

Redwood Valley County Water District Approved 2-19-15 B.O.D.
2370 Webb Ranch Road
Redwood Valley, CA 95470
(707) 485-0679

Board of Directors - Regular Meeting Minutes
Thursday, January 15, 2015

Directors Present: Pamela Ricetti, Ken Todd, Jeff Basili
Directors Absent: Granville Pool will be late
Staff Present: General Manager Bill Koehler

Call To Order: 6:00 P.M.

1. Roll Call

Present:
Pamela Ricetti, Director
Ken Todd, Director
Jeff Basili, Director

Absent:
Granville Pool, President

2. Hearing of Comments or Questions from the Attending Public

Mary Camp, the new Tribal Administrator for the Redwood Valley Rancheria, and Randi Brown, a council member, have had a couple of meetings with the District to talk about making sure everyone's water needs are being met. They're looking for information and participating to help with water issues in the area. Dir Todd mentions that a good place for them to start would be to ask the Tribe up in Round Valley to let some water come out in the Eel River because that dictates how much water gets into Lake Mendocino. There's some discussion about what Tribe uses what and who knows what about it. Mary mentions how right now Governor Brown has really been putting pressure on the governmental agencies to work with Tribes on water issues and this is a way for RVCWD to get more attention to our problems.

Another person speaks up that he is here as a customer of RVCWD and he says how the leak back in December tore up part of the road by his house and in the course of those repairs, dug across his driveway. The material that was used for the repair was substandard and would not compact, causing problems along West Road. He has repeatedly called GM Koehler about the problem and was repeatedly told it was going to be repaired that week, but it hasn't been done. He thinks the material that was placed there needs to be excavated back out and replaced with better material. He really wants to have RVCWD employees do it because it's much cheaper and less complicated, but if it rains again and turns to mud, he'll have to call in a contractor to fix the problem.

Dir Todd asks GM Koehler when he can get in there to fix it. GM Koehler says that they are keeping a close eye on it and it is pumping [it will move when driven over]. He says that there is 25% more base rock in there, so he thinks calling it substandard is inaccurate. The plan is to monitor the weather and let it dry out as long as possible. The customer says that it will probably be July and he is not willing to put up with it for that long.

GM Koehler says he agrees that it will be a reimbursable expense if a contractor comes in to fix it, but he really wants to let it dry and see if it will work.

The customer brings up that he just wants it fixed. If he has to call in a contractor, which means the County gets involved and then there are added costs with encroachment permits and driveway upgrades, and nobody wants that. The Board seems to agree that the best action is to fix it now and not wait another week.

3. Consider Hearing of Urgent Items Received Since the Agenda Was Posted

NOTE: Granville Pool arrives at 6:18pm.

GM Koehler sent the Board a notice about the County of Mendocino meeting for the water district.

4. Acceptance of Agenda

GM Koehler suggests they get on the phone with their attorney, Paul Minasian, and then move to agenda item 11.

The two representatives from Redwood Valley Rancheria get up to go, reiterating that they want to participate more in the future. GM Koehler mentions that relations with RVR have always been good and they've also done very well in conserving water during this drought.

The phone call starts, *from here on the conversation is essentially verbatim*
Paul: Are there any public members there, Bill?

Bill: Janet Pauli is here, that is the only public member at the moment.

Paul: Okay, good, I know Janet from years ago and by reputation. So moving right ahead, tell me what you'd like to start.

Bill: Well, Paul, as I mentioned in our discussions and the e-mails that originally started out with three topics: one was that we're requesting your opinion on the status and appropriate handling of the Bureau of Reclamation debt into the possibility of being assigned as some kind of a zone of benefit should the dissolution/annexation with [Russian River] Flood Control proceed, the second item was that a number of people and some of the Directors have requested your opinion on the possibility of utilizing the lake storage in Lake Mendocino to somehow take advantage of the 2,800 acre-feet storage component of our water right, and the third issue is some understanding of the impact that the change petition may have on our ability to divert water for the District after the expiration or on February the 10th or after the Lake reaches the current Flood Control level of 68,400 acre-feet.

Paul: Okay. So let me try to start with the one of what good is the 2800 acre-foot of storage in your...in Redwood Valley's water right and can you in some way build upon that by getting a right to store the water in Lake Mendocino without limitation upon the Flood storage limit. I'm very pessimistic that you can ever convert that 2800 to something that is of benefit for you other than build a very expensive, and so far you have concluded that the expense is beyond your means, a physical above-ground storage facility or series of storage facilities, you're sunk. And I think the way to think about this is that you had a record drought in '76 and '77, the PL984 contract was entered into (the first contract in basically '75) so your water right was not issued by the State Board until '79, almost four years after the PL984 loan contract was signed. So, if we look back, I think we're gonna find that you were building this facility long before you knew what the final terms of the water right were going to be. Now, it is customary at that time, that in order to get a storage right you would submit a series of plans for the location of the reservoir, you would show Division of Safety of Dams satisfaction of the requirement, and you would...there would be a 'bricks and mortar' plan for the 2800 acre-foot of storage. Various people have theorized that the 2800 was just picked out of the air and it probably was thought that the grape growers would develop above-ground storage at 15 or 20 different locations and that is a very logical explanation. We do not, as a result of the fact that it was probably just picked out of the air and probably there was no plan submitted for where the 2800 acre-foot of storage would be located to aggregate it, because that was unusual in 1979 when the State Board issued the order. I think the hypothetical that I would operate upon is that the State Board realized that you had already constructed the distribution system and they were going to put in a limitation that you couldn't divert during the summer months and obviously the State Board explained to you and to everyone else where the water was going to come from during the summer months, and therefore, somebody on the staff decided to put in a right to store 2800 acre-feet without really having any plan for it. You also must remember that seven years before, in 1972, the State Board had gone through a contested proceeding in which the improvement district had gone in and with Redwood Valley and said the improvement district has extra water available from it's 8,000 acre-foot yield allocation out of the lake and were willing and able to provide that water to Redwood Valley until our full use in the improvement district boundary is developed. That had been a highly contested proceeding. Sonoma had contested it; other individuals had contested it and the State Board said, "Improvement district, you can provide water on a year-round basis, no limitation in regard to the storage water level in Lake Mendocino, no limitation in regard to GPM (gallons per minute). The State Board had said in '72, seven years before, that's a feasible plan and it authorized that. Now, I bring you back to the 2800 acre-foot. If the State Board is trying to help you out in a way that is very unusual at the time, and you now are saying to yourself "can I use that as a springboard to get some sort of greater right to storage in Lake Mendocino", I think the State Board at least will come back and say "Look, we have given you the right in '72 and the improvement district the right to provide you water with no real prediction by anybody that the 8000 acre-foot would run out at a certain date, and therefore now you're trying to boot strap yourself into 2800 acre-feet of storage in a dam or reservoir, which the State Board, between '67 and '78 they had gone through a number of very complicated hearings in which, for the first time in a reservoir storage project, they had tried to allocate water among protesting parties on the basis of yield. Firm yield. And I could probably bore you to death why that was unusual and new for them, but the effect of it was that they allocated to the improvement district, not a certain flow of water, but a certain quantity of water

