MINUTES of the Lower River Board of Directors of the Kings River Water Association, convened in the office of the Association at 9:34 a.m. Friday, April 15, 2005, Chairman Brent Graham presiding.

ROLL CALL:
Roll was called by the Watermaster, Steve Haugen:

Members Present:                           Director Present:
Burrel Ditch Company                        No Director Present
Clark’s Fork Reclamation District #2069     Gene Postupack
Corcoran Irrigation Company                 Carlo Wilcox
Crescent Canal Company                      Mark Borba
Empire West Side Irrigation District        John Howe
John Heinlen Mutual Water Company           Ronnie Silva
James Irrigation District                   No Director Present
Laguna Irrigation District                  Scott Sills
Last Chance Water Storage District          Carlo Wilcox
Lemoore Canal & Irrigation Company          Ronnie Silva
Liberty Canal Company                       Mike Nordstrom
Liberty Mill Race Company                   Richard Schultz
Lovelace Water Corporation                  Carlo Wilcox
Peoples Ditch Company                       Walter Bricker
Reed Ditch Company                          Mark McKean
Riverdale Irrigation District               Dean Jensen
Southeast Lake Water Company                Carlo Wilcox
Stinson Canal & Irrigation Company          Mike Nordstrom
Stratford Irrigation District               Ronnie Silva
Tranquillity Irrigation District            No Director Present
Tulare Lake Basin Water Storage District    John Howe
Tulare Lake Canal Company                    Carlo Wilcox
Tulare Lake Reclamation District #761        John Howe
Upper San Jose Water Company                Mike Nordstrom

Others Present:                           Others Present:
Ed Dittenbir                                 Bill McGlasson
Mark Gilkey                                  Don Mills
Brent Graham                                 Jim Provost
Steve Haugen                                 Gary W. Sawyers
Clifton Lollar                               Herb Simmons
Randy McFarland
MINUTES:
Minutes of the March 15 meeting were considered and two corrections were offered. The first dealt with the installation of a new pumping plant along the river near Excelsior and 16th avenues, west of Hardwick. One sentence should have read as follows:

“…In January, Mr. Warmerdam contacted the Kings River Conservation District regarding placing a pipeline in the project levee. Improvements have been made and a 16-inch 14-inch line has been installed through the levee, and pipeline work has also been done on nearby ranchland….”

The second revision, contained within the section “Implementation Agreement Reopening,” concerned the river pump surveys. One sentence should have read as follows:

“…Mr. Graham suggested a new pump survey be made and be updated biannually every two years…”

Upon motion of Richard Schultz, seconded by Dean Jensen and unanimously carried, the minutes were approved as corrected.

GENERAL BUSINESS:
Mr. Haugen reported the following:

Water Conditions: Pine Flat Reservoir storage this morning was 620,000 acre-feet, an amount greater than the reservoir contained at its maximum last summer. The release to the Kings River was 1,950 c.f.s. The inflow was 3,500 c.f.s. Precipitation at Pine Flat to date is 130% of average. The Kings River watershed snow sensors on April 15 are reporting water contents averaging 151% of what they should normally be at the peak on April 1. The latest Bulletin 120 Update adds an additional 50,000 acre-feet of runoff and predicts the April-July runoff will be 1,770,000 acre-feet, 143% of average. A memorandum from the Watermaster discussing runoff and flood management scenarios was distributed. (Copy is attached to the original minutes.) A significant amount of water must be moved if a flood release is to be avoided.

Storage Operations Pool (SOP) Supplies: The KRWA does not currently anticipate a full SOP supply with which to make up losses. With the potential for a good water run, percentages of deliveries will need to be carefully tracked. Information on 1993 season losses, a similar year type, and estimates for the 2005 season was distributed. (Copy is attached to the original minutes.) Should there be a flood release, SOP supplies would definitely increase.

The Chairman, Brent Graham, reported the following:

2005 Coordinated Water Run: The potential now exists for a Kings River flood release. A coordinated Lower River water run would put as much water to beneficial use as possible in an attempt to avoid a flood release. Carlo Wilcox proposed a May 1 start for a coordinated water run, stating he believes the river is not operating under a dry-year scenario and must use the water to avoid it being lost in a flood release. Upon motion of Mr. Wilcox, seconded by Scott
Sills and unanimously carried, a Lower River Coordinated Water Run will begin at Pine Flat Dam at 0001 on May 1, 2005, and conclude at Pine Flat on August 31, 2005.

