

**SELMA-KINGSBURG-FOWLER  
COUNTY SANITATION DISTRICT**

**MINUTES OF THE BOARD MEETING**

**January 10, 2008**

Board Secretary Michel opened the Board Room at 1:00 p.m. and there was no one from the public present. The Special Board Meeting of the Selma-Kingsburg-Fowler County Sanitation District was called to order at 1:10 p.m. by the Chairwoman, Judith Case.

**DIRECTORS' ROLL CALL**

Leland Bergstrom, Vice-Chairman (present)  
David Cárdenas (present)  
Don Tow (present)  
Bob Waterston (absent)  
Judith Case, Chairwoman (present)

**STAFF AND CONSULTANTS PRESENT**

David Michel, General Manager/ Board Secretary  
Ben Muñoz, Jr., Assistant General Manager

**CLOSED SESSION**

Chairwoman Case called for a closed session at 1:10 p.m. to discuss the public employment of General Counsel pursuant to section 54957 of the California Government Code. The Board reconvened to open session at 4:10 p.m. Chairwoman Case stated that there was nothing to report in open session and that the closed session would continue after the regular agenda.

**DIRECTORS' ROLL CALL**

Leland Bergstrom, Vice-Chairman (present)  
David Cárdenas (present)  
Don Tow (present)  
Bob Waterston (absent)  
Judith Case, Chairwoman (present)

**STAFF AND CONSULTANTS PRESENT**

David Michel, General Manager/ Board Secretary  
Ben Muñoz, Jr., Assistant General Manager  
Dennis A. Marshall, Acting District Counsel  
David Bacon, Information Systems Analyst  
Michael Fong, Chief Accountant  
Bill Patterson, CPA, Independent Auditor

**OTHERS PRESENT**

David Weisser, City of Fowler  
Ed Blanton, Kingsburg Resident  
Norman Krebbs, Kingsburg Resident  
Gene Johnson, Seed Group

**CONSIDERATION OF MINUTES**

There being no comments from the public, a motion to approve the minutes of the Board Meeting of December 13, 2007, was made by Director Cárdenas, seconded by Director Bergstrom, and approved by the following vote:

AYE: Directors Cárdenas, Bergstrom, Tow and Case  
NO: None  
ABSENT: Director Waterston  
ABSTAIN: None

### **CONSENT CALENDAR**

There being no comments from the public, a motion to approve the five consent calendar items and the staff recommendations as described below, was made by Director Cárdenas, seconded by Director Bergstrom, and approved by the following vote:

AYE: Directors Cárdenas, Bergstrom, Tow and Case  
NO: None  
ABSENT: Director Waterston  
ABSTAIN: None

#### **Annual Budget Transfer for Refurbishment & Replacement**

For fiscal year 2007-08, the budgeted amount is \$600,000. The transfer now needs to be made to provide minimal funding for treatment plant Refurbishment & Replacement projects. Staff recommended that the Board direct staff to transfer \$600,000 from the O&M account to the District R&R account.

#### **Budget Amendments – Hazardous Material Removal and Demolition**

There were several outbuildings on the two former Helm properties that posed liability exposure and may have been used as sub-standard housing. The Board had directed staff to follow purchasing policy and inspect the outbuildings for hazardous materials, remove the hazardous materials and demolish the outbuildings.

The inspection work was completed last fiscal year. The lead and asbestos removal was completed during the current fiscal year for a contract amount of \$9,735. The demolition is underway for a contract amount not to exceed \$9,389. Staff will not release demolition money until the work is completed. However, the current fiscal year budget needs to be increased by the total amount of \$19,124 for the work.

Staff recommended that the Board amend budget item 7860-101-00 (professional services –other) by increasing it from \$10,000 to \$29,124 to be funded from the Operations & Maintenance account reserve.

### District Technical Advisory Committee (DTAC) Report

The Board received the minutes of the DTAC meeting of December 19, 2007.

