

BOARD MINUTES

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

SUPERVISORS STEVE BENNETT, LINDA PARKS,
KATHY I. LONG, PETER C. FOY AND JOHN ZARAGOZA
December 15, 2009 at 8:30 a.m.

BLID-1000

419.1

CONSENT – PUBLIC WORKS AGENCY - Watershed Protection District - Approval of, and Authorization for, the Director of the Watershed Protection District to Sign the 2010 Table A Water Non-Objection Agreement with the City of Ventura and the Casitas Municipal Water District, and the Watershed Protection District Regarding the Proposal by the Two Entities to Pursue the Options for the Sale, Exchange, or Transfer of Their 2010 Table A State Water Project Water, Supervisorial District No.1, Zone 1.

- (X) All board members are present.
- (X) Upon request of Supervisor Parks, Consent Item 12 will be heard as Regular Agenda Item.
- (X) Upon request of Supervisor Foy, Consent Item 14 will be heard as Regular Agenda Item.
- (X) Upon motion of Supervisor Foy, seconded by Supervisor Zaragoza, and duly carried, the Board hereby approves the staff recommendations as stated in the respective Board letters for consent items 10 – 13, 15-20.

By: _____


Rosa Gonzalez
Deputy Clerk of the Board

CLERK'S CERTIFICATE

I hereby certify that the annexed instrument is a true and correct copy of the document which is on file in this office.
MARTY ROBINSON, Clerk of the Board of Supervisors, County of Ventura, State of California.

Dated: _____

By: _____
Deputy Clerk of the Board

Item# 17
12/15/09

DISTRIBUTION: Originating Agency, Auditor, File

VENTURA COUNTY



PUBLIC WORKS AGENCY
JEFF PRATT, P.E.
Agency Director

WATERSHED PROTECTION DISTRICT

December 15, 2009

Board of Supervisors
Ventura County Watershed Protection District
800 South Victoria Avenue
Ventura, CA 93009

Norma Camacho
District Director

Gerhardt Hubner
Water & Environmental
Resources

Peter Sheydayi
Design/Construction

Sergio Vargas
Planning/Regulatory

Karl Novak, P.E.
Operations/Maintenance

Subject: Authorization for the Director of the Watershed Protection District to Sign the Attached "2010 Table A Water Non-Objection Agreement" Between the City of Ventura With the Casitas Municipal Water District, and the Watershed Protection District regarding the Proposal By the Two Entities to Pursue the Options for the Sale, Exchange, or Transfer of Their 2010 Table A State Water Project Water. Supervisorial District 1, Zone 1

Recommendation:

Authorize the Director of the Watershed Protection District (District) to sign the 2010 Table A Water Non-Objection Agreement (Exhibit 1).

Fiscal/Mandates Impact:

There is no fiscal impact associated with this item. Minimum staff time is involved in handling the administrative aspect of the item at no additional cost to the current budget.

Discussion:

In 1963, the District became a State Water Project (SWP) contractor by contracting with the State of California Department of Water Resources (DWR) and receiving an allocation for 20,000 acre-feet of State Water. The District assigned its entire water right to Ventura River Municipal Water District, now Casitas Municipal Water District (Casitas), on June 23, 1970.

Of the 20,000 acre-feet, United Water Conservation District (United) purchased an annual allocation of 5,000 acre-feet; the City of Ventura (City) purchased an annual allocation of 10,000 acre-feet; and Casitas retained the remaining annual allocation of 5,000 acre-feet.

Since the agreement with Casitas took place, the District has only been responsible for forwarding documentation received from the DWR including invoices, notices, and reports to Casitas, as well as obtaining approval from the Board for SWP contract amendments.

The City wishes to sell its 2009 allocation, which it was unable to sell or use, to United according to the terms of this agreement. This issue was brought to your Board on July 14, 2009, in a separate Board item,

In an e-mail dated November 13, 2009, the District received the attached Agreement (Exhibit 1) indicating that neither the City nor Casitas plans to take delivery of their 2010 allocation; hence they wish to pursue options available to them to sell, exchange, or transfer their 2010 water allocation to another entity or entities.

The agreement memorializes the fact that neither the District nor United has an objection to this plan, nor will they take action of any kind to interfere with or prevent the use of these entitlements. The District staff has reviewed the agreement and has no objection to the stated terms. Signing this agreement will not affect future years' SWP allocations.

This item has been reviewed by the County Executive Office, County Counsel, and the Auditor-Controller's Office. If there are any questions regarding this item, please contact me at (805) 654-2040.



