

**OFFICE OF THE BOARD OF DIRECTORS
OF THE MODESTO IRRIGATION DISTRICT**

1231 Eleventh Street
Modesto, CA
November 14, 2023
9:00 a.m.

The meeting of the Board of Directors of the Modesto Irrigation District was called to order, in regular session, in-person and via webinar, on the fourteenth day of November 2023. Present were Directors: Larry Byrd, President, Nick Blom, Vice President, John Boer IV, Robert Frobose and Janice Keating. General Manager, Jimi Netniss, Interim General Counsel, Frank Splendorio and Board Secretary, Angela Cartisano.

QUORUM

Upon roll call, a quorum being present, President Byrd called the meeting to order.

PLEDGE OF ALLEGIANCE

President Byrd led the pledge of allegiance.

The Board Secretary performed a roll call vote.

Vice President Blom announced that he will be abstaining from voting on the Consent items due to a disbursement payment that is payable to Blom Ranch.

CONSENT ITEMS

MINUTES

Moved by Director Boer, seconded by Director Keating, that the minutes of October 10 and October 24, 2023, be approved. President Byrd declared the motion carried by a vote of all Directors present. President Byrd declared the motion carried by a vote of all Director present.

WARRANTS

Moved by Director Boer, seconded by Director Keating, that warrants numbered 126449 to 126598, in the amount of \$1,005,214.13, be approved. President Byrd declared the motion carried by a vote of all Directors present.

WIRES

Moved by Director Boer, seconded by Director Keating, that wire transfers for the month of October in the amount of \$27,218,215.04, be approved. President Byrd declared the motion carried by a vote of all Directors present.

DISBURSEMENT ACCOUNT PAYMENTS

Moved by Director Boer, seconded by Director Keating, that disbursement account payments for the month of October, in the amount of \$5,475,833.84, be approved. President Byrd declared the motion carried by a vote of all Directors present.

RESOLUTION 2023-47

DECLARING THE FIRST TUESDAY OF THE MONTH SHALL BE FIXED AS THE REGULAR MEETING OF SAID BOARD OF DIRECTORS FOR THE MONTH OF DECEMBER 2023 AND OTHERWISE AFFIRMING, THE SECOND TUESDAY OF EACH MONTH AS THE REGULAR BOARD MEETING OF THE MODESTO IRRIGATION DISTRICT BOARD OF DIRECTORS

WHEREAS, Water Code Section 21378 provides that the Board of Directors may, by resolution, set any day or multiple days of the month for its regular monthly meeting(s); and

WHEREAS, a resolution setting the Board's regular monthly meeting(s) shall not be effective until it has been published once a week for two successive weeks in the Modesto Bee; and

WHEREAS, by Resolution No. 89-205 the Board set the second Tuesday of each month as the regular meeting day; and

WHEREAS, the Board desires to fix the regular meeting date for December 2023, to be the first Tuesday of the month.

NOW, therefore, BE IT RESOLVED by the Board of Directors of the Modesto Irrigation District that the first Tuesday of the month shall be fixed as the regular meeting of said Board for the month of December 2023.

BE IT FURTHER RESOLVED, by the Board of Directors of the Modesto Irrigation District that except as specifically resolved, the second Tuesday of each month is hereby affirmed and fixed as the regular meeting of said Board of Directors of the Modesto Irrigation District.

Moved by Director Boer, seconded by Director Keating, that the foregoing resolution be adopted.

The following roll call vote was had:

Ayes: Directors Boer, Byrd, Frobose and Keating

Noes: Director Blom

Absent: Director None

President Byrd declared the resolution adopted.

RESOLUTION 2023-48
AUTHORIZING THE GENERAL MANAGER TO EXECUTE AND ADMINISTER A FACILITY MODIFICATION AGREEMENT BETWEEN THE MODESTO IRRIGATION DISTRICT (MID) AND R CO LLC, FOR THE INSTALLATION OF A NEW SIDEGATE (APN: 005-031-029)

WHEREAS, Landowner has requested approval to install a new sidegate in order to more efficiently irrigate the property noted as 4425 Shoemake Avenue (APN: 005-031-029) with a new pressure irrigation system, and

WHEREAS, the new sidegate will be installed approximately 840 feet downstream of MID Lateral 7 Drop 12 on the south bank of MID Lateral 7; and

WHEREAS, Landowner has fully executed a Facility Modification Agreement between Modesto Irrigation District (MID) and R CO LLC, for the installation of a new sidegate; and

WHEREAS, Landowner shall comply with any and all terms and conditions of the Facility Modification Agreement between Modesto Irrigation District (MID) and R CO LLC, for the installation of a new sidegate.