### Consultant District Engineer Report

Consultant District Engineer Whitley provided a letter stating that the following presents a summary of the activities that he has been engaged with on behalf of the District.

#### 6.3 Improvement Project

Bottleneck No. 1-Secondary Clarifier Capacity- District operations personnel completed the operational stress test in September. The operational data has been evaluated and findings and conclusions have been developed. Prepared and submitted a draft written report for staff review.

Bottleneck No. 2A-Pond No. 6- Construction of Pond No. 6 remains as the critical path action item. The Fresno County amended Conditional Use Permit for Pond No. 6 & No. 7 and CEQA Initial Study are in public review.

Bottleneck No. 3-Solids Thickening (DAFT)-Began investigation of potential issues effecting capacity of the existing DAFT unit.

Bottleneck No. 4-Hydraulic Modifications-Continuing to prepare engineering drawings for a new effluent pump station and the renovated effluent pipeline that will provide for conveyance to all of the percolation ponds.

#### Centrifuge No. 2 Installation

Continued to provide advice on new centrifuge performance and manufacturer's assistance on an as-requested basis.

#### 10 year Capital Improvement Plan (CIP)-Refurbishment and Replacement

Continued to review a 10-year CIP with the District's Technical Advisory Committee (DTAC).

#### Land Clearing Bid Results

Staff solicited bids from approximately 15 potential bidders for land clearing for the following three 20-acre parcels owned by the District: former Helm North property at 14720 S. Del Rey; former Helm South property at 15532 S. Del Rey; and former Juarez property at 11067 E. Conejo.

In talking with farm managers and potential vendors, staff had estimated the cost to be between \$400-\$500 per acre, or a total of \$24,000 - \$30,000. The lone bid received was from Statewide Excavating, Incorporated for \$122,390. Staff recommended that the Board reject the bid from Statewide Excavation, Inc. and direct staff to rebid.

### **PUBLIC COMMENTS (first call)**

Kingsburg resident Ed Blanton said that the District is not following revenue program guidelines as required by the EPA grant. He said that he has given to Chief Accountant Michael Fong copies of a Clean Water Grant Program Bulletin, Revenue Program Guidelines and a memo dated February 17, 2000 from USEPA regarding the requirement that agencies who have received grants must comply with revenue program guidelines for the life of the treatment plant. If an agency does not comply, the result can be an annulment of the grant and repayment of all construction grant funds.

Kingsburg resident Norman Krebbs referred to a letter from him dated January 4, 2008 which shows that the 6.3 MGD Improvement Plan will be short \$511,000. He suggested that the Board increase the connection fee by the percentage change in the Engineering News Record construction cost index for the two years since the last increase. He said that the District is losing money every day it stays with the same connection fee. He said "In talking a while back with Mr. Michel, he's not going to recommend a sewer connection increase until after a 10 year CIP project plan is put together, which could take six months." Chairwoman Case asked General Manager Michel "What is the time period for this item coming back to this Board?" General Manager Michel replied "About six months."

Gene Johnson from the company Seed Group distributed a brochure regarding providing solar energy at the treatment plant site. Chairwoman Case explained that an agenda item specific to solar energy was to be discussed later in the meeting.

### **UNFINISHED BUSINESS**

#### **Former Scarry Property – Plan of Action**

General Manager Michel reported that Susan Scarry leases from the District 20 acres of vines at 11497 E. Conejo Avenue (APN 393-211-09) for \$1,200 per year (\$60 per acre per year). Her son, Rod Scarry, uses the shop for storage and produces raisins. He said that the well needs bowls at a cost of approximately \$6,000 and that he is not willing to invest that money and continue farming. He wants the District to fix the bowls and lease to him for half of what he paid in 2007. He says there is still time to do the pruning if the Board acts at the January 10<sup>th</sup> Board Meeting.

