

**MERCED IRRIGATION DISTRICT**  
**APPROVED MINUTES**  
**REGULAR MEETING**  
**July 20, 2010**

The Board of Directors of the Merced Irrigation District met on the above date, pursuant to notice, at 9:00 A.M. in the City Council Chambers.

**PLEDGE OF ALLEGIANCE**

Roll call showed the following Board members present:

Directors:	<b>Tim Pellissier</b> <i>Division 1</i>
	<b>Gino Pedretti</b> <i>Division 2</i>
	<b>David Long</b> <i>Division 3</i>
	<b>Wil Hunter</b> <i>President - Division 5</i>

The following were also present:

General Manager	John Sweigard
Deputy General Manager, Water Resources	Hicham Eltal
Deputy General Manager, Energy Resources	Bernard A. Cevera
Director of Finance	Ken Lee
Manager of Engineering, Water Resources	Bryan Kelly
Controller	Kandi Ramos
General Counsel	Kenneth M. Robbins

Excused absence	<b>Suzy Hultgren</b> <i>Vice President/Secretary</i> <i>Division 4</i>
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President Hunter introduced the District's newly appointed Director of Finance, Ken Lee. He stated Mr. Lee brings an extensive background in accounting and finance with JP Morgan and Chase from New York City and the Orient.

**CORRECTIONS OR ADDITIONS TO THE AGENDA**

None

**PUBLIC COMMENT**

Mr. Jim Mount, a Merced, CA horse ranch owner, addressed the Board. Mr. Robbins stated Mr. Mount is a client of his firm, but he has not consulted with him on the matter before the Board. Mr. Robbins stated although he is not required to excuse himself, he stepped down from the dais. Mr. Mount stated he and two neighbors, Mr. Russ Pearson and Ms. Rita Skinner, who reside on Dunn Road, have come to address the Board regarding water that has been cut off to their properties. He stated three weeks ago their water was cut off without notice and the valve was chained shut. He stated another neighbor up the line, Mr. Grant Langford, complained that the water flow through the ditch that brings water to them was too great and caused flooding to his property. Mr. Mount stated this flooding incident was caused by the valve being accidentally opened too far, which caused MID to shut it down. Mr. Mount stated if MID could loosen the chain and raise it about 3 inches there would be enough water to safely irrigate. Ms. Skinner, 2031 E. Dunn Road, Merced, CA, stated in the 35 years she's lived in this area, this is the first problem. She stated she cannot afford to be without water to her small orchard and pasture cows. She stated there should be a solution to this situation.

Mr. Eltal stated this facility is a private ditch. He stated the District received a flooding complaint and shut down the water supply until a solution is found. He stated the previously described solution can be tested.

Mr. Russ Pearson, 1961 Dunn Rd., Merced, CA, stated he has offered, with permission of the upstream party, backhoe services to clean the ditch that has 30 – 40 years of growth. He also noted there are two pipelines that could be connected which would avoid flooding concerns. Mr. Eltal stated this could be worked out through the CC&R's that designated the ditch for irrigation for all neighbors. President Hunter assured the parties he would personally look into this matter. Mr. Mount provided photographs to the Board.

Mr. Kelly stated staff will immediately investigate if some amount of water can be sent through this ditch without causing mishap, and if so, will implement it as soon as possible. He stated the District cannot clean the ditch as it is not an MID facility.

Mr. Robbins returned to the dais.

### **PUBLIC HEARING**

Mr. Robbins stated this is the time and place appropriately noticed as required by law to receive public input concerning Merced Irrigation District Ordinance 2010-1 to fix and collect charges for storm drainage services provided by Merced Irrigation District Drainage Improvement District No. 1 ("MIDDID#1") during the 2011 fiscal year and review the related Engineer's Report. President Hunter opened the public hearing.

