

Minutes of the Casitas Municipal Water District
Board of Directors Regular Meeting Held
June 22, 2005

A regular meeting of the Board of Directors was held June 22, 2005 at Casitas' Office, Oak View, California. Directors Hicks, Kaiser, Bennett, Baggerly and Word were present. Also present were General Manager, John Johnson; Carole Iles substituting for Rebekah Vieira, Clerk of the Board; and Attorney, Rob Sawyer. There were four staff members and four members of the public in attendance. President Hicks led the group in the flag salute.

1. Public comments.
None

2. Board of Director comments.
None

3. Consent Agenda. ADOPTED
- a. Minutes of regular meeting held June 8, 2005.
 - b. Approval of purchase order #06375 to Harbor Offshore Inc in the amount of \$2,492 to inspect intake structure.
 - c. Approval of leak relief to Deborah Ricketts in the amount of \$297.19.
 - d. Approval of purchase order #06335 to Chempoint in the amount of \$21,825.25 for the purchase of Ortho/poly phosphate for corrosion control.
 - e. Approval of purchase order #06382 to T & T Truck & Crane Service in the amount of \$11,313.29 for hauling and dump fees for ten semi-trailer and trailer loads of sludge.
 - f. Approval of purchase order contract with L.A. Thompson Grading and Excavating in the amount of \$8,280.00 for the removal of storm debris from Fortress tank.
 - g. Approval of purchase order contract with L.A. Thompson Grading and Excavating in the amount of \$17,950.00 to backfill Ventura 1(M) Water Main.
 - h. Approval of letter opposing SB 1087 related to housing elements.
 - i. Approval of ACWA recommendations as outlined in their Property Taxes and Reserves: Critical Resources for Critical Local Services document.
 - j. Approval of purchase order to Landmark Grading d/b/a/ Quality Paving in the amount of \$25,000 for slurry seal of portions of the access road to campground F and Campsites 31 & 35 at Lake Casitas Recreation Area.
 - k. Resolution waiving the application and maintenance fee for the priority list for one year.
 - l. Approval of letter to be sent to Ingrid Schuh granting a six month leave of absence.

On the motion of Director Bennett, seconded by Director Kaiser and passed the Consent Agenda was approved with the following roll call vote:

AYES: Directors: Hicks, Kaiser, Bennett, Baggerly and Word
NOES: Directors: None
ABSENT: Directors: None

Resolution is numbered 05-50

4. Bills. APPROVED

Director Word asked about checks #18259 and #18279 for closing refunds. Mr. Johnson explained that these were refunds for people who had closed their accounts that month. The system refunds their deposits.

Director Kaiser asked about #18457 for Ojai Hospital for \$450. Mr. Johnson explained that it was for an ongoing worker's compensation claim. Director Kaiser then asked about #18514 to West Coast Air Conditioning for almost \$3,000, was it a system overall where they were replacing parts? If they were replacing so many system components perhaps they could look at replacing whole system. Mr. Johnson said a complete new system would cost from \$20-50,000. Director Kaiser said he was looking for the efficiency issue, something that could be looked at through the Regional Energy Alliance. Mr. Johnson said that the whole system had been replaced twice since he had been with Casitas so they last about 7-8 years.

On the motion of Director Baggerly, seconded by Director Bennett and passed, the bills were approved.

5. Committee/Manager Report(s). APPROVED for Filing
a. Water Resources Committee Report
b. Executive Committee Report
c. Report on specific issues

Mr. Johnson pointed out a couple of things to make sure everyone had read them. Under the Water Resources Committee, Item No.6, the Water Waste Ordinance, talking about a waste of water for somebody who has alternate supplies to use up before they use the primary supplies, unless they had a contract with Casitas specifying they have to use Casitas water. It might affect a few of the other customers. Director Word said he understood that if we have a contract, it would hold until the contract expires. The way he understood it was that they would not use any water from Casitas until after their water was used up. Director Bennett asked if they should be using their primary source of water before using Casitas water. Mr. Johnson said it was a draft ordinance; the Board had not adopted anything. We are talking about adding to the draft, a requirement that customers use any primary source that they have first, and Casitas system as a backup. Otherwise it would be determined it is a waste of water unless they have a specific contract with us to the contrary. President Hicks said like the City of Ventura. Mr. Johnson confirmed that the City of Ventura has a contract with Casitas that requires them to take water and that would be an exception. Director Word said that when the contract expired, then the question would be whether they would have to use all of their

water before they took any from Casitas, which means they would have to use 26,000 acre/feet of water first. Mr. Johnson said that the way it was proposed to be written was that if they can use the water (not in a situation where their facility was shut down, if something was not working or they could not meet health requirements and could not use their water), they would have to use that before using Casitas water. Director Word asked if it locked Casitas out of extending the contract. He said it looked like a problem down the road because there would have to be an exception to the policy we have. Mr. Johnson said that the way Casitas was trying to write the ordinance section was that if there was a contract that required people to take water, they would be exempted from that policy. It would only be people without those kinds of contracts who would not be exempted. Director Word asked again what happens when a contract expired and we were negotiating a new contract, we needed to make sure the ordinance is clear on that. Mr. Johnson confirmed that it would be clear.