that could be taken year after year after year with no schedule for reduction in dry years or greater amounts in wet years, anything like that. So I don't think that it would be successful to try to get a 2800 acre-foot or some lesser amount, greater storage right in the reservoir. Unless three things happen: 1) The Army Corps of Engineers agreed to raise the height of the reservoir, that might make it a possibility, 2) there was some further review or renewal of the flood operating criteria, and that's really kind of a saving-face thing which as a result of the Flood operating criteria, the State Board could review it's yield calculations out of the reservoir and it could say "Oh yeah, we found some additional yield and maybe it's a fair thing to allocate it to Redwood Valley. They're not exactly in the area of origin of the West Branch, but they...er...of the East Branch, but they are in the area of origin of the West Branch and, you know, that's possible. But it requires something to happen first and you don't have much control. And then the third possibility would be consent of Sonoma County Water Agency to some sort of modification of the decisions of the State Board, with the fishery control requirements, I don't think that's very likely. So, let's just have some follow up questions; it may take you a while to register the question you have, don't hesitate to bring it up out of order. But I don't think that's very good chance.

Dir Todd: Paul, I have a question. This is Ken Todd. I'm one of the directors.

Paul: Hi Ken.

Dir Todd: Really, the right we have is not workable, and we were kind of put in this position, you say, back in the '70s. Can't we kind of go back and say this is not working and one of the ways we can do that is with change? I mean, we have 4,000+ people here relying on this water, about 200+ ag customers relying on this water, and it seems like we're getting in a tougher situation each year, even with the drought, even looking down the road it's not going to get better. I don't quite understand how they would deny...I mean, it becomes a health issue, it becomes a lot of different issues. And since they loaned us the money and they required us to have a domestic side to this system when we only wanted an ag system, they're partly responsible for how this whole thing got started.

Paul: OK

Dir Todd: You understand my...

Paul: I think I've got it, but let me rephrase it, and please slow me down if I'm going wrong here. I view this as something that could be phrased as "Who defrauded the land owners and residents in Redwood Valley?" Let's start and go down through the candidates. Should the Bureau of Reclamation have not lent you the money, because you didn't have a water right in hand, and they should have known that Mendocino County Improvement District's 8,000 acre-foot would "go away" at some point in time? I gotta tell you that I don't know that the 8,000 acre-feet has gone away.

Dir Todd: It hasn't so far.

Paul: And this crazy accounting system that the Improvement district has and personalities that were there before Barbara and other people. The bottom line of it is: there's been a hostility there that I don't think anybody can explain rationally. So, again, what I'm saying is that I don't think the Bureau, in granting you the money and allowing the money to be spent before you knew what the terms of the water right permit were going to be would very likely be successful. And if we wanted... Okay, let's go the second part of this. The second candidate of who defrauded you is the parties that went ahead and built the system, should they have expected a water right that Redwood Valley that was going to get to have limitations on it that were downright impossible? Well, you know if you look at the 2,800, you say to yourself "I don't know exactly what would Redwood Valley people and their engineers think they were gonna build." But my guess is they thought every vineyard-ist would be able to afford a high-line reservoir and would tear out vines or not plant vines. What did they think? Did they think one quarter of the acreage of all the area would be in reservoirs? Just, I don't know. I think the 2,800 comes up as a reaction and a realization by '79 by the State Board that we gotta get something down in writing here as to what these people can do. Why did they eliminate totally your ability to use water from May through September? Well, you know the State Board could have written that (and this is my third candidate for defrauding you, if you will) the State Board could have written much more complicated formulae that would have allowed you to use water during those summer months as long as Mendocino was getting it's 8,000 and Sonoma was getting it's calculated yield. I don't know quite why they do that, except that the fact the State Board was deeply involved in the yield study from the Russian River, and it's not very easy, and they seem to have been much more interested in trying to figure out the demands of the riparians of pre-1914s downstream of the dam than trying to allow you to get the last drop of water in kind of normal or above normal years. So, Ken, they could have written that permit to allow you to divert during the summer months. Now my guess is the State Board staff really isn't at fault on that item because they probably had done enough of their yield study to know that a large part of the 8,000 that the Improvement District was going to get was being used by lands that were also into the yield study as riparian users and pre-1914 users. There was literally only 4,000 acre place of use and you could look at that map and I'm pretty sure that part of that ground is riparian or pre-1914 and already in the depletion that left the 8,000 annually available to Mendocino. If you had a reasonably cooperative improvement district, and they hadn't operated always on the assumption that somehow if we cooperate and study this issue with Redwood, Redwood is going to get too good a deal, I'm trying to energize you a little with that comment, the fact is there's a chance, I won't even say it's fair, if you had to look at who caused this problem, say "Who really harmed us?", you'd say to yourself, "Gee, there oughta be a final conclusion of how much of the 8,000 is being used in really dry years and it oughta be counted for." and low and behold, we may find that the 8,000 isn't fully being used even in a year like 2014. That's another area where you have to ask yourself, if that turned out to be the answer and it's about \$100,000 to \$150,000 to figure that out in terms of a contested arbitration proceeding and a board of experts and nobody has been willing to do that up until now. So that's the next candidate for somebody who contributed to this, the Improvement District. I think to myself that it's like one of these murder mysteries where you have a lot of things contributing to it and you have a lot of clues as to what went wrong. The question is now is what do you do about it? And I don't think there's a litigation alternative; there is an arbitrational alternative to figure out if there is any of the 8,000 acre-foot the Improvement District un-utilized. You've got instruments that say...judgments and stipulations, that say if there is any part of the 8,000 unutilized you have a right to it. You have

the rule that water must be reasonably and beneficially used, and although it's complicated trying to figure out whether or not the Improvement District is collecting money from riparians and pre-1914s, and those people are already charged with using water under a different account in the yield study. The fact is, that probably is the best alternative for solving the problem and if you solved it in that way you would then solve the mystery of who created this problem. Because if there had been a proper accounting and it turns out that any of the 8,000 is left, you've been going through this turmoil all these years for literally nothing.

