

Possible Fiscal Year 2023-24
One-time Expenses Associated
with 2009 Moores v. Irish Beach
Water District Litigation

Relevant Items at issue in the Moores v. Irish Beach Water District Litigation

- 2002 Proposition 218 included 4 items in the assessment of 460 parcels
 - Systemwide Capital Improvement
 - e.g Replace Storage Tanks 1,3, improve pump stations & water mains, raw waterline
 - Mallo Pass Capital Improvements
 - Development of new water supply from Mallo Pass Creek
 - Capital Replacements
 - Replacement of fixed assess with lives >40 years
 - Loan Repayment
- Drilling of T5 well and interpretation of the IBWD easement at the location.

Moores v. Irish Beach Water District Litigation

Relevant Trial Court Decisions

- Phase 1 Trial Judgement
 - Liability for Inverse Condemnation by building T5 Well
- Phase 2 Trial Judgement
 - Damages for Inverse Condemnation by building T5 Well
- Phase 3 Trial Judgement
 - Breach 2002 agreement by not building Mallo Pass project
 - 2002 Prop 218:
 - 1) Mallo Pass Assessment to be refunded because no present Mallo Pass Permit/Project
 - 2) System-Wide Assessment to end in 2017 and to be refunded
 - 3) Capital Replacement Assessment Funding Ceiling lowered.

Please refer to the IBWD website for additional information regarding Moores vs. Irish Beach Water District litigation.

Moores v. Irish Beach Water District Litigation

Relevant 2021 Appeals Court Opinion

- Liability for Inverse Condemnation by building T5 Well
 - District exceeded scope of the existing easement when it built the T5 Well in 2008.
 - District did not take any water rights or water-related facilities from the Moores when it built the T5 Well.
- Damages for Inverse Condemnation by building T5 Well
 - Damages and attorney's fees awarded to Moores by the trial court, which included water rights, was reversed by the Court of Appeals.
- Breach 2002 agreement by not building Mallo Pass project
 - Trial court judgment against the District (including damages) reversed and directed that judgment be entered in favor of District.
- 2002 Prop 218:
 - NOT Appealed: Mallo Pass Assessment account balance to be refunded because no present Mallo Pass Permit/Project
 - NOT Appealed: System-Wide Assessment to end in 2017 and account balance to be refunded
 - Trial court judgment as to Capital Replacement Assessment was reversed and directed that judgment be entered in favor of the District

Please refer to the IBWD website for additional information regarding Moores vs. Irish Beach Water District litigation.

Moores v. Irish Beach Water District Litigation

Financial implications

- Appeals Court remanded case back to Superior Court for proceedings consistent with Appeals Court opinion.
- While proceedings are not yet concluded, an estimate of financial implications can be made for budgeting purposes.
 - Compensation to the Moores' for Inverse Condemnation and potential associated legal costs.
 - Reimbursement of balances of Systemwide and Mallo Pass 218 funds to lot owners

Impact to Mallo Pass and Systemwide Accounts

- In the Phase 3 portion of the litigation, an analysis of expenditures in each of the 218 accounts was presented to the court
- The trial court deemed certain expenditures to be improper or unsupported and added the value of those expenditures with interest back to the respective account balances
- While the expenditures were needed to complete the projects, they were not specifically called-out line items in the engineering report supporting the 218 assessments
 - Examples of expenditures found to be inappropriate by the trial court are the unanticipated cost of replacing Tank 1 foundation and the purchase of special excavator as it was found that underground power lines were co-located with waterlines
- In the 2017 Court Judgment, the Mallo Pass and Systemwide funds were assigned a corrected balance as of Feb. 29 , 2016
 - Mallo Pass assessment fund \$432,792
 - Systemwide assessment fund \$170,829

