

May 11, 2022  
Tracy, California

Pursuant to adjournment, April 13, 2022, 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, Annette Elissagaray, and Mark Cardoza

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

ABSENT: None

In order to fill the vacancy in Division IV, President James M Thoming requested the Board consider Item 5 out of order.

ITEM 5 - CONSIDER ANY QUALIFIED CANDIDATE FOR APPOINTMENT TO THE BOARD OF DIRECTORS TO FILL THE VACANCY IN DIVISION IV. ACTION AS NECESSARY.

The Board of Directors reviewed the applicants to fill the vacancy in Division IV created by the death of Director Keith Robertson and Director Annette Elissagaray made a motion to appoint Kyle Robertson to fill the vacancy. Director Mark Cardoza seconded the motion and it carried by the following vote: Ayes: Directors: Annette Elissagaray, Glenn Robertson, Mark Cardoza, and James M. Thoming; Noes: None; Abstain: None; Absent: None

#### **RESOLUTION 2022-03**

#### **RESOLUTION APPOINTING KYLE ROBERTSON TO FILL THE VACANCY ON THE BOARD OF DIRECTORS OF THE BANTA-CARBONA IRRIGATION DISTRICT (DIVISION IV) OCCASIONED BY THE DEATH OF DIRECTOR KEITH ROBERTSON.**

WHEREAS, as a result of the death of Director Keith Robertson on March 24, 2022 a vacancy occurred on the Board of Directors of the Banta-Carbona Irrigation District; and

WHEREAS, subject to certain exceptions not here applicable, an irrigation district which elects its directors by division shall, pursuant to Section 21265.5, fill all vacancies on the board of directors pursuant to Government Code Section #1780; and

WHEREAS, the remaining members of the governing board of the district, pursuant to Government Code Section #1780, may fill the vacancy by appointment if, after notice, the appointment is made within sixty (60) days after the effective date of such vacancy; and

WHEREAS, the Secretary of the Board of Directors posted a notice of such vacancy in Three (3) conspicuous places in the District at least fifteen (15) days before the date of the resolution; and

WHEREAS, the Board of Directors finds that Kyle Robertson is willing to serve on the Board of Directors and that he meets all qualifications set forth in Water Code Section #21100 for service as a director and is in all other respects a proper person for appointment to said office.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Banta-Carbona Irrigation District hereby appoints Kyle Robertson to fill the vacancy on the Board of Directors and to represent Division IV of the District. Upon qualification, Kyle Robertson, shall hold office for the balance of the unexpired term.

BE IT FURTHER RESOLVED that the Secretary shall give notice of this appointment to the Registrar of Voters of San Joaquin County.

PASSED AND ADOPTED this 11<sup>th</sup> day of May, 2022.

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

NOES: None; ABSENT: None

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

Director Glenn Robertson made a motion to approve the minutes of the April 13, 2022, Board Meeting as presented. Director Mark Cardoza seconded the motion and it carried by the following vote: Ayes: Directors: Annette Elissagaray, Glenn Robertson, Mark Cardoza, James M. Thoming and Kyle Robertson; Noes: None; Abstain: None; Absent: None

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

#### ITEM 2- MISCELLANEOUS CORRESPONDENCE

Secretary Howe presented a request for a contribution from Pacific Legal Foundation ("PLF"). The Board has approved a contribution to PLF in past years because of their ongoing work in property rights cases and other matters of interest and benefit to those involved in agriculture. Therefore, Director Glenn Robertson made a motion to approved sending a contribution of \$500 to Pacific Legal Foundation. Director Mark Cardoza seconded the motion and it carried by the following vote: Ayes: Directors Annette Elissagaray, Glenn Robertson, Mark Cardoza and Kyle Robertson; Noes: None; Abstain: None; Absent: None

The District also received a request from the Tracy High FFA Foundation, Inc. for a contribution. After some discussion, the Board requested staff to check with Delta Charter School to see if they also have a FFA program and they will review the request at the June board meeting.

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

Retired Assistant Manager Jorge Flores treated the District canals for weed prior to his retirement, so those are doing good. We do have an employee discing weeds in doing cleanup work.

