the Final EIR approved and certified by IEUA as lead agency, is hereby approved by the District as a Responsible Agency.

Section 6: The Mitigation Monitoring and Reporting Program for SARCCUP attached hereto as Exhibit "A" and incorporated herein by this reference is hereby adopted for those portions of SARCCUP that Orange County Water District will carry out.

Section 7: The Board of Directors hereby authorizes and directs District staff to file a Notice of Determination as Responsible Agency with respect to the portions of SARCCUP that OCWD will carry out.

Section 8: Staff is hereby authorized to complete the permitting process with the United States Army Corps of Engineers, California Regional Water Quality Control Board, United States Fish and Wildlife Service, and/or California Department of Fish and Wildlife for Arundo removal and execute the permits received for SARCCUP from the United States Army Corps of Engineers and the resource agencies.

Section 9: The General Manager is hereby authorized to execute the OCWD-SAWPA Subgrantee Agreement that will accommodate the Arundo donax removal design and Arundo donax removal components of SARCCUP that are within the District's sole responsibility, along with other tasks that will be cooperatively managed among the other partner agencies.

Section 10. A budget for the Santa Ana River Conservation and Conjunctive Use Program Arundo donax removal is hereby established in the amount of \$3,728,898.

Section 11: The General Manager is hereby authorized to execute an agreement with the Santa Ana Watershed Association (SAWA) to conduct SARCCUP Arundo Donax removal work.

8. Garter Snake Study in Prado Basin

RESOLUTION NO. 19-4-58
APPROVING STUDY OF GARTER SNAKE IN PRADO BASIN WITH
MERKEL AND ASSOCIATES

RESOLVED, that issuance of an agreement is authorized to Merkel and Associates for study of the Red-sided Garter Snake in the Prado Basin for an amount not to exceed \$40,000; and, upon approval as to form by District General Counsel, its execution by the District officers is authorized.

ITEMS RECOMMENDED FOR APPROVAL AT ADMINISTRATION AND FINANCE ISSUES COMMITTEE MEETING HELD APRIL 11

9. Monthly Cash Control Report

MOTION NO. 19-57
RECEIVING AND FILING THE MONTHLY CASH CONTROL REPORTS

The Summary Cash and Cash Equivalents Control Reports dated March 31, 2019 are hereby received and filed.

10. Investment Portfolio Holdings Reports

MOTION NO. 19-58
RECEIVING AND FILING THE INVESTMENT PORTFOLIO HOLDINGS REPORTS

The Investment Portfolio Holdings Reports dated March 31, 2019 are hereby received and filed.

11. Additional Funds for Water Production R&R Fund 18003

MOTION NO. 19-59
APPROVING ADDITIONAL FUNDS FOR WATER PRODUCTION R&R FUND 18003

Transfer of additional funds in the amount of \$200,000 are authorized to the Water Production Refurbishment and Replacement account R18003.

12. PFAS Communications Outreach Plan

MOTION NO. 19-60
AUTHORIZING PFAS COMMUNICATIONS OUTREACH PLAN

RESOLVED, that issuance of an agreement with the RW Jones Agency is authorized for an amount not to exceed \$28,000 to create and implement a Per- and Polyfluoralky Substances (PFAS) Communications Outreach Plan; and upon approval as to form by District General Counsel, its execution by the District officers is authorized.

MATTERS FOR CONSIDERATION

13. Proposed Fiscal Year 2019-20 Budget

District Treasurer/Chief Financial Officer Randy Fick presented the proposed 2019-20 Budget totaling \$247.8 million. He advised that staff has revised the budget to accommodate an increased Basin Production Percentage of 77%, and an RA of \$487 per acre foot. After discussion, the following action was taken.

