

D R A F T

**OFFICE OF THE BOARD OF DIRECTORS
OF THE MODESTO IRRIGATION DISTRICT**

1231 Eleventh Street
Modesto, California
December 22, 2009
9:00 a.m.

The meeting of the Board of Directors of the Modesto Irrigation District was called to order, in special session, on the twenty-second day of December 2009. Present were: Directors John E. Kidd, President, Paul Warda, Vice President, Cecil O. Hensley and Glen Wild; General Manager, Allen Short; and Secretary, Pat Mills. Absent: Director Tom Van Groningen

QUORUM

Upon roll call a quorum being present, the President called the meeting to order.

WARRANTS

Moved by Director Hensley, seconded by Director Wild, that warrants numbered 87122 through 87267 inclusive, in the amount of \$1,315,023.98, be approved. The President declared the motion carried by a vote of all Directors present.

WIRE TRANSFERS

Moved by Director Hensley, seconded by Director Wild, that Wire Transfers for November 2009, in the amount of \$19,863,906.50, be approved. The President declared the motion carried by a vote of all Directors present.

DISBURSEMENT ACCOUNT PAYMENTS

Moved by Director Hensley, seconded by Director Wild, that Disbursement Account Payments, in the amount of \$1,627,589.28 for November 2009, be approved. The President declared the motion carried by a vote of all Directors present.

RESOLUTION NO. 2009-108
ADOPTING THE 2010 INVESTMENT POLICY GUIDELINES
OF THE MODESTO IRRIGATION DISTRICT

WHEREAS, the Board of Directors of the Modesto Irrigation District has reviewed the Investment Policy Guidelines, and finds that the Guidelines provide a set of written guidelines for the orderly and efficient conduct of business; safeguarding of cash and investments; prevention and/or detection of errors and fraud; and the accurate and complete accounting records and production of the highest possible earnings on investments consistent with safety and liquidity; and

WHEREAS, it is in the best interest of the District that the Treasurer have the authority to invest in individual instruments to a maximum maturity of ten (10) years, with the maximum weighted average maturity of the portfolio not-to-exceed five (5) years; and

WHEREAS, it is in the best interest of the District that the Treasurer have the authority to invest in reverse repurchase agreements and securities lending agreements in accordance with the provisions of the California Government Code section 53601.

THEREFORE, BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby authorize the Treasurer to invest or to reinvest funds of the District, and to sell or exchange securities so purchased, including investment in individual instruments to a maximum of ten (10) years, with the maximum weighted average maturity of the portfolio not-to-exceed five (5) years; invest in reverse repurchase agreements and securities lending agreements in accordance with the provisions of the California Government Code.

BE IT FURTHER RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby adopt and direct staff to implement the Investment Policy Guidelines for 2010.

Moved by Director Hensley, seconded by Director Wild, that the foregoing resolution be adopted.

The following vote was had:

Ayes: Directors Hensley, Kidd, Warda and Wild

Noes: Directors None

Absent: Director Van Groningen

The President declared the resolution adopted.

WATER REPORT

Walter Ward, Assistant General Manager of Water Operations, presented the Water Report. Ward reported that rainfall to date is right around average. Snow sensor data shows the North region at 6 inches and the Central and South regions at 7 inches. Don Pedro is at 776 feet, approximately 45 feet higher than this time last year. Fish counts reveal approximately 260 returning Chinook salmon have been counted at the Tuolumne River fish weir. Ward noted that various irrigation maintenance activities will continue.

Director Hensley requested the Board's consideration to increase MID's 2009 base water allocation from 36 inches to 42 inches. A discussion ensued regarding preparation of the excess water charge bills. Allen Short, General Manager, requested direction from the Board regarding this issue. The majority of the Board directed staff to return for discussion of this issue, at a later date.

