



WATER AND POWER

744 W. 20th Street
Merced, CA 95340
(209) 722-5761

BOARD OF DIRECTORS

Jeff Marchini *President - Division 1*

Mario Bandoni *- Division 2*

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**MERCED IRRIGATION DISTRICT
BOARD OF DIRECTORS**

June 16, 2020

10:00 AM

**** PURSUANT TO EXECUTIVE ORDERS ISSUED BY CALIFORNIA GOVERNOR GAVIN NEWSOM, THE BOARD OF DIRECTORS WILL MEET AT THE TIME AND DATE REFERENCED ABOVE VIA TELEPHONIC CONFERENCE CALL ONLY AND NOT IN PERSON ****

MEMBERS OF THE PUBLIC WHO WISH TO OBSERVE AND PARTICIPIATE IN THE BOARD OF DIRECTORS MEETING ARE ENCOURAGED TO REVIEW THE GUIDANCE DOCUMENT ATTACHED TO THIS AGENDA. PLEASE CONTACT MID STAFF WITH ANY QUESTIONS OR IF YOU REQUIRE A REASONABLE ACCOMODATION TO PARTICIPATE – 209-722-5761.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CONSIDER CORRECTIONS OR ADDITIONS TO THE AGENDA

The Board will consider corrections or additions to the agenda of items requiring immediate action that have come to the attention of the Board after posting of the agenda

OPPORTUNITY FOR PUBLIC COMMENT (5 minutes per speaker)

Interested persons are welcome to introduce any topic within the District's jurisdiction by following the instructions contained in this agenda and the attached guidance document. Matters presented under this heading may be discussed but no action will be taken by the Board at this meeting.

CONSENT CALENDAR

All matters listed in the Consent Calendar are considered routine by the Board of Directors and will be adopted by one action of the Board unless any Board Member has any questions or wishes to make a

statement or discuss an item. In that event, the President of the Board will remove that item from the Consent Calendar and place it for separate consideration.

ACTION/DISCUSSION ITEMS

1. Resolution No. 2020-08

The Board will review and consider authorizing execution of Agreement Regarding the Acquisition of Certain Flood Flow Water Rights and Water Supply among the Merced Irrigation District; Merced Subbasin Groundwater Sustainability Agency; Turner Island Groundwater Sustainability Agency-1; Le Grand-Athlone Water District; Plainsburg Irrigation District; Amsterdam Water District; Sandy Mush Mutual Water Company; La Paloma Mutual Water Company; and Lone Tree Mutual Water Company.

REPORT ITEMS

CLOSED SESSION

1. Conference with Legal Counsel – Existing Litigation

- Five (5) cases pursuant to Government Code Section 54956.9(a)
 - Merced Irrigation District v. State Water Resources Control Board; Merced County Superior Court Case No. 18CV-05111
 - Merced Irrigation District v. Masellis Drilling Inc., Thomason Development Company (Merced County Court Case No. 17CV-01420)
 - Bull Field, LLC; Barley, LLC; Colburn Hills Ranch, LLC v. Merced Irrigation District (Merced County Court Case No. 19CV-02453)
 - Edendale, LLC, et al. v. Merced Irrigation District, et al. (Merced County Court Case No. 17CV-01425)
 - Merced Irrigation District v. Colburn Hills Ranch, LLC et al. (Merced County Court Case No. 19CV-03470)

2. Conference with Real Property Negotiation

- One (1) case – pursuant to Government Code section 54956.8
 - Property: District Surface Water
 - Under Negotiation: Price and terms of agreement(s)
 - District Negotiators: General Manager, DGM – Water Rights/Supply, DGM Water Resources and General Counsel

ADJOURNMENT

NOTE: No action may be taken on any items not appearing on this agenda unless:

- : There is a finding of an emergency situation by majority.
- : A two-thirds vote of the legislative body or a unanimous vote if less than two-thirds of the members are present.
- : An item was properly posted, but carried over for five days.