Mr. Sawyer said that this parallels insurance problems that occur, if you have a customer who gets water from another source and under that source's ordinance they are required to use Casitas water before using the water from the other source, you can end up with potential problems. If you are talking about a customer who has another well, that is not a problem, but if you are talking about a resale agency that receives water from other proprietary or public sources and they have ordinances or rules that the customer has to come to Casitas first, then there is a problem. Director Kaiser asked if there was any case law on that. Mr. Sawyer replied that the parallel was in insurance where it was usually done on a pro rata basis. Director Word said that it looked as if there could be some problems and we would have to be careful. Mr. Johnson said that the reason it was being brought to the Board was so that they would know what kinds of issues there were and they could be dealt with in the beginning rather than at the end. President Hicks said that at 2020 we had some time. Director Bennett wondered what was the quality of water at the City of Ventura and how much can they purify, where was the break off point. Mr. Johnson said the Board would be getting to the section on the Biological Opinion and would find that they would want the break early rather than late otherwise they would not be in compliance with one of the sections.

Mr. Johnson said they had talked with the Water Resources Committee, the Board had approved the interim weir project and Casitas was moving ahead with it.

On the Monitoring Plan a response was received from the Fisheries Agency. Staff was rewriting it in draft form and expected that it would be taken care of. Item 23 on the Fish & Game Code 5937 is a real challenge to Casitas' water rights.

Director Word asked about the SWEAP program in which we say that 30% of the ag users are using over 2-1/2 acre/feet per acre. He asked what crops are they growing and are they different from those using less than 2-1/2 acre/feet. Mr. Johnson explained that in the first phase of the five phase sweep program, the first year we are on it involves talking to those customers about what is going on. We will understand that if the crops have changed causing more use, or some other issues, but the idea is to understand them

in the first year, then we may want to go back and make some changes based on that understanding.

On the motion of Director Bennett, seconded by Director Baggerly and passed, the committee reports were approved for filing.

6. Oak View Water Availability Charge

President Hicks opened the Public Hearing and asked the Clerk of the Board to read the names of the public who called or submitted communications regarding the charge. The Clerk of the Board said there were no communications. President Hicks then called for the General Manager's Report. Mr. Johnson reported that it had to do with the water system in Oak View. In 1973, \$425,000 was spent improving the system. The water availability charge was the method of collecting the cost. It could never be collected in full with interest, so it is collected without interest. It will take 59 years for total payoff. We collect about \$7,500 per year at \$10 per acre/foot or portion thereof and we are currently in year 32, with 27 to go. Notices of the meeting have been published in accordance with the law and approval was recommended. President Hicks asked if there was any public or Board comments, there being none, the Public Hearing was closed.

A motion to adopt the resolution was presented by Director Bennett, seconded by Director Kaiser and adopted by the following roll call vote:

AYES:	Directors:	Hicks, Kaiser, Bennett, Baggerly and Word
NOES:	Directors:	None
ABSENT:	Directors:	None

Resolution is numbered 05-51

7. Appeal of Tom Bryan regarding Water Allocation Offering.

Mr. Johnson reported that in 2003, the Water Resources Committee met with Mr. Bryan about extending the time frame to complete his allocation process. After consideration and a number of meetings, on October 8, 2003 it was appealed to the Board and on October 22, 2003 the Board gave him up to nine months to complete permit requirements with the County, but the allocation process would not be extended. Mr. Bryan was recently notified that the nine months had passed (actually 20 months) and the Water Resources Committee said that since the Board has already decided, there was no reason to extend the time. Mr. Bryan has appealed to the Board and has been noticed about it. Casitas' position is that it appears that the project has moved from a commercial to a more residential operation, down to one unit. The Board has said no in the past and it is being brought back based on Mr. Bryan's appeal. President Hicks asked if Mr. Bryan was present. He was not. He had been sent a letter and was e-mailed. Director Bennett asked if it could be tabled. President Hicks said he thought the Board should be consistent. Director Baggerly reported that the project appeared at the Ojai Valley Municipal Advisory Council. Mr. Bryan was not there but was represented by his

contractor. Director Baggerly noted that there was a for sale sign on the property. They realize they are going to have difficulty completing the Casitas deadline even if they get back on the list. He cannot move forward to get a building permit without a will serve letter from Casitas. If he gets back on the list and waits until he gets an allocation, he has one year from the time he is approved for a building permit. He did say that it was a spec project. President Hicks said again he felt the Board should be consistent with what they had said before.

On the motion of Director Baggerly, seconded by Director Kaiser and passed, the appeal of Tom Bryan was denied.

8. Recommend approval of the Pesticide Report and authorizing a change in the use of pesticides as contained in the report and authorizing expenditures by additional costs to the 2005-2006 Budget.

