

THE REGULAR MEETING OF THE BOARD OF DIRECTORS
OF STOCKTON EAST WATER DISTRICT WAS HELD AT THE DISTRICT OFFICE
6767 EAST MAIN STREET, STOCKTON, CA
ON TUESDAY, JUNE 6, 2023 AT 12:30 P.M.

A. PLEDGE OF ALLEGIANCE AND ROLL CALL

President Atkins called the regular meeting to order at 12:30 p.m., and Director McGaughey led the Pledge of Allegiance.

Present at roll call at the District were Directors Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti and Watkins. Also present were Manager Hopkins, Assistant Manager Vega, District Engineer Evensen, Finance Director Ram, Administrative Service Manager Celestine, Administrative Clerk Sukhram, Legal Counsel Zolezzi and Consultant Barkett.

B. CONSENT CALENDAR (None)

C. PUBLIC COMMENT (None)

D. SCHEDULED PRESENTATIONS AND AGENDA ITEMS

1. Minutes 05/30/23 Regular Meeting

A motion was moved and seconded to approve the May 30, 2023 Regular Board Meeting Minutes, as presented.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins
Nays: None
Abstain: None
Absent: None

2. Warrants

- a. Fund 68 – Municipal & Industrial Groundwater Fund
- b. Fund 70 – Administration Fund
- c. Fund 71 – Water Supply Fund
- d. Fund 91 – Vehicle
- e. Fund 94 – Municipal & Industrial Fund
- f. Summary
- g. Short Names/Acronym List
- h. SEWD Vehicles & Heavy Equipment

Director Sanguinetti inquired on the expense on page 20, line item 120 for US Bank-Hardin Animal Hospital for WTP Security maintenance. Manager Hopkins responded the charge is for the security dogs' annual checkup.

Director Cortopassi inquired on the expense on page 9, line item 1 for PG&E for Gas & Electric 04/15/23-05/15/23 TP-Electric Well #5. Manager Hopkins reported it was the demand charge. The District collected water samples for the month that were not for production. As part of the District's Temporary FloodMAR Permit, approximately 120-acre feet of groundwater was recharged that has to be pumped out this year. Manager Hopkins stated once this water is pumped out, the District intends to contact PG&E regarding a rate schedule change. If the wells are kept active with the division of drinking water they have to be sampled every month.

Director Cortopassi inquired on the expense on page 12, line item 17 for Robert Half Finance & Accounting for Conversion fee for Administrative Services Manager. Manager Hopkins explained this is the cost of converting a temporary employee to a full-time employee through the staffing agency.

Director Sanguinetti inquired on the expense on page 15, line item 71 for Holt of CA for Rental of dozer-D8 for McGurk Earth Dam project. Manager Hopkins reported the materials had to be moved this year. Assistant Manager Vega reported the District does not have additional repair or damage charges. However, the District may receive an additional damage invoice at a later time.

A motion was moved and seconded to approve the June 6, 2023 Warrants, as presented.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins

Nays: None

Abstain: None

Absent: None

3. United States Army Corps of Engineers – Memorandum of Agreement Section 214, 10/04/22
Manager Hopkins presented a Section 214 Agreement with United States Army Corps of Engineers (USACE) for Board approval to allow the District to pay USACE for expedited review of the District’s 408 permitting for the four projects listed in the summary section on page 27: Hosie Low Water Crossing, George Watkins Low Water Crossing, Hogan Low Water Crossing, and Fujinaka Low Water Crossing. Staff performed additional research and confirmed two of the projects are located within areas where USACE has levies listed in their [levyleevee](#) database. With regards to the other two projects, Hogan and Fujinaka Low Water Crossings, the District reached out to the Central Valley Flood Protection Board who confirmed these are within a “USACE project channel”. The assumption is that USACE must claim the entire Mormon Slough falls under 408 permitting requirements. After visiting the crossings, Manager Hopkins stated there is definitely no [levyleevee](#) at Hogan. Although there may be a [levyleevee](#) at Fujinaka, it is not showing up on the [levyleevee](#) database.

