

**ROOT CREEK WATER DISTRICT  
MINUTES OF BOARD OF DIRECTORS' NOVEMBER 22, 2011 MEETING**

Root Creek Water District (RCWD or the District) held a special meeting on Tuesday, November 22, 2011, at the office of Baker Manock & Jensen located at 5260 North Palm Avenue, Fourth Floor, Fresno, California.

DIRECTORS PRESENT: Philip R. Pierre – President  
L. Dave Cobb (via telephone)  
Jeffrey D. Coulthard  
Rodger B. Jensen  
Timothy Jones  
Laura Whitaker (via phone)

OTHERS PRESENT: Christopher L. Campbell – General Counsel  
Deborah Messer Branche – Secretary, Treasurer  
Lauren Layne – Baker Manock & Jensen

**1. PUBLIC HEARING -** The meeting was called to order by President Pierre at 9:16 a.m. President Pierre asked if there were any members of the public present for the Public Hearing. There was no public present. President Pierre then opened the Public Hearing to present the proposed new Groundwater Management Plan (GWMP) and begin the 35-day period for a protest to the proposal. Counsel and President Pierre explained that there are a few typos and a few items to fill in. There are a few areas that are generic and need to be more specific to RCWD. There was some discussion regarding costs to RCWD to implement this new plan. The costs should be the same as we have been incurring under the current plan. The plan just needed to be rewritten to incorporate all the information that the RCWD has compiled since 1997 and to comply with the new guidelines. Counsel and President Pierre will ask the engineer to prepare a cost analysis of what the District is doing under the current plan and what we will have to do under the new plan. No action was required at this time. Any changes to this draft will be presented at the January 6, 2012 meeting. The Public Hearing was closed at 9:28 a.m.

**2.** President Pierre and Counsel presented a Dispute Resolution Policy for the District. The policy is similar to that used by Fresno Irrigation District, and part of what is required for grant compliance. Upon motion by Director Jones, seconded by Director Coulthard, the Board adopted the Dispute Resolution Policy, a copy of which is attached to **Resolution 2011-13** as Exhibit "A".

**3.** Counsel and Ms. Layne presented and reviewed a staff memo dated November 17, 2011 regarding Director Election Procedure and Timeline. There are seven Board seats: six are filled and one is vacant. Seats for Directors Pierre and Cobb, along with the vacant seat, expire January 2012. Director Pierre stated he would like to continue on the Board if the landowner he represents wishes him to do so. Director Cobb also stated that he would like to continue until we have water running. If, however, it would be beneficial to the District for him to resign and another landowner to be seated, he would be willing to resign. There was discussion as to how the election process works. Counsel stated each landowner gets one vote per \$100 of assessed value for land owned within the District. The District engineer has an election book with the assessed values from Madera County which is used to determine the number of votes per landowner. The election book is updated at each

election. Ms. Layne will 1) e-mail Mr. Provost regarding the election book: 1) double check the acreages and 2) have the election book circulated. Counsel and Ms. Layne will prepare the notices for election.


President Pierre expressed the need for the District to hold a meeting to update the landowners on what have been done over the past several years and what the future holds.

**4.** Counsel reported on the progress with the Bureau. There is a pending draft concurrence letter of no impact from Fish and Wildlife to the Bureau, however, the letter has not been signed. Rena Ballew is working on this. They hope to wrap up mid to late December.

**5.** President Pierre and Counsel reported on the grant process and schedule. A Grant To Do List (copy attached to these Minutes) was submitted to the Board. Everything is proceeding as planned, however, the schedule has been delayed due to a delay in the DWR process of awarding the grant. There are no contracts to sign yet.

**ADJOURNMENT** -- There being no further business to come before the Board, President Pierre adjourned the Board of Directors meeting at 9:57 a.m.

