

**MINUTES**

**TEAMRCD**

**Temecula-Elsinore-Anza-Murrieta Resource Conservation District**

**Regular Board Meeting**

**Thursday, October 13, 2016 4:00 PM**

**Truax Building  
41923 Second Street, Fourth Floor  
Temecula, CA 92590**

**I. PRELIMINARY FUNCTIONS**

**Call to Order, 4:00 p.m., meeting recorded by Rose Corona**

**Flag Salute**

**Roll Call/Establish a Quorum:**

**Directors Present: Rose Corona (President); David Kuhlman (Vice President); Carol Lee Brady (Secretary/Treasurer), Michael Newcomb**

**Directors Absent: Viki Long**

**Associate Directors Present: Dave McElroy**

**Associate Directors Absent: Randy Feeney, Rick Neugebauer**

**District Counsel Present: Melissa Cushman**

**NCRS Absent: Bob Hewitt**

**Public/Guests: Hugh Wood, SAWA**

**Approval of Agenda**

**II. CONSENT CALENDAR & III. GENERAL INFORMATION**

President Corona noted that there were no public speakers, and asked if there were any requests to move, change or amend the consent calendar, to include correspondence. There were none, so she asked for a motion to approve. Director Kuhlman made the motion to approve the consent calendar, to include general information and all correspondence. Director Brady seconded. No discussion, and President Corona called for a vote. **Motion passed 4-0.**

#### **IV. ACTION ITEMS/DISCUSSION CALENDAR**

##### **Item 1: Discussion and potential approval of new logo for TEAM RCD**

Director Newcomb reported that he had not amended the logo but said that he would do so; and he recommended moving the item to the next meeting.

President Corona asked if that met with the Board's approval, which it did, and she moved the item to the next meeting.

##### **Item 2: Discussion, update and potential approval of any documentation regarding potential MOU with Regional Conservation Authority (RCA) and partnership with TEAM RCD**

President Corona asked District Counsel Cushman if she had an update, and Ms. Cushman reported that they (RCA) told her that they would call President Corona for a brief conversation and then finalize the exhibit slightly from the way it had been previously approved; then she could bring it back to the Board to be recognized. She further clarified that RCA didn't indicate that anything was incorrect; only that they wanted a few more specifics added to the exhibits and wanted to verify that her information was correct.

President Corona moved to the next item.

##### **Item 3: Information, update and discussion on CARCD meeting in November in regards to scholarship funds and list of those who wish to attend**

President Corona reported that Mandy Parkes (Inland Empire Resource Conservation District) had asked how many directors and associate directors will be attending the conference in Ontario from the 16<sup>th</sup> through the 19<sup>th</sup>, and if they would need rooms. She added that she will be going on Friday, and Associate Director McElroy said that he would like to go on Wednesday and Friday. President Corona noted that hotel rooms wouldn't be necessary, and asked remaining Board members will check calendars and notify her if they're unable to attend.

##### **Item 4: Discussion and potential approval of Conservation Easement monitoring contract with SAWA and dates specific for reporting to be done and reviewed**

President Corona turned the floor over to Hugh Wood (SAWA), and clarified that this item refers to the Adeline Farms and Greer Ranch projects, rather than the Morningstar project which could be discussed later.

Mr. Wood provided an overview of the monitoring contract, explaining that it is a general services agreement; similar to those they have with a number of agencies in Riverside and San Bernardino Counties as well as with the U.S. Forest Service (currently in negotiation.) The format outlines legal relationship,

timely payment, quality of work and insurance provisions and other such requirements available online in the general services agreement.

President Corona asked if this kind of information is similar to an MOU (memorandum of understanding), and he confirmed that it is; except that the general services agreement specifically identifies task orders, also called work orders. Such work orders provide a description of the task (scope of work), estimated hours required to perform the task, and associated cost; and one of these work orders is prepared each time the RCD needs work performed. With this framework, each work order can be reviewed and executed under the previously approved general services agreement without having to be brought to the Board for each task.