BE IT RESOLVED, The Board of Directors of the Modesto Irrigation District does hereby approve and authorize the General Manager to execute and administer the attached Facility Modification Agreement between the Modesto Irrigation District (MID) and R CO LLC, for the installation of a new sidegate.

Moved by Director Boer, seconded by Director Keating, that the foregoing resolution be adopted.

The following roll call vote was had:

Ayes: Directors Boer, Byrd, Frobose and Keating

Noes: Director Blom

Absent: Director None

President Byrd declared the resolution adopted.

RESOLUTION 2023-49
AUTHORIZING THE GENERAL MANAGER TO EXECUTE A COST SHARING AGREEMENT FOR THE PREPARATION OF GROUNDWATER ANNUAL REPORTS AND AN UPDATE TO THE 2022 GROUNDWATER SUSTAINABILITY PLAN

WHEREAS, the Sustainable Groundwater Management Act of 2014 (SGMA) required the formation of Groundwater Sustainability Agencies (GSA) and the preparation and submission of Groundwater Sustainability Plans (GSP) by January 31, 2022; and

WHEREAS, in January 2017 the Modesto Irrigation District elected to enter into a Memorandum of Understanding (MOU) with the other agencies to form the Stanislaus and Tuolumne Rivers Groundwater Basin Association (STRGBA) Groundwater Sustainability Agency (GSA) and prepare the 2022 Groundwater Sustainability Plan for the Modesto Sub-basin in compliance with SGMA; and

WHEREAS, in August 2017 STRGBA GSA authorized Todd Groundwater (Todd GW) to prepare and submit the 2022 GSP, as well as authorized the City of Modesto to be the contracting agency with Todd GW; and

WHEREAS, Todd GW completed and submitted the 2022 GSP for the Modesto Sub-basin on behalf of the GSA; and

WHEREAS, SGMA requires a GSA to update its respective GSP and prepare Groundwater Annual Reports (GWARs); and

WHEREAS, earlier this year the City of Modesto, on behalf of the STRGBA GSA agencies, solicited both Statements of Qualifications and Request for Proposals from qualified consultant engineers for services to develop the GWARs for water years 2023-2028 (6 total), update the 2022 GSP for submittal prior to the January 2027 deadline, and provide continued support with other miscellaneous SGMA related tasks; and

WHEREAS, Todd GW was ultimately selected to provide these services, and as was agreed upon with the City of Modesto for the 2022 GSP contract with Todd GW, each of the seven (7) STRGBA GSA member agencies along with Tuolumne County GSA are proposed to contribute a 1/8th (12.5%) share of the annual total; and

WHEREAS, MID is responsible for an equal payment of \$249,325 payable as a lump sum or 6 equal payments over 6 consecutive years (includes the 10% contingency to be approved by the STRGBA GSA agencies before it can be allocated); and

WHEREAS, the City of Modesto is to be the contracting agency with Todd GW.

BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby authorize the General Manager to execute the attached cost sharing agreement for the preparation of Groundwater Annual Reports and an update to the 2022 Groundwater Sustainability Plan.

Moved by Director Boer, seconded by Director Keating, that the foregoing resolution be adopted.

The following roll call vote was had:

Ayes: Directors Boer, Byrd, Frobose and Keating

Noes: Director Blom

Absent: Director None

President Byrd declared the resolution adopted.

PUBLIC INPUT FOR THE GOOD OF THE DISTRICT

There was none.

**PUBLIC HEARING – PROPOSED CHANGES TO
MODESTO IRRIGATION DISTRICT’S ELECTRIC RATES**

President Byrd opened the hearing at 9:10 a.m.