Respectfully submitted,



Deborah Messer Branche

Approved:



Philip R. Pierre, President

**ROOT CREEK WATER DISTRICT  
RESOLUTION NO. 2011-13**

WHEREAS, Root Creek Water District (“RCWD” or the “District”) does not currently have a formal policy regarding District dispute resolution procedures; and

WHEREAS, prior to beginning construction on the turnout and pipes to convey water to the District’s landowners, it is important for the District to adopt basic policies and procedures, such as a dispute resolution policy; and

WHEREAS, RCWD desires to adopt a formal policy for dispute resolution procedures within the District between landowners or water users and District employees.

NOW, THEREFORE, BE IT RESOLVED THAT:

RCWD adopts the Dispute Resolution Policy Of Root Creek Water District, a copy of which is attached to this Resolution as Exhibit “A”.

ADOPTED this 22<sup>nd</sup> day of November, 2011.

<u>Vote</u>	<u>Yes</u>	<u>No</u>
Philip Pierre	<u>K</u>	___
L. Dave Cobb	<u>K</u>	___
Jeffrey D. Coulthard	<u>K</u>	___
Rodger B. Jensen	<u>K</u>	___
Timothy Jones	<u>K</u>	___
Laura Whitaker	<u>K</u>	___

EXHIBIT A

**DISPUTE RESOLUTION POLICY  
OF  
ROOT CREEK WATER DISTRICT**

When landowners or water users within Root Creek Water District (the “District”) cannot resolve differences or controversies with the District’s employees, they are expected to discuss the problem with the District Manager prior to asking the Board of Directors for final determination. The Board of Directors reserves the authority to act as the final level of appeal on differences and controversies between landowners and water users within Root Creek Water District and District employees.

**MEMORANDUM**

**Christopher L. Campbell**

*Attorney at Law*

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**TO:** Root Creek Water District  
Board of Directors

**FROM:** Christopher L. Campbell  
Lauren D. Layne  
BAKER MANOCK & JENSEN, PC

**DATE:** November 17, 2011

**RE:** Director Election Procedure & Timeline

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We have three board seats that need to be filled in 2012. Phil and Dave's terms are expiring and we have the seventh board seat that has never been filled is also on this election cycle. As you may recall, we expected that S&J Farms or Paramount Citrus—as the largest district landowner without a representative on the board—would want to nominate someone to fill that third seat so we kept it open for a time. Technically the terms end in January 2012 but the Directors serve until their successor takes office. The technical legal timeline for the election process is set forth below. At the meeting on the 22<sup>nd</sup> the board needs to fix a date for the election and start the process for filling these three positions.

A director of a California Water District may be elected or appointed pursuant to the Uniform District Election Law codified at Elections Code Section 10500, *et seq.* The following consists of the appropriate timeline and procedures to follow for electing new directors to a landowner voting water district, such as the Root Creek Water District Board of Directors:

1. One hundred twenty-five (125) days prior to the day fixed for the general district election, the Secretary shall deliver notice to the county elections official that the district will be conducting an election. In addition to the Secretary's signature and the district seal (if there is one), the notice shall also contain: (a) the elective office of the district to be filled at the next general district election, and (b) whether the district or the candidate is to pay for the publication of a statement of qualifications. (Elections Code § 10509.) The Secretary shall also delivery to the county elections official 125 days prior to the district election, a map or description of the boundaries of the district for which elections are to be held. (Elections Code § 10524.)

2. Forms for declaration of candidacy shall first be available on the 113<sup>th</sup> day prior to the general district election and shall be filed not later than 5:00 p.m. on the 88<sup>th</sup> day prior to the general district election. (Elections Code § 10510(a).) The district should already have a declaration of candidacy form, but if you need a format for a new one, please let us know.

3. If by 5:00 p.m. on the 83<sup>rd</sup> day prior to the day fixed for the general district election, only one person has filed a declaration of candidacy for any elective office to be filled, or no one has filed a declaration of candidacy, the district shall submit a certificate of these facts to the Clerk to the Board of Supervisors and request that the Board of Supervisors appoint to the office or offices the person or persons, if any, who have filed declarations of candidacy. (Elections Code § 10515.) A blank certificate can usually be obtained from the Clerk to the Board of Supervisors.