Norma J. Camacho
Director

Attachments:

Exhibit 1 - 2010 Table A Water Non-Objection Agreement

Exhibit 2 - July 14, 2009 Board Letter & March 17, 2009, Non-Objection Letter

"Exhibit A"

October 29, 2009

Jeff Pratt, County of Ventura Public Works Director
Ventura County Watershed Protection District
800 South Victoria Avenue
Ventura, CA 93009-1600

Mike Solomon, General Manager
United Water Conservation District
106 N. 8th Street
Santa Paula, CA 93060

Re: 2010 Table A Water Non-Objection Agreement

The City of Ventura (Ventura) and Casitas Municipal Water District (Casitas) propose to pursue the options for the sale, exchange, or transfer of their 2010 Table A State Water Project (SWP) water. The parties desire to apprise Ventura County Watershed Protection District (VCWPD) formally know as Ventura County Flood Control District (VCFCD) and United Water Conservation District (United), of the anticipated sale, exchange, or transfer of their 2010 Table A water and to obtain from each agency an agreement as set forth herein that neither agency objects to Ventura's and Casitas's proposed plans.

The following background information is provided in regard to the State of California, Department of Water Resources ("DWR") agreements related to State Water Project (SWP) water within Ventura County.

- DWR entitled VCFCD (now know as VCWPD) to receive up to 20,000 acre-feet of SWP water in an agreement entered into on December 2, 1963;
- VCFCD assigned its entire right of 20,000 acre-feet SWP water to Ventura River Municipal Water District, which entity later became Casitas, in an agreement entered into on June 23, 1970;
- United purchased an annual allocation of 5,000 acre-feet in an agreement entered into on July 1, 1970;
- Ventura purchased an annual allocation of 10,000 acre-feet in an agreement entered into on July 7, 1971;
- Casitas retained an annual allocation of 5,000 acre-feet from the original 20,000 acre-feet of SWP Water per the June 23, 1970 Agreement listed above.

The following information is provided in regard to the proposed sale of Ventura's 2010 Table A water:

- Ventura was unable to make the proposed sale to LUZ Solar for its 2009 Table A water allocation and as a result is able to sell its apportioned 2009 Table A water allocation to United;
- Ventura is willing to sell United its 2009 Table A Water allocation subject to the execution of this Non-Objection Agreement and the terms of the attached Agreement for Purchase of 2009 Table A SWP Water.
- Ventura and Casitas do not plan to take delivery of any of their 2010 Table A water allocation;
- Ventura and Casitas would like to pursue the options available to them for the sale, exchange or transfer of their one year, 2010 Table A Water allocation to another entity or entities;

The Undersigned have read and understand the above provisions of this Agreement. The Undersigned have no objection to the sale, transfer or exchange (or a combination thereof) by Ventura and Casitas of Ventura's and Casitas's 2010 Table A water allocation amounts and will not take action of any kind to interfere with or prevent the use of said entitlement. The Undersigned will cooperate, to the extent reasonable in regard to Ventura's and Casitas's efforts related to any proposed sale, exchange or transfer as described herein this Agreement.

The Undersigned agree they are duly authorized official representatives of their respective agency and have the authority to execute this Agreement on behalf of each agency.

VENTURA COUNTY WATERSHED
PROTECTION DISTRICT

Dated: 12/15/09

By 

Name NORMA CAMACHO

Title DIRECTOR

Dated: 11/13/09

UNITED WATER CONSERVATION DISTRICT

By E. Michael Solomon

Name E. Michael Solomon

Title General Manager

Ronald J. Calkins
Ventura Public Works Director

January 6, 2010

Michael Solomon
United Water Conservation District
106 N. 8th Street
Santa Paula, CA 93060

RECEIVED
JAN 11 2010
WATERSHED PROTECTION DIST.

Subject: 2009 State Water Agreement

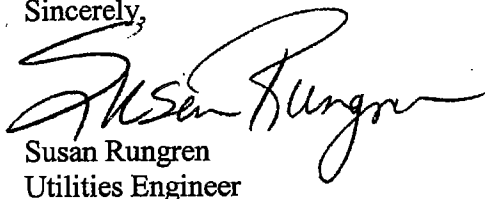
Dear Mike,

Enclosed you will find an executed "Agreement for Purchase of 2009 Table A State Water Project Water" dated November 9, 2009 between and City and United (City Agreement No. 2009-074) along with an original of Exhibit A – 2010 Table A Water Non-Objection Agreement dated October 29, 2009.