RESOLUTION NO. 2009-109
APPROVING AMENDMENT TO THE SAN JOAQUIN RIVER
AGREEMENT TO EXTEND THE TERM OF AGREEMENT

WHEREAS, on March 1, 1999, the San Joaquin River Group Authority (SJRG) and its member agencies (Modesto Irrigation District, Turlock Irrigation District, Merced Irrigation District, South San Joaquin Irrigation District, the Oakdale Irrigation District, the San Joaquin River Exchange Contractors Water Authority, and its member agencies, Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Water District and Columbia Canal Company), the Friant Water Users Authority, the City and County of San Francisco (hereinafter referred to collectively as "the SJRG"), the United States Bureau of Reclamation and the United States Fish and Wildlife Service (hereinafter referred to collectively as "DOI"), the California Department of Water Resources and the California Department of Fish and Game (hereinafter referred to collectively as "the State"), the State Water Contractors ("SWC"), Kern County Water Agency, Tulare Lake Basin Water Storage District, Santa Clara Valley Water District, San Luis-Delta Mendota Water Authority ("SLDMWA"), Westlands Water District, Metropolitan Water District of Southern California, and the Natural Heritage Institute (collectively referred to as "the Parties") entered into an agreement known as "The San Joaquin River Agreement (SJRA);" and

WHEREAS, the SJRA expires by its own terms on December 31, 2009; and

WHEREAS, the environmental analysis prepared for the SJRA (Meeting Flow Objectives for the San Joaquin River Agreement, 1999-2010) is effective through December 31, 2010; and

WHEREAS, Paragraph 22.0 of the SJRA requires that any modification thereto be made in writing and signed by the parties against whom enforcement of such modification is sought.

NOW, THEREFORE, the SJRG, DOI, State, SWC, SLDMWA and the other Parties hereby agree to modify the San Joaquin River Agreement as follows:

1. Paragraph 4.0 of the March 1, 1999, SJRA is modified to read: "This Agreement shall terminate on December 31, 2010, unless extended pursuant to Paragraph 5.1 or Paragraph 22, or terminated earlier pursuant to Section 13."
2. Paragraph 5.3 of the SJRA is modified as follows: (a) at the end of the first sentence, add: "Such a year shall be referenced as an "Off Ramp Year."; (b) change the second sentence to read:

“The USBR has continuing obligations to meet San Joaquin River flows pursuant to the applicable Biological Opinions.”

3. Payment for 2010 will be made in accordance with Paragraph 6.1 of the SJRA.
4. Paragraph 6.3 is modified to add the language at the end of that section: “In the event that 2010 is an Off Ramp Year, as defined, payment for that year shall be made to the SJRGA”.
5. Paragraph 3.2 is modified to read as follows:

“‘Existing Flow’ – the forecasted flows in the San Joaquin River at Vernalis during the Pulse Flow Period that would exist absent (1) the VAMP, (2) flows provided by Reclamation from New Melones pursuant to the requirements of the 2009 National Marine Fisheries Service’s Final Biological Opinion for the Operations, Criteria and Plan (OCAP) Regarding Effects of Continued Long Term Operations of the Central Valley Project and State Water Project, or (3) water acquisitions, including but not limited to the following:

For 2010 only, San Joaquin River Restoration Flows will be ‘existing flow’.

6. In recognition of the OCAP-Biological Opinion Paragraph 5.4 is supplemented to include the following language:

“The operation of New Melones Reservoir for the period of June 1, 2009 through the date of final determination of the SJRGA’s VAMP contribution for 2010 will be post-assessed to estimate end of month reservoir storage as though it had been operated absent the National Marine Fishery Service’s (NMFS) Reasonable and Prudent Alternatives (RPA’s). This post-assessed storage condition will then be used to estimate an adjusted NMI for a projection of New Melones Reservoir operations for the VAMP period, as though the 1997 Interim Plan of Operations (IPO) is in place. The projected non-VAMP operation of the tributaries combined with the projected 1997 IPO operation of New Melones Reservoir will be used to determine the Existing Flow for the VAMP period; that will be used to determine the VAMP Target Flow. And then that will determine the SJRGA supplemental water volume. The volume of SJRGA supplemental water will not be changed for the duration of VAMP operations.