Any materials that are public records that relate to an agenda item, and are distributed to the Board of Directors less than 72 hours prior to the meeting shall be available for public inspection at the offices of the Merced Irrigation District, 744 W. 20th Street, Merced, CA during normal business hours. Additionally, any materials presented during open session are available for public inspection at the same address.

TEMPORARY GUIDANCE DOCUMENT FOR PUBLIC PARTICIPATION

MERCED IRRIGATION DISTRICT BOARD OF DIRECTORS

Consistent with recent Executive Orders issued by California Gov. Newsom, and based on guidance from health officials to minimize spread of the COVID-19 virus, members of the public who wish to observe and participate in the meeting of the Board of Directors for the Merced Irrigation District should consider the following:

1. View open session presentations (if any) via WebEx meeting:

You may email a request to view presentations and listen to the Board's meeting via WebEx conference call. Requests received before 3pm the day before the Board's meeting will receive an emailed link to the meeting. Requests may be submitted to dzuniga@mercedid.org or jmcmaster@mercedid.org. Requests to view meetings are for the immediately upcoming meeting, only. If you wish to view presentation(s) for future meetings, you must renew your request.

OR,

2. Dial in and listen using the following:

Toll Free number from the US: 1-855-749-4750

Meeting number (access code): 133 726 9182

3. Public comments:

If you wish to make a comment on a specific agenda item, please submit your comments via email to dzuniga@mercedid.org or jmcmaster@mercedid.org. Your comment will be placed into the record of the Board meeting. Written comments submitted before 4 PM the evening before the Board's meeting will be read to the Board as part of the discussion on the agenda item specified.

If you would like to make a general public comment or comment on a specific agenda item as it is being heard by the Board, please email your comment to dzuniga@mercedid.org or jmcmaster@mercedid.org, and staff will make a reasonable effort to read the comment into the record as part of the discussion. Some comments may not be read due to time limitations or other issues. Written comments should be limited to 250 words or less. If a comment is not read during the Board meeting, it will be made part of the record of the Board meeting so long as it is received prior to the conclusion of the meeting.

4. No publicly accessible location will be made available for the Board's meeting in order to minimize the spread of the COVID-19 virus. Participation in the Board meeting is temporarily limited to the guidance provided in this document, and may be amended or rescinded at any time.

Agenda posted: Wednesday, June 10, 2020 AT 2:30 PM

MEETING OF THE BOARD OF DIRECTORS OF THE MERCED IRRIGATION DISTRICT

DATE: 6/16/2020

AGENDA ITEM:

The Board will review and consider authorizing execution of Agreement Regarding the Acquisition of Certain Flood Flow Water Rights and Water Supply among the Merced Irrigation District; Merced Subbasin Groundwater Sustainability Agency; Turner Island Groundwater Sustainability Agency-1; Le Grand-Athlone Water District; Plainsburg Irrigation District; Amsterdam Water District; Sandy Much Mutual Water Company; La Paloma Mutual Water Company; and Lone Tree Mutual Water Company.

RECOMMENDED ACTION:

Staff recommends the Board authorize execution of an agreement among MID and the parties summarized herein, and further authorize actions relating thereto, as presented.

BACKGROUND:

Over the past few years, MID has actively and cooperatively worked with neighboring agencies and entities in order to develop Groundwater Sustainability Plans (GSP) for the Merced, Chowchilla, and Turlock groundwater subbasins. The GSP for the local Merced groundwater subbasin was recently completed. During the GSP development process, the parties involved identified several opportunities and tools to assist in achieving groundwater use sustainability. One such opportunity involves the use of available surface water to, among other things, replenish, or offset local groundwater use. MID, together with a number of other local agencies, identified water that may be available for appropriation and began the process to apply for a permit to appropriate such water from the State Water Resources Control Board (State Water Board).