Dir Pool: Very interesting, Paul.

Paul: Don't give up. We don't want to come away with the feeling like we found the solution for this problem, because that arbitration proceeding is something you've looked at before, you've never felt that it was good enough, and I told Bill a number of times it's probably less than 50%. Is it 10%, is it 20%? I don't know because nobody has ever even done a test on part of the 4,000 acre place of use. The Improvement Districts refusal to do that has pissed me off royally for a long time. And it makes you suspicious and that's not fair because the people that have run that have not been perhaps capable of doing analysis and there's been a lot of hostility. And it isn't just caused by the Improvement District. Let's get off the 2,800 and looking for the enemy. What else can I tell you about this?

Janet: Paul, if there's water that's unused by Flood Control out of that 8,000 acre-feet, then why is it a struggle for them to go to license? I mean, is the problem with them that they've had for all these years that they couldn't prove beneficial use of the 8,000 acre-feet? Because they're really NOT using it? I'm a little confused because if there's some part of that 8,000 acre-feet that is not being beneficially used...they've been trying to go to license on that for a long, long time.

Paul: Well, Janet, let me try to be fair about this. Going to license is not the favorite activity at the State Board. The reason going to license is not the favored activity is the State Board likes to think about everybody as dangling at the end of a string and somehow when you have a permit, they think they can twitch the string more than when you have a license. Today that is not a big difference between a permit and license because they've put so many conditions in licenses. So my experience in this situation goes back into the early '80s, and the first thing that I observed was the Improvement District did not wish to admit that they had a duty to meter, to measure, the amounts of water being used by consumers alongside the river, and not just measure people who were paying them. So that's the problem in the '80s. Sonoma County says "Improvement District, you've got a duty to measure all those riparian pre-1914s, collect the data, and distinguish between who's using a pre-1914, a riparian, and part of the 8,000". And whether or not it was the riparians and pre-1914s saying "Don't quantify our use because we know that if you do, you're going to send us a bill. or We know that information is going to get back to the State Board and they're going to say we're pumping too much water." Who knows? But the paranoia in the areas of the Improvement District was reflected in the actions of the Board of the Improvement District. They would never take on the duty or the obligation to hire somebody to go out and insist that people had meters and collect that information. The Improvement District could easily get into its enemy mode by saying Sonoma County wants us to do it, it must not be good for us. So what then happens is the Improvement District and its attorney get this idea that there is an additional yield available from the existing dam and at that point, the desire to go to license

switches. Up to that point, the Improvement District had said "Why do we need to go to license? There's no benefit to us gathering this information and think about all the political heat we'd have to go to to do that. And remember, there wasn't a lot of interest in collecting money for the 8,000 acre-foot as long as they were kind of getting their tax revenues, they were limping along and everything was fine. When Mark Del Piero and the Improvement District folks started to focus on the additional yield available out of that reservoir, then the Board said "We're not even going to consider that issue until you go to license." So then the big push was to go to license. At that point, we pointed out, and I think others, "Hey, you can't go to license until you properly account for the water use within the area." I don't know if that transition...I think that transition kind of explains why they had so much difficulty, never did it, and then all of a sudden they wanted to do it and they come up against this problem where they have to measure the riparians and the pre-1914s and say "Hey, if you're paying us, you shouldn't be because you're using your own water." And of course the ID doesn't want to do that. They want to charge everybody whether they have their own rights or not. There's a justification for that because of the benefits that the project brings to riparians and pre-1914s. I think this frost-protection dispute down there is kind of letting everybody know that there's a benefit from having a reservoir: you can turn the valve and you can get some more water down there. That's the latest change in this. But in terms of difficulty, there is no good report regarding actual consumption of the 8,000 acre-foot has been provided.

Dir Pool: Paul, this is Granville Pool. My understanding of Flood Control's move to go to license is the year they based it on, they got the downstream ag users, which are their customers, for that one year to agree to be fully utilizing their allocation of Flood Control water from the dam to show maximum utilization and even with that they only came very close to 8,000 because Redwood Valley in its so-called "surplus usage" used quite a substantial amount of it, I think 1,700 acre-feet or something like that. Even with fiddling the numbers with the ag users downstream, they're still relying on our using a substantial amount for that year.

Paul: Granville, that's a real good point to make, which is, if you have a good data base, and remember you'll always get a good license for the maximum amount you've used within three years of the date of requesting the license. So you want to make sure you request the license when you're used the water to the maximum extent because in theory, it would be a disaster to get a license for 7,000 acre-feet instead of 8,000. If you think about it, if they get a license for 7,000 instead of 8, we'd go in and make a filing for the 1,000 acre-foot of yield, wouldn't we. The question would be, "Would we be granted it?" I don't know, I suspect the fish would get the right, but who knows. But you're right, that there is some strategy in terms of when you file for license and when you get that three year period prior to that to look at the maximum amount you use. And you're most correct that when they're collecting money from you, which is very helpful, they are kind of quietly admitting the water is being used within your service area. So why is this so arcane and complicated? I've never seen anything quite like the Improvement District and Redwood Valley. I'm trying to be polite as I can. I think most people in the ID would say "Well, we did call it surplus and we'd really like to reserve that forever for the ID users and after all, they are the people who invested in this project..." And I can understand that then the word "surplus" get's put out there and you guys were a little late coming to the table, you can understand why someone out there would want to keep you in the junior status. It's gotten carried to an extent that doesn't make a lot of sense now.

Dir Todd: That's kind of been my point all along

Paul: Do I think you could get....Bill, how would you phrase the issue involving the Bureau indebtedness? Would you phrase it in terms of "If you get dissolved by LAFCo, would that be an excuse for the Bureau to declare the debt uncollectable or do you want to talk about it in terms of if you are not dissolved and just a part of the ID, but Redwood Valley remains an entity for the purposes of having this debt on your service area, will the Bureau be able to discount the debt or do something like that?"