Reclamation is responsible for preparing for acceptance by the SJRGA the post-assessment and projection of New Melones Reservoir storage and operations under the 1997 IPO. The first post-assessment will be prepared and submitted by the 15th of the month following the execution of this agreement and subsequently by the 15th of the month following months until the date of final determination of the SJRGA’s VAMP contribution. The operator contact for the SJRGA will be Mike Archer and the operator contact for the USBR will be Paul Fujitani”.

7. In recognition of the OCAP Biological Opinion Paragraphs 5.5 and 5.6 are supplemented to include the following language:

“The SJRA will be responsible for meeting its share of the VAMP Target Flows during the 31 day Tributary operations first and foremost, regardless of the CVP contribution from New

Melones under the OCAP Biological Opinion RPA's. The Parties also recognize the RPA contributions may cause actual flows at Vernalis to exceed VAMP Target Flows during the 31-day period."

8. The Parties agree to abide by all the terms and conditions of the March 1, 1999 SJRA, as modified herein, through December 31, 2010, unless the San Joaquin River Agreement is terminated earlier pursuant to Section 13 or otherwise extended.

9. Prior to December 31, 2010, the Parties may consider another extension to the SJRA. If the parties agree to further extensions of the SJRA, the Parties agree to negotiate in good faith any additional modifications or changes to the terms and conditions hereof, as well as to seek any and all necessary permits, approvals, authorities, and to complete all necessary documents, analyses and studies, including environmental studies, necessary to continue the performance of the SJRA.

10. This amendment and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

NOW, therefore, BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District, by resolution approves the one-year extension of the San Joaquin River Agreement between the San Joaquin River Group Authority, of which the Modesto Irrigation District is a member agency, and the United States Bureau of Reclamation (USBR) and authorizes the General Manager to execute such agreement on behalf of MID.

Moved by Director Warda, seconded by Director Hensley, that the foregoing resolution be adopted.

The following vote was had:

Ayes: Directors Hensley, Kidd, Van Groningen and Warda

Noes: Directors None

Absent: Director Van Groningen

The President declared the resolution adopted.

DON PEDRO BOARD OF CONTROL REPORT

Director Hensley reported on the Don Pedro Board of Control meeting held December 11 at Recreation Agency headquarters. Hensley reported that revenue to date is at \$2 million with expenditures at \$1.9 million. Campground reservations through November are 7,220 compared to 7,102 last year. An option for the public to make reservations online will be available starting April 2010 and wireless Internet service is now up and running for visitors. Hensley noted there has been a request by Forever Resorts to increase mooring fees.

**RESOLUTION NO. 2009-110
APPROVING EXECUTION OF THE CENTRAL VALLEY
CORPORATION MEMBERSHIP AGREEMENT**

WHEREAS, MID receives an allocation of power from the Western Area Power Administration (WAPA) and is directly connected to WAPA; and

WHEREAS, the MID Board previously authorized the General Manager to execute Exhibit C to the Central Valley Project Corporation Membership Agreement and the Contract for Displacement of Base Resource between the Western Area Power Administration and Central Valley Project Customers; and

WHEREAS, MID has been participating in the WAPA Displacement Program with success; and

WHEREAS, MID wishes to continue participating in the WAPA Displacement Program.

BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby authorize and direct the General Manager to execute the Central Valley Project Corporation Membership Agreement.

Moved by Director Hensley, seconded by Director Warda, that the foregoing resolution be adopted.

The following vote was had:

Ayes: Directors Hensley, Kidd, Warda and Wild

Noes: Directors None

Absent: Director Van Groningen

The President declared the resolution adopted.

**REVIEW OF THE PROPOSED CONTRACT
FOR THE HIGH WINDS OUTPUT PURCHASE**

Roger Van Hoy, Assistant General Manager Electric Resources, led a review of the proposed Contract for the High Winds Project, noting that the extension contract with Iberdrola Renewables at 25 MW to the year 2015 will expand it to 50 MW from 2015 through 2028. The discussion continued regarding the District's requirement to meet legislative mandates for renewable energy.

MOTION

Moved by Director Warda, seconded by Director Wild, that the amended Contract between Modesto Irrigation District and Iberdrola Renewables, Inc., be approved, as presented by staff.