Wilson Chalabi, Interim AGM of Finance, reviewed the agenda regarding the hearing process.

Michael Colantuono, outside counsel to the district said the study that is being discussed today is to allow the utility to keep current within the rapidly changing environment in the world around us. He provided an overview of the public hearing format.

Chalabi noted the hearing was noticed 30 days prior on MID’s website and various newspaper publications. The Cost-of-Service Study and the proposed rates were posted on November 3, 2023. Staff met virtually with key accounts to review the proposed rate changes. He provided a background of MID’s financial strategy and said the primary 2024 Budget Drivers was the volatility and pressure in the commodity markets. Purchase Power was 20 percent over the budget in 2023 and Power Supply representing 57 percent of the 2024 Budget. He explained that Power Supply is not the only increase in expenses between the 2023 Budget of \$309.5M and the 2024 Budget of \$361.8M. As part of the budget process staff implemented various budget reduction costs and cost indication actions which resulted in a \$13.8M total reduction in costs, but still leaving the District with a \$40.4M shortfall. Chalabi introduced Bill Monsen, Principal Consultant from MRW & Associates, who explained the work he performed to develop revenue requirements by line of business.

Mark Beauchamp, President of Utility Financial Solutions, said there are two items for the Board to consider today: 1. To select one of the three rate design options that is being presented, each producing primarily the same amount of revenue in 2025; 2. Approval of a Power Cost Adjustment (PCA). Beauchamp explained the purpose of a Cost-of-Service Study and the objective is to design the rates to move the classes closer to the cost of service. Beauchamp then reviewed the cost to provide service to each class on a cost per kilowatt basis. He explained all three rate options for the Boards consideration and said even with the proposed increases, MID is still over 40 percent less than PG&E. Power Cost Adjustment (PCA) is used by 75 percent of utilities around the country. It is a mechanism to recover changes in power supply costs, which we do not have control over. PCA charge to customers changes monthly based on the costs over the previous 6 months compared to budget/rates. A 6-month rolling average is used to minimize and balance the negative impacts on customers that can result from a PCA. A Power Cost Adjustment would not be implemented until January 2025.

Chalabi noted one additional change being proposed is to the Interruptible Demand Program. It’s a voluntary program for commercial and industrial customers where they receive credit for demand reduction in summer months. He explained the importance of the program and proceeded to summarize the proposed rate increase.

President Byrd thanked Chalabi and the team for their presentation. He asked for clarification of the Power Cost Adjustment (PCA) and said for ten years we did not raise rates, but the world has changed, the wars have changed, and the cost of doing business is going up. The last thing he wants to do is raise rates, but we have to do something, and this is a moderate increase. We pride ourselves on reliability and costs have gone up significantly.

Vice President Blom asked what the residential increase is going to be 2025 and echoed President Byrd's comments regarding reliability. He is leaning toward option 3 to soften the blow to customers. Beauchamp responded.

Director Frobose said raising rates was not the first option. Staff worked hard on the budget to cut costs, without cutting reliability. The Board created an Ad hoc committee to explore other alternative energy sources, which have been worked on and is a lengthy process. He mentioned costs the District has not control over and possibly looking at long-term contracts to lock prices in. Netniss expounded on how the District is constantly working on opportunities to save and price certainty to make revenue and raising rates as one of the last options that we turn to.

Director Boer asked why we can't implement the PCA first, with the current 3.5 percent increase the previous Board approved for next year. He said there are a lot of farm employees in his area who are getting laid off and it's hard to get his head wrapped around this.

Director Keating asked why not start the PCA now. She said everyone is hurting right now, shopping at the grocery store, and trying not to faint after putting gas in your car. She asked about the 1.25 percent Reserve Policy. Chalabi responded. Director Keating said after final cuts, trims and rollbacks, staff were able to reduce the deficit from \$68M down to \$40M, there was a lot of work in every department to ease the burden on rate payers. She asked about the PCA and wanting to create rate stability, so we don't have to do this every couple of years. Beauchamp responded.

Director Frobose shared a story regarding his childhood and MID's reliability.

President Byrd opened the hearing up to the public for comment.

There was no public comment.

A discussion ensued regarding the three options being presented.

