

**MINUTES FOR THE MAY 25, 2021
REGULAR MEETING OF THE SSJID BOARD OF DIRECTORS**

The Board of Directors of the South San Joaquin Irrigation District (SSJID) met in person in regular session in the District Boardroom at 9:00 a.m., with public access provided via the online Zoom meeting platform. Director Holmes called the meeting to order and led the flag salute. Upon roll-call the following members were noted present:

DIRECTORS: HOLBROOK HOLMES ROOS (via Zoom) WESTSTEYN
ABSENT: KAMPER

Also present were General Manager, Peter M. Rietkerk; General Counsel, Mia Brown; Engineering Department Manager, Forrest Killingsworth; and Clerk of the Board, Danielle Barney.

Public Comment – None

CONSENT CALENDAR

- A. Approval of Checks in the amount of \$654,921.33; Accounts Payable Wires in the amount of \$920,045.35; and Payroll dated May 21, 2021 in the amount of \$245,583.18.
- B. Approval of the Regular Board Meeting Minutes of May 11, 2021
- C. Approval of Consent to SSJID’s Entry of Property to Read and to Maintain Flow Meter, APN 245-080-33
- D. Approval of SSJID Irrigation Services Abandonment Agreement, APN 222-100-24
- E. April 2021 Financial Statements
- F. April 2021 Investment Report

MOTION: A motion was made by Director Holbrook and seconded by Director Weststeyn to approve the Consent Calendar as submitted.

The motion passed 4 to 0 by the following vote:

AYES: HOLBROOK HOLMES ROOS WESTSTEYN
NOES: NONE
ABSTAIN: NONE
ABSENT: KAMPER

Director Holmes announced that Agenda Item #3 will be moved up in the agenda order and heard next, by the Board, before commencement of Agenda Item #1 – Directors’ Reports.

Item #3 – Hear Landowner Appeal of Denial of Encroachment Permit for 1428 Rockhaven Place, Manteca

Ms. Mia Brown, SSJID General Counsel, addressed the Board and provided an explanation of the attachments included in the staff report (e.g. Encroachment Permit Application Package; Letter Notifying Landowner of Permit Denial; and Applicant’s Letter of Appeal), as well as a brief timeline of events and District actions in accordance with SSJID standard encroachment policy, resulting from the

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landowners' proposed structure to sit atop of the District's pipeline. Ms. Brown introduced Ms. Lindsey Dovik, and Mr. Jonathan Martin, landowners of the property in question.

Mr. Martin addressed the Board and described his years of experience in the plumbing industry and subsequent knowledge in the field. He gave a detailed explanation of his probing efforts to search for the District's Drain 3, which would lie directly under the landowner's proposed location of the encroaching structure (shed), and added that his probing efforts did not locate the pipe. Mr. Martin is seeking resolution(s) from the Board, and offered to customize the shed to reduce bearing weight; redesign the dimensions of the shed and seek approval from the City to reduce the required setback to three (3) feet; and accept full responsibility to remove the structure should work be required by the District to Drain 3, in the future. In addition, Mr. Martin stated that he has completed improvements to the land with the removal of large trees and roots, which will benefit the District's pipes. He requested District staff conduct a search of the property to identify the exact location of Drain 3.

Mr. Forrest Killingsworth, SSJID Engineering Department Manager, provided a thorough description of the property, the proposed structure plans, the District's utility location, and the exact measurements of encroachment. He stated that he is sympathetic of the landowner's position but recommended that the District remain consistent in their position to require a minimum of five (5) foot clearance on each side of District pipeline. Mr. Killingsworth added that he will assign Mr. Shawn Ussery, SSJID Engineering Technician and Facilities Inspector, and SSJID crews to physically locate Drain 3.

Board discussion included adhering to the District's rules and regulations; relocating the entire structure to no less than five feet from the District's easement; and potential plan modifications to the structure dimensions. Ms. Brown informed the landowners that their comments will be taken under advisement by the Board of Directors, and will be further discussed in Closed Session. A decision will be rendered following Closed Session, in Open Session. Director Holmes thanked Mr. Martin and Ms. Dovik for stating their case before the Board.

COMMUNICATIONS

Item #1 – Directors' Reports

Director Holbrook reported that he attended the Association of California Water Agencies (ACWA)/Joint Powers Insurance Authority (JPIA) annual Virtual Board Meeting on May 10, via Zoom. Discussion topic included increased insurance rates due to property damages caused by catastrophic fires. He addressed Mr. Bere Lindley, SSJID Assistant General Manager, regarding the JPIA's formation of the California Water Insurance Fund, a Captive Insurance Company, noted the JPIA's investments and rate of return, and added that he will forward Mr. Lindley the informational literature received on the topic.