Staff continues to recommend the Board consider authorizing General Manager to execute a Memorandum of Agreement with USACE beginning on page 28, and make all the necessary approvals and payments. An estimated \$139,425 by USACE would be paid under this agreement from DWR grant funding.

Director Cortopassi commented the District has waited for two years, and part of the problem may be the Department of Water [ResearchResources](#) not understanding what is happening. Manager Hopkins replied the DWR staff the District works with is aware of the 408 being a holdup on the projects. DWR has established their own section 214 agreements with USACE through which DWR pays money to get state projects reviewed. Unfortunately, this section of DWR does not have an agreement the District can use. Manager Hopkins stated the District reached out to other sections but the scope of their agreements would not allow District projects to be included. DWR is familiar with this process. Director Atkins mentioned this is the only process to expedite permits for this project.

A motion was moved and seconded to authorize the General Manager to execute a Memorandum of Agreement with USACE per the terms delineated in the Memorandum of Agreement between Stockton East Water District and the U.S. Army Corps of Engineers, Sacramento District, and make all other necessary approvals and payments, as presented.

Roll Call:

Ayes: McGaughey, McGurk, Panizza, Sanguinetti

Nays: Atkins, Cortopassi, Watkins

Abstain: None

Absent: None

4. Herum\Crabtree\Suntag Attorneys – Impact of Supreme Court Ruling in Sackett V. EPA Memo
Legal Counsel Zolezzi report the case was focused on wetlands so it doesn't affect the District's permit requests in the rivers. The case limits jurisdiction over wetlands to those adjacent to waterways, but does not cover isolated wetlands. Previously the Environmental Protection Agency (EPA) placed broader definitions on the waters it covers. The Supreme Court is trying to limit the reach.

The Sackett decision does include some language that may mean ephemeral watercourses could be included. The decision did not apply to those, but instead was limited to wetlands. Many have argued about the possible inclusion of ephemeral streams. The older opinion of the Supreme Court was split, one side holding similar views to the Sackett decisions, which provides that only relatively permanent standing or continuously flowing bodies of water forming geographic features that are described as streams, oceans, rivers and lakes will qualify as waters of the U.S. and would exclude channels through which water flows intermittently or ephemerally or that provide periodic drainage. It is unclear what is ultimately covered and not covered. Legal Counsel Zolezzi doesn't believe the case will change the District's requirement to obtain 404 permits for work in the watercourses. Although the District may believe based on the Sackett decision 404 permits are not needed, fighting it would likely prove to be more difficult than obtaining the permits.

5. Stockton East Water District – Board Recognition of 75th Anniversary
Manager Hopkins inquired if the Board had any specific questions, suggestions or requests in regards to the 75th Anniversary event. President Atkins inquired if the Board would like to donate any items for the raffle prizes. Director Sanguinetti proposed the Board donate raffle or auction items instead of money. Manager Hopkins replied the Board can collectively decide on what to donate for the 75th Anniversary at their own time if they so choose.

- a. Resolution No. 23-24-02 – Resolution Of The Board Of Directors Of Stockton East Water District On The Occasion Of Its 75th Anniversary

Manager Hopkins presented the 75th Anniversary resolution to the Board, noting some of the history outlined was derived from the District's 60th Anniversary resolution. Milestones and major accomplishments from June 2008 to present have been added to update the 2023 resolution. The resolution is also recommending the new Sodium Hydrochloride Facility be dedicated in this Board's honor with the installation of a plaque. Handout D-5a is a proof of the plaque's design.

Director Cortopassi inquired where in the resolution it shows the District's purchased property from the Bozzano Family to increase campus size by approximately 212 acres. Manager Hopkins replied this is not included in the No. 23-24-02 Resolution, but will be added. Manager Hopkins inquired if Director Cortopassi or the Board recalled the purchase date. Assistant Manager Vega responded the year was 2014. Director Sanguinetti added the resolution should also state the District purchased the property to enhance the ground water recharge and to help well water storage.