MOTION

Director Frobose moved to adopt the resolution, as presented with Option 2. The motion failed for the lack of a second.

MOTION

Vice President Blom moved to adopt the resolution, as presented with Option 3, seconded by Director Keating, that the foregoing resolution and Option 3 be adopted.

President Byrd closed the hearing at 10:25 a.m.

Board Secretary performed a roll call vote.

RESOLUTION 2023-50
APPROVING MODESTO IRRIGATION DISTRICT'S ELECTRIC COST OF SERVICE AND REVENUE
ALLOCATION STUDY, POWER COST ADJUSTMENT ELECTRIC RATES

WHEREAS, Water Code section 22280(e) authorizes the Modesto Irrigation District ("District") to fix charges for the sale of electricity provided by the District; and

WHEREAS, the District retained Utility Financial Solutions and MRW & Associates, LLC to perform an Electric Cost of Service and Revenue Allocation Study ("Study"); and

WHEREAS, staff presented to the MID Board of Directors at a duly noticed Public Hearing on November 14, 2023, the Study, and an opportunity was provided for the public to comment on the proposed Study; and

WHEREAS, the District's Board of Directors has considered the Study and Power Cost Adjustment Electric Rate Schedule and all comments on the Study and proposed Electric Rate Schedules.

WHEREAS, the California Constitution, article XIII C, § 1(e)(2) authorizes the District to impose a charge for electric service provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the District to provide the service.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby:

1. Approves the Study attached hereto as Exhibit A and incorporated herein by this reference.
2. Approves the Electric Rate Schedules, effective January 1, 2024, attached hereto as Exhibit B and incorporated herein by this reference:

Option 3		Projected Revenue Under Approved	Projected Revenue Under Proposed	Projected Revenue Under Proposed	2024 Additional Rate Revenue Amount	2024 Additional Rate Revenue Percentage	2025 Rate Revenue Amount	2025 Rate Revenue Percentage
Customer Class	2024 Rates	2024 Rates	2025 Rates	2025 Rates				
Residential (D)	\$ 199.50	\$ 214.44	\$ 225.08	\$ 225.08	\$ 14.94	7.5%	\$ 10.64	5.0%
General Services - No Demand (GS-1)	\$ 25.15	\$ 27.51	\$ 29.38	\$ 29.38	\$ 2.36	9.4%	\$ 1.87	6.8%
General Services - Demand (GS-2)	\$ 81.58	\$ 88.11	\$ 92.94	\$ 92.94	\$ 6.53	8.0%	\$ 4.83	5.5%
General Services Industrial (GS-3)	\$ 66.72	\$ 72.10	\$ 76.09	\$ 76.09	\$ 5.38	8.1%	\$ 3.99	5.5%
General Services TOU (GS-TOU)	\$ 3.52	\$ 3.80	\$ 4.01	\$ 4.01	\$ 0.28	8.0%	\$ 0.21	5.5%
Industrial >25MW	\$ 30.05	\$ 31.10	\$ 33.61	\$ 33.61	\$ 1.05	3.5%	\$ 2.51	8.1%
Water Well Pumping/Agriculture ((P-3)	\$ 16.29	\$ 17.45	\$ 18.25	\$ 18.25	\$ 1.16	7.1%	\$ 0.80	4.6%
Interruptible Water Pumping (P-4)	\$ 1.68	\$ 1.76	\$ 1.80	\$ 1.80	\$ 0.08	4.8%	\$ 0.04	2.3%
Total	\$ 424.5	\$ 456.3	\$ 481.2	\$ 481.2	\$ 31.8	7.5%	\$ 24.9	5.5%

3. Approves the monthly Power Cost Adjustment ("PCA") described herein and in the PCA Electric Rate Schedule attached hereto as Exhibit C and incorporated herein by this reference, effective January 1, 2025. The Power Cost Adjustment (PCA) will be calculated monthly using the most recent six months' actual power cost and applied to each customer's following monthly billed energy (kWh).