Director Holbrook reported that he attended the San Joaquin County (SJC) Advisory Water Commission (AWC) meeting on May 19, via remote access from the District Office.

Director Weststeyn reported that he participated in the FishBIO boat tour of the Stanislaus River on May 17. He opined that it was a beautiful tour of the river and extremely informative. He expressed thanks to FishBIO for their coordination efforts of the event.

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Director Weststeyn reported that he attended the AWC meeting on May 19, via remote access from the District Office. The meeting included a presentation from Mr. Ajay Goyal, California Department of Water Resources (DWR) on a proposed FloodMAR pilot project concept in regards to climate change.

Director Weststeyn reported that he attended the Tri-Dam Board meeting on May 20, via remote access from the District Office.

Director Holmes noted Assembly Bill (AB) 1139 – a controversial bill addressing solar energy in California and the credits that current solar customers receive for their systems. He opined that, if passed, the bill will kill solar generation in California. Mr. Peter Rietkerk, SSJID General Manager, added that AB 1139 will severely impact the ability for financial benefits for solar customers; would transfer all current net energy metering (NEM) agreements by 2025, nullifying NEM agreements in place for the next twenty (20) years; and would reduce the value of generation for solar customers while increasing revenue for the utility. He stated that the District will continue research on the issue.

Item #2 – Various Reports

In adherence to the District's new Board meeting protocols due to COVID-19, the Managers' Reports were provided in written form to the Board on May 24, 2021.

Director Holbrook addressed Mr. Ed Erisman, SSJID Water Treatment Plant (WTP) Manager, and commented on the WTP Manager's Report, Item 1, regarding delivery and installation of the new membrane filter modules. Director Holbrook opined this was good news.

Director Holmes addressed Mr. Erisman regarding the WTP Manager's Report, Item 4, referencing the addition of bio-char in the drying beds to remove different pollutants in the wastewater, and inquired on the results. Mr. Erisman responded via the online Zoom meeting platform, and stated that the results are promising.

Director Holmes addressed Mr. Erisman regarding the status of the concrete in the new drying beds project. Mr. Erisman responded that the topic is an item for discussion during Closed Session.

Director Weststeyn addressed Mr. Frank Avila, SSJID Irrigation Operations Manager, regarding the Irrigation Operations Manager's Report, Water Department, Bullet 3, referencing the canceled Magnacide application on May 19, and added that he has observed an increased growth of moss. Mr. Avila responded via the online Zoom meeting platform, and stated that the next application is scheduled for May 27 on the U-Ditch. Mr. Avila added that typical applications occur every 20-25 days but water and temperature are different this year, causing slower growth which is a factor in scheduling applications. Mr. Avila will coordinate with Director Weststeyn on an upcoming scheduled application.

Director Weststeyn addressed Mr. Lloyd Wayman, SSJID Telemetry Systems Supervisor, regarding the SCADA Department On-Farm Meter Update and inquired if a bid-package can be distributed to solicit proposals to complete the farm meter project. Mr. Avila responded that Mr. Wayman is not logged on to the Zoom meeting and added the project scope was to add fifteen (15) new farm meter sites in 2021, that staff is working within the allowed budget, and that he would confer with Mr. Rietkerk to develop a bid package. Mr. Killingsworth stated that the project had been pushed back by the Board due to budget restraints, the program is currently utilized by the division managers to monitor the flow rates, and that the data provided is helpful even when not connected to SCADA. He commented that proper funds are needed in the budget to implement a more aggressive approach. Staff and the Board will have

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an opportunity to review allocations during the mid-year budget amendments in June. Mr. Rietkerk added that meter requirements for flow meter measurements are an additional cost in telemetry work and will require Board approval of budget funds to continue.

Director Holbrook addressed Mr. Killingsworth regarding the status of the Canyon Tunnel portal alternatives. Mr. Killingsworth responded that scoping proposals from environmental consultants are expected on June 1. Objectives will include identifying pros and cons to evaluate a preferred upstream portal alternative. The 60% design phase is scheduled to be completed in fall 2021, and the 90% design phase will begin thereafter.

Mr. Rietkerk announced the Manteca Chamber of Commerce's 2021 Chamber Installation and Awards Dinner on June 17. As a President's Circle Member of the Manteca Chamber, SSJID is provided with four (4) complimentary tickets to the event. Directors interested in attending should contact Ms. Danielle Barney, SSJID Executive Assistant/Clerk of the Board.

