

September 15, 2021  
Tracy, California

Pursuant to adjournment, August 11, 2021 the Board of Directors of the Banta-Carbona Irrigation District met at 9:00 a.m. at 3514 W. Lehman Road, Tracy California on the above named date.

**PRESENT:** Directors: James M Thoming, Glenn Robertson, Mark Cardoza and Annette Elissagaray

**OTHERS PRESENT:** General Manager David Weisenberger, Secretary Margaret Howe and District Counsel Jeanne Zolezzi

**CONFERENCE LINE:** Director Keith Robertson

**ABSENT:** None

#### **ITEM 1 - MINUTES & TREASURER'S REPORT**

Director Glenn Robertson made a motion to approve the minutes of the August 11, 2021 Board Meeting as presented. Director Annette Elissagaray seconded the motion and it carried by the following vote; Ayes: Directors Glenn Robertson, James M Thoming, Mark Cardoza, Annette Elissagaray and Keith Robertson; Noes: None; Abstain: None; Absent: None

Secretary Howe presented the Treasurer's report and after review by the Board it was filed as presented.

#### **ITEM 2 - MISCELLANEOUS CORRESPONDENCE**

Secretary Howe reported the District received a cash tender offer from Obatan LLC to purchase it's shares in Manulife Financial Corporation for \$12.00 per share. The value of the shares as of 9/14/21 on the NYSE was \$19.40 per share. The board determined it was not in the best interest of the District to sell the shares at this time.

Secretary Howe also reported John Capri of Oak Valley Community Bank called and the bank is changing the interest rate it is paying on the District's checking account. As of September 1<sup>st</sup> the bank will pay 0.25% on the first \$3,000,000.00 held in the District's checking account and 0.10% on any additional funds. The District's LAIF account is paying approximately 0.22%. The Directors requested the District keep about \$3,000,000.00 in the checking account and transfer the balance to the District's LAIF account.

#### **ITEM 3 - MANAGER'S REPORT & DISCUSSION ITEMS.**

##### **MANAGER'S REPORT September 15, 2021 Vernalis flow +/- 400 cfs Wheeling 0 cfs**

**Notice of Curtailments from SWRCB of Ca.** – The State Water Resources Control Board of California (SWRCB) wrote curtailment letters dated August 20, 2021 to over 17,000 water right holders, pre and post 1914. BCID letters were for its pre-1914 right, and its two licenses. BCID received them on August 25, 2021 and did cease diversions that same afternoon. Per the SWRCB Water Unavailability Analysis BCID, as an in-Delta diverter was able to resume diversions on September 1, 2021. The curtailment letters and the SWRCB website did not address diversions for October 2021 and later.

**COVID 19** – No new cases of COVID among BCID employees.

**Maintenance** - Currently on-going emphasis is on applying aquatic herbicides for pondweed and algae. The treatment of canals for aquatic weeds has required a higher of volume of product as canal flows have been generally higher than last year. Also, the main lift canal has required two treatments already this year. There is one employee on Family Leave for the next twelve weeks which returns our maintenance employee back to running water on the night shift. The employee on family leave returns on October 5, 2021. Later in September we will be removing one employee from each day shift irrigation schedule to work on maintenance schedule. With the family leave employee returning and with two day shift employees moving off of irrigation that will give us three maintenance workers in October.

**Pumping Plant 3 Replacement Project** – Design work has commenced for the wetwell structure for a new Pumping Plant 3. Geotechnical work has been completed by Wallace Kuhl, which included four shallow groundwater monitoring wells. The wells indicate that the shallow groundwater level is about two feet above the water surface area in the lift canal in front of the existing pumping plant #3. A topo survey was completed by KSN Engineering out of Stockton to confirm lift canal elevations, box culvert elevations at the freeway, and water surface elevations. Reference elevations were placed at various points along the lift canal from Kasson Road to Pumping Plant #3.

**Pumping Plant #5 Cavitation Investigation – No new activity.** Susan Fox and Wayne Dahl of DCI and I have been researching a new pumping lineup for Pumping Plant #5 that will

provide us a range of pumping from 10 cfs to 90 plus cfs. It appears that one of the existing pumps will need to be replaced with a smaller capacity pump capable of pumping 10-27 cfs. One of the existing pumps would require a new impeller that could pump 27 to 44 cfs, and the last existing pump would remain with a capacity of 36 to 50 cfs.

**FRIANT SJRRP Restoration Flows and Wheeling** – We are currently wheeling no water.

**Reclamation CVP 9(e) contract to a 9(d) contract.** We have received our signed WIIN Act Contract. The contract is being challenged in court, see agenda item under closed session.