Staff contacted Fred Schnitzler who farms a neighboring vineyard. He is not interested at any price because the raisin production is marginal and the well needs repairs. Staff recommended to pull out

the vines and keep the property disked until the 20 acres is needed for treatment plant expansion. Rent out the 2400 square feet steel sided building for storage at \$600-\$1200 per year.

Chairwoman Case commented that the storage building itself could command a substantial rent and that the vines should be pulled and the boarded-up residence should be demolished. Other Board Members commented that perhaps the storage building eventually could be moved. Chairwoman Case suggested that land use be placed onto a future agenda.

There being no comments from the public, a motion to direct staff to obtain estimates and pull the vines before they bud out, to obtain estimates and demolish the house, and to advertise for renting the storage building, was made by Chairwoman Case, seconded by Director Tow, and approved by the following vote:

AYE:	Directors Case, Tow, Bergstrom and Cárdenas
NO:	None
ABSENT:	Director Waterston
ABSTAIN:	None

#### Solar Energy - Authorization to Request Proposals for Power Purchase Agreement

In a written memo, General Manager Michel reported that, at the November, 2007 Board Meeting, the Board heard energy savings reports and alternative energy reports from four energy companies. The consensus of the Board was that the best idea was for a project in which a third party would finance, design, construct and operate a solar facility on District property and then guarantee a specified price for electricity for each year of a twenty-year power purchase agreement.

With this approach, the District does not need to predict a return on investment, nor forecast photovoltaic cell efficiency, nor evaluate construction costs nor predict operations and maintenance costs in comparing proposals. The District needs only to compare the third party's guaranteed price for delivery of electricity to PG&E's delivered price, which currently is at 10.5¢ per kWh.

Assistant General Manager Muñoz and Information Systems Analyst Bacon solicited letters of interest from 89 firms who are in the solar power generation business. There were 13 positive responses. Staff recommended that the Board direct staff to develop a Request for Proposal for a 20-year solar power purchase agreement, with a final summary review by Consultant District Engineer Whitley not to exceed \$1,000, to be brought back to the Board before advertising.

Gene Johnson of Seed Group asked that his firm be added to the mailing list for RFP's. There being no further comments from the public, a motion to direct staff to develop a Request for Proposal for a 20-year solar power purchase agreement, with a final summary review by Consultant District Engineer Whitley not to exceed \$1,000, to be brought back to the Board before advertising, was made by Director Bergstrom, seconded by Director Cárdenas, and approved by the following vote:

AYE:	Directors Bergstrom, Cárdenas, Tow and Case
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NO: None  
ABSENT: Director Waterston  
ABSTAIN: None

## **NEW BUSINESS**

### Services, Supplies and Personnel Reports FY 2006-2007 Budget vs. Actual

General Manager Michel distributed reports which showed that Operations and Maintenance (O&M) expenditures for the fiscal year ended June 30, 2007 were within the budget authorized amounts.

The expenditure authorization levels for the District O&M budget are at the “total” levels for services & supplies, personnel services and “other.” To show how the totals are generated, line item informational details are contained on pages 9 and 10 of the budget. Attached are summaries of those line item informational details giving Actual vs. Budgeted expenditures for the fiscal year ended June 30, 2007, prior to any capitalization. The summaries show that the expenditures were 92% for total services & supplies, 56% for total “other” and 97% for total salaries & benefits as compared to the budgeted amounts.

It was the consensus of the Board that, when preparing next year’s budget, staff should look carefully at any line item that was expended less than 75% or more than 125% of budget, perhaps including a multi-year evaluation.

### Fiscal Year 2006-07 Audit Report

Bill Patterson, CPA, independent auditor from the firm Sampson & Sampson of Fresno, reviewed each section of the annual auditor’s report, which had been distributed with the agenda packets. General Manager Michel acknowledged and thanked Chief Accountant Michael Fong for the extra work that it took in preparing the financial statements. Assistant General Manager Muñoz told the Board that Mr. Fong and staff postponed vacations and worked through the holidays to finish the audit. Staff and Auditor Patterson said that, because of the need to wait for information from the County and for billings to be received, it is most reasonable to get the audit process started in October next year. Staff recommended that the Board approve the independent auditor’s report for the fiscal year ending June 30, 2007.