Mr. Johnson reported that at the last meeting the Board reviewed the request and there was discussion that fumigation costs were too expensive although staff was looking for the best way to avoid the anticoagulants. There was a question as to whether Mr. Grigsby had read the policy and whether he could make it work. Basically the policy has five points: (1) To comply with all the laws on pesticides all the time, (2) Authorize the use of other available, possible pesticides, (3) Explore and authorize alternate methods, (4) the plan was to phase out anticoagulants in ninety days if something could be found and (5) encourage all natural predator systems if possible. The comment from the Board was that it did not know if it could be phased out in ninety days unless there was a solution for it. Mr. Grigsby reported that a chemical had been found that was safer to use, did not have to be contracted out and for which he has the MSDS sheets. It looked as if it could be used everywhere except the Casitas Dam and the Saddle Dam; they will have trouble there because of the rocky surfaces and multiple outlets. It had been purchased, but not tried yet. The problem was that all the holes must be blocked so it is time consuming and there is not enough staff. Director Baggerly thanked Mr. Grigsby for tackling the problem. He agreed that the quote received was too much for this agency, but was convinced that there was non anti-coagulant bait just as effective that would not cause any harm to other predators by secondary feeding. He offered an idea given by Kim Stroud to put up telephone poles with cross bars around, but not on the Dam, to serve as perches for hawks. Mr. Grigsby said that was done at one time but the birds did not nest on them. Director Baggerly said he thought the perches would be better. Director Baggerly proposed a motion to accept the Report with the discussed additions. Mr. Johnson thought that was a good direction to go but suggested that phasing out the anti-coagulants in ninety days was premature. Director Word concurred with phasing out the anti-coagulants but had a problem with the ninety days. He was concerned with preserving the integrity of the Dam and Saddle Dam. He would feel more comfortable phasing the anti-coagulant out when an effective alternative had been found to use of the Dam and Saddle Dam areas. Mr. Johnson said he was also concerned that Mr. Grigsby had said he did not have the staff to use the other chemical everywhere else in the District. The chemical may be effective, but we would have to staff up for it to be able to be used. Director Word said he was talking about the chemical that would

replace the anti-coagulant. Mr. Johnson said Mr. Grigsby said it would not be effective on the Dam and Saddle Dam because all the holes cannot be located, but what he also said was that he did not have the staff to find all the holes. Other than anti-coagulants, we do not have a method to assure control on the Dam and Saddle Dam. Director Word asked Mr. Grigsby if there are other alternatives. Mr. Grigsby said there were that were available but any time you are dealing with a chemical you are going to have non-target species that are going to be affected. Director Baggerly said there are some that advertise that they do not affect non-targeted species. President Hicks asked Mr. Grigsby if they didn't die fairly quickly after the bait is put out. Mr. Grigsby said that squirrels go back to their nests, although rats and mice are different, so generally they would not be on the ground where they could be picked up. Director Kaiser asked for an estimate of staff hours. Mr. Grigsby said he had not done a study but guessed they would increase tenfold. Mr. Roney passed out some additional information on two sample areas, one in the District and one in Recreation. We are going to try the gopher gas Mr. Grigsby has purchased in the two sampling areas and try to track it.

Director Kaiser suggested inserting language "whereupon it is deemed feasible, staff will phase out the use of anti-coagulant type pesticides". It would have to come back to the Board that it is feasible and that research and investigation had been done. It was also important that there be periodic review of the literature, of the process and the types of chemicals that can be used, and a twelve month review should be included in the recommendation to make sure we are up to date. Director Baggerly recalled that they were not dealing with rodents on the Dam because it was too dangerous to have people on there and we had contracted out. Mr. Johnson clarified that was for pesticides not herbicides. The type of bait being used right now can be placed on the edge of the Dam, not on it. It would be a question of working on the Dam if the gas was used because each hole would have to be found. President Hicks suggested using the new chemical for ninety days to see if it worked and if not revisit the issue. He asked if there were any other chemicals that were not anti-coagulants that could be used on the Dam that are not fumigation. Mr. Grigsby confirmed that there were. President Hicks said to try those and if they do not work the issue would have to be revisited. Director Baggerly asked how you measure for rodent control since it seems that they are always there. Director Baggerly removed his motion. He thought it was a good idea to have a test with non anti-coagulant bait or any kind of rodent control possibility that would help eliminate the anti-coagulant. Mr. Johnson's suggestion was that there was no need to pass a policy for ninety days and the policy would be updated on the basis of the suggestions. The item was tabled for ninety days with the direction for staff to continue working on a solution that did not include anti-coagulants.

9. Resolution approving execution of a letter agreement with Santa Barbara Botanic Gardens expanding the term of the nature tour concession agreement to December 31, 2008.

Mr. Roney reported that the agreement was to extend the term of the concession through December 2008. It was started last year as a pilot program, taking over the tour boat operations from Center for Earth Concerns. SBBG was getting the boat repaired,

doing some marketing and promotions and were interested in the extension. Bob Sherwood introduced Laurel Williams and handed out some background information. President Hicks asked if there was any chance of the electric motor working again. Mr. Sherwood indicated that it was being installed within the next week. It had been replaced, but was the wrong size and the correct one was now being installed. Director Kaiser observed that what was being provided was a valuable educational and environmental service to the public.