Director Holbrook commented on two (2) upcoming golf tournaments in which the District is participating as a foursome sponsor. He recommended the District sponsor two (2) separate foursomes for each event as a way to support the local communities, as well as provide employees with a fun, team-building event for a worthy cause. Mr. Rietkerk concurred but stated that consideration must also be given to irrigation operations schedule conflicts should team members be pulled to participate in the tournaments.

Mr. Rietkerk noted that as a result of DWR's latest predictions for Stanislaus River flow, discussion in Closed Session will include the District's water supply, and options for summer and fall 2021. He added that staff is not recommending additional water supply reductions through the end of the year.

ACTION CALENDAR

Item #4 – Coronavirus (COVID-19) Update and Action as Necessary

Mr. Rietkerk stated that the District implemented partial re-opening, effective May 24. All staff will report to the office on Mondays, Tuesdays, and Thursdays, with the option to work remotely on Wednesdays and Fridays. Contingent upon Governor Gavin Newsom's plan to reopen California's economy on June 15, the District is prepared to fully reopen on that date. In addition, the California Department of Industrial Relations – Division of Occupational Safety and Health (CalOSHA) will announce revised COVID-19 standards for employers by June 15. CalOSHA's revisions will include guidelines regarding Worker's Compensation cases related to COVID-19.

Item #5 – Consider Approval of Proposal from Carollo Engineers, Inc. for the Review and Revision of SSJID's Risk and Resilience Assessment, and Emergency Response Plan as Required by the American Water Infrastructure Act (2018)

Mr. Erisman addressed the Board regarding the proposal from Carollo Engineers, Inc. (Carollo) to review and modify the previously submitted Risk and Resilience Assessment (RRA) and updated Emergency Response Plan (ERP). He provided a background of the American Water Infrastructure Act (AWIA), passed in 2018, which established requirements for all Public Water Systems (PWS) to conduct a RRA to identify all potential risks to the system, as well as actions required and subsequent costs to restore service in the event of an emergency. Also required by the AWIA 2018 was the establishment of an ERP for the PWS.

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In October 2020, staff submitted the certification that SSJID had complied with requirements and actions identified in the RRA. Upon research utilizing VSAT, a software designed to assist in compliance of the RRA, as well as following discussions with the City of Lathrop regarding the annual AWIA compliance, Mr. Erisman opined that consultant assistance was needed to produce a fully compliant document.

Mr. Erisman provided background of Carollo working with the City of Lathrop to develop their RRA and ERP. Carollo has provided SSJID with a proposal to review Mr. Erisman's data in the VSAT software, and amend SSJID's RRA and ERP, as necessary, to ensure that the District is in full compliance with all components of the AWIA 2018.

The fiscal impact of the proposal is \$36,354 which was not included in the 2021 budget. There is \$60,000 in the budget for a project that will not be completed this year which is the identification of nutrient increases at Woodward Reservoir.

Staff recommended the Board authorize the General Manager to accept the proposal from Carollo to review and modify the previously submitted RRA and updated ERP.

The Board inquired on the necessity to hire a consultant every five (5) years in efforts to update the RRA and/or ERP, to which Mr. Erisman responded that once the initial work is completed, future modifications could be done in-house. Mr. Rietkerk added his recommendation for Board approval noting that the RRA and ERP will assist the District in its efforts of cyber security against cyber attacks and potential interruption of operations.

MOTION: A motion was made by Director Holbrook and seconded by Director Weststeyn to authorize the General Manager to approve the proposal from Carollo Engineers, Inc. for the review and revision of SSJID's Risk and Resilience Assessment, and Emergency Response Plan as required by the American Water Infrastructure Act (2018).

The motion passed 4 to 0 by the following vote:

AYES:	HOLBROOK HOLMES ROOS WESTSTEYN
NOES:	NONE
ABSTAIN:	NONE
ABSENT:	KAMPER

Item #6 – Consider Approval to Transfer and Quitclaim a Portion of the Hall Drain, Escalon

Mr. Killingsworth addressed the Board and provided a detailed description of the Hall Drain location in the southeast corner of the District in Escalon, west of Santa Fe Avenue, south of River Road, and North of the Stanislaus River; as well as background of the Drain, which was originally constructed to convey groundwater collected through a private tile drain system in order to pump it into the Stanislaus River. He added that the drain ditch no longer serves that purpose, and that the upper portion has been abandoned since 2014.