GM Koehler: The question first arose, Paul, more that if Redwood were able to...the dissolved Redwood, whatever is left over, north of Highway 20, whatever you want to call it; if the remainder entity that used to be Redwood, is able to acquire a firm water right through dissolution/annexation, since the language in the subordination of the debt implies that at such a time as Redwood is able to borrow non-Federal money and build the reservoirs and get itself into a status of firm water right, would getting a firm water right...

Dir Pool: And, Bill, the District ought to be able to pay for that.

GM Koehler: Correct. But would that then trigger the same type of repayment clause as would be expected by the Bureau following the build-out following other funds? That's kind of what started this conversation.

Paul: Okay, do it again, Bill. You're saying, obviously, the legislation contemplates that you would be able to get money, you would do something that would solve the water rights problem with the money, and the new money would basically be first security and the Bureau would get paid only at that time and only to the extent that you had the capacity to pay them above the new money.

GM Koehler: Actually, after the new money is repaid.

Paul: Yeah. Okay, so your question is, as I'm getting it: "Can we predict or estimate if instead of new money, what you get is some sort of change in the governmental dimensions of the IP or Redwood Valley, you get some change in the governmental format and it looks like it solves your water right problem. To be honest with you, I don't see how that can be unless the ID sees and admits that it has water forever for you. To do that, I think people's feet are so deep in concrete that the State Board will have to kind of consent to that treatment. But let's just assume that those sort of events occur: LAFCo does something to you, dissolves you...ID... and then there's some affirmation that you've got your water, is that equivalent to new money? I think the legislation doesn't answer that but I think the intention of the congress and the legislation was that if you get a firm water right or firm supply of water, even if it had a drought year condition where you were cut in half or whatever, I think that will be a good enough excuse for the Bureau to say "Hey, you gotta start making payments." And they'll do another economic feasibility study and they'll try to decide if it's feasible for payments to start. Not that's really kind of obvious to me; you don't need me to tell you that. But then there's another political event, series of events occurring that I think are just as important in terms of if this debt gets absolved or dissolved.

That is, we have a number of Bureau customers who owe a lot of money, they didn't get a drainage system because they didn't want one, they have no ability to repay, there's going to be some very substantial attempt to get an adjustment of a lot of construction debt and I really think your PL984 is going to be lumped and included on that same basis. They're going to do a payment ability study - your payment ability study based on comparable domestic rates and agricultural rates, would only allow you to pay a really, really small part of the PL984 including interest on the domestic portion. I think you're more likely to see that theme or that force, bringing up the issue of how much you'll have to pay, as opposed to the LAFCo ID reorganization being the catalyst.

I'm kind of diverting you there. I think what you want to know is if there's a better way to avoid paying the Bureau. Is that what you want to know, Bill?

GM Koehler: I see a lot of people nodding their heads.

Paul: Well, the best way to avoid paying them is to go back to congress and say that the situation has changed yet again. If you go back to the context of all these other districts that are having repayment problems or construction cost problems, that'll make it easier, less of a load on Nick to get some special treatment. My guess is that that probably will be an opportunity for you in the next couple of years regardless. So whether anything happens to solidify your water availability or not, or happens through LAFCo, I think you'll have a crack at getting the debt reduced just on its face, without waiting for the new money or firming up the water. But let's assume none of that happens, then the LAFCo event is an opportunity to get back to Congress on a one-on-one basis and say "Well, we didn't get any new money, but here's what we did get and here's the way the economic ability to pay looks at this point, won't you restructure this debt down to 10 or 20%, no interest on the ag portion, interest on the domestic portion, because that's a holy term in the 984." And, you know, that'll be an opportunity as well. But I just don't see a way that the original concept of new money coming in and waiting until the new money has been repaid to start the PL984 program and having inflation eat the PL984 up to such a degree that it really isn't a burden on you. I don't see how that is ever going to happen and at the same time you get a firm water right out of the moratorium, which is what you want.

GM Koehler: A quick aside, Paul. You mentioned Nick. If we do choose to pursue some sort of lobbying effort, would you recommend that we work with Nick Tibbetts and Doug Bosco.

Paul: Well, amazing that they still have their connections and their insides. Yeah, I have high regard for them; I'm sure there are other people who could do as good a job and when Feinstein is gone and Boxer's gone, the picture may change. But right now, that would be a reasonable choice. There's nobody better that I know of. Is there a disguised question there? Is the question, "Could we go back to Congress on the pretext of the ID and Russian and Redwood Valley want to reorganize their affairs and we can't reorganize our affairs unless the Bureau makes a final determination of the how much money is owed under the PL984?" Yeah, you could. I think there are some real obstacles to doing that, but it's possible. There will be a drought bill; we just had another set of legislation put in today by Boxer and Paula Conno (?) of all people. There's all sorts of openings throughout these legislations and there will be a conference between the House and Congress at some point on something relating to droughts. It's possible for you to get a part

of that. But I don't think you'll get totally absolved of the debt through that drought bill. You might get totally absolved of the debt through a "let's solve this drainage problem in the Central Valley and these people can't pay anyway."

GM Koehler: Any other Board questions on that particular item? OK, so are we down to... You've kind of touched on the issue of the impact of the change petition and the timing and the lifting of the change petition on February 10th, and the fact that in your.... what you said earlier essentially the 8,000 acre-feet of the ID actually isn't or shouldn't be impacted by much of anything.

Paul: Exactly. Let me do a little riff here, like a rock n' roll musician. It's kind of interesting that Redwood Valley's water right does have a condition regarding the amount of water that must be in Flood Control reservation, does have a condition regarding the 150 cfs in the river, but it's all because the Department of Fish and Game entered into an agreement with Redwood Valley and that agreement got incorporated into your permit. The State Board's staff didn't put those conditions in as independent conditions in your water right. So Bill, the other day, was trying to ferret all this out. If there's 150 cfs in the river and the Department of Fish and Game doesn't employ the limitation on storage 'cause we're not up to the Flood storage level, can Redwood Valley go forward and divert water for frost protection until May under their water right? The answer is, well, yeah, because it looks like the agreement with Fish and Game is incorporated but it's not a direct condition that you must be up to the full Flood Control reservation or above it to divert. Now we've always interpreted this that it doesn't matter whether it's in a contract with Fish and Game or it's in as a specific term of your water right. Bill and I were talking around about this and I was kind of trying to make a point to him. I don't know whether your diversion on March 15 or March 30 for a frost protection event under the Mendocino Improvement District's 8,000 or you're diverting under your water right. I literally do not know that. But if somebody asked you what you would always say is "I'm under the ID, these conditions relating to Flood Control storage and 150 in the river, they don't mean a thing unless you can prove I'm not under the ID." The person that's asking the question will come back to you and say "Well isn't it your obligation to prove there's water available from the ID?" and the answer is "Well, that's a fair response." And then you begin to realize you can't answer the question because the ID doesn't count the data, there has never been a dispute and arbitration, it's like everybody up there is in the fog all the time. Would you get away with it? Would you be able to get away with a divert for frost damage? Well sure. Then somebody's going to say that you owe \$2,500/acre-foot penalty and \$10,000 in fines and then what will probably be in the soup. But I think you've got a reasonable position that there's water available to you in these sorts of hydrological circumstances under the 8,000.