He provided the example where a theoretical task might be needed for Greer Ranch, and upon physical inspection of the site the work is more complex, needing draining, damage restoration etc., which would exceed the normal monitoring scope of work. SAWA could submit a work order for approval, and the RCD representative could then review the estimated cost and either approve the extra work via the work order, or choose to go out for bid if the cost seemed high.

President Corona added that this scenario could actually apply to Greer Ranch. During a tour of the site that she had taken with Mr. Wood, the President of the homeowners' association (HOA) showed them an area where the adjacent property had become overgrown and caused the drain plugged to the point that it had become a swamp on the Greer Ranch side, with vegetation that blocked access to the pipe. Although TEAM RCD and SAWA are only required to monitor the area, the biology and reporting needed to address a situation such as this would be more complex than under normal circumstances.

Mr. Wood noted that there would likely be some kind of action to be taken by the HOA against the adjacent property owner who caused the creek to be dammed up, and if found to be illegal there would most likely be penalties to face.

President Corona noted that there don't appear to be as many issues at Adeline Farms; but that Greer Ranch is much larger than TEAM RCD had originally been led to believe from prior records. She said that this was the reason that Mr. Wood had agreed that SAWA pricing could be reduced if they trained someone with TEAM RCD to take photos rather than having a biologist perform that task.

There was further discussion between President Corona, Director Brady and Director Newcomb with Mr. Wood regarding the increased scope of work needed at Greer Ranch and the reasons that the original scope had been underestimated. President Corona and Mr. Wood provided a background

regarding prior years based on the records from the previous Board, and explained that previous monitoring had apparently been performed annually rather than the required four times per year. In addition, the previous biologist's representation of the size of the area and scope of work was smaller than the actual area and scope that SAWA discovered when they visited the site.

Director Newcomb noted that it appeared that based on the information presented a motion was in order. President Corona concurred. Director Newcomb asked if there was any retroactive recourse for any previous work that had not been performed correctly, and Mr. Wood suggested that the instruction the biologist had received would need to be reviewed. Director Newcomb asked if there was insurance to cover the District for the agreement with Fish & Wildlife, and Mr. Wood clarified the way conservation agencies set up a certain status of habitation. Certain agreed upon funding is established for the RCD with endowments to help pay for monitoring activity. President Corona added that the interest pays for the monitoring but had been miscalculated in previous years. She emphasized that there is only one shot at getting an accurate estimate for the endowment to ensure that funding is carried in perpetuity; and then asked for a motion for this item.

Director Newcomb moved to approve the contract for SAWA. District Counsel Cushman asked if the Board would want County Counsel's office to first review and work with TEAM RCD to make any needed minor changes and ensure that everything is correct. She then suggested approving the substance of the terms of the agreement subject to any non-substantive changes after Counsel's review, and then designating TEAM RCD's President the authority to sign the agreement. Director Newcomb included the language in the motion, and President Corona called for a second. Director Kuhlman seconded. Call for vote. **Motion passed 4-0.**

Mr. Wood and Ms. Cushman agreed to work together and follow up with SAWA attorneys to finalize the language.

Ms. Cushman then introduced Ms. Toni Lou, who had arrived at this point of the meeting. She said that Ms. Lou is with County Counsel's office and will be taking over the role of District Counsel for TEAM RCD. She said that she (Ms. Cushman) would continue to work with Ms. Lou and tag team in the event that there are any past issues needing Ms. Cushman's input or recommendation.

## **V. OLD BUSINESS**

**Item 1: Discussion and potential approval of resolution to replace annual audit required by the state with a policy to change the audit process to an audit every three years with additional requirements to meet Riverside County Controller/Auditor requirements. Also discussion and potential approval to forward resolution to the Board of Supervisors in order to**

**obtain unanimous approval of the Board of Supervisors in order the change District policy. Resolution to include a financial compilation and financial review in accordance with the appropriate professional standards that shall be determined by the County Auditor**

President Corona added that the item should have included resolution number 2016-03, and turned the floor over to Ms. Cushman who summarized the issue at hand. She said that this particular resolution is specifically allowed under the government code as long as it is unanimously approved by the RCD Board, and subsequently by the Board of Supervisors. In question is the term "unanimous" which is not defined and has no legislative history in reference to what it means here; and it's unclear whether a unanimous vote by less than five directors would be sufficient to approve it. She stated that her role is to only give advice and said that the conservative approach would be to wait until there were five directors present to vote on it.