A motion to adopt the resolution was presented by Director Kaiser, seconded by Director Bennett and adopted by the following roll call vote:

AYES:	Directors:	Hicks, Kaiser, Bennett, Baggerly and Word
NOES:	Directors:	None
ABSENT:	Directors:	None

Resolution is numbered 05-52

10. Recommend approval of the Water Recycling Project for the City of Ventura.

Mr. Johnson reported that the City of Ventura was our biggest customer has called and asked if the District would support their grant request for recycling water. Basically the water comes from the Ojai Valley Sanitary District to be used by one of the oil companies for oilfield injection. There appears to be an existing water line that can be used for that purpose so the overall cost in terms of capital cost is probably relatively minimal. There have been discussions with the Sanitary District, the concerns of which seem to be the fish in the river; that the County CUP has a requirement that the water stay in the river; and there is a question about the ownership of the water. He understands from the City that they already obtained authorization from the City Council in January, the request is simply to study the project, not to construct anything. The City has said they would like to have support. The Board has expressed concern that Casitas would be left making up the water if it is ever taken out and some direction is needed. President Hicks asked whether Casitas is providing the 1,000 acre/feet that is going down the hole now. Mr. Johnson confirmed that understanding.

Director Word said he would want to support the City's efforts, but we would need to have the question of who will make up the water answered. He said it is not quite the same thing because they are using Sanitary District water which is recycled, but now potable water is going down the river to supplement water to the fish. Now, instead of going down the river to supplement the fish, they would use water to inject into the oil wells. The question is that at some point in time does that water have to be made up, and if it is, the only place it could be made up is from Casitas. President Hicks said that theoretically we should have that 1,000 acre/feet they are putting down there now. Director Baggerly said that it depends on who gets credit for it. Director Word emphasized that it is going to be an issue and as long as it is addressed he supported the City's request. Director Baggerly said that he had a lot of concerns and even in the event only a portion of the effluent from the Sanitary District is utilized for industry, the issues

for the Sanitary District are that the use permit for the Treatment Plant requires that the effluent be discharged to the river. The CUP from the County for the building requires that the water be discharged to the river. In the Habitat Conservation Plan, all three agencies have identified the Ventura River as an effluent dependent watercourse and a significant portion of the juvenile steelhead population are dependent upon that. He asked who was going to have to go to the Regional Board to change the NPDES permit. It would open a can of worms to everything. Recycling water was a good idea, in normal situations it would be a perfect idea to supplement potable water with effluent, but there were so many problems associated with that issue that the more Casitas supports it, the closer we get with having to deal with the problems. Director Kaiser said the Committee had indicated their concerns about taking the water out of the river and should Casitas be required to compensate for that in the future. He found it ironic that the lead agencies involved in the conservation plan, and the emphasis that was placed upon it particularly by the City of Ventura, are now looking at this particular method of taking water out of the river which would diminish the habitat that we are trying to conserve. He said it did not make sense to him right now. Director Word said he could support a study not action.

On the motion of Director Bennett, seconded by Director Word, and passed with Directors Kaiser and Baggerly dissenting, the motion was passed.

11. Discussion of the Biological Opinion.

Mr. Johnson gave some background. At the last meeting the Board asked to have this review and there was also a request to have a NOAA Fisheries representative here to answer particular questions. Scott Hill said he did not have anyone available, but would endeavor to answer any questions put to them in writing. There are a couple of salient points to cover so that the Board understands the issues. The first was to talk about the Incidental Take Permit which was the key to the whole thing. It basically says that under the terms of the law, the incidental taking is not intended to be prohibited under the act (The Endangered Species Act), provided that the taking is in compliance with the incidental take statement. He said he thought that what was being said in that particular section, which is key to the whole discussion, is that if you take in accordance with the permit then you are not in violation of the act. Violation of the act is that you fail to implement the terms and conditions or to adhere to the terms and conditions of the Incidental Take Statement, and although they name Reclamation in there, Casitas can substituted because that is who Reclamation is going to look to. Reclamation is in there because it is a Section 7 consultation. As long as the terms and conditions are implemented, and Casitas adheres to the terms and conditions of the Incidental Take Permit there is no problem with the coverage of the lapsing. The Incidental Take Permit gives Casitas the authority to operate the system in accordance with this Biological Opinion.

The second piece of information is what exactly the law says about violating the permit. There are civil and criminal penalties for violating the permit. Civil penalties vary between \$500 and \$25,000 for each violation. Criminal penalties can be up to one

year in jail or a \$50,000 fine, or both. There are significant civil and criminal penalties if the Incidental Take Permit is violated.

The first thing that is required on the Incidental Take Permit has to do with the augmentation season – Fish Passage Augmentation Parameters. Part of these talks about minimum fish passage flows and the requirement to have the flows go through the fish passage screen. In Minimum Fish Migration, it talks about releasing the natural flows up to a certain amount. This is from January 1 through June 30. There is a requirement to release certain augmentation flows in the river, and this is what is talked about most of the time regarding these issues. Another key issue is where it says diverted water shall pass through the fish screen water level control gate and then to the Robles Casitas Canal. He thinks that what that means is that diversion flows have to go through the screen otherwise it violates the Incidental Take Permit. President Hicks commented even if the fish screens do not work. If the screens break and the water cannot go through them, then we cannot take any water? We need to get that clear as it is a huge issue. Mr. Johnson said that he would ask that question. Director Bennett asked what would work. President Hicks observed that we are making a good faith effort to make it work and they have to give us the ability to pull the screens in a situation like last time. The fish do not come up when the flows are that great anyway, the waters are too muddy. Mr. Johnson said he was just trying to pass on to the Board what the words say. Director Baggerly said he did not think they could try to be fish biologists and say when the fish can and cannot come up, that is not really the Board's job. If some of the screens do get damaged perhaps we could have some spare screen to put back in there. Mr. Johnson said the issue was not that the screens were damaged, the issue was that micro trash was coming down. It was not really trash but actually little bits of leaves and things that plug the slots in the screen. The slots are set so that it will not entrain the fish, so the little fish don't get caught. We need to get the brushes working. According to this it does not say that if the brushes do not work the screens can be pulled. It seemed to him that the water has to go through the screens in order to divert water. He thought that one of the questions to be posed is that if there is trouble with the brushes. There is some inconsistency. If you don't have the water going through the screens you also do not have attraction flow for the fish. It goes on to say that you have to have a non-augmentation season in which you have to release water only in accordance with your water rights, but it also requires that if you are diverting water, the water has to go through the screens, again in the Biological Opinion.