Director Tow specifically asked if the table on page 16 and the note 5 on page 17 posed any danger to the District and Auditor Patterson said no. Chairwoman Case commented that it was important for the Board to recognize the potential liability of Governmental Accounting Standards Board directive number 45 (GASB 45), which could be in the millions of dollars. GASB 45 requires that post-employment benefits, such as the medical benefits for SKF retirees, be set aside in a trust fund in advance of the actual expense. The District is not required to comply with GASB 45 at this time. She

asked for Auditor Patterson to perform an estimate of the District's liability, not for the whole group of future retirees, but only for seven retirees.

Kingsburg resident Norman Krebs asked for a detailed analysis of the expensing of \$810,000 shown on pages 9 and 14 and how it affects other funds. General Manager Michel said that the effect on other funds is shown in the audit. Chief Accountant Fong referred Mr. Krebs to the note on the bottom of page 14. General Manager Michel explained that there were 19 engineering studies required by the California Regional Water Quality Control Board (RWQCB) permit which was revised in the year 2000. Those studies were expected to result in, and may still result in, construction projects. The RWQCB has not responded or followed up on many of the studies, and after several years carrying them on the books as part of expected capital projects, Chief Accountant Fong advised that they should be expensed. Auditor Patterson agreed.

Kingsburg resident Ed Blanton said that any expenditures regarding the plant's permit should have been from the O&M fund.

There being no further comments from the public, a motion to approve the FY 2006-07 audit as presented, was made by Director Cárdenas, seconded by Director Bergstrom, and approved by the following vote:

AYE:	Directors Cárdenas, Bergstrom, Tow and Case
NO:	None
ABSENT:	Director Waterston
ABSTAIN:	None

Resolution No. 2008-01, a Resolution Amending Resolution No. 2006-05  
Guidelines for the Administrative Implementation of Ordinance No. 42

In a written memo, General Manager Michel reported that, due to the limited capacity of the treatment and disposal facilities, the Board directed staff to revise the industrial capacity entitlement resolution to eliminate the waiving of connection fees with a workshop to be held for industries. The resolution has been revised. Industries have had input. DTAC has reviewed the resolution and unanimously recommends approval. Staff recommended approval.

Ordinance No. 42, which was adopted in 1986, established a surcharge fee for excessive industrial discharge. Guidelines for implementing Ordinance No. 42 were established in 1986 and identified a baseline discharge (BLD) for each industrial discharger. The Ordinance allowed for industries to be added or expanded with connection fees waived by specific Board action. The Board directed staff to revise the guidelines to eliminate the waiving of connection fees and to hold an industrial workshop to explain the changes in the regulations.

Staff held two workshops. The first was attended only by Sun Maid. The second was well-attended, including the major dischargers. The outcome was that industries wanted one last chance to review their capacity entitlements and to adjust them as necessary by December 14, 2007. Industries pay a

stand-by charge (capital facilities fixed charge) based on their capacity entitlement or their peak prior year usage, whichever is higher.

The guidelines revised in the attached Resolution No. 2008-01 (12-18-07 draft) eliminate the waiving of industrial connection fees and reflect the recently evaluated average daily capacity of the treatment and disposal facilities. Industries have reviewed the resolution. The resolution incorporates the final changes requested by industries. Boghosian Raisin, Fowler Dehydrator and Del Monte Corporation were the only industries to request changes after two meetings and three mailings.