**GENERAL BUSINESS:**
Mr. Graham and Mr. Haugen reported the following:

**River Pump Investigation – Warmerdam-Stryd:** The matter of a pump being redeveloped along the left bank of Kings River, downstream from and southeast of the intersection of Excelsior and 16th Avenues in Kings County, has continued to be investigated. A letter was sent to Corey Warmerdam, who has reportedly leased the land adjacent to the site in question from Doug Stryd. General Counsel Gary W. Sawyers contacted Jan Kahn, Mr. Warmerdam’s attorney, stating it is the position of the KRWA that this is not merely a replacement of an old pump with new equipment but revival of an abandoned facility and abandoned rights. Under California law, those riparian rights are now supplanted by appropriation rights licensed to the KRWA. Mr. Warmerdam’s attorney said he had misunderstood some of the facts. The following day, Mr. Haugen received a call from Mr. Warmerdam who stated his lease is only a three-year lease and that to date a pump has not been installed. No change in status is anticipated over the coming few weeks. The site will be monitored. No electrical meter has been installed. If a request were made to put a pipe through the levee or do anything in the flood management zone, KRCD would become involved and would make a recommendation to the Reclamation Board. In the case of this installation, there was supposedly a pipe already in place and activity at the site did not trigger a referral to the KRWA. Mr. Graham had discussed this matter with David Orth, General Manager, KRCD, and asked to have his staff report any such activity along the river levees to the Watermaster. Concern was also voiced that Mr. Warmerdam might seek to install submersible pumps so near the river that he could be taking underflow, the same sort of situation that occurred many years ago in the Britz case. Notice will be given to Mr. Warmerdam that the KRWA will be monitoring the site and adjacent property. Graham stated that several years ago, the Lower River began investigating the pump installed above the Lemoore Weir by Mr. Cunha. To determine the validity of the pump and the riparian lands, Graham requested authorization for Jim Provost to complete the title work on Mr. Cunha’s land. The Board concurred by consensus.

Mr. Graham reported the following:

**River Pump Investigation – General Situation:** The Warmerdam-Stryd matter and situations such as the Cunha pump, an issue raised in 1988, are again calling attention to the bigger issue of riparian pumpers, their rights and appropriate activities. There is a need for the Lower River Units to determine if there is interest in pursuing a program of closely investigating the many pumps along the Lower River. Pump surveys have been undertaken fairly sporadically by the KRWA with many intervening years tending to be the rule. It is not effective for the KRWA to say it is going to do something about pumpers every 12-15 years, or in isolated cases. An every-other-year survey is needed, one that determines what land is actually being irrigated and whether it is truly riparian. If the pump-owners in question are pumping illegally or pumping to more land than is riparian, a direct loss is being inflicted upon the Lower Kings River Units that have right to the water by permit and license. The KRWA and Lower River Units have a right to protect their water rights on the river. Mr. Sawyers noted Mr. Haugen had uncovered minutes of a KRWA meeting in 1955 that included exactly the same sort of conversation. There are many options the KRWA and Lower River Units would, of necessity, need to consider. Costs
would likely be in the hundreds of thousands of dollars and a great deal of time and other resources would be involved. Mark Borba, a director for Laguna, stated that the Laguna Irrigation District, which borders the Lower River for many miles, has set a policy that every landowner now has the option to declare the type of land they have for taxing purposes; that is, whether the land is irrigated by river pumping at one tax rate, or a different rate for irrigating from Laguna’s facilities. Those paying the irrigated rate from Laguna’s facilities are not permitted to pump from the river. The landowner must declare annually prior to the irrigation season. Mr. Haugen noted that KRWA has no policy of charging river pumps in a Unit’s service area to that Unit’s entitlement.

With regards to the pumps issue, Graham proposed a comprehensive lower river pump investigation. He asked that the Board members review the outline of the program to initiate an investigation of the pumps – document the pumps, confirm the lands irrigated, and quantify the amounts pumped – with their respective Boards. The program would also include a biennial survey of all lower river pumps. An affirmative vote by the Lower River Board on the program would authorize a Committee to develop a work plan that would outline the investigation, the estimated cost and the timing of the investigation. The work plan would be submitted to the Board for approval and implementation.

**FISHERY MATTERS:**

Mr. Graham reported the following:

Reopening of Implementation Agreement: Issues have continued to be reviewed over the past month but without agreement or resolution. A technical committee assigned to review the issue has been unable to reach any consensus. Without the consensus of all units, the matter is subject to arbitration after November 30, 2005. Mr. Sawyers stated there would need to be an arbitrator selected and added that it is a river-wide issue, despite a letter from the Upper River Units contending that the Non-Demand flows at Peoples Weir are a Lower River matter. If it is a foregone conclusion that arbitration will occur, there will be no need to continue meeting, but rather to gear up for arbitration. The current Implementation Agreement would remain in effect until it is changed. Bob Behrens said Lemoore has made every effort to try to be flexible and creative without going to arbitration. Mr. McGlasson said Lemoore merely is asking to return to policies that were in effect prior to adoption of the Implementation Agreement regarding flows at Peoples Weir during those periods when no lower river units are running.

Exhibit D Flows: New projections indicate that Exhibit D flows this year will be 250 c.f.s. There is a desire to make arrangements for handling non-demand releases of such a magnitude to avoid a spill at Fresno Weir.

**OTHER BUSINESS:**

Mr. Graham reported the following:

Next Meeting: The next meeting of the Lower River board is scheduled for June 21, 2005, following the KRWA Executive Committee meeting. Graham stated that this would afford the Lower River Units in the meantime the opportunity to discuss the pumper issue in order for their Board’ representatives to take action on this issue at the meeting.
Technical Committee Meeting: Mr. Graham scheduled a meeting for Monday, May 23, 2005 at the KRWA offices to determine if there was any possible resolution to the Non-Demand flow issue at Peoples Weir raised by Lemoore.

ADJOURNMENT:

There being no further business, the meeting was adjourned by the Chairman, Brent Graham, at 11:24 a.m.

Respectfully submitted,

Steven R. Haugen,
Secretary

J. Randall McFarland
Recording Secretary