Director Sanguinetti inquired if the solar panels are mentioned in the resolution. Manager Hopkins replied yes, on page 47, the third "WHEREAS, on January 30, 2019" states the district commissioned a new two-megawatt photovoltaic power system constructed through a Power Purchase Agreement with Onyx Renewable Partners L.P. Director Cortopassi commented the resolution should mention that the project is on the District's campus and not elsewhere. Manager Hopkins replied a location can be added to this item on the resolution.

Director Watkins suggested on page 47 third to the last “Whereas, beginning in January 2022” regarding satellite imagery and spatial data, the language should be reworded into simpler terms such as geographic or GIS data for clearer understanding. Manager Hopkins agreed to remove the word “spatial”.

A motion was moved and seconded to adopt Resolution 23-24-02 – Resolution Of The Board Of Directors Of Stockton East Water District On The Occasion Of Its 75th Anniversary, as amended.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins

Nays: None

Abstain: None

Absent: None

6. Resolution No. 23-24-03 – Authorization To File A Grant Application With The Department Of Interior United States Bureau Of Reclamation For The WaterSMART: Aquatic Ecosystems Restoration Projects (Funding No. R23AS00106) For Fiscal Year 2023, Execute Any Required Documents And Provide Delegation Of Authority

Manager Hopkins presented a resolution authorizing the \$4,550,000 grant application staff has worked on for the Bellota Weir project through the U.S. Bureau of Reclamation’s Aquatic Ecosystems Restoration projects of the WaterSMART program. There are \$2,450,000 matching funds required from the District. The grant if awarded will be applied to the first phase of construction for the Bellota project.

Staff recommends the Board approve Resolution 23-24-03 allowing the District to move forward with submitting the grant application. Director Cortopassi inquired why the grant and District amounts aren’t exact matching numbers. Assistant Manager Vega reported the total estimated amount to be spent is \$7,000,000 with the District having a cost share of 35 percent equaling \$2,450,000. The grant if awarded will cover the remaining \$4,550,000. The language will be changed to reflect the total amount of \$7,000,000 and the breakdown of funding.

A motion was moved and seconded to adopt Resolution 23-24-03 and Authorize the General Manager To File A Grant Application With The Department Of Interior United States Bureau Of Reclamation For The WaterSMART: Aquatic Ecosystems Restoration Projects (Funding No. R23AS00106) For Fiscal Year 2023, Execute Any Required Documents And Provide Delegation Of Authority, as amended.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins

Nays: None

Abstain: None

Absent: None

E. COMMITTEE REPORTS

1. Stockton East Water District – 75th Anniversary Ad-Hoc Committee Meeting, 05/31/23
Manager Hopkins reported District staff has confirmed catering quantities, site layout, parking, and the timing of some events for the 75th Anniversary event for June 9th. President Atkins commented this last meeting fine-tuned items for the day of the event and staff did a great job. As of the time of the Board meeting 120 people had RSVP’d, although reservations were still being received by staff. Manager Hopkins stated the 75th Anniversary event will be noticed as a special Board meeting.

F. REPORT OF GENERAL MANAGER

1. Water Supply Report as of 06/06/23

Board Meeting – 06/06/23

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~~Draft~~Approved

Manager Hopkins provided a handout of the Water Supply Report for information only that included storage, release, and production data collected from various sources as of midnight last night.

There is 237,535 AF in storage at New Hogan Reservoir. Current releases are set at 210 cfs. There is 1,870,202 AF in storage at New Melones Reservoir. Current releases are set at 2,831 cfs. Current release at Goodwin Dam to Stanislaus River are set at 1,501 cfs and release to all water users are set at 0 cfs. There are 15 irrigators on New Hogan, 2 irrigators on New Melones, and 1 irrigator out of District. The water treatment plant is currently processing 34 mgd. The City of Stockton is currently processing 22 mgd. Manager Hopkins reported the District wells total water extraction is 0 gpm.

