

Mendocino County

Russian River Flood Control & Water Conservation Improvement District

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APPROVED MINUTES

Regular Meeting of July 1, 2024

At District Office: 304 N. State Street, Ukiah, CA 95482

1. Roll Call

President Watt called the meeting to order at 5:34 PM.

Trustees Present: Christopher Watt, President
John Bailey, Treasurer
John Reardan, Trustee

Trustees Absent: Tyler Rodrigue, Trustee

Staff: Elizabeth Salomone, General Manager
Lilliana Selke, Legal Counsel

2. Approval of Agenda

Treasurer Bailey moved to approve the agenda. Trustee Reardan seconded the motion. The motion was approved by the following vote:

Ayes: 3 (Reardan, Bailey, Watt)
Absent: 1 (Rodrigue)

3. Public Expression:

None.

ITEMS FOR DISCUSSION AND POSSIBLE ACTION

4. Consider Investigation of Maintenance Obligations on Russian River and Participation in Biological Opinion

Legal Counsel Silke briefed the Board.

In 2008 the National Marine Fisheries Service (NMFS) issued a Biological Opinion (BiOp) for channel maintenance conducted by the United States Army Corp of Engineers (USACE), Sonoma County Water Agency (SCWA), and this District in the Russian River watershed. The BiOp describes several maintenance obligations for this District without reference to where those obligations stem from. The BiOp is now being updated and NMFS has asked whether this District's activities still need to be covered under the BiOp.

A 1997 Memorandum of Understanding (MOU) between USACE, NMFS, and SCWA references this District's "contractual obligation to USACE to maintain erosion control works situated in Mendocino County pursuant to an unnumbered resolution adopted by the District Board of Directors on November 12, 1959." It is possible that unnumbered resolution spells out the District's obligations and efforts are underway to locate it or other relevant documents.

At this time with the information available, it appears the Board has two options:

1. Tell NMFS the District does not need any activities covered under the BiOp and be removed. This would require a new BiOp later if channel maintenance in that section needs to be conducted.
2. Have the activities as described by NMFS in the draft language provided to the District included under the BiOp just in case. This would require annual reporting and inspections.

(Continued...)

Q&A

Q: What does “covered by the BiOp” mean?

A: When included in the BiOp, it “covers” the District if channel maintenance work results in a take of species.

Q: Is BiOp necessary for existing structures from prior channel maintenance? The District did undertake channel maintenance in the past.

A: Yes, the District needs to be covered/included in the BiOp to conduct any channel maintenance.

Q: Does being covered under the BiOp constitute a duty to perform?

A: The BiOp does not regulate or enforce the duty to conduct channel maintenance. The BiOp covers activities while conducting channel maintenance and obligations to consult and coordinate with NMFS.

Q: What is the scope of activities?

A: NMFS has told the District that updated BiOp language would have to be the same as the 2008 version. There is a two page excerpt that describes the channel maintenance.

Q: When does the Board need to make a decision on whether to be included in the updated BiOp or not?

A: NMFS would like a decision ASAP.

Q: What are the liability issues for the District?

A: Assume the District has obligations as agreed upon with the USACE and therefore liability. If the District made physical improvements along the river years ago, the BiOp coverage doesn't remove any liability from legal actions. It simply provides regulatory coverage if channel maintenance is undertaken.

Q: Is it accurate to say that if the District made physical improvements along the river years ago, the BiOp coverage doesn't remove any liability from legal actions.

A: Yes, that is accurate. The BiOp provides regulatory coverage if channel maintenance is undertaken but not legal liability for commitments made in the agreement with USACE.

Q: Is it accurate to say the BiOp covers the District if channel maintenance is undertaken but does not constitute an obligation to do so?

A: Until additional documentation is located, it is difficult to say with certainty. The District may have a contractual obligation. However, this is separate from being named in the BiOp. Whether included in the BiOp or not, the District could still be under contractual obligation and by not being named in the BiOp, would have to engage with NMFS at that time.

Q: What are the downsides of not being included in the BiOp?

A: If the District wants to undertake any channel maintenance, the District wouldn't be able to do so because it would be under any type of maintenance agreement, despite any potential contractual obligations to do so.

The Board directed Staff and Legal Counsel to continue researching the issue and to notify NMFS the District wishes to continue being included in the BiOp.

(Continued...)

5. Board Vacancy

GM Salomone presented the item. The Board heard and fully considered applications for the Board vacancy and all oral and written public comment on the matter. Christine Akin and Dave Koball addressed the Board and answered questions. Both voluntarily stepped out of the meeting while the Board discussed. Legal Counsel was consulted and discovered Christine Akin was no eligible to serve on the Board due to her employment.