The next thing to discuss is Critical Drought Measures in the BO. This is a time when the BO allows augmentation flows to be reduced. Basically at 127,000 acre/feet, data from water diversions and water releases and other things would have to be supplied to NOAA Fisheries, and at that point they will also want to discuss the effectiveness of the allocation program on an annual basis. This ties directly to the allocation program and how that is going. If the allocation program indicates that more water is being used, not less, it gets down to the next issue. Below 100,000 acre/feet, fish will suffer the same reductions as water customers. That means, that in their opinion if customers are not suffering any reductions, nor will the fish. Director Words asked how customers suffering a reduction is meant, meaning we are providing less per customer. President Hicks said there are automatic kick-ins at certain levels. Director Word said that affects

the rate not whether they are using less. Customers suffering would indicate there is some sort of ration. President Hicks said that is just what happens when we get down low. Mr. Johnson said that the way the allocation program works is that it talks about bringing people down to the allocation not cutting the allocation until you get to Level 5. Level 5 actually talks about cutting the allocation, but between 2 and 4 you are just talking about ever increasing incentives to get people to comply with the allocations. So the key thing is that they are looking at more things than just the stage of the program you are in, they are looking at releases to the system, storage and what went on prior to becoming half full as opposed to what went on after becoming half full. So unless you can show reduction, you are not going to see any reduction in fish. Director Baggerly said that the sentence Mr. Johnson was referring to says any flow reduction resulting from modification to the fish flow operations will be based upon an equitable sharing of temporary reduction in water allocation to customers as identified in an assessment by Reclamation and Casitas of the allocation. Was that correct? Mr. Johnson confirmed that was what it says. Director Bennett said we are talking allocation. You are going to be looking at several factors, not just price. The several factors you are going to be looking at is how much water you are going to be sending to your customers and how much water they are using before we went into half full and after we went into half full. Director Baggerly said that really it is going to be based on water use and how effective the allocation program is to keep people within their allocation, correct? Mr. Johnson said he thought they were facing a couple of things. One is what stage you are in and how much that stage cuts water usage. There is only one stage that cuts water usage and that is Stage 5. Director Word said that it means that Casitas may have to change the stages. The other thing Mr. Johnson thought it said was that they are going to look at other parameter to try and determine what's been going on and whether the program is cutting actual demand. If the program shows that it is cutting demand they will attribute that one for one to the fish. We have an extra problem that we talked about but they did not include in here, and that's the problem that when the resale customers start running out of water. They are not going to run out of water at 127,000 acre/feet, they are going to run out of water when we have been in a long term drought, and they are going to come on the system at a time when you need to show you have a reduction. Director Word asked if that is a reduction per customer or in total because as water availability drops in the long term drought we get more customers, because that is what we were established to do. Mr. Johnson said he was not sure they were set up to deal with that. He confirmed that resale customers have allocations. Director Baggerly said that we have 6,000 acre/feet of water in the allocation program to the City of Ventura and asked what we have allocated to Southern California Water. Mr. Johnson said we have a given number allocated to Southern California. Director Baggerly said that we are going to have to figure out how to get the PUC to recognize that kind of program so increases in the different stages for the price of water, as an incentive to reduce usage, is followed. Mr. Johnson said that it was one of the things they needed to talk about more. As you go down farther and we can't show our customers have taken a reduction because of some of the things we have talked about, when you get down to 17,000 acre/feet then there is an absolute cutoff. Of course we are almost out of business too. It would stay that way until the reservoir got back up to 65,000 acre/feet. Compared to long-term drought, that logically means that you are going to run out of water. Director Baggerly said that if it

ever gets to that point there are going to be so many problems, the fish are going to be having problems too. Director Bennett said we need to make sure our plan is in full force and that fingers are pointed in the right direction.