Dir Pool: Even if Flood Control says No, you can't have any?

Paul: Exactly. You know, it's very intimidating to have Flood Control ID say that, it really is. But the facts really haven't changed.

Dir Ricetti: Now that is interesting.

Paul: It's all fascinating to water rights. What we need to do is get rid of the emotions here. I really think the ID, you know I haven't had any direct contact with anybody down there for quite

a while, but I get pretty good information, I think, from Bill, and there are people down there that see the world as maybe you're not the enemy anymore. But in terms of getting this data together and actually examining part of the service area of the ID, if we created a model, we took these existing models, how much of this is really natural flow used by riparians, how much is stored water used by pre-1914, pre 1953 right holders? You know, that wouldn't be that big of a job to take a thousand acres down there out of the 4,000 and try to figure out how much net depletion there was from diversions on an annual basis by those people from wells or surface water.

Dir Pool: I have another question for you, Paul, in this same vein. When Flood Control cut us off last year, and said that they were putting the whole 8,000 to beneficial use in sense that they cut all their contract customers down to 75% even though that left 2,000 acre-feet of the 8,000 that they were obviously not intending to use at all, their position is that they were doing that for conservation to leave water in the lake for future use because we're in a drought and therefore that is beneficial use. How do you feel that would really stand up in light of our stipulated judgment to use any surplus water that's not utilized by the contract customers?

Paul: Let me just try to dredge from my memory what I thought at the time. I'm not going to be real up on this particular issue. Remember, the 8,000 is a net depletion amount based upon a model. So if you don't use 8, as far as I know there's no right to store 2 in the reservoir.

Dir Pool: Right. It's if it's not used by the end of the year, it's gone.

Paul: Well, it's possible to argue with (I think this is what they're doing) "Well, we're under drought and we gotta conserve and the way we're going to conserve and explain it to our growers is we're going to say we're saving water for next year." Well, the next year they don't get to pull 10. Unless the State Board somehow changes its methodology and does another depletion and yield study. You can tell I'm not thinking that's a very good explanation. The second part of it is, I don't see anywhere that the ID can say reasonable beneficial use in a drought requires our customers to use 7.5 inches instead of 10 inches on their ground (a 25% reduction) and therefore the water saved isn't available in the 8,000 for the ID. Now what seems to me reasonable beneficial use requires that you do something similar, from a conservation point of view, and of course you did. So, Granville, I don't know I'm answering your question, but..

Dir Pool: I kinda think you are.

Paul: This mechanism of sometimes treat the 8 as quantity you can pull out of the reservoir on a tap-basis and sometimes you treat it as 8 that isn't a depletion amount based on a model available dry year and what you're allowed and at certain times you explain the 8 away so that you don't have to commit anything to Redwood Valley. It can't be all of those things. I don't think it's just unfamiliarity with hydrology anymore, it's obviously manipulation to keep you guys dangling and under their control.

Dir Pool: Ergo, it's political.

Paul: Yeah, it's too bad.

Dir Ricetti: This is Pamela Ricetti, I've had a water license and I've had to account for every drop that I used. How do they continue to not have to do that with the State?

Paul: One way to think about it is that it's a more complicated computation when you're dealing with return flow, supplying water to sandy soil the water goes back into the river, back into the drains, the subsurface, that's more complicated. Other people do it. People do it all over Central California and Southern California. I just don't think it was advantageous to the ID from a political or economic point of view to distinguish all these people that are using water that have already been accounted for in the depletion analysis as riparian and pre-1953 users. Those people, if they were declared that, they'd say why am I paying you? And if they weren't paying at that point in time and the ID went through the trouble of making them measure the water they took out of the pump or the well, they'd have to come up with a construct of how much of that water returned to the river and they all....it was much simpler to say "You all better pay us because if you don't pay, you know...." and then never do the study. The State Board was spending more time saying to Sonoma "Sonoma, you get the ID to do that." And none of them wanted to go to court and have adjudication. And the first thing a court would have required is to have an expert be appointed, he'd be the water master and this would all get done.

Dir Pool: "Water master" is not a term many people around here would want to hear.

Paul: And it's expensive. Now I wonder what the frost protection people are thinking at this point in time in regard to the advantages or disadvantages of having dodged this water master's service all these years.

Dir Pool: Good question.

Janet: Paul, this is Janet Paulie and I'm involved quite a bit on water demand management program process, and it's interesting and so far it hasn't been very expensive, but we don't really know what the State Board is going to do about this frost water on the main stem; as you mentioned earlier, it's pretty straight-forward. We need more water, it's monitored, we can release it from the lake for frost, it's okay. It's the tributaries where there's a problem. Right now, every single individual tributary has their go-to person and the fish-friendly farming folks have offered to help collate all the data for each individual watershed. They're trying to do it without spending a lot of money; at least not up front. So it's going to be very interesting to see what happens and it's going to be an interesting lesson for the rest of the State.

Paul: So the tributaries say to themselves, "Well, if we've got a water master it wouldn't do us any good because, basically, there's no solution for the frost water use that basically allows coordination, to make it work to keep enough flow in the tributaries." Is that the way?

Janet: No, I think that what we're going to see is that we are going to see coordination with time and people building more off-stream storage. One of the things, of course, we don't have that the State Board isn't going to help us get are passage flow data. So all these tribs are going to end up having gauges put in them if they don't already have them, and most of them don't. And that's going to be a cost borne by the land owners and the frost water users, but I think you're going to see a move toward more off-stream storage in the tribs, but treating each tributary as an

individual, some of the tribes only have four or five growers, some of them have forty. So it's more complicated than it looks and the State Board is doing what they normally do: they're letting us fix the problem. We're trying our best to do it without spending any money while still coming up with a product that will suffice.