Trustee Reardan moved to fill the Board of Trustee vacancy by appointment. Treasurer Bailey seconded the motion. The motion was approved by the following vote:

Ayes: 3 (Reardan, Bailey, Watt)
Absent: 1 (Rodrigue)

Treasurer Bailey moved to adopt Resolution #24-03 appointing Dave Koball to the Vacant District Board seat until the next District election in November 2024. Trustee Reardan seconded the motion. The motion was approved by the following vote:

Ayes: 3 (Reardan, Bailey, Watt)
Absent: 1 (Rodrigue)

6. Trustee Stipends

GM Salomone provided a verbal report to the Board. Legal Counsel has advised GM on the requirements to pass an ordinance to establish Trustee Stipends and the item will return to the Board in the future.

7. Trustee Assignments & Appointments

The Board discussed and reached consensus for the following appointments:

Mendocino County Inland Water & Power Commission

Regular: John Reardan
Alternate: Dave Koball

Ukiah Valley Basin Groundwater Sustainability Agency

Regular: Christopher Watt
Alternate: John Bailey

Trustee Reardan moved to adopt Resolution #24-04 Approving Appointments to Ukiah Valley Basin Groundwater Sustainability Agency as follows: Chrisopher Watt as the Regular Board member, John Bailey as the Alternate Board member, and General Manager Elizabeth Salomone on the Technical Advisory Committee. Treasurer Bailey seconded the motion. The motion was approved by the following vote:

Ayes: 3 (Reardan, Bailey, Watt)
Absent: 1 (Rodrigue)

8. California Class Investment Pool

Treasurer Bailey presented the item, reviewing CLASS investment options, pros, and cons. The Board provided feedback and directed GM Salomone and Treasurer Bailey to update the relevant policy(s) and return to the Board for final approval of participation in CLASS.

(Continued...)

REGULAR BUSINESS, INFORMATION, AND REPORT ITEMS

9. Water Supply Conditions Update

GM noted that in addition to the staff report, the Federal Energy Regulatory Commission (FERC) approved PG&E’s flow variance and diversions from the Eel River to the East Fork Russian River will be reducing. GM briefed the Board on impacts in the Russian River watershed with the reduced diversions and actions available to the State Water Resources Control Board (SWRCB) to regulate and enforce the water rights priority system based on reduced water availability. GM asked for Board feedback on sending a letter to the SWRCB to highlight water availability for appropriation in the Russian River. Board consensus was reached to send the letter if GM determined it beneficial to do so.

10. Consent Calendar

- a) Acceptance of the June 2024 Financial Reports
- b) Approval of June 3, 2024 Regular Board Meeting minutes

Trustee Reardan moved to approve the consent calendar. Treasurer Bailey seconded the motion. The motion was approved by the following vote:

Ayes: 3 (Reardan, Bailey, Watt)
 Absent: 1 (Rodrigue)

11. Trustee & Committee Reports

- a) LAFCo MSR/SOI & Annexation Ad Hoc: No updates.
 - *Trustees Reardan and Watt* provided an update on the LAFCo Ad Hoc recent meeting with the Redwood Valley County Water District Ad Hoc to discuss a potential annexation.
 - *President Watt* reported on the Inland Water and Power Commission meeting.
 - *Treasurer Bailey* reported on the Groundwater Sustainability Meeting and the approval of the Rate and Fee proposal.

12. General Manager Report & Correspondence

GM presented report.

13. Direction on Future Agenda Items

Preliminary FY 23-24 Year End Reports, Stipend Ordinance, Policy updates, appointment of a Vice President, Channel Maintenance and Biological Opinion, IWPC appointment by resolution.

ADJOURNMENT

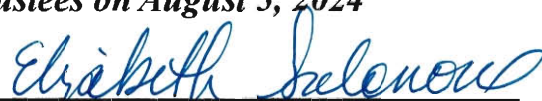
Trustee Reardan moved to adjourn the meeting at 6:51 PM. seconded the motion. The motion was approved by the following vote:

Ayes: 3 (Reardan, Bailey, Watt)
 Absent: 1 (Rodrigue)

APPROVED by Board of Trustees on August 5, 2024



 President of the Board of Trustees



 Secretary of the Board of Trustees

President
Christopher Watt

Vice President
Alfred White

Treasurer
John Bailey

Trustee
Tyler Rodrigue

Trustee
John Reardan