Mr. Killingsworth explained the landowner's (Mr. Tim McKinsey) application, requesting that the District quitclaim its property interest in the upper 3,500' of the Hall Drain located upon his property; the adjacent landowner's (Mr. Frank Bavaro) arrangement with Mr. McKinsey to redevelop and farm the property in question; and the portion of the Hall Drain contemplated for abandonment located

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downstream of a District irrigation facility (Lateral “Hc”). Mr. Bavaro has indicated that if the District were to quitclaim its interests in the drain, the upper portion of the ditch lying on the McKinsey property would be backfilled and the land would be cultivated. The lower portion of the ditch, which included a small grove of oak trees, would remain. To properly abandon this portion of the Hall Drain, the District will need to issue a quitclaim releasing any interest it may have in the facility. The applicant will provide the \$275 fee for San Joaquin County recording costs of the quitclaim deed.

MOTION: A motion was made by Director Weststeyn and seconded by Director Holbrook to authorize staff to do all things necessary and proper to process a quitclaim of the District’s interest for a portion of the Hall Drain located at APN 247-240-18.

The motion passed 4 to 0 by the following vote:

AYES:	HOLBROOK HOLMES ROOS WESTSTEYN
NOES:	NONE
ABSTAIN:	NONE
ABSENT:	KAMPER

Item #7 – Consider Approval of Legal Services Agreement with Paris Kincaid Wasiewski, LLP

Mr. Rietkerk addressed the Board regarding approval of the Legal Services Agreement with Paris Kincaid Wasiewski, LLC to serve as special water counsel. He explained that Mr. Ken Robbins, who has served as special water counsel for SSJID since 2012 providing legal/policy representation and counsel related to SSJID’s water rights in the Stanislaus River, has indicated his intentions to retire in 2021. Staff recommended retaining Ms. Valerie Kincaid and Mr. Tim Wasiewski, with the newly formed Paris Kincaid Wasiewski, LLP, to act as special water counsel for SSJID, succeeding Mr. Robbins.

Mr. Rietkerk provided a background of Ms. Kincaid’s experience serving as counsel for the San Joaquin Tributaries Authority (SJTA), as well as special groundwater counsel for SSJID. He added that Mr. Wasiewski also serves as counsel for the SJTA, and has represented Tri-Dam on specific matters, as well as OID/SSJID on water rights related matters. Both are currently associated with the firm O’Laughlin and Paris, which is reorganizing as Paris Kincaid Wasiewski, LLP. The proposed legal services agreement and engagement as special water counsel include ongoing representation related to groundwater rights and the Sustainable Groundwater Management Act, in addition to legal representation on water rights matters for SSJID.

Staff recommended Board approval of the Legal Services Agreement between Paris Kincaid Wasiewski LLP and SSJID to act as special water counsel. Should the Board approve, the timeframe for transition is anticipated in September 2021.

Director Holmes stated that the Board has appreciated Mr. Robbins’ input; commended him on his trustworthy and confidence-building service to the District; and expressed well-wishes on his retirement.

MOTION: A motion was made by Director Holbrook and seconded by Director Weststeyn to approve the Legal Services Agreement between Paris Kincaid Wasiewski, LLP and South San Joaquin Irrigation District to act as special water counsel.

The motion passed 4 to 0 by the following vote:

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AYES: HOLBROOK HOLMES ROOS WESTSTEYN
NOES: NONE
ABSTAIN: NONE
ABSENT: KAMPER

The Board took a brief recess at 10:25 a.m. and reconvened to Open Session at 10:40 a.m.

Item #8 – Presentation of the Accounting Methodology for Pacific Gas & Electric’s Net Energy Metering Agreement; Power Generated at the Robert O. Schulz Solar Farm; and Power Consumed at the Water Treatment Plant

Mr. Lindley addressed the Board and introduced a PowerPoint presentation explaining the accounting methodology for Pacific Gas & Electric’s (PG&E) Net Energy Metering (NEM) Agreements, the power generated at the Robert O. Schulz Solar Farm, and the power consumed at the WTP. He stated that a thorough analysis of the accounting methodology identified past errors of understanding of the economics of the solar farm and of the electricity use at the WTP, with incorrect accounting as a result.

Ms. Sarah Bloom, SSJID Management Accountant, addressed the Board and stated facts regarding PG&E’s net meters; the data produced for NEM; terms of the NEM Agreements between PG&E and SSJID; terms of the Water Supply Development and Operating Agreements for billing the cities for operating expenses of the WTP; terms outside of the Water Supply Development and Operating Agreement for billing electricity expense to the cities; and the PG&E rates charged to SSJID versus the rates used to bill the cities for electricity.