Paul: Well, I got a little bit off there because what we were trying to figure out was, was there a force out there that was going to cause the ID to have to do this study...the equivalent of the arbitration determination of how much of the aid is being used. I think it's coming extremely slowly. The frost issues, the minimum flow issues in the stream: at some point it will come to the advantage of the ID to actually do the measurements of how much water is being taken by individual growers, how much is being returned, and the travel time until the return arrives at the river. Whether it will be the frost protection or the desire to get a license and move on to this idea that there's more water in the dam or reservoir and/or whether it will be the 3-by-3-by-3 discussion that Bill was talking about with the Army Corps of Engineers, who quite knows? But eventually, my guess is that question would be answered.

Dir Pool: Who knows, maybe someone not that far from this room will be young enough to still be alive at that time.

Dir Ricetti: Is that a vulnerability for the ID to not be able to account for the 8,000 acre-feet if we did come and say we're going to pump water?

Paul: Yes. But the ID doesn't worry about that too much because they say well, if you divert water and you say 'We're using the unused portion of the 8,000' or 'We're diverting under our own water right', the ID thinks, and this is what happened previously, that the State Board would come in with its fines and its threats and basically say "Cease and desist pumping unless you come in and prove to us that there is water you have a right to." That has happened, the State Board has done that and they didn't turn its attention to the ID. It's this arbitration procedure that the State Board staff, they didn't say it formally, but they said, look, if you really believe that there's part of the 8,000 unused, why didn't you go to arbitration, why didn't you make the ID do that study? One of the fears of the arbitration process is that you'd end up funding a lot of the work to try to prove how much the ID is actually using.

Dir Ricetti: Well I find it interesting in our dissolution-merger talks that they told us that they had water to serve Redwood Valley, didn't they.

Dir Todd: Yes.

Dir Ricetti: Didn't they tell us 2000, what did they tell us?

Dir Pool: I don't recall that we ever got a firm number, but something probably in the range of at least 1500.

Dir Ricetti: I remember 2000 acre-feet being rapped around. But how can they tell us that if they don't really know? What if we merge and then they say "Well gosh, I guess we don't have what we said we have. Too bad, Redwood Valley."

Dir Todd: If it's after the merger, they'd have to cut all of their customers; not just us.

Dir Pool: Have we discussed all of the points that we wanted? I guess we're done then, Paul.

Paul: Well don't ever hesitate to call back if you end up with some questions a half-hour or an hour from now or another evening. I apologize to you that I can't give you a lot of good news or an inexpensive solution to this problem.

Dir Pool: You've educated us in some very interesting ways, Paul.

Paul: Let's just say we're in the end of March and you've got a frost warning for 26 degrees for three nights, let's take a look at what we know at that point and try to make a reasonable judgment as to how we need to portray the right to water based on what I suspect right now, there's a fair argument that part of the 8,000 available for that use.

Dir Pool: Sure sounds to me like there is.

Paul: Then the question is should be communicate with Fish and Game and say, "Hey, we got this agreement incorporated in the water right", let's just think out loud here: it is a drought, the State Board didn't include that as a specific condition, does that make a difference? I think the State Board would say that it doesn't matter, that it was in an agreement and it was incorporated, the whole agreement was incorporated. I have to say, legally, the State Board was right about that. It would be good communication to talk to Fish and Game. Then, my suggestion is we continue to take the high road with the ID. I think that's what you've been doing for the last 5 or 6 years and you all need to say "Look, we're going to assert there's water available under the ID right, we'd like to do a sample, kind of look at what's going on down there, and who's riparian, who's pre-1953, who's claiming a pre-1914 right and let's just try to figure out what the conditions are. I don't think they'll cooperate because they're afraid of where it leads. People can change their attitudes over time. That's so general I'm not sure it's valuable, but it's what I thought I want to let you know, that I'm thinking about how to make that decision and that argument in the end of March.

Dir Pool: Well you've certainly given us some things to think about.

Paul: I wouldn't worry about the domestic customers. I mean, the whole gravamen of California water right now is, make sure the domestics have water. That's not a problem; you know it's not a problem. The problem for us is getting enough certainty about water that you can make new connections. I'm not so optimistic about that. Okay. Thanks, nice talking to you all.

All: Thank you, Paul.

End of phone call and verbatim transcription

Dir Todd mentions that this adds to the argument for raising the level of the lake. Dir Pool wants to add that the discussion with Paul and the things that he said need to be detailed enough to refer to. There is a specific request that the phone call be transcribed as such.

Agenda Item 11: Janet says she wanted to come and talk about what happened at the latest meeting and will start by giving a brief background. It starts back in the '50s. The reason Coyote Valley Dam was built was for Flood Control. The Corps had a three-phase project: Coyote Valley Dam, Warm Springs Dam, and then build Coyote Valley Dam 36 feet higher, all authorized by Congress. It fell away for some reason, it's debatable, but basically it functioned just fine as flood control, but the drought in the '70s showed it wasn't good enough for reliable water. Talk of raising the dam came back in the late '90s and in the early '00s, the Corps did a study at our request at no cost. They agreed that a feasibility study was reasonable. There is a cost for that with a 50/50 split with a non-federal sponsor. Inland Water and Power Commission lobbied hard to be the local sponsor but Mendocino County fought hard to get that position. Ultimately, IWPC got it. For about 4, small bits of funding came through and it all came through Congress because of Feinstein. It came to a cost of \$1.6 million combined. All 5 agencies of IWPC contributed until about the last year - the very end. They were notified by the Corps about a year and a half ago that because they didn't get Federal funding for three years, the project was going on inactive status. Things might get going again when their budget improves. About 9 months ago and said after a cost-benefit study, they decided not to do it. The cost-benefit study was two pages long with a cost of \$300 million by taking the cost of building it in the 1950s and extrapolating the cost to today. The benefit was set at \$100 million. The ratio has to be 1:1 to even consider it. The IWPC said they're wrong, and with the money spent, there needs to be a way forward. There is, however, a new process with 3x3x3 where the feasibility study takes 3 years, costs \$3 million, and is 3-inches thick. The only way to even be considered is by a scope charrette (little cart in French) which is a 3-day process with a site visit and meetings, which will cost \$60,000 to \$80,000. The nice thing is that they had that much money still left in the budget (since that's how much it would cost to shut everything down). So they paid for it. She put together a PowerPoint presentation and gave it in the morning and immediately got questions that indicated they had no idea what Coyote Valley Dam was used for or why it needed to be raised. Their main impression was that the dam was about future growth instead of current problems. Then they were very surprised about all the crops grown, \$500 million in Mendocino County in one year. Sonoma County, too. The final straw may have been the threat to fish by bad water from too small of a dam. One lady specifically expressed surprise that this was multi-use project. They decided to write it up and move it into a planning process immediately. They said they can come up with about \$400,000, but that means we have to match it. The good thing is that a lot of required studies have already been done and some others will have to be re-done. Sonoma County water agencies are also ready to get involved. While Sonoma County may be willing to pay IWPC wants to pay for it because whoever is involved in paying for it will reap the benefits. It will take care of where RVCWD can store its 2,800 acre-feet and water release for fish downstream, and pretty much locks into place the importance of the Potter Valley project. Without that project, the lake would probably only fill ever 2 out of 5 years. And that's with the reduced flows. There are a lot of good things to come out of this, but the cost is still high. Carre Brown and she are going to Sacramento next week to talk with the new Senator and Assemblyman, both of whom understand the importance of these projects. Maybe they'll be able to get a part of that huge water bond. But it may not happen. She knows this Board is pretty