Mr. Johnson said the next issue has to do maintenance and operation. What they say in the BO is that silt removal will only be done in the dry channel. We usually only have a silt problem when there has been a high flow, and like this year the channel is unlikely to go completely dry. If you follow this entirely, you could not do the silt removal project this year. Director Baggerly said you may not have water in both of the channels behind the pool, you may only have it on the eastern portion, so you might still be able to do some work on the western side. Mr. Johnson said the BO does not suggest that you can work in a portion of the channel that is dry and not in a portion that is wet. All it talks about is that the channel be dry for you to work. He said he was not trying to split hairs, he was trying to tell the Board what is in the BO and where this thing is likely to go if we have fish in the river. Now is the time to ask questions. Director Word said this assumed we are able to do it, seemed like this would give us permission to do it, but that doesn't give us the permit. Mr. Johnson said that National Fisheries Service can issue another permit. Director Word said we need to get it clarified so that we do not have to go back and wait for a year to get a permit to clear the forebay. Mr. Johnson said we are out of interim operations. Mr. Wickstrum said to ask if we are able to do that in accordance with best management practices of the Corps of Engineers. Director Word said that our problem now is that we do not have permission to clean it out. Director Baggerly said the problem is that if you have to go to the Corps. You have a Federal situation and you have to do a Section 7 Consultation anyway. President Hicks said that if the flows are that low there are no fish most likely. Director Baggerly said if the turbidity goes down far enough to cover up the redds where the eggs have been laid, it kills them and that amounts to a take. Mr. Wickstrum said that had come up last week with John Markham and he was going to get word from the Corps. on it. President Hicks said there was another permit we could get to go ahead with it. Mr. Wickstrum confirmed that there was. Mr. Johnson said they can always permit you to do the things they have not allowed you to do in there. Basically we need to ask them and that is what we need to do to clarify these things.

Finally, there are the monitoring requirements. There are a number of things such as identifying low flow impediments to flow, looking at the depth and level in the fish passage while it is operating, and long term information on population. You need to file an annual report that talks about down stream conditions. The reference they have is the Robles Reach not down to the mouth of the river. There is going to be that annual report for a period of at least 5 years. Then there is a cooperative decision making group consisting of two committees, one biological, one management both run by Reclamation. The Biological Committee is supposed to take all the monitoring data and at the end of the year submit it to the Management Committee. They make recommendations on things they think you should look at and do differently and the Management Committee gives direction. Director Word asked if we would have representatives on both of those and Mr. Johnson confirmed that we would. It will have to be set up by Reclamation and they have not met yet. Another issue has to do with Matilija water releases. There are no

restrictions on Matilija water releases, so if some water, a lot of water or no water is released, that is not controlled by the BO. It said we would do it, but no restrictions were placed on it. So if we get into a situation where water is being stored and we are not releasing a lot, that does not affect anything down stream that you have a requirement for.

Director Bennett asked about water rights holders. Mr. Johnson said you always have water rights holders issues, they never go away, but you do not have any releases that you have to do at Matilija for the fish. So if you get into an issue of not having enough water in the main stem in the river and it is traced back because water was being stored behind Matilija under our water rights, and you are not violating any downstream water rights, that is not an issue under the BO. Director Word said that it would be very hard to separate that water. Mr. Johnson said it is easy to separate the water because the requirements under the BO is the water coming into Robles, so if you release the water and it comes into Robles, then you know what you have to do with that water. Director Word asked why we are saying that the water behind Matilija is not affected. Mr. Johnson said it is not affected if downstream somehow gets dewatered and somebody traces that not to the North Fork, but to the fact that Matilija is not releasing water. The BO does not have anything about releasing water the only issue is water rights. Director Baggerly said he would be careful with that kind of thinking because if you did dewater below Robles you are still in trouble. Mr. Johnson said you have to be careful about everything. Director Baggerly said if you dewatered or stranded fish or caused a problem. Mr. Johnson said what is likely to happen in that scenario is that you would have to go back to the Biological Committee. One of the things is that you have to monitor how much take is actually occurring. If you did dewater the central part of the river and it was determined that you had taken because of that, he thought they would come back the next year and have a requirement on the Matilija water. He said he thought Director. Baggerly was right, you have to be careful.

Then there are a number of terms and conditions, one of which is that Casitas has to put in a weir project. The Board has already decided to do that. President Hicks asked if you could do that while it was wet and wouldn't that be the same problem? Mr. Johnson said the fact is that the BO does not deal with wetness there. He thought that what could be done was to shut everything down that flows over the cutoff wall and bypasses where you need to put in the project. We still probably need their permit or opinion to do that. Director Word asked if Mr. Johnson was saying that it was an interim weir project. Mr. Johnson said that if they come up with the money to obtain the final one then Casitas would put it in. Director Word asked they if they do not come up with the money Casitas puts the interim in and it stays until such time Are we sure of that? Mr. Johnson said he thought they could change their minds but right now that is the way it is set up. Director Baggerly asked if there was a requirement for Casitas to build the weir. Mr. Johnson said there is a requirement not only to build the weirs but the interim weir if the other one does not get funded. Director Baggerly said he did not mind it being shifted to federal funding but asked how it worked. Mr. Johnson said the interim weir project allows them to deal with the issues of fish passage. The fish can still pass. It does not have all of the details they wanted originally, but the fish can still pass. Director Baggerly said he understood that and he was talking about funding. Mr. Johnson said the

responsibility had never been ours to build the weirs other than to build them if we received funding. The second term and condition was that you monitor the breach from the sand bar.