Manager of Engineering, Water Resources Kelly reviewed the 2011 MIDDID#1 Engineer's Report. He stated the Engineer's Report is required by government code. He reviewed the basis of annual assessment fees, namely; maintenance, engineering and technical staff, water quality testing, vehicle cost, operations services and supplies, consulting, insurance, legal, and indirect expenses including accounting and human resources, etc. He stated there are currently 17,731 parcels that discharge urban drainage into District facilities, of which 13,486 are chargeable. He stated these represent 1,988 impermeable acres.

Mr. Kelly reviewed projected 2011 revenue at \$246,000. He noted the unchargeable parcels are due to incomplete agreements with public agencies, deferred fee drainage agreements or uncompleted residential development. He stated 2011 projected expenditures are budgeted at \$232,050. He stated there appears to be no need for a rate increase for 2011. Mr. Robbins inquired if the revenue decrease year over year is caused by tax delinquency or parcels leaving the system. Mr. Kelly stated MID provides a list of parcels and required collection amounts to the County of Merced ("County") annually, and the County returns a list of parcels that are not collectible. He stated he does not know how the County determines collectability and therefore cannot explain the reason behind the decrease.

President Hunter inquired if there was any public comment. There being none, President Hunter closed the public hearing.

### **CONSENT CALENDAR**

President Hunter presented Board meeting minutes of July 6, 2010, and Reports of the Treasurer for April and May 2010. On motion of Director Pellissier, seconded by Director Pedretti, the Board approved the consent calendar items by following vote:

Ayes: Directors: Hunter, Long, Pedretti, Pellissier  
 Noes: Directors: None  
 Abstain: Directors: None  
 Absent: Directors: Hultgren

### **COMMENTS BY BOARD SECRETARY/MEMBERS**

None

### **PRESENTATION**

Mr. Andy Sells, Chief Financial and Operations Officer of the Association of California Water Agencies/Joint Powers Insurance Authority ("ACWA/JPIA"), who administers the District's liability, property and workers compensation insurance programs, made a presentation to the Board highlighting its programs and resources. Mr. Sells introduced Board President Jerry Gladbach and Executive Committee member Joe Dion, also present representing ACWA/JPIA.

**ACTION ITEMS**

Controller Ramos requested the Board consider adoption of Resolution No. 2010-18, approving signatory authority for the District's various banking and investment accounts. She stated, with the hire of Director of Finance Ken Lee, it is necessary to update the signatory authority for District bank accounts. On motion of Director Pellissier, seconded by Director Long, the Board adopted Resolution No. 2010-18 by the following vote:

Ayes: Directors: Hunter, Long, Pedretti, Pellissier  
 Noes: Directors: None  
 Abstain: Directors: None  
 Absent: Directors: Hultgren

Resolution No. 2010-18 reads as follows:

**MERCED IRRIGATION DISTRICT****RESOLUTION NO. 2010-18****SIGNATORY AUTHORITY OVER ALL DISTRICT BANKING  
AND INVESTMENT ACCOUNTS**

**WHEREAS**, Kenneth K. Lee has been appointed Director of Finance; and

**WHEREAS**, the District maintains several banking accounts into which District revenue and reserves are deposited and from which expenditures are drawn; and

**WHEREAS**, it is necessary for the District to update signatory authority over such accounts; and

**WHEREAS**, the District maintains an investment account with the California State Treasurer's Office pool fund known as the Local Agency Investment Fund (LAIF) to which the District transfers certain reserves. Deposits from this account can only be made to or from other District accounts and not to outside parties.

**NOW THEREFORE, BE IT RESOLVED,**

1. Any two, acting together, of the following individuals, effective July 20, 2010, shall have signatory authority over all District banking and investment accounts except the District's account with LAIF:
  1. President, Board of Directors William E. Hunter
  2. Secretary, Board of Directors Suzy Hultgren
  3. General Manager John Sweigard
  4. Director of Finance Kenneth K. Lee
  5. Controller Kandi Ramos
  6. Deputy General Manager, Water Resources Hicham Eltal
  7. Deputy General Manager, Energy Resources Bernard A. Cevera
2. Because all LAIF account withdrawals may only be made by transfer to a designated District account, access to which is controlled as set forth above, the following individuals, effective July 20, 2010, shall have transfer signatory authority over the District's LAIF account, acting singularly:
  1. General Manager John Sweigard
  2. Director of Finance Kenneth K. Lee
  3. Controller Kandi Ramos

