

TCWD Minutes

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I am the proud owner of five years worth of minutes of board meetings and resolutions of the Tejon-Castac Water District (TCWD). I have not read everything, but I am ready to give a first impression of what I have seen. There are various actors, both public and private. But Tejon Ranch Company (TRC) is the large and powerful presence on each page, and most of what goes on in TCWD, and many other nearby places, serves the development plans of TRC.

Let's look at the Tejon Ranch water situation. First the boundaries. TCWD had, in 1999 when my copy of the minutes begins, district boundaries that included Tejon Headquarters and Tejon Lake, and a small strip along the I-5 towards the Grapevine. The Tejon Industrial Complex (TIC) area, both East and West, were in Wheeler Ridge Maricopa Water Storage District (WRMWSO). Other parts of Tejon Ranch are in Los Angeles County, and are mostly not included in any water district or water company.

As far as boards of directors are concerned, there is some interesting structure in our local water. TCWD has five directors, all officers of TRC, and most of them directors of TRC. WRMWSO has, on its board, two TRC vice-presidents, one as its president, one as its assistant secretary. TCWD and WRMWSO control a huge chunk of the Kern Water Bank (KWB), which is a joint powers authority controlled by Paramount Farms (through Westland Mutual Water Company) and by the Tejon interests. The KWB currently stores 800,000 acre feet of state water, and 20,000 acre feet of this belongs to TCWD. For all practical purposes TCWD and KWB are privately owned. Or at least privately controlled. Because they have the appearance of being water districts or joint power authorities, they can get cheap loans from DWR under Proposition 204 and Proposition 13 water improvement grants from CALFED (totalling \$ 3.5M in 2002-2003 for KWB). Thus they use public money and public facilities to improve their infrastructure and their control over State Water Project water. On 01/20/04, for instance, the board of TCWD approved two amendments of the KWB Joint Powers Agreement. "Both documents were conditions to the permanent financing of the Authority's debt". You were not at the meeting, but you'll pay anyway.

In the last five years, one of TRC's main objectives has been to get TIC into the TCWD fold. There have been three annexations, and Memoranda of Understanding with WRMWSO, with

the result that both TIC-East and TIC-West are now in TCWD. As soon as Kern County approves, by re-zoning and amending the special plan, that another piece of land can be added to TIC, TCWD annexes it from WRMWSD and adds it to their district. The KC Local Agency Formation Commission (LAFC) then quietly goes along. It is unfortunate for TRC that Centennial is in LA County. I assume annexation across county boundaries is less easy to pull off, and also the LA Board of Supervisors is hopefully less chummy with TRC as its Kern County counterpart.

Another major TCWD activity during the five year period I reviewed was the creation, with Kern County, of the Tejon Ranch Public Facilities Financing Authority (TRPFFA), another one of these joint powers authorities. This is possible under Section 6500 of the California Government Code. You need a true local government agency, in this case Kern County, to get the thing off the ground. For Tejon Ranch, that's usually no problem. Just promise the county planners and supervisors jobs, property taxes, and millionaires in the hills, and their eyes start to glaze over. Bureaucrats love growth, because whatever happens, they are the ones who grow most.

A Public Facilities Financing Authority can issue bonds, same as government bonds, and this is the way in which TRC (through TCWD) finances the improvements in their district, i.e. in TIC. The TRPFFA subsequently formed a community facilities district (CFD, also known as a Mello-Roos district). Forming a CFD is a necessary step to get the financing on its way. Mello-Roos districts pay a special tax to generate money for interest and principal on the bonds, and, by our old friend Prop 13, the amount of tax is not influenced by the increase in the value of the property. Since TIC has tripled in value by now, that's a good deal. More public money going to private companies. More socialism for the rich.

The TIC areas have been moved bit by bit by TCWD into what the Water Code calls an "Improvement District", because an improvement district can provide and improve specific services to an area, which can then be funded by the bond money obtained by the CFD. So TIC became annexed into TCWD, then into its improvement district, and then the improvements were financed by bond money (\$ 24M of bonds were issued) from the CFD established by the TRFFPA. The specific services in this case are collection and treatment of sewage, distribution of reclaimed non-potable water, and collection and disposal of storm water runoff. The public hearings at TCWD on making TIC an improvement district were announced in the Bakersfield Californian on 6/13 and 6/20 of 2000. Not prominently. Of course nobody showed up. Sewage treatment was outsourced to ECO Resources on 2/21/2001. You are paying part of the bill again.