Board discussion included the 15 percent (15%) discount provided to the cities as a term of the current agreement, and consideration to revise the agreement to change from the E19 to the A6 rates for billing electricity expense to the cities with continuance of the 15% discount. Ms. Bloom summarized that future action should entail Board consensus for the revision of a new agreement between SSJID and the cities. She concluded with a presentation depicting a history of SSJID true-up payments to PG&E and an explanation of how the SSJID financial statements present the revenue and expense amounts under discussion.

Director Holmes commended Mr. Lindley and Ms. Bloom for their efforts and thanked them for the concise and informative presentation.

Director Roos exited the meeting at 11:57 a.m.

It was announced that all items listed in the Closed Session agenda would be discussed. The Board took a brief recess at 12:05 p.m. and convened to Closed Session at 12:25 p.m.

Director Roos rejoined the meeting at 1:06 p.m.

Item #9 – CLOSED SESSION

9. a. Conference with Legal Counsel – Anticipated Litigation
 - Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9
 - 5 cases

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- b. Conference with Legal Counsel – Anticipated Litigation
 - Significant exposure to litigation pursuant to paragraph (2) of Subdivision (d) of Section 54956.9
 - 2 cases

- c. Conference with Legal Counsel – Existing Litigation
 - Paragraph (1) of subdivision (d) of Government Code Section 54956.9
 - 7 cases

SAN JOAQUIN TRIBUTARIES AUTHORITY, et al., vs. CALIFORNIA STATE WATER RESOURCES CONTROL BOARD
County of Sacramento Superior Court
Case No. JCCP 5013

SSJID vs. PG&E
Appeal from Judgment of Dismissal Pending:
In the Court of Appeal for the State of California, Third Appellate District
Case No. C086319
Superior Court for San Joaquin County
Case No. STK-CV-UED-2016-0006638

PG&E vs. San Joaquin LAFCo; SSJID, Real Party in Interest
In the Court of Appeal for the State of California, Third Appellate District
Case No. C086008
Superior Court for San Joaquin County
Case No. STK-CV-UJR-2015-0001266

SSJID vs. Lakeview Ranch Partners
Superior Court for Stanislaus County
Case No. 2028441

California Sportfishing Protection Alliance vs. Eastern San Joaquin Groundwater Authority et al.
Superior Court of Stanislaus County
Case No. CV-20-001720

Jana Lynn Woodbridge Apartments, LLC vs. South San Joaquin Irrigation District
San Joaquin County Superior Court
STK-CV-UPI-2021-0002339

Dave Hegarty vs. SSJID et al.
San Joaquin County Superior Court
STK-CU-UF-2021-0002552

- d. Conference with Real Property Negotiator
 - California Government Code Section 54656.8
 - Property: Water
 - Negotiating Parties: Oakdale Irrigation District, San Luis and Delta Mendota Water Authority, California Department of Water Resources, Chicken

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Ranch Racheria Band of Mi-Wuks, Other Potential Parties
Unknown
District Negotiator: General Manager
Terms: Price and terms of payment of sale

e. Labor Negotiations

California Government Code Section 54957.6
Agency Negotiator: General Manager
Employee Organization: IBEW Local 1245

f. Public Employment

California Government Code Section 54956
Titles: Division Manager Foreman, and SCADA Technician I-III

g. Public Employment

California Government Code Section 54956
Titles: Public and Government Relations Director

RETURN TO OPEN SESSION

The Board reconvened to Open Session at 2:51 p.m.

Item #10 – ANNOUNCEMENT OF REPORTABLE ACTION TAKEN IN CLOSED SESSION

Disclosure of reportable actions taken in Closed Session, pursuant to Government Code Section 54957.1:

Item #3 – Hear Landowner Appeal of Denial of Encroachment Permit for 1428 Rockhaven Place, Manteca

MOTION: A motion was made by Director Holbrook and seconded by Director Weststeyn to uphold staff decision that the encroachment permit shall be denied, based upon staff’s findings that the proposed encroachment does not provide for the required minimum of five (5) feet of clearance between the encroachment and the edge of District’s pipeline.

The motion passed 4 to 0 by the following vote:

AYES: HOLBROOK HOLMES ROOS WESTSTEYN
NOES: NONE
ABSTAIN: NONE
ABSENT: KAMPER

Item #11 – ADJOURNMENT

There being no further business to discuss, the meeting was adjourned at 2:55 p.m.

ATTEST:

Danielle Barney, Clerk of the Board