President Corona noted that she had spoken with the California Association of RCDs and had sent Ms. Cushman an email summarizing the discussion, and Ms. Cushman said she had received it and proceeded to update the Board with its content. The California Association of RCDs had said that in their opinion the language means that a unanimous quorum is needed in order to satisfy the unanimity requirement. She then reiterated that she was just there to provide advice and counsel, and it's up to the Board how they want to proceed.

President Corona asked if the Board clearly understood the comments of the Association, that as long as there was a quorum it would be considered an acceptable as unanimous. Director Brady asked if the Association would be willing to provide that opinion in writing, and President Corona noted that it had been sent to her via email. Ms. Cushman responded that the email could be considered "in writing." However, she noted that they don't give legal advice to this RCD.

Director Newcomb asked Ms. Cushman for her opinion and she responded that the most conservative approach would be to wait for a five person board for a vote as a unanimous board. She acknowledged that there would not be a "huge risk" that the approval could be voided. Attendance of all Board members was not an agenda item, so the discussion was discontinued.

Director Newcomb noted that it was his state of mind to go ahead and vote on the item based on the quorum, and said that he would like to make that a motion to put it to a vote. President Corona called for a second; Director Brady seconded. No further discussion. **Motion passed 4-0.**

## **Item 2: Update on extension of Water Audits to June 30, 2017 with Mission RCD**

President Corona reported that the extension had been approved by Mission's Board and signed, and moved to Item 3.

## **Item 3: Water Audit Updates**

Associate Director McElroy reported that there were two more people who had signed up since the last board meeting, and the audits should be completed in the next two days. President Corona asked how many acres, and Mr. McElroy said there were five acres of grapes and four acres of avocados. He said that it was a good program and that he enjoyed meeting the people; President Corona complimented him on a job well done.

## **Item 4: Discussion and update of Benton Channel project with Mission Pacific**

President Corona noted that Associate Director was not present, but that Mr. Wood had been at the meeting with Mission Pacific and could update the Board since she hadn't attended. She mentioned that Mission Pacific had met with Ms. Mandy Parkes (Inland Empire RCD) regarding the calculation that was used to reach the figure proposed in the letter from TEAM RCD to Mission Pacific, referenced in the previous Board meeting.

Mr. Wood reported that the representative went into great detail regarding the project and the flight controller water runoff intervention engineering that was going to take place on this development. He outlined the location of the project and an overview of the site including a description of the situation at hand. There has been a substantial amount of runoff in mud coming off the hill, and the developer has a plan to capture most of the runoff. However, the downside is that it affects TEAM RCD. There was extensive discussion between the Board and Mr. Wood regarding the risks associated with being the holder of the CE (conservation easement), and potential damage or invasives, or other intercepts in the process. Although Riverside County Flood has the responsibility for any damage caused by water coming through the five-foot drainage into the CE, the issue goes beyond possible damage to banks. There could be flooding that kills plants, silt and mud causing other problems etc, none of which are addressed in the current agreement.

Mr. Wood brought to the attention of the Board that the current agreement with Riverside County Flood is limited in scope, and an outline of responsibilities isn't clearly identified. Costs associated with the constriction are not itemized, nor is outflow along the drain (then spilling into the CE) and erosion. Other possible impacts could also involve heavy equipment, materials, and construction traffic. The agreement does not address the responsibility of restoring the site to its original condition after construction is completed. These issues are not addressed and need to be resolved with Mission Pacific. He noted that TEAM RCD would have this same issue in any place that

construction is going to take place adjacent to the CE, and although developers are allowed under the terms of agreement to go in and do the work, the consequences and any adverse impact should be addressed. He went on to suggest that the Board review the agreement with Counsel to ensure appropriate protection.

President Corona commented that Ms. Parkes had sent her an updated estimate on Benton Channel, and that it was important to consider these issues with the fact that the RCD needs to take care of them in perpetuity. She said that she would be happy to go out to any of the locations and show members of the Board some of the challenges faced by TEAM RCD; in particular silt in pipes and drainage issues.