**PASSED AND ADOPTED** by the Board of Directors of the Merced Irrigation District this 20th of July 2010, by the following vote:

Ayes: Directors: Hunter, Long, Pedretti, Pellissier  
 Noes: Directors: None  
 Abstain: Directors: None  
 Absent: Directors: Hultgren

  
 William E. Hunter  
 President  
 Merced Irrigation District

  
 Suzy Hultgren  
 Vice President/Secretary  
 Merced Irrigation District

At 10:07 A.M. President Hunter called for a brief recess.

At 10:13 A.M. President Hunter reconvened the meeting with all previously stated directors present.

Deputy General Manager, Water Resources Eltal requested the Board consider the claim of Mr. Gene Edrington for \$800 for flood damage to almond trees near the Parr Lateral. Mr. Eltal stated Mr. Edrington is seeking reimbursement for damaged almond trees resulting from a broken lining in the Parr Lateral. He stated staff has reviewed the proposed \$800 value of the mature trees and lost production and determined this is acceptable to the District. Mr. Eltal stated staff recommends the Board pay the claim in the amount of \$800. On motion of Director Long, seconded by Director Pedretti, the Board approved staff's recommendation by the following vote:

Ayes: Directors: Hunter, Long, Pedretti, Pellissier  
 Noes: Directors: None  
 Abstain: Directors: None  
 Absent: Directors: Hultgren

Mr. Eltal requested the Board consider the claim of Ms. Wanda M. Giles for \$872.13 for damage to a fence due to excessive weed growth. Mr. Eltal stated staff inspected and determined weeds were not the cause of damage to the fence. He also stated the area of damage does not appear to be contiguous to the MID right-of-way, but to a private neighboring property. On motion of Director Pellissier, seconded by Director Long, the Board denied Ms. Giles' claim by the following vote:

Ayes: Directors: Hunter, Long, Pedretti, Pellissier  
 Noes: Directors: None  
 Abstain: Directors: None  
 Absent: Directors: Hultgren

Mr. Kelly requested the Board consider adoption of Resolution No. 2010-19 authorizing the execution of a Grant Deed to A & L Machado Revocable Trust, dated August 21, 2009, for an existing MID fee strip straddling 1,000 feet of the lower Koff Lateral AA. Mr. Kelly stated MID was contacted by Mr. Anthony Machado, as representative of the aforementioned Trust, regarding interest in purchasing a portion of the Koff Lateral AA fee strip that runs through his property. Mr. Kelly stated the affected property is located southeast of the city of Merced, between Healy Road to the west and Union Pacific Railroad/Highway 99 to the east, approximately 550 feet north of Mariposa Way, located in the Northeast One-Quarter of Section 10, Township 8 South, Range 14 East, Mount Diablo Base and Meridian. Mr. Kelly reported Mr. Machado is the only recipient of MID surface water within this reach.

Mr. Kelly stated the proposed purchase price of \$6,260.00 for the fee strip has been calculated using a weighted assessed value of \$4,546.05 per acre (1,000 feet long x 60 feet wide / 43,560 = 1.377 acres). He stated then 1.377 acres x \$4,546.05 = \$6,260.

Mr. Kelly also noted Mr. Machado will execute an Abandonment of Lateral agreement as well. He stated staff recommends the Board adopt Resolution No. 2010-19 authorizing the execution of a Grant Deed to the A & L Machado Revocable Trust per the above, subject to the payment of all associated MID fees. On motion of Director Pedretti, seconded by Director Long, the Board adopted Resolution No. 2010-19 by the following vote:

Ayes: Directors: Hunter, Long, Pedretti, Pellissier  
 Noes: Directors: None  
 Abstain: Directors: None  
 Absent: Directors: Hultgren

Resolution No. 2010-19 reads as follows:

**MERCED IRRIGATION DISTRICT****RESOLUTION NO. 2010-19****RESOLUTION OF CONVEYANCE OF GRANT DEED**

**RESOLVED** that the Grant Deed dated July 20, 2010 by Merced Irrigation District grants Anthony J. Machado and Lorraine Machado, Trustees of the A & L Machado Revocable Trust, dated August 21, 2009, fee title to land in the County of Merced and the same is hereby conveyed by this Board, and that said Grant Deed be recorded in the Office of the Recorder of Merced County.