The PCA Adjustment shall be calculated according to the following formula: $PCA = ((P/S) * (1 + L)) - B$

P = Power Supply Cost (dollars)

MID's cost of power during the previous six-month period calculated as follows:

- Previous six months of Purchase Power Supply Costs
- Plus previous six months of Local Generation Fuel Costs
- Less previous six months of Net Wholesale Revenues
- Plus or Minus Accumulated Balance of Recovered Power Costs

S = Number of kilowatt-hours (kWh) purchased and generated by Local Generating Units during the same six-month period as factor "P".

L = System annual average losses (3.8%).

B = This amount reflects the average cost of power per kilowatt-hour sold and recovered through base retail rates (approximately, \$0.10393 per kWh), depending on which rate option is selected.

The District shall post the value of the PCA for the monthly electricity bills on the District's web site when it becomes available. In the event that the calculation results in a negative, it will result in a credit to customers once MID has met its financial policies.

Moved by Vice President Blom, seconded by Director Keating, that the foregoing resolution be adopted.

The following roll call vote was had:

Ayes: Directors Blom, Byrd, Frobose and Keating

Noes: Director Boer

Absent: Director None

President Byrd declared the resolution adopted.

RECESS/RECONVENE

At 10:30 a.m., the Board of Directors recessed the meeting. It reconvened at 10:40 a.m.

WATER SUPPLY REPORT

John Mauterer, Senior Water Resources Analyst, presented the water report. Precipitation continues to be well below 100 percent for both Modesto Area and the greater Tuolumne Shed. Most of the major California reservoirs are near or above their historic average. Don Pedro Reservoir currently stands at 80 percent of total capacity or 122 percent of average to date. Both MID and TID irrigation seasons have closed, projected diversions into the upper canals will be minimal and releases to the lower Tuolumne River will be held at approximately 350 CFS. MID's portion of reservoir storage is 18,104 AF, MID's share of Don Pedro's is 413,929 AF for a total of 432,033 AF of available water to MID; within the next 16 days, there is .8 inches of rain projected for the Modesto region; the 3-month period starting in December, the national weather service regional climate model is predicting a 40 percent probability of above normal precipitation, with likely above normal temperatures. Strong El Nino conditions continue to be observed in the Eastern Pacific and are likely to remain in place. We are still early in the season and

weather patterns change quickly and staff will continue to monitor these conditions as the winter unfolds. Weather Modification, Inc. is prepared to fly cloud seeding missions should appropriate weather materialize. To date, the Vaki River Watcher counting weir that is managed by Fishbio, has observed 330 migrating Chinook. On November 11, 2023, MID and TID staff hosted a booth at the Stanislaus River Salmon Festival.

Board Comment:

Vice President Blom asked how much we were releasing at the lower Tuolumne River and what is our requirement. Mauterer responded.

President Byrd asked when will the release flow change. Mauterer responded.

Director Keating asked how many feet is the reservoir. Mauterer responded.

RESOLUTION 2023-51
DIRECTING AND AUTHORIZING THE GENERAL MANAGER TO ENTER INTO A CONTRACT
WITH RIVER PARTNERS TO IMPLEMENT YEAR 1 OF THE
LOWER TUOLUMNE RIVER SALMON HABITAT RESTORATION PROGRAM

WHEREAS, Modesto Irrigation District (MID), Turlock Irrigation District (TID), and the San Francisco Public Utilities Commission (SFPUC) share joint responsibility to protect and improve the ecological health of the Tuolumne River and wish to ultimately implement the habitat restoration components (hereafter Commitments) on the Tuolumne River to achieve these goals; and

WHEREAS, MID and TID's license applications pending before the Federal Energy Regulatory Commission and aspects of the proposed Voluntary Agreements (VA) for the Lower Tuolumne River contain certain habitat restoration commitments that are generally summarized as 77 acres of suitable salmon rearing/floodplain habitat, ideally located above river mile 25; 75,000 tons of gravel addition above River Mile 39; and 25,000 tons of gravel addition below River Mile 39; and

WHEREAS, it is in the public interest to undertake such Commitments as soon as possible for the betterment of the Tuolumne River, the ecosystem and the public at large. Also, if the proposed VA is adopted under its current framework, the VA would require these Commitments to be constructed by 2030; and

WHEREAS, the goal of the Lower Tuolumne River Salmon Habitat Restoration Program (Program) is to plan, design, and implement MID, TID, and SFPUC's habitat improvement Commitments; and