She said that Mission Pacific has asked to come to the next meeting to present their numbers, and that TEAM RCD could take the information to Bob Hewitt and NRCS staff for evaluation for review by their engineers before bringing Mission RCD in for further discussion. Director Newcomb asked about the associated cost of NRCS reviewing the data, and President Corona indicated that she believed there would not be a charge.

#### **Item 5: Update and discussion on letter to Flood control regarding current maintenance**

President Corona reported that she had not heard back from Flood Control on the current maintenance with Adeline Farms in this conservation easement, but would continue to follow up.

### **VI. NEW BUSINESS**

#### **Item 1: Morningstar Project – Benton Channel**

President Corona said that she had gone out to the site because Morningstar is another project that will be bringing more water onto the easement. Army Corps was also there – Ms. Peggy Bartels and her boss – and this area seems to be increasing with development and impacting TEAM RCD's conservation easement. She then turned the floor over to Hugh Wood for his perspective.

Mr. Wood said that it was similar to the other site previously reported and described the area as addressing the same flooding area coming off of the small watershed, except further down. He indicated that there's currently no storm drainage runoff protection and it would be good for the developer to protect the homes from that standpoint. However, the risk to TEAM RCD as holder of the CE is that there would be more water diverted to the storm drain. He went into some detail describing the situation and presented the question again regarding whether there was sufficient funding in the endowment to cover TEAM RCD's risks associated with preserving the land. He noted that as far as the CE is concerned, Riverside County Flood has the responsibility of restoring

the banks when there is runoff. The assessment district for that is Valleywide whose job is the maintenance. However, there may be a gap in determining who is responsible for what.

President Corona reminded the Board that this issue goes back to the previous item and the letter TEAM RCD sent to Flood Control asking them to reassess the maintenance company they are presently using because Fish & Wildlife wants to have more CEs monitored by conservation easement sensitive groups that do this specifically. She said that she needs more information from Glen Lucas, who had indicated that he would talk to his client. Another issue is the concern of Ms. Bartels regarding work being performed near the creek.

Director Newcomb asked for clarification to his understanding that this is easement monitoring being discussed, and not remediation requirements. Mr. Wood responded that it was monitor and report. Director Newcomb asked if there is a cumulative impact of having two or more developers exponentially increasing our monitor report requirements. Mr. Wood responded that he didn't think so, but that it does increase the RCD's risks of damage to the CE, which would then increase time and expense of going in, assessing damage and identifying restoration work. There is some question as to who is in charge of enforcement.

President Corona pointed out that the time needed to address this was one of the things Ms. Parkes had included in her estimate, and that we only have one shot to make sure that the District is protected in the funding of the endowment.

Director Newcomb explained that his thinking is that one small development discharging would result in low risk; but with each additional group there is a much greater chance of frequency which means not only doubled potential costs but quadrupled or more.

President Corona said that she is trying to get a meeting with Flood control and Fish and Wildlife for a bigger picture. Director Brady commented that to President Corona's point, it's especially important since this is precedent setting to get it right the first time.

Director Newcomb added that in talking with the developers, TEAM RCD's approach should be in terms of the cumulative effect. President Corona agreed that it was worth further discussion and moved on to reports.

## **VII. ORAL/WRITTEN REPORTS**

No reports.

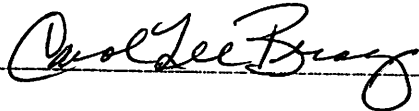


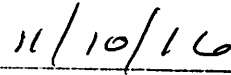
**VIII. CLOSED SESSION**

**Item 1: Conference with legal counsel – anticipated litigation. Potential initiation of litigation pursuant to subdivision (d)(4) of Government Code Section 549569: one potential case.**

President Coronal moved to close open session and move to go into closed session. Director Newcomb made the motion; Director Brady seconded. **Motion passed 4-0.**

No items were anticipated to be reported out of closed session.





**Carol Lee Brady -Secretary/Treasurer**

**Date**