As requested in your letter dated September 29, 2009 this Agreement includes the purchase by United of 1,890 AF of the City's 2009 Table A allocation at the rate of \$17.40 per acre-foot (DWR 2009 Pool A water rate). In addition the Agreement reserves United's right to purchase the City's balance of 2,100 AF of the City's 2009 Table A allocation at the same rate of \$17.40 per acre-foot. Furthermore, Exhibit A of the Agreement includes the provision that United and Ventura County Watershed Protection District will have no objection to the sale, transfer or exchange (or a combination thereof) by Ventura and Casitas MWD of Ventura's and Casitas's 2010 Table A water allocations.

We look forward to our continued collaboration with United on important water issues.

Sincerely,



Susan Rungren
Utilities Engineer

Cc: Norma Camacho, Director VCWPD (with copy of Agreement and original of Exhibit A)
Jeff Pratt, Fox Canyon GMA Executive Officer (with copy of Agreement and copy of Exhibit A)
Steve Wickstrum, General Manager Casitas MWD (with copy of Agreement and copy of Exhibit A)

AGREEMENT FOR PURCHASE
OF 2009 TABLE A
STATE WATER PROJECT WATER

1. PARTIES

The parties to this Agreement are the CITY OF SAN BUENAVENTURA, a chartered city, ("Ventura"), and the UNITED WATER CONSERVATION DISTRICT, ("United").

2. FACTUAL RECITALS

This Agreement is made with reference to the following facts:

a. Ventura, United and Casitas Municipal Water District ("Casitas") together hold rights to a 20,000 acre-foot Table A allocation to State Water Project water.

b. Ventura's State Water Project water Table A allocation is 10,000 acre-feet per calendar year.

c. The 2009 State Water Project water delivery for all contractors was reduced to 40% of their allocation.

d. Ventura does not plan to take delivery of any of its 4,000 acre-feet (40% of 10,000 acre feet) Table A Water for 2009.

e. United would like to take delivery of 1,890 acre-feet of Ventura's 2009 Table A Water by having the water released from Pyramid Lake into Piru Creek to flow into Lake Piru.

f. The release of 1,890 acre-feet of Ventura's 2009 Table A Water in this manner would allow United to extend their fall conservation release, thus bringing water to the Oxnard Plain groundwater basin for recharge purposes.

g. United is willing to pay for Ventura's Table A Water as set forth herein this Agreement. Such payment will be used to offset Ventura's revenue loss since Ventura's water was not returned to the State Water Project turn back pool for purchase by other State Water Project contractors. United will also bear all costs of actual water delivery.

h. Ventura is willing for United to take delivery of 1,890 acre-feet of Ventura's 2009 Table A Water.

i. Ventura is willing to allow United to reserve the right to purchase the balance of 2,110 acre-feet of Ventura's 2009 Table A Water ("2009 Carry Over Water") in 2010.

AGREEMENT FOR PURCHASE
OF 2009 TABLE A
STATE WATER PROJECT WATER

j. This Agreement is conditioned on the receipt of all required third party approvals for the present transfer and future transfer of Ventura's Table A Water as contained herein this Agreement.

3. AGREEMENT

NOW, THEREFORE, the parties agree as follows:

- a. Ventura will allow United to purchase 1,890 acre-feet of Ventura's Table A Water for 2009.
- b. United will take delivery and purchase 1,890 acre-feet of Ventura's Table A Water for 2009.
- c. United has ordered its own 1,260 acre-feet (40 percent of its 3,150 acre-feet entitlement) of Table A Water for 2009 from the State and will request 1,890 acre-feet of Ventura's Table A Water for 2009 for release at Pyramid Lake into Piru Creek and delivery from Piru Creek into Lake Piru.
- d. Ventura will, at United's request, call for the delivery, at Pyramid Lake (Reach 29H), of 1,890 acre-feet of its Table A Water for 2009.
- e. United will pay Ventura the 2009 Pool A rate of \$17.49 for each of the 1,890 acre-feet of water purchased from Ventura. The total payment to Ventura, however, will not exceed \$33,056.10.
- f. Ventura will continue to pay the 2009 fixed costs for its Table A allocation (which includes Water System Revenue Bonds payments, the Capital Cost Component - Delta Water Charge and Transportation Charge and the Minimum OMP&R Component Delta Water Charge and Transportation Charge), and the Devil Canyon- Castaic Contract Charges (which includes debt service and O&M charges).
- g. United will pay all actual delivery variable costs (which include the off-aqueduct facility charge and variable OMP&R charges) for all of the 1,890 acre-feet of Ventura's Table A Water allocation.
- h. United will assume responsibility for all required environmental clearances for delivery of the 1,890 acre-feet of Table A Water purchased from Ventura. The cost of any environmental clearance actions required of Ventura shall be paid by United.