On December 29, 2019, MID submitted an Application to Appropriate Water from the Merced River and 11 creeks/streams in eastern Merced County (the Application). Generally, the Application relates to water from the Merced River and local creeks/streams that occurs during the winter months and may be put to beneficial use locally. Water may be used as part of potential projects contemplated to achieve multiple benefits (e.g., flood management, environmental use, improved water use efficiency, etc.) In particular, MID and the potential parties to the Agreement anticipate using the water to assist in maximizing conjunctive management activities of surface and groundwater resources. The water will also assist the parties to the Agreement in their efforts to sustainably manage local groundwater supplies, consistent with the Sustainable Groundwater Management Act (SGMA).

Since the Application was filed, MID staff and consultants have coordinated with State Water Board, Division of Water Rights to develop additional information necessary to support the Application. MID has coordinated with a number of other agencies as well, such as the California Department of Water Resources and the Department of Fish and Wildlife. In addition, MID has closely coordinated with a number of local agency stakeholders to ensure broad-based local support for the Application. Although MID initially filed the Application, it was contemplated that other parties may desire to become more actively involved in the process to obtain the water right, beyond general support.

In coordination with staff and consultants for the parties referred to herein, a draft agreement has been prepared through which the parties will work together on the development and pursuit of the Application. Staff for the State Water Board has been apprised. Understanding that the process to obtain a water right permit (and ultimately a license) will be a long and complicated process, the parties desire to set forth the terms and conditions through which the parties may become a co-applicant to, and jointly pursue the Application. Following is a summary of some of the key terms:

- **Parties** – currently contemplated as the Merced Irrigation District; Merced Subbasin Groundwater Sustainability Agency; Turner Island Groundwater Sustainability Agency-1; Le Grand-Athlone Water District; Plainsburg Irrigation District; Amsterdam Water District; Sandy Much Mutual Water Company; La Paloma Mutual Water Company; and Lone Tree Mutual Water Company, however the Agreement contemplates the possibility for other parties in the future.
- **Term** – the Agreement becomes effective upon execution by MID and any other parties that execute within 60 days of execution by MID. The Agreement will remain in effect until it is terminated in writing by the parties.

- Roles of the parties – generally, the parties to the Agreement may be added as co-applicants to the Application, or portions of the Application, however for a number of reasons, MID shall serve as lead coordinator and primary contact with the State Water Board and other third parties. MID will administer the Agreement; pay costs associated with pursuing the Application (subject to reimbursement provisions in the Agreement); and, MID will be the Lead Agency for purposes of compliance with the California Environmental Quality Act.
- Allocation of costs – the Agreement provides that MID will pay 50% of all costs incurred pursuant to the Agreement, and the remaining parties will pay 50%. The remaining parties shall determine amongst themselves how to distribute, collect and provide to MID their respective percentages of costs. This includes not only costs moving forward, but also reimbursement of costs associated with filing the Application (MID paid a filing fee to the State Water Board in the approximate amount of \$544,000) and developing the Application over the last several months. MID will create and administer a separate balancing account for purposes of holding and tracking costs and expenses incurred and paid in furtherance of the Agreement.
- Allocation of water – MID shall be the sole water right holder, exclusive of any and all other parties to the Agreement, as to water from the Merced River. Water from the local creeks and streams identified in the Application will be allocated amongst the parties through a Water Management Agreement, to be negotiated in good faith and executed at some point in the future. MID will be a party to that future Water Management Agreement.

A copy of the Agreement Regarding the Acquisition of Certain Flood Flow Water Rights and Water Supply among the Merced Irrigation District; Merced Subbasin Groundwater Sustainability Agency; Turner Island Groundwater Sustainability Agency-1; Le Grand-Athlone Water District; Plainsburg Irrigation District; Amsterdam Water District; Sandy Much Mutual Water Company; La Paloma Mutual Water Company; and Lone Tree Mutual Water Company (the Agreement) is available for review from staff, upon request.

Staff will be available at the Boards meeting with all documentation referred to in this background report, to provide any additional information and respond to any questions.