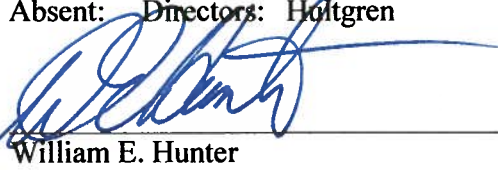
**PASSED AND ADOPTED** by the Board of Directors of Merced Irrigation District this 20th day of July 2010, by the following vote:

Ayes: Directors: Hunter, Long, Pedretti, Pellissier

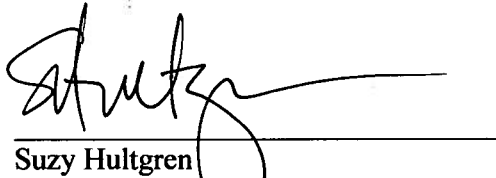
Noes: Directors: None

Abstain: Directors: None

Absent: Directors: Hultgren



William E. Hunter  
President  
Merced Irrigation District



Suzy Hultgren  
Vice President/Secretary  
Merced Irrigation District

Director Pedretti thanked staff for bringing this matter to a close.

Mr. Kelly requested the Board consider adoption of Resolution No. 2010-20 associated with a Quitclaim of blanket water rights to Rancho Estrada Subdivision in the city of Livingston, CA. He stated the subject subdivision consists of 77 lots and is located at the southeast corner of "F" Street and Robin Avenue, with the southerly property line being approximately 1,350 feet north of Peach Avenue, in the city of Livingston, in a portion of the Southwest One-Quarter of Section 26, Township 6 South, Range 11 East, Mount Diablo Base and Meridian.

Mr. Kelly stated the original developer of the "Rancho Estrada" Subdivision, Lafferty Homes, executed an encroachment application and paid the associated fees to MID on August 9, 2005. He stated an appropriate storm drainage agreement was executed and filed for record on January 30, 2006. He stated said drainage agreement provided for storm drainage discharges to a City of Livingston regional storm drainage basin that ultimately discharges to MID's Arena Canal and required the developer contribute its pro-rated portion of costs associated with the Livingston Drain improvements. He reported Lafferty Homes subsequently filed for bankruptcy prior to payment of said pro-rata costs.

Mr. Kelly stated that in March 2010, MID was contacted regarding liens and encumbrances in favor of MID on the property by a potential purchaser (Linda C. Beck Investment Company, hereinafter referred to as Owner) of the remaining lots in the subdivision. Said liens and encumbrances included: 1) blanket water rights described in that certain contract entitled "Contract to Furnish Water" filed in Volume K of Agreements, Page 516 Merced County Records, and conveyed to Merced Irrigation District by that certain document filed February 1, 1922 in Volume 12 Official Records, Page 1 et seq., Merced County Records; 2) a lien covering the required pro-rata costs for the Livingston Drain improvements; and 3) a lien for required connection fees. He reported the seller (FB Holdings, LLC) required all encumbrances, with the exception of the connection fees, be cleared prior to completing the sale. Mr. Kelly stated MID notified the owner that the pro-rata costs for the Livingston Drain improvements would have to be paid based on required reimbursement fees as authorized by MID Resolution No. 2006-38 prior to MID quitclaiming the blanket water rights. Subsequently, he noted, the owner agreed to purchase 63 lots of the development (the remaining 14 lots had already been sold to individuals) and paid a pro-rata share of the reimbursement fee (based on 63 out of 77 lots). Mr. Kelly stated the total fee paid equaled \$21,339.00. Mr. Kelly reported, based on this payment, MID staff supports executing a Quitclaim Deed of any blanket water rights, reserving incidental seepage rights. He stated the lien for connection fees is still in place and will be satisfied as homes are sold and built on the lots.