All these wheelings and dealings create some obvious conflicts of interest. TCWD deals with TRC all the time, and the directors of the public water company are the same guys as the directors of the private company. This cosy situation is bound to violate Government Code Section 1090. For example, the Pastoria Energy Facility is only willing to come to Tejon land if the KWB can guarantee sufficient amounts of water. TCWD can promise some of their water to Pastoria, but TRC is also the owner of the land the plant is build on and the holder of the lease. And TCWD and TRC are, obviously, the same people. Other example: TCWD

leases the Rose Station Well and pumping facility from TRC, to provide water for TIC. Or again: TCWD buys for \$ 500K the WRM-12 turnout on the Aquaduct from WRMWSD, with related pumps, equipment, and real estate. Of course the WRM-12 area is annexed to TCWD, and the installations serves TIC (i.e. TRC). A CEQA Notice of Exemption was filed, nobody objected. Or again: TCWD leases the spreading grounds of the proposed White Wolf Water Bank from TCR and then subleases it to WRMWSD (the water bank is a joint project of TCWD and WRMWSD – actually it seems if everything Tejon-related is a joint project of TCWD and WRMWSD).

Usually TCWD says Code 1090 does not really apply here, because it is invalidated by the "rule of necessity". TCWD cannot lease a well from anybody else, because nobody but TRC has a well for lease. Or: Pastoria will not come if we do not provide the water, so that's clearly a necessity. The White Wolfe Water Bank is of great importance, and it can only be implemented if there is a landowner with sufficient land. Only TRC has sufficient land. Note the obvious implicit assumptions and other elementary logical mistakes in these arguments. The board then proceeds to disqualify itself, and draws lots to obtain a quorum from the disqualified directors, who then proceed to vote. Strange things go on in corporate boardrooms. This simple ritual seems to be enough to get rid of all conflict of interest considerations.

Annexations require public hearings at TCWD, which have to be announced in the local press. Tejon solves this problem by placing small ads in the Daily Report, which probably not many people read. At least not locally. So nobody shows up. Changes in board composition have to be posted at three places in the district. Tejon posts them at Petro Plaza, at the truck entrance, the car entrance, and in the gas station convenience shop. Not many local residents ever stop at these desolate places.

Case in point: the Urban Water Management Plan (UWMP), possible the most important document ever produced by the district. This is their plan to supply water to both TIC and Tejon Mountain Village, the water equivalent of a specific plan or EIR. Requires public hearing, of course. A notice was posted in the Daily Report on October 8 and 15, 2003. A small notice of ten lines, smaller than an advertisement you would place to sell your car. But then, if you want to sell your car, you would probably not advertise in the Daily Report. "No members of the public wished to speak about the draft plan, and Lyda reported that no written comments had been received" (meeting 10/23/03). A plan with potentially monumental impacts to the Mountain Communities was successfully hidden from the public. A resolution to adopt the UWMP was approved unanimously (like all resolutions in the five year period).

In addition to the minutes, I have looked at the text of all resolutions, the amended bylaws, the rules and regulations for distribution of water, and the forms for the water service contracts. Also the specific water service contract between TCWD and TRC. And the lease contract of the Rose Station Well from TRC to TCWD. One can get all these documents, they are in the public domain. And that is a good thing. The frustrating aspect is, of course, that they document decisions that have been taken in the past and are mostly final, and at

no point was the public heard.

Minutes are incomplete. The motives for making the various steps and adopting the various resolutions are never mentioned in the minutes. It does sometimes say the board had extensive discussions. Not with the public, obviously. And they always agreed with each other anyway. The CEO was usually in the room, and never far away.

The most objectionable component in what I have read is the complete confounding of the public and the private, with public money and public agencies serving specific and narrow private interests. Nothing of this is illegal, perhaps. But it smells bad. The approval process is supposed to move from corporate board rooms to meeting rooms of county and state agencies, and the people are supposed to be involved at each step. It turns out we find the same joint power faces in the board rooms and in the agencies. And the people are missing.