reticent about this in the past, but this is a lot better chance. This whole thing is not a guarantee, but it is looking much better. The Corps would fix the spillway as part of the deal, Potter Valley can benefit from it, and the land is already available. Based on the history of this dam, raising it would eliminate drought in this area.

Some talk comes up about improving the hatchery and how they would raise the dam. Dir Todd mentions that a problem would be the need to relocate RVCWD's pump station. Janet explains that its relocation would be part of it. This is just a win-win-win project. Maybe we could even get the State really involved since it's a relatively easy project; something the government could be proud of. Janet finishes and leaves.

A recess is called for by Dir Pool at 8:15pm.

Session convened at 8:25pm.

4. Acceptance of the Agenda

Motion: Accept the agenda

Motion by Dir Todd, second by Dir Ricetti

In favor: unanimous

Dir Pool brings up something that Paul Zellman wrote in an e-mail that made it seem like it was legally necessary to do a roll-call vote. He read the stuff that Zellman linked and read other opinions and it seems that as far as what we do, there isn't a legal need. If the vote is not unanimous, than a roll-call is needed; otherwise it's a waste of time as long as you have noted who is present at the meeting. Some discussion ensues, but everyone agrees a roll-call vote is not necessary.

5. Approval of Consent Calendar

Motion: Approve the Consent Calendar

Motion by Dir Ricetti, second by Dir Basili

In favor: unanimous

6. Approval of Minutes as Presented

They all agree that the minutes look good.

Motion: Approval of the Wednesday, December 10th, 2014 minutes

Motion by Dir Todd, second by Dir Basili

In favor: unanimous

Motion: Approval of the Thursday, December 18th, 2014 minutes

Motion by Dir Basili, second by Dir Ricetti

In favor: unanimous

Motion: Approval of the Tuesday, December 30th, 2014 minutes

Motion by Dir Ricetti, second by Dir Basili

In favor: unanimous

Talk moves on to the cost-benefit analysis by the Corps on raising the dam. There's talk about how much the various vineyards bring in from wine sales throughout this and Sonoma counties.

7. Directors and Staff Reports and Discussion of Non-Action Topics

Nothing to discuss. Except that if RVCWD participates in the feasibility study for the dam, rates will go up. But that'll be for a good cause.

8. Managers Report

a. Phone Conference with Paul Minasian

Already taken care of.

b. District Operations

The leaks we've been dealing with, illustrated by the customer in earlier, have coming up because of an old style of installation that puts stress on the collars where the lengths of main pin together. There are many miles of this pipe with the same problem and as it gets older and the ground settles, we'll be seeing more of these breaks in the lines.

We think we've finally got the Coyote Valley Reservation leak fixed today. It was from faulty installation by the contractor who made changes a few years ago.

c. Water Quality Problem

It's still a struggle. The disinfection by-products are too high and are not going away. The maximum contaminant level (MCL) for tri-halomethanes (THMs) is 80 parts per million (ppm) and it's at 120 ppm. Even with the current reporting method of a running average, this is too big to be blended in. What will probably happen is that the Division of Drinking Water will make us put in aerators in the water tanks. Solar aerators will be about \$20,000 each for 6 tanks. Dir Ricetti asks if the intertie water will be going into these tanks. GM Koehler says to hold that question for later.

d. Board Officers

There is no vice-president, so president, vice-president, and committee appointments are needed.

Nomination: Granville Pool for President

Nomination by Dir Ricetti, second by Dir Todd

In favor: unanimous

Nomination: Pamela Ricetti for Vice-President

Nomination by Dir Basili, second by Dir Todd

In favor: unanimous

Next month there should be appointment for committees. This election was remembered last-minute and needed to be done in January.

e. High Usage Penalty

Last month there was a stated desire to look at these penalties again. Staff recommendation was given and GM Koehler agrees, to leave the past alone except to set a \$1,000 cap and retroactively reimburse people who were charged over that amount.

Motion: Cap the penalty at \$1,000 and reimburse the past charges over that amount

Motion by Dir Ricetti, second by Dir Basili

In favor: unanimous

f. JPA

The JPA agreement has been forwarded to the State along with the "exorbitant" fee of \$1. There will be some other costs involved since the State will want to audit the JPA, but that should be a minimal cost. GM Koehler recommends discussing a representative for the JPA from RVCWD and recommends Dir Todd since he is an ag interest and would be the only such representative in the JPA since only Millview has ag customers, and few at that. Dir Todd asks if he will have time to come to this Board before voting on things with the JPA. GM Koehler says that with way things are written, he can't take action without the Boards approval and is essentially a liaison.

Because of the fact that all votes in the JPA have to be approved unanimously, it is possible for someone to be a pain by never voting with everyone else and there's nothing to board could do about it because voting that person out would never happen. But the JPA could vote to change that provision in the future.