The motion remained on the floor.

Public Comment: Emerson Drake, a Modesto resident, questioned if confidentiality agreements for pricing were standard in the industry and the cost of solar compared to wind power. Staff responded to Mr. Drake's questions.

RESOLUTION NO. 2009-111
APPROVING THE AMENDED CONTRACT BETWEEN
MODESTO IRRIGATION DISTRICT AND IBERDROLA
RENEWABLES, INC., FOR THE HIGH WINDS OUTPUT PURCHASE

WHEREAS, the Board of Directors of Modesto Irrigation District (MID) adopted a Renewable Portfolio Standard (RPS) by Resolution No. 2003-245, dated December 16, 2003; and

WHEREAS, the RPS adopted by the Board directed staff to procure contract(s) for California Energy Commission (CEC) Certified Renewable Resource Energy and associated environmental attributes; and

WHEREAS, MID and Iberdrola Renewables, Inc. (IRI) entered into power purchase Confirmation Letter Sell-Trade No. 2 (Confirm 2) for delivery of CEC Certified Renewable Resource Energy from the High Winds Project on May 27, 2004; and

WHEREAS, on April 1, 2009, The California Independent System Operator (CAISO) implemented the Market Redesign and Technology Upgrade (MRTU) tariff, requiring changes to Confirm 2; and

WHEREAS, IRI and MID have negotiated amended terms to Confirm 2 in order to continue energy purchases and deliveries pursuant to MRTU tariff; and

WHEREAS, IRI and MID have negotiated amended pricing and terms for Confirm 2 extending the term of existing 25 MW maximum deliveries from July 1, 2014 to June 30, 2015 and, in addition, extend both term and increase maximum deliveries from 25MW to 50 MW beginning July 1, 2015 through June 30, 2028; and

WHEREAS, due to the term extensions and increased deliveries, the above market cost for the High Winds Project is \$39.69 from April 1, 2009 through June 30, 2015 and \$22.97 from July 1, 2015 through June 30, 2028.

NOW, therefore, BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby approve the Amended Confirmation Letter Sell-Trade No. 2 (Amended Confirm 2) for the High Winds Generation Project between Modesto Irrigation District and Iberdrola Renewables, Inc., to:

- 1) Extend the term for existing deliveries from July 1, 2014 through June 30, 2015 at an above market cost of \$39.69/MWh.
- 2) Increase maximum deliveries from 25 to 50 MW beginning July 1, 2015 and continuing through June 30, 2028 at an above market cost of \$22.97/MWh.

- 3) Provide for continued purchases and deliveries of renewable energy from the High Winds Generation Project pursuant to the CAISO MRTU tariff, and direct the General Manager to take any and all actions necessary to perform the Amended Contract.

Moved by Director Warda, seconded by Director Wild, that the foregoing resolution be adopted.

The following vote was had:

Ayes: Directors Hensley, Kidd, Warda and Wild

Noes: Directors None

Absent: Director Van Groningen

The President declared the resolution adopted.

**RESOLUTION NO. 2009-112
APPROVING AMENDED CONTRACT BETWEEN MODESTO
IRRIGATION DISTRICT AND SHILOH I WIND PROJECT, LLC FOR
CONTINUED DELIVERIES OF RENEWABLE ENERGY**

WHEREAS, the Board of Directors of Modesto Irrigation District (MID) adopted a Renewable Portfolio Standard (RPS) by Resolution No. 2003-245, dated December 16, 2003; and

WHEREAS, the RPS adopted by the Board directed staff to procure contract(s) for California Energy Commission (CEC) Certified Renewable Resource Energy and associated environmental attributes; and

WHEREAS, on May 24, 2006, MID and Shiloh I Wind Project, LLC (Shiloh) entered into Power Purchase Confirmation Letter Sell-Trade No. 4 (Confirm 4) for the purchase and delivery of CEC Certified Renewable Resource Energy from the Shiloh Wind Project and on the same date MID and PPM Energy (now Iberdrola Renewables, Inc. (IRI)) entered into Confirmation Letter Sell-Trade No. 5 (Confirm 5) to provide firming and shaping re-delivery services for energy generated by the Shiloh Project; and