The third was something that had not been done, but must be done, to modify the auxiliary flow gate for higher flows in case in the future they want to divert more water downstream. What that meant, he thought was that one of the four large gates would have to be modified so that it would regulate flow on the basis of elevation. Director Bennett asked if it was either open or closed on those gates. Mr. Johnson said the systems we have in there anticipate the gates will be closed. They could be modified on the basis of the overshot gate that is behind the strainers. The overshot gate allows water to go down and when the flows are high enough they simply go over the cutoff wall. Everything is designed at a certain level. Director Word asked if we could modify the cutoff wall. Mr. Johnson said no, what it means is that in order to send more water downstream prior to that you might have to modify the gate, maybe Mr. Wickstrum could come up with a different system. Mr. Wickstrum said it was something where they could come back and say we think we need more water, then we would find out how to do that whether it is through the auxiliary line, the fish ladder or the actual spill way. Director Baggerly asked how much there was passing through the fish ladder. Mr. Wickstrum replied 50 cfs and we have seen about 65 cfs. We are going to have to take a look at the whole system.

Mr. Johnson said the final term and condition was that we have to provide them with an annual summary report with the take as talked about earlier. So if there was a situation that somewhere in the operation they were affected, it would have to be reported and they could come back in the process of going from the Biological Committee to the Management Committee and ask us to change our operations. He said he had two questions for National Marine Fisheries Service, one was if the brushes break and do not operate adequately to get the entire flow, can we remove the screens. President Hicks said it has to be set at a certain cfs. With a storm like last year fish are not going to get up the river, there is going to have to be some level at which we can pull the screens. Director Bennett said he thought it should be asked as (a) and (b) because we would get two answers. Mr. Johnson said the second question he had was when we go into the channel to construct the facility, what if the forebay is still wet. Director Hicks said it could still be wet and not have flows. Director Word said that in their response to our draft, which they did not like, they seem to have expanded dramatically on the issue of monitoring where the river goes out into the ocean in terms of when and how. He read in the BO and it was if the sand bar was broken. Now it sounds like it would take a full time person to check on that and what size, age, what kind of fish and how many. Mr. Johnson said the BO talks about considering monitoring using a television or video setup or by doing it by hand. It does seem inconsistent but that is one of the things being faced. We are going to send the questions directly to the Regional Administrator for NOAA. Director Baggerly said there may be websites with web cams that are already watching that area every day without having to send someone down there. The projected flows from the Watershed Protection District would probably tell you when it would change. Mr. Johnson said most of the rules we have say that once it is breached we have to

follow, the rules, it does not matter if it closes again. They may not be viewing it that way and he was not sure you can simply say that this does not make sense, so maybe we need to ask them another question about the breaching. Director Word said he thought it needed clarification.

President Hicks said he thought it was a good start to get some communication going with them. Director Baggerly asked one more question - if Mr. Johnson was comfortable with the fact that he thinks we have one date when the fish passage facility was completed and when the BO states it was done. When does the five years start? Mr. Johnson said one of the other things he thought he heard from Neil Cole was that they may not even think it is done when we think it is done. They think that the interim weir project is a minimal requirement and that has to go in before it starts. Maybe what we should do is ask the minimum flow question with it. If it is not done then is interim flow still operational. Director Baggerly said he thought the interim flow period was over. President Hicks reiterated that Mr. Johnson would ask the questions.

12. Recommend the Board support the ACWA recommendations outlined in their Blue Print for California Water that are most applicable to the District.

Ron Merckling reported that the Department of Water Resources had drafted a plan and made recommendations for the California Water Resource Planning for the next 25 years. ACWA has come up with their own plan that highlights very similar recommendations that differ in a couple of places. It has been recommended that the Board focus, given our limited resources and lobbying and talking to the legislators, those items that are most critical to our District. ACWA makes several recommendations focused on Cal Fed, Colorado River water and Sacramento and these are items for long term water resource planning, not as important to Casitas as some of the other recommendations. We should focus on what is important to this District. One of the four recommendations was to get some clear direction on the modernized Federal Endangered Species Act relating to water infrastructure projects, water supply, water quality and protecting species and habitat, emphasizing a more collaborative approach between agencies. Director Word said we could support that since up to now it has been all one-way discussion. ACWA's Bueprint for California Water does concentrate its priority efforts specifically on the Bay Delta Area because it is so critical. Somehow we are going to have to deal with that by putting in a peripheral canal. Is that going to happen? If the state water does not come down, 75% of the County of Ventura will go to whoever has water and that may be us. This will eventually affect us. He said they need to support ACWA's Blue Print and state water planning, and at the same time continue to talk to our legislators. There are some things in there that do not answer or do not necessarily address ...but we can support it and continue to go after the things that affect us most directly, we need to do both.

On the motion of Director Word, seconded by Director Baggerly and passed, the recommendation to approve the Water Recycling Project for the City of Ventura was approved

13. Recommend approval of a letter to Governor Schwarzenegger regarding the Cal Trout letter.
14. Recommend approval of a letter to the State Water Resources Control Board.