WHEREAS, MID, TID, and SFPUC have committed to self-fund implementation as a means of ensuring that the Commitments get implemented; and

WHEREAS, a comprehensive, collaborative, and cohesive program that seeks to identify, entitle, and deliver the Commitments must include consideration of landowners, project partners, regulatory approvals, project feasibility, integration with other projects and efforts, and timelines; and

WHEREAS, River Partners and McBain Associates (hereafter Program Team) have partnered to prepare a scope of work and budget to begin implementation of the Commitments within the Program's timeline; and

WHEREAS, the Program Team has a long and successful track record working in the Tuolumne Watershed and specifically in delivering successful habitat restoration projects; and

WHEREAS, in an effort to seamlessly manage and implement the Commitments, MID, TID, and SFPUC desire to enter into contract with the Program Team to manage the day-to-day practical implementation of the Commitments; and

WHEREAS, based on staff's analysis, the adoption and approval of the Program Team's contract and Year 1 scope of work is ministerial in nature as any future design and/or implementation of habitat restoration Commitments and before any binding commitments are made for design and/or implementation of said habitat restoration Commitments, will be subject to the District's successful completion of the environmental review process in compliance with the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Modesto Irrigation District, that the General Manager is directed and authorized to enter into a contract with River Partners to implement year 1 of the Lower Tuolumne River Salmon Habitat Restoration Program.

Moved by Director Frobose, seconded by Director Keating, that the foregoing resolution be adopted.

The following roll call vote was had:

Ayes: Directors Blom, Boer, Byrd, Frobose and Keating

Noes: Director None

Absent: Director None

President Byrd declared the resolution adopted.

ITEMS TOO LATE FOR THE AGENDA

There were none.

ANNOUNCEMENTS BY BOARD MEMBERS

Director Frobose referred to the State Water Board case as the mega trial of the century. There were so many people in the public who participated and protested against the state taking our water. Phase 1, 2 and 3 of the trial just concluded and some of the Board members were present during the court proceedings. A decision will be rendered sometime in late January. He asked if Ronda Lucas, Special Counsel, could provide an update at the next meeting. Lucas responded.

President Byrd asked if an update can be given to the public regarding the San Joaquin Tributaries Authority Group that took place yesterday. Frank Splendorio, Interim General Counsel responded.

Jimi Netniss, General Manager said the Commissioners of the SJTA approved, not only the budget for 2024, but also moving forward with the recruitment of an Executive Director.

GENERAL MANAGER UPDATES

Jimi Netniss, General Manager, did not have any items to report.

FUTURE BOARD MEETINGS

President Byrd announced the next scheduled Board meetings are December 4, 2023, and January 9, 2024.

RECESS

At 11:16 a.m., the Board of Directors recessed the meeting.

CLOSED SESSION

At 11:30 a.m., the Board of Directors convened in closed session for:

Conference with Legal Counsel – Existing Litigation
(Paragraph (1) of subdivision (d) of Government Code § 54956.9)
In re: Aqueous Film-Forming Foams Products Liability Litigation,
Case No. 2:18-mn-2873-RMG

Conference with Legal Counsel – Anticipated Litigation
Significant Exposure to Litigation (Gov. Code § 54956.9(d)(2))
One Case

Conference with Legal Counsel - Existing Litigation
(Paragraph (1) of Subdivision (d) of Government Code § 54956.9)
Modesto Irrigation District v. California State Water Resources Control Board,
Sacramento County Superior Court Case No. 34-2019-80003052

Conference with Legal Counsel - Existing Litigation
(Paragraph (1) of Subdivision (d) of Government Code § 54956.9)
Modesto Irrigation District v. California State Water Resources Control Board,
Fresno County Superior Court Case No. 23CECG04124

RECONVENE OPEN SESSION

At 1:15 p.m., the Board of Directors reconvened in open session.

ANNOUNCEMENTS FOLLOWING CLOSED SESSION

Ronda Lucas, Special Counsel, said there are no announcements coming out of closed session.

ADJOURN

There being no further business, the meeting was adjourned at 1:17 p.m.


Board Secretary