WHEREAS, on April 1, 2009, The California Independent System Operator (CAISO) implemented the Market Redesign and Technology Upgrade (MRTU) tariff, requiring changes to the existing Confirm 4 for the Shiloh Wind Project; and

WHEREAS, Shiloh and MID have negotiated amended terms to Confirm 4 and Confirm 5 so that Shiloh may continue to deliver energy to MID pursuant to the CAISO MRTU tariff from the Shiloh Wind Project.

NOW, therefore, BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby approve the Amended Confirmation Letter Sell-Trade No. 4 (Amended Confirm 4) between Modesto Irrigation District and Shiloh I Wind Project, LLC, and Amended Confirmation Letter Sell-Trade No. 5 (Amended Confirm 5), and direct the General Manager to take any and all actions necessary to perform the Amended Contract.

Moved by Director Hensley, seconded by Director Warda, that the foregoing resolution be adopted.

The following vote was had:

Ayes: Directors Hensley, Kidd, Warda and Wild

Noes: Directors None

Absent: Director Van Groningen

The President declared the resolution adopted.

RESOLUTION NO. 2009-113
DIRECTING STAFF TO OBTAIN A BUILDER'S RISK
(COURSE OF CONSTRUCTION) POLICY FOR THE WOODLAND
GENERATION STATION UNIT 3 PROJECT CONSTRUCTION AND STARTUP

WHEREAS, the Woodland Generation Station Unit 3 (WGS3) will begin construction of the power plant in the spring of 2010 and will follow up with initial startup and testing in the spring of 2011; and

WHEREAS, Course of Construction insurance coverage is prudent risk management during construction, startup and during the mandatory 72 hours of hot testing at operational levels to protect against catastrophic loss; and

WHEREAS, the District can't add the facility to the master property policy until the 72 hour operational test is successfully completed; and

WHEREAS, the District requested and received a quote (approximately \$250,000) for Course of Construction insurance and this policy covers all risks of physical loss or damage to property to be used in the fabrication, assembly, installation and erection of the contract works; inland transit; offsite storage; hot testing; earthquake; flood; and machinery breakdown. The policy covers the entire Project period and expires once the Project is commercial, at that time the Project is covered in our normal property insurance program.

BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby direct staff to obtain a Builder's Risk (Course of Construction) Policy for the Woodland Generation Station Unit 3 Project construction and startup.

Moved by Director Warda, seconded by Director Wild, that the foregoing resolution be adopted.

The following vote was had:

Ayes: Directors Hensley, Kidd, Warda and Wild

Noes: Directors None

Absent: Director Van Groningen

The President declared the resolution adopted.

BE IT FURTHER RESOLVED, That for purposes of establishing compliance with the requirements of United States Treasury Regulations, Section 1.150-2, the Board of Directors of the Modesto Irrigation District (“District”) does hereby declare its intention to undertake tax-exempt financing, in a maximum principal amount not to exceed the total Capital Expenditures set forth herein, or to reimburse itself or other local, state or federal agency expenditures under the jurisdiction of the District related to the capital expenditure with respect to the 2010 Budget year, including repair or replacement of facilities and capital improvements, and such additional unbudgeted expenditures as the District’s Board of Directors may approve in 2010, subject to the final authorization and approval at a subsequent meeting of the terms and conditions of such tax-exempt financing by the District’s Board of Directors.

BE IT FURTHER RESOLVED, That the Board of Directors hereby declares its intent to fund the Retiree Medical Benefits Plan each year in the amount required to pay the actuarial cost of providing retiree healthcare coverage.

Moved by Director Warda, seconded by Director Wild, that the foregoing resolution be adopted.

The following vote was had:

Ayes: Directors Hensley, Kidd, Warda and Wild

Noes: Directors None

Absent: Director Van Groningen

The President declared the resolution adopted.