4. If no person has filed a declaration of candidacy for any office, the Board of Supervisors shall appoint any person to the office who is qualified on the date when the election would have been held. (Elections Code § 10515(b).) For example, if only two people apply for the three open director positions, the Board of Supervisors may appoint to the Root Creek Water District's board any landowner for that third position. If there is not more than one person to fill each position, then the election is cancelled at this point pursuant to Elections Code Section 10515.

5. If the election is cancelled, then the Secretary needs to forward the names of the candidates for director to the County Clerk to the Board of Supervisors. The Clerk to the Board will schedule onto the Board of Supervisors' calendar a time when the Board of Supervisors will confirm the new directors of the district.

6. If the election is not cancelled pursuant to Elections Code Section 10515, at least 35 days prior to the date fixed for the landowner district election, the Secretary shall deliver to the county elections official a list of voters qualified under the principal act of that district to vote in that county at the next landowner district election. (Elections Code § 10525(a).) The list delivered shall contain the name of each voter, the residence of each voter, and the manner in which the votes are to be distributed. (Elections Code § 10525(b).) The election may be conducted by a mailed ballot. (Elections Code § 10530.) The Secretary shall also sign her name and affix the seal of the district at the bottom of the last page of the list. (Elections Code § 10525(c).) One copy of this list shall be conspicuously posted in the office of the district in a place to which the public generally has access. (*Ibid.*) The governing board may, by resolution, determine that the duties of the secretary may best be performed by the county elections official, in which case the county elections official shall thereafter assume these duties. (Elections Code § 10525(d).)

7. The remaining steps involve preparing the ballots to be mailed and mailing the ballots in a timely fashion prior to the district election.

Root Creek Water District and Board of Directors  
November 17, 2011  
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### Grant To Do List

Bureau Requirement	Deadline	Status	Notes
Submit a letter confirming RCWD as the Grantee & to accept the grant award in the amount of \$9,413,947.00	9/28/2011	Completed	
Submit documentation RCWD has available sources of sufficient funds to complete the grant-funded project. Include 3 most recent years of audited financial statements, balance sheets, statements of sources of income and uses of funds, summary description of existing debts, & most recent annual budget.	11/13/2011	Completed	
Submit any changes to the scope of work, budget, or schedule based on changes since the grant application was submitted.	11/13/2011	Completed	We have sent DWR all documents available, but are waiting on remaining NEPA documentation from the Bureau
RCWD must demonstrate compliance with all applicable requirements of CEQA & NEPA. Submit to DWR an Environmental Information Form and documents that satisfy the CEQA and NEPA process.		In progress	
Provide DWR with signed MOUs		Completed	
The Regional Water Management Group must adopt an IRWM Plan that complies with Part 2.2 of Division 6 of the California Water Code Sections 10530, et seq., within 2 years of entering into a binding agreement with DWR		Completed	Have submitted the document executed by the IRWMP group to the Department
Undertake all reasonable and feasible efforts to take into account water related needs of DACs in the area within the Madera IRWM region		Completed	
Prove compliance with water metering requirements (Water Code Section 525, et. seq.)		In progress	Not sure that we have to do. Discussing with State - County to get me a legal opinion that they do not meet the threshold conditions
Prove compliance with the demand management measures/best management practices implementation requirements (Water Code Section 10631.5.)		Same as above	
Must adopt prior to January 7, 2012, a Groundwater Management Plan compliance with Water Code Section 10753	1/7/2012	In progress	Will adopt new GWMP on 1/6/2012
Receive finalized Grantee Agreement from DWR		Waiting on DWR	
Sign Grantee Agreement with DWR		Cannot sign Agreement until GWMP adopted	
Preparation of Sub-Grantee Agreements	after 1/6/12	In Progress	Cannot finalize until we receive DWR's final Agreement
Sign Sub-Grantee Agreements			