Mr. Kelly noted the Livingston Drain improvement reimbursement fee payment would normally be transmitted to K. Hovnanian Homes. However, due to MID's payment to a subcontractor (trash rack installation) on behalf of K. Hovnanian Homes, MID will retain these fees to partially recoup said payment.

Mr. Kelly recommended the Board adopt Resolution No. 2010-20 authorizing the execution of a Quitclaim Deed to Linda C. Beck Investment Co., LLC, a Delaware limited liability company, per the above, subject to the payment of all associated MID fees. On motion of Director Pellissier, seconded by Director Long, the Board adopted Resolution No. 2010-20 by the following vote:

Ayes: Directors: Hunter, Long, Pedretti, Pellissier  
 Noes: Directors: None  
 Abstain: Directors: None  
 Absent: Directors: Hultgren

Resolution No. 2010-20 reads as follows:

## MERCED IRRIGATION DISTRICT

### RESOLUTION NO. 2010-20

#### RESOLUTION OF CONVEYANCE OF QUITCLAIM DEED

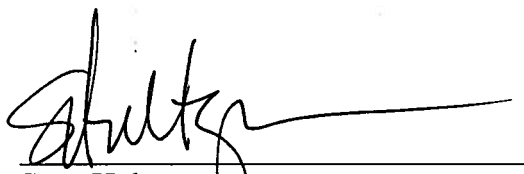
**RESOLVED** that the Quitclaim Deed dated July 20, 2010, by Merced Irrigation District to Linda C. Beck Investment Co., LLC, a Delaware limited liability company, a quitclaim of some right title and interest in a parcel of real property in Merced County, and the same is hereby conveyed by this Board, and that said Quitclaim Deed be recorded in the Office of the Recorder of Merced County.

**PASSED AND ADOPTED** by the Board of Directors of Merced Irrigation District this 20th day of July 2010, by the following vote:

Ayes: Directors: Hunter, Long, Pedretti, Pellissier  
 Noes: Directors: None  
 Abstain: Directors: None  
 Absent: Directors: Hultgren



William E. Hunter  
 President  
 Merced Irrigation District



Suzy Hultgren  
 Vice President/Secretary  
 Merced Irrigation District

#### REPORT ITEMS

Mr. Kelly reported on the status of the MID Groundwater Conservation Incentive Program. He reported the Board approved the program in 1998. He stated the program provides financial assistance to growers to construct facilities to convert from well water to surface water use in exchange for an equitable duration commitment of surface water use.

Mr. Kelly stated cumulative groundwater in lieu recharge since 1998 through this program is 87,813 AF. He reviewed the cumulative cost versus recharge since 1998 at \$725,000 spent to conserve nearly 90,000 AF. He stated this is an affordable program that pays for itself. He reviewed the return on investment ("ROI") by year and noted the ROI for 2010 agreements is estimated to be roughly 15%. He stated these contracts are generally paid back in 4 to 5 years.

Deputy General Manager, Energy Resources Cevera reported on the status of the Energy Resources and Hydroelectric Departments for May and June 2010. He stated this is the best maintained District he has seen.

Mr. Cevera reported on Energy Resources peak megawatt hours, meter counts, outages, meter disconnections/reconnections, the meter inspection program and routine disconnections, distribution maintenance projects, and the Pioneer Substation transformer repair. Mr. Cevera reviewed a Western Grid Loads Year-on-Year Comparison January 2009 through June 2010. He reviewed system demand; natural gas expectations versus the forward curve; and NP15 Index prices.

Mr. Cevera highlighted Hydroelectric Department events, projects and maintenance including submission of the 2011 budget to Pacific Gas and Electric Company. He reported on Exchequer/McSwain Daily Generation for May and June.