RECESS/RECONVENE

At 10:26 a.m., the Board of Directors recessed the meeting; it reconvened at 10:36 a.m.

WORKSHOP ON MCHENRY SOLAR FARM

Greg Salyer, Resource Planning and Development Manager, led a discussion on the McHenry Solar Farm, a 160-acre, 25 MW solar farm to be developed by SunPower on the corner of McHenry Avenue and Patterson Road. A proposed purchase power agreement with SunPower will yield approximately 2 percent renewable energy for MID in 2011 and in combination with current wind contracts, will bring MID’s renewable energy to 21 percent. This increase in renewable energy would also aid in achieving greenhouse gas reduction mandates. The Board is scheduled to vote on the McHenry Solar Farm Project at the January 12 Board meeting.

Public Comment: Jeffrey Dasovich of SunPower Corp., commented on cleaning the solar panels twice maybe three times per year and technology developed that automates this significantly with the usage of very little water. Dasovich noted his company’s experience with facilities globally in many different conditions and confidence with estimates for cleaning and efficiency.

Emerson Drake commented on concerns with SunPower Corp., and questioned the cost of electricity and how solar and wind power will impact ratepayers locally. Staff responded to Mr. Drake’s questions.

PUBLIC INPUT FOR THE GOOD OF THE DISTRICT

There was none.

FUTURE BOARD MEETINGS

The President set the next meetings for January 12 and 26, February 9 and 23 and March 9 and 23, 2010.

ITEMS TOO LATE FOR THE AGENDA

There were none.

RECESS

At 11:04 a.m., the Board of Directors recessed the meeting.

CLOSED SESSION

At 11:14 a.m., the Board of Directors convened in closed session for:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Subdivision (a) of Government Code Section 54956.9.)

- (a) In the Matter of the Request for Hearing of the Modesto Irrigation District in response to a Notice of Alleged Violation and Proposed Penalty or Sanction
Docket No. 0109 WECC 0001
- (b) San Joaquin Wetlands Associates, et al. v. Modesto Irrigation District; Stanislaus County Superior Court, Case No. 646227

CONFERENCE WITH LABOR NEGOTIATORS

(Government Code Section 54957.6)

Agency designated representatives: Irma Perrone
Employee organization: IBEW Local 1245

RECONVENE OPEN SESSION

At 11:55 a.m., the Board of Directors reconvened in open session.

ANNOUNCEMENTS FOLLOWING CLOSED SESSION

Allen Short, General Manager, read the following coming out of the Conference with Labor Negotiators:

**FAILED RESOLUTION
PROPOSED ONE-YEAR EXTENSION OF THE
MEMORANDUM OF UNDERSTANDING BETWEEN
MODESTO IRRIGATION DISTRICT AND IBEW LOCAL 1245**

WHEREAS, the employees of the Modesto Irrigation District have been working under the existing Memorandum of Understanding (MOU) between the Modesto Irrigation District and the IBEW Local 1245 (IBEW) which expired on December 31, 2008; and

WHEREAS, District representatives met and conferred with IBEW reaching a tentative agreement to include a 4 percent wage adjustment which was rejected by the IBEW in September 2008; and

WHEREAS, the District for several months entered into negotiations for a one-year extension addressing years 2008 and 2009 with the IBEW bargaining team representing employees of the Modesto Irrigation District; and

WHEREAS, on October 27, 2009, by consensus with 4 of 5 Board members present, direction was given to the District's negotiating team to negotiate a one-year extension of the MOU to include a 1 percent wage adjustment for 2009 and a 2.5 percent wage adjustment for 2010; and

WHEREAS, the District and the IBEW reached tentative agreement for a one-year extension of the MOU and was ratified by the IBEW.

NOW, therefore, BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby approve a one-year extension of the Memorandum of Understanding with the IBEW Local 1245.

Moved by Director Hensley, seconded by Director Kidd, that the foregoing resolution be adopted.

The following vote was had:

Ayes: Directors Hensley and Kidd

Noes: Directors Warda and Wild

Absent: Director Van Groningen

The resolution failed.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:02 p.m.

Secretary