Upon motion by Director Green, seconded by Director Ta, the following resolution was unanimously adopted [10-0]:

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

RESOLUTION NO. 19-4-59
APPROVING FISCAL YEAR 2019-20 BUDGET

WHEREAS, the Orange County Water District Board of Directors has reviewed the proposed OCWD Budget for fiscal year 2019-20 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 2019-20 budget as follows:

\$ 73.1 million	General Fund
\$ 59.6 million	Water Purchase Fund
\$ 37.8 million	Debt Service Fund
\$ 60.6 million	Capital Improvement Program
\$ 1.5 million	Retiree Health Insurance Fund
\$ 0.6 million	New Capital Equipment
\$ 14.6 million	Replacement and Refurbishment Fund

INFORMATIONAL ITEMS

14. State Orders to Select Groundwater Producers for Required Monitoring of PFOA and PFOS

Executive Director Jason Dadakis reported that as part of a statewide investigation, the State Water Resources Control Board – Division of Drinking Water (DDW) has recently issued monitoring orders to 12 Groundwater Producers in the District’s service area for multiple per- and polyfluoroalkyl substances (PFAS), including both perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). He stated that if testing reveals PFOA or PFOS above the State health-based Notification Levels or Response Level, certain requirements and recommendations for governing body and public notifications apply by law to the Producers. Mr. Dadakis updated the Board on the initial round of testing being done by the District laboratory for these Producers.

15. Santa Ana Watershed Project Authority Activities

Director Bilodeau updated the Board on SAWPA activities and announced that he and Director Nguyen were installed as the New Commissioner and Alternate Commissioner. He noted that SAWPA also approved an asset-tagging policy and received an update on discussions with the Orange County Stakeholders.

16. Water Resources Summary

There was no discussion of this item.

17. Committee/Conference/Meeting Reports

The Board reported on the following meetings noting that the Agendas were included in tonight's Board packet.

- April 04 - Communication and Legislative Liaison Committee
- April 08 - GWRS Steering Committee
- April 10 - Water Issues Committee
- April 11 - Administration and Finance Issues Committee

18. VERBAL REPORTS

Directors Bilodeau and Rowe reported on their attendance at the Santa Ana River Watermaster Celebration 50th Anniversary on April 12, 2019 in Norco.

Directors Sarmiento and Rowe reported on their attendance at the WateReuse Conference in Garden Grove on March 18-19. President Sarmiento also announced that he along with Directors Bilodeau and Rowe welcomed Assemblywoman Cottie Petrie-Norris to the District on March 15.

President Sarmiento reported that he and Directors Brandman, Green, Rowe and Zahra were present when Senator Tom Umberg toured OCWD earlier today.

General Counsel Kuperberg announced his retirement from private practice effective April 30.

RECESS TO CLOSED SESSION

The Board recessed to Closed Session at 6:22 p.m. as follows:

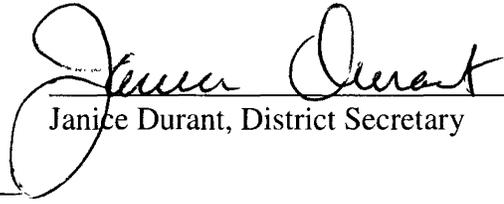
CONFERENCE WITH REAL PROPERTY NEGOTIATOR
[Government Code Section 54956.8]
Real property located at: Parcels (2)
253-451-04 – 14971 East Ball Road, Anaheim, CA 92806
253-451-07 – 14893 East Ball Road, Anaheim, CA 92806
OCWD negotiator: Michael Markus
Negotiating parties: Majestic Realty Company SunCal
Under negotiation: Price and Terms

RECONVENE IN OPEN SESSION

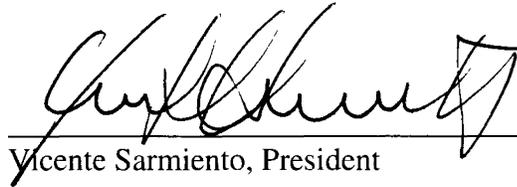
The Board reconvened in Open Session at 7:00 p.m. whereupon General Counsel Kuperberg advised that no reportable action took place in Closed Session.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 7:00 p.m.



Janice Durant, District Secretary



Vicente Sarmiento, President