Mr. Johnson said he had a modified letter received from Marzulla that is a little different. They rewrote his letter with a couple of changes if acceptable to the Board. The changed letter from Marzoula was handed to the Board. The only thing in their letter he would change would be to say we have almost paid it off rather than we have paid it off. There are also a couple of spelling errors and a few words that need to be updated. He said he wanted to talk to them about this letter and the next one. Marzulla called him and indicated they think this political action is to try and cause a problem with the taking claim. They have recommended that the Board do what it can including having our legislative person meet with legislators to talk about the proposal by Cal Trout to try and change the water rights. He thinks they want us to talk to the Governor's Office, State Water Resources Control Board and the legislators. It appears that the arguments have been reversed by the other side. In other words, our position of not including it would cause a problem with the State of California being responsible for our water rights. Actually, the argument is the exact opposite and that is that the Federal Government has the right to come in and tell us how to release our water, they do not have the right to set our water rights. It is clear in State law that it is a condition of the State. What we are saying is leave our rights alone, you have set it, Cal Trout is saying no, put Federal conditions in our water rights. He thinks that whole idea of who sets the stage for the water rights is something that the State Board and the State need to set not simply mimic what the Federal Government decides is necessary for the fish. It is explained pretty well in the State Board letter where we basically say that the standards are different. The standards for setting the water rights in the State are that there has to be a consideration of all of the issues including the public trust, such as supplying the customers, whereas the Federal Government standard is that there is no cost too high to protect the fish. Those are two separate statements, so based upon the discussion with the Marzoula firm on trying to protect our stance and our claim, he felt we should move ahead with the letters as revised. President Hicks asked if both items should be included in one motion. Mr. Johnson said that what also needs to be in the motion is to authorize staff to take appropriate steps with the legislators and others to deal with the political issues that Cal Trout is trying to push to get politicians to cause a change in our water. Director Baggerly said he thought the Cal Trout letter being sent to the Governor was misplaced. The Attorney General is independently elected and it would take a lot for the Governor to walk over to the Attorney General, hat in hand, and ask him to do this, it is never going to happen. The Governor will probably not deal with this at all. Director Bennett proposed a motion for 13 and 14, but Director Baggerly said he had comments on 14. He said that on the second page there were a number of references to Cal Trout and the Audubon suit that he found were taken completely out of context. The inference was reversed 180° and eventually when the issues come to a public hearing, these are the people who deal with this lawsuit every day, they know what it means, they know what to say, if this letter is sent we will lose credibility and it will not do us a bit of good. Director Hicks asked if they should be dealt with separately.

Mr. Johnson said he was concerned about the timing since our water rights attorney had said this response to State Board was due a week ago and they were concerned about delay. He had already called them to indicate we would try and deal with it here. Rob Sawyer said he had had discussion with the State Board on the ESA case. The only reason the Water Resources Control Board had only reason for lobbying the Federal Government that deals differently with some of these cases was for technical reasons. It would appear that what Cal Trout was trying to do was to somehow get the Governor to influence the Attorney General which would take it to a different level, it was truly political. In reviewing the letters what Marzullu had put together an excellent response to have in the record recognizing that the Governor is not going to urge the Attorney General to somehow join with the Federal Government. Our claim is going to be left between the Federal Government and this District. The other issue was a more technical one. The letter of June 10 was prepared by the District's special counsel and there were technical reasons why it should go in pretty quickly unless the General Manager or the Board thought there was something erroneous.

On the motion of Director Bennett, seconded by Director Word and passed, the recommendation to approve the letter to Governor Schwarzenegger regarding the Cal Trout letter, and the letter to the State Water Resources Control Board were approved, together with direction for staff to take appropriate steps with the legislators and others to deal with the political issues.

Ron Merckling reported that he would be scheduling a meeting with Audra Stickling hopefully in mid July and he wanted to encourage any Board members who might be available on a Friday to attend. It would probably be held in her office.

President Hicks asked if there was a closed session. Mr. Johnson asked if the Board had given permission to use Ron to help with support. President Hicks said that it was part of the motion to get involved politically.

President Hicks asked for comments on the other items on the agenda.

Director Baggerly commented on the letter from Barry Eckenroth regarding the seaplane fly in which Mr. Eckenroth had expressed utter surprise that Casitas would allow a plane to fly in since he was not allowed to fly in to reservoirs, only lakes. Director Baggerly started thinking that it probably was a hazard. The reason they cannot fly into reservoirs is probably that they could be loaded with a payload of high explosives and fly right into the Dam. He thinks there is a safety issue. President Hicks did not think it was possible to blow up an earthen dam without an atomic bomb. Mr. Johnson said he did not claim to be an expert on blowing up dams. Rob Sawyer said that from a legal counsel standpoint, he was very pleased to see that we have users that find our recreation management so comfortable and cooperative and he would be curious to find out whether it had to do with size or whether there is something technical.

President Hicks asked if there was a closed session. Mr. Johnson confirmed there was not.

15. Information Items:

Level of lake –06/13/05 - -564.70 feet above mean sea level (2.30 feet below spill elevation); present storage is 247,814 acre feet (6,186 acre feet below full capacity of 254,000 acre feet, 120,814 acre feet above half capacity, or 97.6% full capacity.

- a. ACWA Memo regarding a Sacramento Bee Editorial.
- b. Letter from Lost River Hatchery regarding Lake Casitas Trout Contract Status.
- c. Park Store Audit Update.
- d. Letter from Barry Eckenroth regarding the Seaplane Fly-In.
- e. Article regarding NRDC v. Patterson in The Water Log.
- f. ACWA letter to Chairman Hunter of the House Armed Service Committee.
- g. Recreation May Report
- h. Investment Report of June 15, 2005.

16. Closed Session

There was no closed session.

President Hicks adjourned the meeting at 4:45 p.m.

Secretary