**San Joaquin County Community Development Application # PA 1600049 (AP)** – The application was approved by the Planning Commission with “conditions of approval”. Our comments were included in the approval packet but we do not have any regulatory authority granted in the conditions of approval. The county stated at this stage of the development process that design is not required and design will be submitted during the building permit process at a later date.

**100 YEAR ANNIVERSARY VIDEO** – J COMM Inc., out of Rocklin, California, continues to shoot video around the district of farming activities and shots of district facilities. They shot video of the electrofishing project out on the river as well as several harvesting activities. They conducted some farmer interviews on video on September 7 out in the field. Hal Robertson, his son Logan, and daughter Taylor; Bobby Williams and his son Tyler; and Monte Sandhu participated in the video interviews. Next steps are to video interview the GM, Jorge Flores, Jim Thoming and any other interested board members or staff. Next interview date is Monday, September 20.

Respectfully submitted by: David Weisenberger, General Manager

#### **ITEM 4 - DIRECTOR AND STAFF ITEMS**

Staff reported Jorge Flores, Assistant Manager/Watermaster, has notified the District he intends to retire as of April 1, 2022. He has offered to return to work on an as needed basis to supervise/train personnel for the aquatic weed control applications.

Secretary/Treasurer, Assessor/Controller, Margaret Howe, has tendered her resignation as of October 15, 2022.

Office Assistant, Shelby Santana, expects to be leaving on pregnancy disability leave and CRFA in Mid-November. She will probably be gone for approximately 4 months.

The Board requested that staff review and update the job descriptions for Assistant Manager/Watermaster and Secretary/Treasurer, Assessor/Controller.

#### **ITEM 5 – REVIEW CURRENT WATER SUPPLIES AVAILABLE TO THE DISTRICT, REVIEW SCHEDULING OF AVAILABLE WATER SUPPLIES, AND POTENTIAL RATIONING. ACTION AS NECESSARY**

General Manager Weisenberger reported the District was curtailed by the State Water Resources Board for one week in August. But the District was able to resume pumping river water on September 1<sup>st</sup>. During that week the District used 635 AF of stored Warren Act Water. The District has been able to store a net 9,500 AF of Warren Act Water for its own use.

#### **ITEM 6 – REVIEW DISTRICT CAPITAL IMPROVEMENT PROGRAM. ACTION AS NECESSARY.**

After reviewing projects for long term capital repair and replacement the board directed the GM to proceed with the Peterman Lateral crossing of the lift canal for a future pipeline to the Yamasaki property. In addition the board authorized the completion of the grading on the lift canal, with storm water drains, between stop gate 3 and pump station number four. The board elected not to authorize construction of a pipeline to the Yamasaki property at this time due to the current drought and the uncertainty of future water supplies in 2022. The Board did direct staff to work on easements and other pre-construction tasks so that when funding does become available the pipeline project to the Yamasaki project will be shovel ready.

General Manager Weisenberger also reported Rosie Silva, a District grower, would like to use some of the District’s excess soil on the lift canal. After some discussion it was decided the District would pay for the grading of the soil and Ms Silva would pay for the cost of the hauling.

#### **ITEM 7– UPDATE ON THE PREPARATION OF THE TRACY SUB-BASIN GROUNDWATER SUSTAINABILITY PLAN (GSP). ACTION AS NECESSARY**

General Manager Weisenberger reported the next major milestone due is a Groundwater Sustainability Plan (GSP) for our GSA as well as for the Tracy Sub-basin which is due by January 31, 2022. The draft GSP has been out for public comment which closed on September 9, 2021. After public comments have been addressed then the GSP will be ready for adoption by all of the GSA’s in the Sub-basin. Adoption needs to be completed by the middle of November 2021 in order to submit it to the California Department of Water Resources by January 31, 2022. There are regularly scheduled staff meetings on

the third Thursday of the month by teleconference at 1 pm. In September we will be discussing the cost sharing methodology for implementation of the GSP and reviewing the comments received on the draft GSP.

**ITEM 8– REPORT ON PROGRESS OF PROP 1 GRANT CONTRACT DEVELOPMENT TO STUDY, DESIGN, AND PERMIT A HABITAT RESTORATION PROJECT TO INCLUDE BIOTECHNICAL BANK STABILIZATION FOR LONG TERM SUSTAINABILITY OF THE HABITAT RESTORATION AND PROTECTION OF DISTRICT’S DIVERSION POINT. ACTION AS NECESSARY.**

The second quarter progress report has been completed and submitted to the Delta Conservancy. Cbec continues to work on the topographic and bathymetric surveys. General Manager Weisenberger is trying to set up a meeting with the Paradise Cut Expansion Project planning team to discuss the effects it would have on the Banta-Carbona project.