Mallo Pass

Estimate for Budgeting Purposes Only

Description	Amount	IBWD Balance	Corrected Balance	Comments
IBWD Balance as of 30 SEP 2015		260,908	260,908	Last date of accounting in report presented during litigation
Income retained by IB	13,066		273,974	Per report presented during litigation
Difference (inappropriate withdrawals)	119,001		392,975	Per report presented during litigation
Est. 2016 Assessment in Report	39,817	300,725	432,792	Matches 2017 Judgment
correction for actual 2016 assess	-117	300,608		
POST-JUDGEMENT				
Reimbursed Mallo Pass for Disallowed Legal Expenses from Operating Cash	110,000	410,608	-----	Reimbursement has no effect of corrected; accounted in Inappropriate Withdrawals
Interest To 6-30-2021	20,857	431,465	453,553	
Interest Owed per 2017 Judgment	68,435		521,967	Balance to be refunded = \$1,135 / parcel
Owed to Mallo Pass Account	90,502			= \$437 / customer

Systemwide Account Estimate for Budgeting Purposes Only

Description	Amount	IBWD Account Balance	Corrected Balance	Comments
Account Balance as of 30 SEP 2015		4,633	4,633	Last day of accounting presented during litigation
Income retained by IB	7,773		12,406	Per Report presented during litigation
Difference (Inappropriate Withdrawals)	118,930		131,336	Per Report presented during litigation
Est. 2016 Assessment in Court Report	39,494		170,830	Matches 2017 Judgment
POST-JUDGEMENT				
Correction for Actual Assessment (2016)	(1,173)	42,954	169,657	
Reimburse Sys Wide for Excavator from Operating Cash (2015)	25,845	68,799	----	Reimbursement has no effect of corrected; already accounted in Inappropriate Withdrawals
Interest (2015-2017)	202	69,001	169,859	
Actual Final Assessment (2017)	38,535	107,536	208,394	
Spent for Raw Waterline (2016-2017)	(21,055)	86,481	187,339	
Payback loan from >40 for Tank 1 (2017)	(60,293)	26,188	127,046	2 payments of 10,293 and 50,000
Transfer from Systemwide to Operating Cash Tank 2 improvements (2017)	(26,188)	0	127,046	
2017-2024 estimate of interest on balance based on 1 year treasury rate	25,803		152,849	Balance to be refunded = \$332 / parcel
Total Owed Systemwide Account	152,849			= \$738 / customer

Summary of Estimates

Budgeting Purposes Only

Item	Estimated Amount (\$)	Estimated Shortfall (\$)	Estimated Amount to be Reimbursed
Inverse Condemnation Settlement	25,000	25,000	
Potential Legal fees	0 - 100,000	0 - 100,000	
Mallo Pass Account	521,967	90,502	521,967
Systemwide Account	152,849	152,849	152,849
Other	15,000	15,000	
Total	714,816 – 814,816	283,351 - 383,351	674,816
Total per parcel *			1,467
Total per connected user **		1,368 - 1852	

* Assumes 460 Parcels

** Assumes 207 Connected Users

Example Cash Flow Scenario

- Assume 4 year payback for high case estimate

	Monthly Fee	Amount Reimbursed per Parcel per year	Amount Paid by Customers per year	Net Cost to Customers
	\$ 38.60	\$ 367	\$ 463	\$8/mo
	Amount Owed	Total amount Reimbursed per Year	Fees Collected from Rate payers	IBWD Cash Balance
Initial	\$ 814,816			\$ 431,465
Year 1	\$ 611,112	\$ 203,704	\$ 95,882	\$ 323,643
Year 2	\$ 407,408	\$ 203,704	\$ 95,882	\$ 215,822
Year 3	\$ 203,704	\$ 203,704	\$ 95,882	\$ 108,000
Year 4	\$ -	\$ 203,704	\$ 95,882	\$ 179