A summary of the changes to the 1986 policy as stated in Resolution No. 2008-01 (12-18-07 draft) are as follows:

- 1) References to “Grant-Funded Industrial Capacity” have been deleted as a result of recent treatment plant capacity engineering evaluations.
- 2) References to the Board waiving connection fees under certain circumstances have been deleted.
- 3) References allowing existing industries to increase their Baseline Discharge capacity entitlement upon annual request, with no payment of connection fee, have been deleted.
- 4) Aggregate Industrial Capacity remains in the Resolution. Table 13 (Aggregate Industrial Capacity) has been revised to include the exact monthly amounts of Flow, BOD and Suspended Solids upon which are based the fixed charge for the adopted FY 2007-08 budget. Those amounts are the actual discharges, or BLD, whichever is higher, for the 12 months ending February 28, 2007, and changes requested by Boghosian Raisin, Fowler Dehydrator and Del Monte Corporation.
- 5) References to surcharges for excessive discharge have been deleted. If an industry discharges in excess of BLD, and the aggregate industrial capacity is also exceeded, then the industry must reduce its discharge (or purchase additional BLD).
- 6) The term “Significant Industrial User (SIU)” has been changed to “Major Industrial User” because SIU is a specifically defined term in the federal pretreatment program and does not match SKF’s BLD-related definition, causing confusion.
- 7) Boghosian Raisin and Fowler Dehydrator have increased their capacity requests and have made them the same for each month. Del Monte Corporation adjusted their monthly capacity requests with some values increasing and some values decreasing.

Staff recommended that the Board adopt Resolution No. 2008-01, a Resolution Amending Resolution No. 2006-05 Guidelines for the Administrative Implementation of Ordinance No. 42.

Kingsburg resident Ed Blanton said that he emailed a letter at 2:00 a.m. this morning which he wants copied in the minutes as his comments. the letter reads as follows:

“JANUARY 10, 2008  
SELMA-KINGSBURG-FOWLER CO. SAN. DIST.  
P.O. BOX 158  
KINGSBURG, CA 93631-0158

RE: ORD. 42 (Industrial users capacity allocations) PROTEST

RE: Governing Board of Directors

At the DTAC meeting where this Resolution was discussed, staff had presented it with a reserve of 0.7 MGD to protect industry by making it available when an industry needs new capacity. This is an affront to the non-industry users which have all paid for their entitlements and got no added capacity for expansion without paying for a permit to do so. This completely violates the provisions of the PL 92-500 and amendments that provided CLEAN WATER GRANTS-IN AID in the 1970's and 1980's. The grant contract stated very clearly a mandate that each user class pay its fair share of the costs of constructing and operating the constructed facilities for the entire life of the plant. When it has been abandoned and demolished the conditions incorporated in the contract agreement, including a financial plan for expanding the plant or for Repairing/Replacing Worn or broken elements. Dedicated Reserves and amortization schedules and capacity cost replacement fees (connection and annexation fees) were also required and the grant was conditioned and funds reimbursed for over 80% percent of the plant cost when our agreement conditions were met by the District's submitting Ordinances and Revenue Plan for SWRCB/USEPA approval. Board action by Ordinance and Resolution signified the District' legislative action of acceptance.

I would like to see the SWRCB/USEPA concurrence with the District discontinuing to keep its word to follow a general California Code for cities and special districts. Never would I believe EPA approval could have been obtained and I challenge the succession of Auditors over the last nine or ten years who have failed to be told or aware of the District's legal obligation to remain compliance with Federal Law when state codes oversight it. A 2002 memo from the EPA DIRECTOR reiterated the Grant Agreement conditions continue until the plant has reached the end of its useful life. Such is clearly not the case with SKF's funded facilities. I urge CWG knowledgeable consultants such as Larry Walker & Associates be asked to provide advice. This firm was established by a retired Executive Officer of the CSWRCB at the height of the Clean Water Grants and completed projects audits with this District one of those with USEPA audit problems. Auditors simply are too young and don't know where to look in an agency's files.