2. Information Items:

a. Material Included, But Bound Separately from Agenda Packet:

Manager Hopkins noted item: F2a-1, F2a-2, F2a-3, F2a-4 and F2a-5

3. Report on General Manager Activities

a. ACWA State Legislative Special Committee Meeting, 06/02/23

Manager Hopkins reported Executive Director of ACWA Dave Eggerton reported the Governor's Office has reached out to ACWA requesting support of what he calls the Governor's infrastructure packet which includes five of the six trailer bills. There was discussion about what support from ACWA would entail. The five bills are related to expediting infrastructure improvements. The first is to help expedite judicial review of CEQA issues to allow infrastructure projects to progress more quickly. The ACWA State Legislative Committee accepted staff's recommendation of favor for five bills.

The sixth bill related to drought and flood streamlining was not part of the package and was referred to a work group. State Water Project and some of the Southern California agencies have a lot of concerns about this proposed legislation which would identify groundwater recharge as a beneficial use. It would also allow diversion of flood flows under certain circumstances to occur without obtaining a water right or a temporary permit as it exists currently under the Governor's Executive order to be made permanent.

b. Stockton East Water District Activities Update

Manager Hopkins reported receipt of a notice from North San Joaquin Water Conservation District stating they have approved the exchange agreement so the District may provide water to the Leffler property and North San Joaquin would provide water to Elkhorn Golf Course. Manager Hopkins anticipates to have the Elkhorn agreement as part of next week's Board packet for execution. Another ordinance will be required to revise the District's 2023 water rates. Ordinance 49 which was passed a couple of months ago did not have an M&I water surface rate. Should the Board approve the Elkhorn agreement one will need to be added which means a revised ordinance will also be necessary. Director Cortopassi inquired if unauthorized users could remove water. Manager Hopkins responded that North San Joaquin and District staff looked into that possibility, and although water could be diverted without permission, unpermitted diversion is very unlikely. Ultimately North San Joaquin is responsible for unpermitted diversions within their district.

Registration deadline for California Special District Association (CSDA) annual conference is August 4, 2023. The CSDA Special District Leadership Academy held in October registration deadline is September 22, 2023. Interested Directors should notify Manager Hopkins.

Manager Hopkins reported on potential recharge opportunities off the Calaveras River. Manager Hopkins and staff met with a landowner who could potentially allow the District to convey some pipelines through their property to recharge on Wagner Ranch. Upon looking at Wagner Ranch it

has been determined not much of the land is conducive to water recharging due to slopes of 0-8%. The landowner has about 12 acres and is receptive to a summer pilot project. The conversation on compensation came up. The District does not have a compensation recharge policy. Therefore, a one-off agreement might need to be created. Manager Hopkins requested feedback from the Board on a good starting point for compensation. District Engineer Evensen observed the soil and shows it is good for infiltrating water. This summer would be a dry run of the whole process of getting down the river, getting water to the property and seeing how well it infiltrates. If the summer pilot project goes well, the landowner is open to a longer-term project.

G. DIRECTOR REPORTS

1. Greater Stockton Chamber of Commerce – Business Showcase & Tradeshow Mixer, 06/01/23
Director Atkins reported it was a nice successful event with raffle prizes. There were many people at the Civic Auditorium networking with companies such as PG&E.

H. COMMUNICATIONS (None)

I. AGENDA PLANNING/UPCOMING EVENTS

1. Regional Water Authority – A Conversation with Jay Ziegler, Delta Watermaster, 10:00 a.m., 06/07/23
2. Stockton East Water District – 75th Anniversary Celebration, 10:00 a.m., 06/09/23
3. Stockton Area Water Suppliers (SAWS) Meeting, 1:00 p.m., 06/09/23

J. REPORT OF THE COUNSEL

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED
LITIGATION Potential exposure to litigation – Government Code
Section 54956.9 – three cases

President Atkins adjourned the meeting to closed session at 1:41 p.m. to discuss closed session agenda items. The regular meeting reconvened at 2:14 p.m., with the no reportable action.

K. ADJOURNMENT

President Atkins adjourned the meeting at 2:15 p.m.

Respectfully submitted,

Justin M. Hopkins
Secretary of the Board

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