One of the reasons to push this along is that water contracts with Russian River Flood Control are due by February 15th. Dir Todd wonders how the contract can be ready when we don't know how much water is in the lake. The supply issue is.... GM Koehler says that what Paul said is the part that's been bothering a lot of people is that RRFC has a guaranteed shot at 8,000 acre-feet no matter what, with no carry-over. So what is this artificiality of creating a false lack-of-surplus. Because it also impacted Millview, Willow, and Calpella. How much did they really use? GM Koehler says it was about 5,500 acre-feet and in July they used more than any previous July.

In any case, this needs to be thought of now because that February 15th deadline is coming up quickly. Some discussion ensues about what to say to the JPA about RVCWD turning its pumps on without authorization from Flood Control. Another meeting will be held in closed session, justified by pending litigation, because as soon as those pumps go on, someone from RRFC will be headed to Sacramento to get a cease-and-desist.

Dir Pool reminds that in addition to electing a representative, the whole board needs to be set up in succession so that there will always be a representative at the JPA meetings.

Motion: The JPA directors start with Todd, Pool, Basili, and Ricetti

Motion by Dir Ricetti, second by Dir Basili

g. Water Supply 2015

The intertie worked right out of the gate. The tanks are full and the pumps turned off on their own. Millview does not have automatic controls on their well yet, so they turn Masonite 6 on at 500 GPM and then the plant, which is completely automated, makes up the difference. Dir Ricetti asks if we are getting their water, will that help our water quality? GM Koehler says that actually makes it worse because we can't totally empty the tanks to cycle the water. Before, we could draw the tanks down and get almost a full tank of fresh water, but now they need to be topped off most of the time.

GM Koehler then explains in more detail how the pumps and switches work. The nice thing is that we're not dependent on RRFC for domestic water at all. It leaves us free to look into getting ag water back up and going. There's some talk about what Millview will charge for their water and Calpella for wheeling the water to us. With our plant currently off, we'll probably be saving about the same as what we'd spend buying water from Millview.

Dir Pool asks about problems that will arise from having the plant turned off. GM Koehler says it will take about 48-hours to get the plant up and running again while they cycle water to remove biological growth and such from the filters. Not a big deal.

The bottom line is that with these two interties working, we have enough water to sustain the domestic population at the same rate as this time last year. To do this long-term, though, is that we'll have to prove that this is well water since Millview can't pump surface water out of their place of use. So we're dependent on Masonite 6 not running out.

h. EPA Climate Change Initiative

GM Koehler had a two-hour webinar yesterday with the EPA. It had the normal problems associated with big government. The time spent was a combination of PowerPoint and people talking with a lot of the talk being about surprise about the things nobody thought about with the reliability of Lake Mendocino. He was also impressed with the effort put out by Coyote Valley participating. Not so much with Redwood Valley Rancheria, but it's still a good thing to have the tribes involved since they have clout with the government right now.

i. Intertie Funding

We're working through that. There was a little glitch with the funding because the engineer's estimate was \$390,000 and the grant amount is \$379,000 so we have to reconcile the two. So it'll be about \$20,000 from RVCWD for a \$400,000 project.

j. Prop 84 (monitoring well) Funding

The money spent on the well. We're setting up a meeting next week. The City of Ukiah is the grantee; we're the sub-grantee, so he has been in contact with Jarrod Thiele from the City. Our involvement will be different than that of Millview since ours was to set up a monitoring well and follow it up with a production well. Next month, Luhdorff & Scalminini will be doing a presentation about what they think we should do long-term and if there is any more information to be gained from this well, (he thinks the answer will be 'no'). It can be used as a monitoring well for three layers. Also, it still may be useful to punch another well over by Barra since it will either prove there is no groundwater to be had in Redwood Valley, or it will be useable water. If

that well is a bust as well, then we have political clout to get some kind of a pipeline to Redwood Valley so that when it's raining, RVCWD can pull water from Lake Mendocino to recharge the aquifer and when it's dry, they can pull from that aquifer. Along with raising the dam. This will cost RVCWD from our money, so the other option is give that grant money up to Ukiah projects. Dir Ricetti points out that the site at H&W was chosen as the better chance of getting water. GM Koehler says that that observation was from surface formations, but there are still good wells over by Barra.

9. Financial Report

Looks good.

Motion: Accept the Financial Report

Motion by Dir Ricetti, second by Dir Basili

In favor: unanimous

A quick digression back to the Bureau of Reclamation loan: GM Koehler got an e-mail from Sean that says they will think about what they'd be willing to give. This gave him pause. Something to think about.

10. LAFCO

Richard Shoemaker retained his seat; Guinness lost to the lady from the Sanitation District; and the public member is vacant.

11. IWPC

Janet did a good job of covering everything with IWPC. Mendocino County is no longer considered to be under drought emergency. On January 28th will be the public participation in Santa Rosa for the Biological Opinion with the main focus being Dry Creek. GM Koehler will probably attend that. Dir Pool asks if Janet will be putting her presentation up on their website. GM Koehler says probably.

12. Russian River Flood Control

GM Koehler went to this meeting. They said Sean finally went over to Sacramento to get the comments from Fish and Wildlife and the majority of the comments are not related to the process. But we'll see. A good half of the meeting revolved around disapproval of action, so they passed a resolution disapproving of Lee's actions, which was in the newspaper. They assigned Board members to various water districts with Shoemaker being assigned to RVCWD, and he was supposed to be here tonight.

Ms Thurman, who is the consultant for the LAFCO process, being paid by RRFC, presumably we will soon have a meeting with her. GM Koehler looked through the document and found two places in the preliminary document that she is preparing for presentation to LAFCO it says specifically "this dissolution/annexation will lift the moratorium". So he's really curious to see how that evolves. Because that's definitely NOT what Flood Control has been saying. They've said no to that every time.

Sean has been very supportive of this 3x3x3 process, which is surprising considering he hasn't liked anything the Army Corps of Engineers has done in the past.

14. Report of Attendance

There is an ACWA seminar coming up that GM Koehler will probably attend. Dir Basili has a training in Sacramento next month, so we will be unable to attend the Board meeting.

Motion to adjourn.

Motion by Dir Basili, second by Dir Todd

In favor: unanimous

Meeting adjourned at 9:45 pm.

Minutes submitted by Jeanette Wise

Approved: Board of Directors

Date Approved: _____

Signed: _____