Example Cash Flow Scenario

- Assume 4 year payback for low case estimate

	Monthly Fee	Amount Reimbursed per Parcel per year	Amount Paid by Customers per year	Net Cost to Customers
	\$ 28.52	\$ 367	\$ 342	- \$2/mo
	Amount Owed	Total amount Reimbursed per Year	Fees Collected from Rate payers	IBWD Cash Balance
Initial	\$ 714,816			\$ 431,465
Year 1	\$ 536,112	\$ 178,704	\$ 70,844	\$ 323,605
Year 2	\$ 357,408	\$ 178,704	\$ 70,844	\$ 215,744
Year 3	\$ 178,704	\$ 178,704	\$ 70,844	\$ 107,884
Year 4	\$ -	\$ 178,704	\$ 70,844	\$ 24

Operating Budget

Proposed 2023-24 Operating Budget

- For planning purposes, separate all costs associated with litigation judgment from operating budget

Budget Summary		
Income		
Operating Income	\$	322,167
Water Sales Residential-Water Usage	\$	52,492
Availability Charges	\$	269,675
Meter Connections	\$	600
Non-Operating Income	\$	-
Total Income	\$	322,767
Expenses		
Operating Expenses	\$	344,088
Source of Supply	\$	11,600
Water Treatment	\$	44,200
Transmission and Distribution	\$	46,500
Customer Accounts	\$	7,600
Administrative & General	\$	229,438
Other Operating Expenses	\$	4,750
Non- Operating Expenses	\$	7,300
Total Expenses	\$	351,388
Net Revenues To / From Reserves	\$	(28,621)

Proposed 2023-24 Operating Budget

- FY 2022-2023 Ended with a net surplus of \$67,131

- Board authorized 218 Engineering Study of \$61,800
- Study delayed and \$61,800 was unspent in 2022-2023
- Amount of \$61,800 should be carried over to 2023-24 as the funds were obligated to 218 Engineering Study by Board.

	FY 2022-23
Income	\$ 351,864
Expenses	\$ 284,732
Net Operating Surplus	\$ 67,131

- FY 2023-24 operating deficit of \$28,621 arises only because 218 Engineering study is delayed

- No new or unexpected operation expense is driving the deficit.
- Fund deficit with 2022-23 funds that were obligated to 218 Engineering Study

	Proposed FY 2023-2024
Income	\$ 322,767
Expenses	\$ 351,388
Net Operating Deficit	\$ (28,621)

Backup Slide

2002 Systemwide Asset List

Table 3 Irish Beach Water District System-wide Capital Improvements to be Recovered by Assessment			
Component	Priority	Cost Estimate	
		Brelje & Race - 1997	Current District Estimate (1)
Irish Gulch Creek Water Source			
Treatment Facilities - Diatomaceous Earth (complete)	1	\$91,000	\$0
Raw Water Line - Replace 3,000 feet	2	85,800	12,000
Lower Diversion Improvements	3	6,500	7,200
Pump Stations			
Improvements at Pump Stations A, B and C	1,2,3	10,400	11,400
Pump Station H at Tank T1	3	6,500	6,500
Pump Station G on Alta Mesa Road (resolved)	2	26,000	0
Pump Station F at Tank T4	3	26,000	29,000
Storage Tanks			
Replace Tanks T1 and T3	2	286,000	169,000
Replace Roof of T2 (added)	1		5,000
Replace Tank 2 with 125,000 Gallon Tank	2	85,000	82,000
Replace Tank T5	2	15,600	17,000
Install Fence Around Tank T3 Site	3	3,900	4,000
Water Mains			
Check Valve & Bypass on Alta Mesa Road (complete)	1	2,600	0
Forest View Road Loop (complete)	1	13,000	0
South Highway 1 Loop	2	36,400	40,000
Acquistapace Road Loop	3	22,100	24,500
Miscellaneous			
Fire Hydrant Additions (added 2 to B&R for 4 total)	2	5,200	11,500
Total		722,000	419,100
Subtotal Priority 1			16,400
Subtotal Priority 2			331,500
Subtotal Priority 3			71,200
Total			419,100

(1) Cost estimates as updated by IBWD.