ALTERNATIVES:

the Board could determine to not authorize execution of the Agreement. In that case, MID would remain the sole applicant to the Application, and would be responsible for all costs and expenses associated with pursuit of the Application through permitting and licensing. Alternatively, the Board could direct staff to negotiate different terms from those summarized in this background report and contained in the Agreement, or the Board could direct staff to negotiate an entirely new agreement with different terms and conditions.

DEPARTMENT CONCURRENCES:

Water Resources department

FISCAL IMPACT:

There is no cost associated with authorizing execution of the Agreement, as proposed. However, MID has already incurred substantial cost associated with filing and developing the Application to date. If executed, parties to the Agreement will reimburse MID for costs and expenses already incurred, and the Agreement sets forth cost-sharing provisions moving forward as the parties pursue the Application. Within approximately 30 days of executing the Agreement, staff expects MID will be reimbursed \$272,000, or approximately half of the filing fee for the Application, together with half of other costs and expenses already incurred.

ATTACHMENTS:

Description	Type
 Resolution No. 2020-08	Resolution Letter

**MERCED IRRIGATION DISTRICT
RESOLUTION NO. 2020-08**

**RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT REGARDING THE
ACQUISITION OF CERTAIN FLOOD FLOW WATER RIGHTS AND WATER SUPPLY AMONG
THE MERCED IRRIGATION DISTRICT; MERCED SUBBASIN GROUNDWATER
SUSTAINABILITY AGENCY; TURNER ISLAND GROUNDWATER SUSTAINABILITY AGENCY-
1; LE GRAND-ATHLONE WATER DISTRICT; PLAINSBURG IRRIGATION DISTRICT;
AMSTERDAM WATER DISTRICT; SANDY MUCH MUTUAL WATER COMPANY; LA
PALOMA MUTUAL WATER COMPANY; AND LONE TREE MUTUAL WATER COMPANY,
AND AUTHORIZING ACTIONS RELATED THERETO**

WHEREAS, Merced Irrigation District (MID or District) is a California irrigation district that owns, operates and manages substantial water supplies and water conveyance facilities in eastern Merced County for the benefit of its customers;

WHEREAS, pursuant to the Sustainable Groundwater Management Act (SGMA), California's water providers that overlie a groundwater basin are required to develop a comprehensive system to manage groundwater resources at the local level in a sustainable manner. SGMA authorizes Groundwater Sustainability Agency(s) (GSA) to prepare or coordinate in the preparation of a Groundwater Sustainability Plan(s) (GSP) to sustainably manage the local groundwater basin(s). Among other things, the GSA(s) may contemplate the development of water supplies and water projects to assist in sustainable management activities;

WHEREAS, MID is a party to and actively involved in three GSA's, which are responsible for the local management, implementation and enforcement of the GSP developed for the Merced Groundwater Subbasin;

WHEREAS, MID, together with a number of other local agencies, have determined that there are undeveloped and unappropriated water supplies in the area that may be used beneficially locally, and in particular could be a source of supplemental water to assist in efforts to sustainably manage the Merced Groundwater Subbasin;

WHEREAS, on December 29, 2019, MID submitted an Application to Appropriate Water from the Merced River and 11 creeks/streams in eastern Merced County (the Application), contemplating that other local agencies may desire to become more actively involved in the process to obtain the water right, beyond general support;

WHEREAS, a draft agreement through which the parties will work together, in good faith on the development and pursuit of the Application has been developed to set forth the terms and conditions through which the parties may become a co-applicant to the Application as well as pay costs and expenses associated with pursuing the Application through permitting and licensing;

WHEREAS, the Board of Directors for MID (Board) has been presented with and reviewed a copy of a draft Agreement Regarding the Acquisition of Certain Flood Flow Water Rights and Water Supply

among the Merced Irrigation District; Merced Subbasin Groundwater Sustainability Agency; Turner Island Groundwater Sustainability Agency-1; Le Grand-Athlone Water District; Plainsburg Irrigation District; Amsterdam Water District; Sandy Much Mutual Water Company; La Paloma Mutual Water Company; and Lone Tree Mutual Water Company (the Agreement), the key terms of which are:

- Parties – currently contemplated as the Merced Irrigation District; Merced Subbasin Groundwater Sustainability Agency; Turner Island Groundwater Sustainability Agency-1; Le Grand-Athlone Water District; Plainsburg Irrigation District; Amsterdam Water District; Sandy Much Mutual Water Company; La Paloma Mutual Water Company; and Lone Tree Mutual Water Company, however the Agreement contemplates the possibility for other parties in the future.
- Term – the Agreement becomes effective upon execution by MID and any other parties that execute within 60 days of execution by MID. The Agreement will remain in effect until it is terminated in writing by the parties.
- Roles of the parties – generally, the parties to the Agreement may be added as co-applicants to the Application, or portions of the Application, however for a number of reasons, MID shall serve as lead coordinator and primary contact with the State Water Board and other third parties. MID will administer the Agreement; pay costs associated with pursuing the Application (subject to reimbursement provisions in the Agreement); and, MID will be the Lead Agency for purposes of compliance with the California Environmental Quality Act.
- Allocation of costs – the Agreement provides that MID will pay 50% of all costs incurred pursuant to the Agreement, and the remaining parties will pay 50%. The remaining parties shall determine amongst themselves how to distribute, collect and provide to MID their respective percentages of costs. This includes not only costs moving forward, but also reimbursement of costs associated with filing the Application (MID paid a filing fee to the State Water Board in the approximate amount of \$544,000) and developing the Application over the last several months. MID will create and administer a separate balancing account for purposes of holding and tracking costs and expenses incurred and paid in furtherance of the Agreement.
- Allocation of water – MID shall be the sole water right holder, exclusive of any and all other parties to the Agreement, as to water from the Merced River. Water from the local creeks and streams identified in the Application will be allocated amongst the parties through a Water Management Agreement, to be negotiated in good faith and executed at some point in the future. MID will be a party to that future Water Management Agreement.

WHEREAS, the Board desires and hereby determines it to be in the best interests of the District to authorize execution of the Agreement, as substantially presented and consistent with the key terms summarized herein.

NOW THEREFORE, IT IS HEREBY FOUND, DETERMINED AND RESOLVED THAT:

1. The recitals set forth hereinabove are true and correct, and the Board so finds and determines.
2. The Board hereby authorizes the General Manager or his designee to complete negotiations and execute an agreement in the substantial form summarized herein, subject to such reasonable modifications, revisions, additions and deletions as such

executing officer may approve prior to execution, said execution to provide conclusive evidence of the Board's approval.

BE IT FURTHER RESOLVED THAT the General Manager or his designee is authorized to execute such additional agreements or documents, and to take such other actions as they deem necessary or appropriate to carry out and implement the intent of this Resolution.

PASSED AND ADOPTED, by the Board of Directors of the Merced Irrigation District on the 16th day of June, 2020 by the following vote:

Ayes:	Directors:
Noes:	Directors:
Abstain:	Directors:
Absent:	Directors:

Jeff Marchini
 President
 Merced Irrigation District

Robert Weimer
 Vice President/Secretary
 Merced Irrigation District

**MEETING OF THE BOARD OF DIRECTORS OF THE
MERCED IRRIGATION DISTRICT**

DATE: 6/16/2020

AGENDA ITEM:

Five (5) cases pursuant to Government Code Section 54956.9(a)

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MERCED IRRIGATION DISTRICT**

DATE: 6/16/2020

AGENDA ITEM:

One (1) case – pursuant to Government Code section 54956.8

- Property: District Surface Water
- Under Negotiation: Price and terms of agreement(s)
- District Negotiators: General Manager, DGM – Water Rights/Supply, DGM Water Resources and General Counsel