The outside pump motor at P/S #2 failed and needs repair, will take about 2 weeks to get it repair. Arnaudo Construction is doing emergency repairs so the District can continue to deliver water.

Arnaudo is finishing up the fencing at P/S#4. Bockman & Woody are working on the voltage regulators at P/S#4

#### ITEM 4- DIRECTOR AND STAFF ITEMS

Harold Wineinger was present to discuss with the Board his claim filed in March 2022. The Board denied Mr. Wineinger's claim at the April 2022 meeting, but he wanted to discuss it further with the Board members. After discussing the issues with Mr. Wineinger, they told him if he was unhappy with their decision or had additional information, he should file another claim.

#### ITEM 6 - REVIEW CURRENT WATER SUPPLIES AVAILABLE TO THE DISTRICT, REVIEW SCHEDULING OF AVAILABLE WATER SUPPLIES AND POTENTIAL RATIONING. ACTION AS NECESSARY

Banta-Carbona Irrigation District, Del Puerto Water District, Patterson Irrigation District and West Stanislaus Irrigation District has requested San Luis & Delta-Mendota Water Authority install temporary pumping plants on the Delta-Mendota canal to provide back-flow Through the canal. Banta-Carbona's estimated costs of the 2022 DMC Pump Back Project \$650,410 plus fuel. This project is necessary for the District to pump-back water it has stored in the San Luis Reservoir. Director Glenn Robertson made a motion to approve participation in the project unless costs change significantly. Director Kyle Robertson seconded the motion and it carried by the following vote: Ayes: Directors Annette Elissagaray, Glenn Robertson, Mark Cardoza and Kyle Robertson; Noes: None; Abstain: None; Absent: None

General Manager Weisenberger also reported there had been discussion among the District's participating in the Pump Back Project regarding whether to purchase the needed pumps or lease them. Since curtailment is expected to be a recurring problem, he feels it is best to purchase the pump. The cost to purchase the pumps would be \$228,826. Director Mark Cardoza made a motion to approve Banta-Carbona Irrigation District to purchase the pumps if necessary. Director Annette Elissagaray seconded the motion and it carried by the following vote: Ayes: Directors Annette Elissagaray, Glenn Robertson, Mark Cardoza and Kyle Robertson; Noes: None; Abstain: None; Absent: None

#### ITEM 7 – REVIEW ALL WATER RATES FOR THE 2022 IRRIGATION SEASON. ACTION AS NECESSARY.

The District's current water rates per acre foot are: Inside District \$65.00, Outside District \$150.00, Kasson first 1 – 3-acre feet per acre of ground at 60% of the Inside District rate

(\$39.00), 4<sup>th</sup> acre foot at Inside District rate (\$65.00) and 5<sup>th</sup> acre foot at the District's cost of service rate (\$115.73) as determined by the District's annual audit. The Board discussed the current rates and decided not to make any changes.

The Board then discussed the costs of the pump back project associated with providing stored water inside the District. If the District is curtailed from pumping San Joaquin River Water it will need to provide water on an allocated basis. The cost of providing the stored water will be about \$105 per acre foot. Director Kyle Robertson made a motion to charge a surcharge on all allocated water use of \$105 per acre foot. Director Annette Elissagaray seconded the motion and it carried by the following vote: Ayes: Directors Annette Elissagaray, Glenn Robertson, Mark Cardoza and Kyle Robertson; Noes: None; Abstain: None; Absent: None

**ITEM 8 – FRED A. DOUMA FAMILY TRUST (DOUMA) REQUEST FOR BCID TO WHEEL SAN JOAQUIN RIVER WATER FOR DOUMA. ACTION AS NECESSARY.**

General Manager Weisenberger reported the District received from Douma a request to wheel river water for them. The Board reviewed a prior agreement but took no action.

**ITEM 9 – REVIEW BCID GSA POLICY FOR GROUNDWATER PUMPING DURING CURTAILMENT PERIODS. ACTION AS NECESSARY.**

General Manager Weisenberger reported he had checked with several other GSA's and they are not addressing the issue.