**ITEM 9– REPORT ON SAN JOAQUIN RIVER FISH POPULATION STUDY. ACTION AS NECESSARY.**

General Manager Weisenberger reported field trips were conducted on August 17 and 19. Guests on the trips included Federico Barajas and Scott Peterson of the San Luis Delta Mendota Water Authority; and Dan Vink and Alex Peltzer of South Valley Water Association. We are looking to expand our circle of knowledge to larger groups such as SLDMWA, Friant, etc. Predation populations are not known and predation is not a significant input into ESA listed fish species life models. Populations are needed to be known in order to improve model accuracies. Otherwise no change in recovery will occur based on the existing models.

**ITEM10 - UPDATE ON STATE WATER RESOURCES CONTROL BOARD (SWRB) PROCEEDINGS REGARDING CURTAILMENT DIRECTIVES, EMERGENCY REGULATIONS, WATER UNAVAILABILITY METHODOLOGY AND POTENTIAL IMPACTS TO PRE-1914 WATER RIGHTS HOLDERS ON THE SAN JOAQUIN RIVER. ACTION AS NECESSARY**

District Counsel Jeanne Zolezzi reported that legal action has been filed in Sacramento. Further discussion was done in closed session.

**ITEM 11 - CLOSED SESSION:**

- 1) CONFERENCE WITH LEGAL COUNSEL on EXISTING LITIGATION PURSUANT to Subdivision (a) of Section 54956.9 of the Government Code
  - A. Banta-Carbona Irrigation District v. California State Water Resources Control Board, et al, Case No. 2015-1-CV-285182 in Santa Clara County Superior Court, Dept 1. This case originated in San Joaquin County as Case No. 39-2015- 00326421-CU-WM-STK
  - B. Natural Resources Defense Council v. Sally Jewell, U.S., Department of the Interior Case No. 1:05-cv-01207 LJO-GSA
- 2) CONFERENCE WITH REAL PROPERTY NEGOTIATIONS
  - A. Property: Consider financing distribution facilities and long term water service to ground inside and outside of District boundaries.  
Agency negotiator: David Weisenberger and District Counsel Jeanne Zolezzi  
Negotiating parties: Various landowners in T.3.S R.6.E, SECTIONS 9, 10, 14, 15, AND 16
- 3) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to subdivision(b) of Section 54956.9 (1 potential case)

The Board returned to open session with no announcement.

**ITEM 12– UPDATE ON PIPELINE CONSTRUCTION FOR YAMASAKI FARMS AND TO PROVIDE FINANCIAL ASSISTANCE FOR PIPELINE AND PUMP STATION TO SERVE IN-DISTRICT PARCELS #255-120-10 AND 255-270-16 AS WELL AS OTHER PARCELS OUTSIDE OF THE DISTRICT’S BOUNDARIES. ACTION AS NECESSARY**

General Manager Weisenberger reported he is waiting for a quote from Arnaudo on the cost to construction the pipeline to the Yamasaki property. He is also working the necessary easements. Once he get some firm numbers he will discuss funding with Myron Yamasaki.

**ITEM 13 – REVIEW INQUIRY FROM JOHN PEREIRA FOR POSSIBLE DISCOUNT ON PROMISSORY NOTE IN PAID OFF WITHIN 60 DAYS. ACTION AS NECESSARY**

Secretary Howe reported John Pereira inquired if there might be a discount on his Promissory Note was paid off early. After some discussion the Board decided there a discount would not be available.

**ITEM 14 – CONSIDER FOR APPROVAL AGREEMENT WITH WEST STANISLAUS IRRIGATION DISTRICT FOR A TEMPORARY ASSIGNMENT OF A PORTION OF BCID PRE-1914 WATER RIGHTS. ACTION AS NECESSARY.**

General Manager Weisenberger reported West Stanislaus Irrigation District inquired if Banta-Carbona Irrigation District would be interested in an agreement for temporary assignment of Pre-1914 similar to the one done in 2014. After some discussion, the Board determined that with the current water situation would not approve an agreement.

**ITEM 15 – APPROVAL OF WARRANTS**

Director Mark Cardoza moved that the September 2021 Warrants in the amount of \$593,262.93 be approved for payment. Director James M Thoming seconded the motion and it carried by the following vote; Ayes: Directors: Mark Cardoza, Annette Elissagaray, Glenn Robertson, Keith Robertson and James M. Thoming; Noes: None; Abstain: None; Absent: None

The meeting was then adjourned to Wednesday, October 13, 2021 at 9:00 a.m.

Respectfully,

Margaret G. Howe