Mr. Eltal reviewed the Water Statistics Report and reported as of July 18, 2010, Lake McClure storage is 929,912 AF versus 617,704 AF in 2009. He stated inflow was 1,067 cubic feet per second (CFS) compared to 285 CFS in 2009. He stated staff anticipates the 2010 Sphere of Influence season will end around the end of July. He reported diversions to the system are 1,924 CFS compared to 1,513 CFS in 2009. Mr. Eltal reported the 2010/2011 rainfall year began on July 1 and to date precipitation is zero. He reported July inflow is currently at 55,700 AF or 93% of the 59,900 AF average. He stated current storage of 929,900 AF is 138% of the 672,400 AF average. He stated staff anticipates a good water supply for 2011.

Mr. Eltal reviewed the Merced River Development Project Monthly Operations Forecast through October 31, 2010, with the California Nevada River Forecast Center 90% Mean Daily Flows Issued on July 19, 2010. He stated, depending on demand, there is a good chance there will be little to no flood control releases this year. He stated end of season storage is estimated to be 659,600 AF, just below rainflood space by about 15,000 AF.

Mr. Eltal stated weather reports make no call for temperatures in the near future. However, long range reports forecast slightly above to near normal temperatures and below normal precipitation for August through October and possible La Niña conditions developing.

Mr. Eltal reviewed year-to-date water sales. He stated total water delivered through July 20, 2010, was 115,521 AF. He reviewed water delivery commitments and water diversions. He stated total water diversions from the system were 270,985 AF, which included 3,405 AF of pumped water. He reviewed 2006 – 2010 Year to Date Cumulative Acre Feet Delivered through July 20, 2010.

Mr. Eltal reported there was a recent Merced Irrigation District Advisory Committee meeting. He stated the group discussed potential actions and policies for presentation to the Board for consideration.

Mr. Eltal reported on the status of the Integrated Regional Water Management Plan ("IRWMP"). He stated MID, Merced County, City of Merced and East Merced Resource Conservation District representatives met with Department of Water Resources ("DWR") representative recently. He stated following the meeting staff was optimistic Merced's argument of a separate IRWMP based on hydrologic boundaries was understood. He stated staff intends to move forward in this direction to determine who should be included in the group, which projects to pursue, and how best to compete for funding. He stated MID is very interested in the Mariposa County IRWMP and will be an active participant to promote mutually beneficial projects for Merced and Mariposa.

Mr. Eltal reported on Senate Bill X7-6 that states all basins should be reporting water levels to DWR. He reported that with DWR's staff limitations, implementing this program could be difficult without active participation from agencies and entities utilizing the various basins. He stated the Merced Area Groundwater Pool Interests ("MAGPI") will discuss how to assist DWR by coordinating and reporting this information at its August meeting. He stated staff would not be surprised if MID is requested to report this information.

**CLOSED SESSION**

At 10:58 A.M. President Hunter called for closed session.

General Counsel Robbins stated the closed session was agendized to be held at the District's Headquarters office at 744 W. 20th Street, Merced, CA and that the meeting will thereafter be adjourned from that location.

Mr. Robbins stated there is one item for closed session, containing two subsets, to conference with legal counsel regarding anticipated litigation. He stated authority for this action is under Government Code Section 54956.


He also noted there will be a separately agendized Board Ethics Workshop following the closed session.

At 11:11 A.M. President Hunter convened the closed session with all previously noted Board members present.

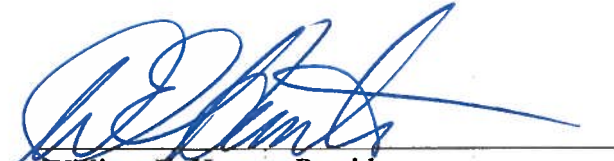
At 11:36 A.M. President Hunter reconvened the meeting into regular session with all previously noted Board members present.

At 11:37 A.M. the meeting was adjourned.

The next regularly scheduled Board of Directors meeting is Tuesday, August 3, 2010, at 9:00 A.M.

  
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Suzy Hultgren, Vice President/Secretary

APPROVED:

  
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William E. Hunter, President