AGREEMENT FOR PURCHASE
OF 2009 TABLE A
STATE WATER PROJECT WATER

i. United will assume responsibility for all agreements and coordination required for the scheduling and delivery of the 1,890 acre-feet of Table A Water.

j. United's payment to Ventura for the Table A Water and United's payment to the Department of Water Resources for the variable charges for water delivery will be made from United's State Water Import Fund (which Ventura does not contribute to).

k. Ventura is willing to allow United to reserve the right to purchase the balance of 2,110 acre-feet of Ventura's 2009 Table A Water (2009 Carry-Over Water) in 2010 at the same costs and under the agreement terms stated herein for the 1,890 acre-feet.

l. This Agreement is conditioned upon United obtaining the necessary approval and agreement from the VCWPD, pertaining to Ventura and Casitas future plans and options of their Table A Water allocations for 2010, as more fully described in the Non-Objection Agreement, Exhibit "A" attached hereto. United agrees to obtain a fully executed Non-Objection Agreement from VCWPD and submit it to Ventura in advance of United's receipt of the 1,890 acre-feet of Ventura's Table A water described above.

m. If the Non-Objection Agreement is not approved, fully executed and delivered to Ventura by December 15, 2009, then the terms of this Agreement shall be null and void.

4. TERM

The term of this Agreement shall begin on November 9, 2009, and shall expire on March 15, 2011.

5. RESOLUTION OF DISPUTES

United and Ventura shall exercise their best efforts to resolve any disputes that may arise as a result of this Agreement. In the event a dispute arises, two representatives of Ventura and two representatives of United shall meet and confer to resolve any such dispute. In the event any such dispute is not resolved by the representatives of the parties, the matter shall be submitted to mediation before a mutually agreeable mediator and if the parties are unable to agree on a mediator, a mediator will be appointed by the Presiding Judge of the Ventura County Superior court.

In the event any such dispute is not resolved by mediation, the parties agree to submit the dispute to binding arbitration before a mutually agreeable, neutral arbitrator or, if the parties are

AGREEMENT FOR PURCHASE
OF 2009 TABLE A
STATE WATER PROJECT WATER

unable to agree on an arbitrator, an arbitrator will be appointed by the presiding Judge of the Ventura County Superior Court.

6. GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

7. INTERPRETATIONS

The provisions and language of this Agreement shall be interpreted in accordance with the plain meaning thereof and shall not be construed for or against either of the parties hereto.

8. GOOD FAITH

The parties agree to exercise their best efforts and utmost good faith to effectuate all the terms and conditions of this Agreement and to execute such further instruments and documents as may be necessary to effectuate all the terms and conditions of this Agreement.

9. HEADINGS

The headings used in this Agreement are for convenience and reference only and shall not be utilized in the construction of the terms or provisions of this Agreement.

10. SEVERABILITY

If any term, provision or condition of this Agreement shall be determined to be illegal, null, void or against public policy, the remaining provisions of the Agreement shall nevertheless remain in full force and effect.

11. COUNTERPARTS

This Agreement may be executed in counterparts, each one of which shall be considered an original but all of which shall constitute one and the same instrument.

12. WAIVER

The waiver of any breach of any provision of this Agreement by either party shall not be considered a waiver of any preceding or subsequent breach nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless it is executed in writing by the party making the waiver.

13. NOTICES

All notices, approvals, acceptances and other communications required or permitted hereunder shall be in writing and shall be delivered either in person, by facsimile (receipt

AGREEMENT FOR PURCHASE
OF 2009 TABLE A
STATE WATER PROJECT WATER

verified) or by United States mail (postage prepaid, registered or certified, return receipt requested) to the party to whom the notice is directed at the address of each such party as follows:

Ronald J. Calkins
Director of Public Works
City of San Buenaventura
501 Poli Street, P.O. Box 99
Ventura, CA 93002-0099

Mike Solomon
General Manager
United Water Conservation District
106 North 8th Street
Santa Paula, CA 93060

14. AMENDMENT

Amendments to this Agreement and its terms and conditions shall only be made in writing, signed by a duly authorized official representative of each party.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and supersedes any prior negotiations, agreements or understandings of the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year written below.