In the case of industry in the District, only a few existed as connections to the District through city sewers and none to the interceptor. The Grant Regulation required the District to execute contract agreements with each and every industry. Upon my 1980 assumption of District GM duties no contracts had been secured and none but one permit, Guardian Glass, had been issued upon its payment of the fees calculated and requested. There was no District administrative personnel during all but the last year of the Grant application, facilities design and construction management period and to make matters worse, the engineering consultant possessed all the District files and construction records. The Board and its Secretary Pete ESRAELIAN, were the District and Selma employees were operating the three city plants. SunMaid had its own plant that was under a RWQCB Cease and Decease Order as were the cities' plants. I set about calculating the industrial dischargers Fair and Equal shares of the plant's costs and politics convinced the Board to go back on its contract word and they rescinded my billings, including that of SunMaid which was not even in the District which let them escape the G.O. Bonds retirement assessments and it was its discovery of "reconditioning moldy raisins the earned the District the new name of Stink Kingsburg First CSD by discharging up to 100,000 pounds per day of BOD. The plant design had it worked was 87,000 PPD.

Now at a time when The District has been denying new community connections it plans to treat industry as if it owned the 700,000 GPD capacity and make it available without charge which would in effect be over \$1,250,000 in fees for its 3070 ESFR equivalency.

Without a strong, capable and candid manager I can hardly fault the Board for keeping to its paid advisors recommendations with a 20 year old program developed by Michel, Whitley and Industry's gifted folks. I simply grumbled and carried out the program. But you my good directors of the people's agency now have as much knowledge of the hows and why you is of the development of things always wanted know and didn't ask.

Please change the system to that of "Fair And Equal Sharing" mandated by the federal law and let the chips fall where the may.

Sincerely, Offered by

R ED BLANTON, The First G.M."

Kingsburg resident Norman Krebbs commented that, after staff recommended waiving one million dollars of connection fees, there is no capacity left. He recommended against the resolution.

There being no further comments from the public, a motion to adopt Resolution No. 2008-01, a Resolution Amending Resolution No. 2006-05 Guidelines for the Administrative Implementation of

Ordinance No. 42, was made by Director Cárdenas, seconded by Director Bergstrom, and approved by the following vote:

AYE:	Directors Cárdenas, Bergstrom and Case
NO:	Director Tow
ABSENT:	Director Waterston
ABSTAIN:	None

### **COMMUNICATIONS**

Chairwoman Case requested that the subject of capacity usage be placed on the agenda within 2-3 months.

Director Cárdenas requested that a laminated wallet sized card with District staff, consultants and Board members' contact information be provided to each Board Member.

### **ALLOWANCE OF CLAIMS**

There being no comments from the public, a motion to accept the warrant list report showing checks issued in the amount of \$665,464.80, was made by Director Bergstrom, seconded by Director Cárdenas, and approved by the following vote:

AYE:	Directors Bergstrom, Cárdenas, Tow and Case
NO:	None
ABSENT:	Director Waterston
ABSTAIN:	None

### **PUBLIC COMMENTS (second call)**

Kingsburg resident Ed Blanton requested that his other letter dated January 10, 2008 regarding infiltration and inflow be placed on the next agenda. Chairwoman Case suggested a workshop.

### **CLOSED SESSION**

Personnel Matters and Public Employment of General Counsel

General Manager Michel stated that there was no need for the item regarding personnel matters.

Chairwoman Case called for a closed session at 6:35 p.m. to continue to discuss the public employment of General Counsel pursuant to section 54957 of the California Government Code. The Board reconvened to open session at 6:58 p.m. There was no report out of closed session.

**ADJOURNMENT**

There being no further business to come before the Board, Chairwoman Case declared the meeting adjourned to the earlier-than-regular date of February 7, 2008 at 4:00 p.m. on a motion duly made, seconded and approved by unanimous voice vote at 6:59 p.m.

Respectfully submitted,

Approved,

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David Michel, General Manager/  
Secretary of the Board

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Judith G. Case  
Chairwoman of the Board