**ITEM 10 – REVIEW OFFICIAL ASSESSMENT BALLOT FOR RECLAMATION DISTRICT 2095. ACTION AS NECESSARY.**

The Board reviewed the Official Assessment Ballot for Reclamation District 2095 for a special benefit assessment to pay for the operations and maintenance of RD 2095 and establish a reserve fund for future needs. Director Glenn Robertson made a motion to authorize Secretary Howe to vote yes on behalf of the District. Director Mark Cardoza seconded the motion and it carried by the following vote: Ayes: Directors Annette Elissagaray, Glenn Robertson, Mark Cardoza and Kyle Robertson; Noes: None; Abstain: None; Absent: None

**ITEM 11 – UPDATE ON SAN JOAQUIN RIVER FISH POPULATION STUDY. ACTION AS NECESSARY.**

Staff presented a report prepared by Fishbio on their activities in April 2022 and status of the project.

**ITEM 12 – 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.**

General Manager Weisenberger is working the report for Quarter 1 to file to request grant funds.

**ITEM 13 – UPDATE ON THE GROUNDWATER SUSTAINABILITY PLAN (GSP) FOR THE TRACY SUBBASIN. ACTION AS NECESSARY**

The required long-term and annual reports have been filed with the State of California Department of Water Resources.

**ITEM 14 – 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, currently on appeal in the 6<sup>th</sup> District.
  - B. Banta-Carbona Irrigation District v. California State Water Resources Control Board, et al, Case No. 34-2021-80003718 in Sacramento County Superior Court, Department 17
  - C. Center for Biological Diversity et al. v. United States Bureau of Reclamation, et al., Case No. 1:20-cv-00706;DAD-EPG, Eastern District of California

The Board returned to open session with no announcement.

ITEM 15 – UPDATE ON PIPELINE CONSTRUCTION TO YAMASAKI FARMS TO SERVE IN-DISTRICT PARCELS #255-120-10 AND 255-270-16. ACTION AS NECESSARY

Arnaudo Construction is building the box at Peterman and Central Irrigation is laying pipe. General Manager presented a change order from Central Irrigation in the amount of \$44,325.54. The change order is to place airvents along the north roads inside of manholes placed on a gravel base at springline of pipe with appropriate changes to the airvent manifold. Director Glenn Robertson made a motion to approve the change order and authorize General Manager Weisenberger to sign the change order. Director Annette Elissagaray seconded motion and it carried by the following vote: Ayes: Directors Annette Elissagaray, Glenn Robertson, Mark Cardoza and Kyle Robertson; Noes: None; Abstain: None; Absent: None

ITEM 16 - UPDATE ON FILLING FUTURE OPEN POSITIONS OF SECRETARY/TREASURER AND ADMINISTRATIVE ASSISTANT. ACTION AS NECESSARY.

Staff had nothing new to report.

ITEM 17 – REVIEW CREDIT CARD LIMITS FOR EXISTING WELLS FARGO MASTERCARDS, DELETING ONE RETIRED CARDHOLDER, AND ADDING A CARD FOR THE ASSISTANT MANAGER. ACTION AS NECESSARY.

The District currently has three Wells Fargo Mastercards with a total credit line of \$25,000. It is needs to cancel the card for retiring Assistant Manager Jorge Flores and request a new one for the current Assistant Manager Michael McDonald. Director Kyle Robertson made a motion to authorize Secretary Howe request new credits with the following limits: General Manager David Weisenberger \$10,000, Secretary Margaret Howe \$10,000, and Assistant Manager Michael McDonald \$5,000. Director Annette Elissagaray seconded the motion and it carried by the following vote: Ayes: Directors Annette Elissagaray, Glenn Robertson, Mark Cardoza and Kyle Robertson; Noes: None; Abstain: None; Absent: None

ITEM 18 - APPROVAL OF WARRANTS

Director Kyle Robertson moved that the May 2022 warrants in the amount of \$871,218.32 be approved for payment. Director Annette Elissagaray seconded the motion and it carried by the following vote: Ayes: Directors: Annette Elissagaray, Glenn Robertson, Mark Cardoza, James M. Thoming and Kyle Robertson; Noes: None; Abstain: None; Absent:

The meeting was then adjourned to Wednesday, June 15, 2022, at 9:00 a.m.

Respectfully,

Margaret G. Howe