Dated this 9th day of November, 2009.

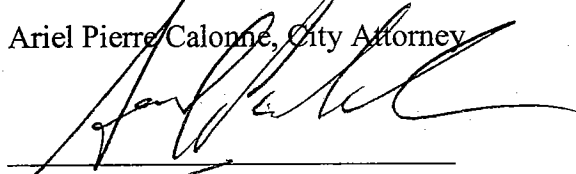
CITY OF SAN BUENAVENTURA

By Rick Cole
Rick Cole, City Manager

AGREEMENT FOR PURCHASE
OF 2009 TABLE A
STATE WATER PROJECT WATER

APPROVED AS TO FORM:

Ariel Pierre Calonne, City Attorney



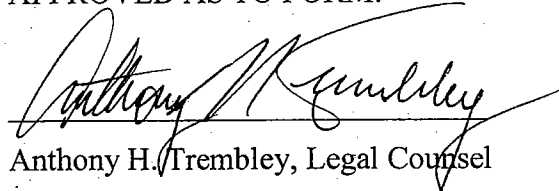
Sonia A. Hehir, Assistant City Attorney

UNITED WATER CONSERVATION DISTRICT

By James H. Kentak FOR M. Solomon

E. Michael Solomon, General Manager

APPROVED AS TO FORM:



Anthony H. Trembley, Legal Counsel

Exhibit A – 2010 Table A Non-Objection Agreement

"Exhibit A"

October 29, 2009

Jeff Pratt, County of Ventura Public Works Director
Ventura County Watershed Protection District
800 South Victoria Avenue
Ventura, CA 93009-1600

Mike Solomon, General Manager
United Water Conservation District
106 N. 8th Street
Santa Paula, CA 93060

Re: 2010 Table A Water Non-Objection Agreement

The City of Ventura (Ventura) and Casitas Municipal Water District (Casitas) propose to pursue the options for the sale, exchange, or transfer of their 2010 Table A State Water Project (SWP) water. The parties desire to apprise Ventura County Watershed Protection District (VCWPD) formally know as Ventura County Flood Control District (VCFCD) and United Water Conservation District (United), of the anticipated sale, exchange, or transfer of their 2010 Table A water and to obtain from each agency an agreement as set forth herein that neither agency objects to Ventura's and Casitas's proposed plans.

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- Ventura purchased an annual allocation of 10,000 acre-feet in an agreement entered into on July 7, 1971;
- Casitas retained an annual allocation of 5,000 acre-feet from the original 20,000 acre-feet of SWP Water per the June 23, 1970 Agreement listed above.

The following information is provided in regard to the proposed sale of Ventura's 2010 Table A water:

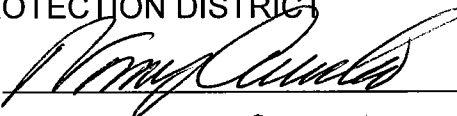
- Ventura was unable to make the proposed sale to LUZ Solar for its 2009 Table A water allocation and as a result is able to sell its apportioned 2009 Table A water allocation to United;
- Ventura is willing to sell United its 2009 Table A Water allocation subject to the execution of this Non-Objection Agreement and the terms of the attached Agreement for Purchase of 2009 Table A SWP Water.
- Ventura and Casitas do not plan to take delivery of any of their 2010 Table A water allocation;
- Ventura and Casitas would like to pursue the options available to them for the sale, exchange or transfer of their one year, 2010 Table A Water allocation to another entity or entities;

The Undersigned have read and understand the above provisions of this Agreement. The Undersigned have no objection to the sale, transfer or exchange (or a combination thereof) by Ventura and Casitas of Ventura's and Casitas's 2010 Table A water allocation amounts and will not take action of any kind to interfere with or prevent the use of said entitlement. The Undersigned will cooperate, to the extent reasonable in regard to Ventura's and Casitas's efforts related to any proposed sale, exchange or transfer as described herein this Agreement.

The Undersigned agree they are duly authorized official representatives of their respective agency and have the authority to execute this Agreement on behalf of each agency.

Dated: 12/15/09

VENTURA COUNTY WATERSHED
PROTECTION DISTRICT

By 

Name Norma Camacho

Title Director

Dated: 11/13/09

UNITED WATER CONSERVATION DISTRICT

By E. Michael Solomon

Name E. Michael Solomon

Title General Manager



Ronald J. Calkins
Ventura Public Works Director