

August 17, 2022  
Tracy, California

Pursuant to adjournment, July 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, Mark Cardoza and Kyle Robertson

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

ABSENT: None

**ITEM 1- BOARD TO CONSIDER THE CIRCUMSTANCES OF THE STATE OF EMERGENCY AND DETERMINE THAT (I) THE STATE OF EMERGENCY CONTINUES TO DIRECTLY IMPACT THE ABILITY OF THE MEMBERS TO MEET SAFELY IN PERSON AND/OR (II) STATE OR LOCAL OFFICIALS CONTINUE TO IMPOSE OR RECOMMEND MEASURES TO PROMOTE SOCIAL DISTANCING. ACTION AS NECESSARY.**

Director Glenn Robertson made a motion that the state of emergency continues to directly impact the ability of the members to meet safely in person and authorize teleconferencing as needed. 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: None

**ITEM 2 – REVIEW FINANCIAL AUDIT FOR 2021. ACTION AS NECESSARY**

Sandy Sup, CPA, representing Fechter & Company, joined the meeting by conference phone and presented to the Board the audit they conducted for the District for fiscal year 2021. She reported that they made a finding that an “Unqualified Opinion” was appropriate for the audit. She reviewed the audit with the Board of Directors. After reviewing the audit, Director Glenn Robertson made a motion to accept the audit as presented for filing. Director Mark Cardoza seconded the motion, and it carried by the following vote: Ayes: Directors James M Thoming, Glenn Robertson, Kyle Robertson, Annette Elissagaray and Mark Cardoza; Noes: None; Abstain: None; Absent: None

**ITEM 3 – REVIEW AND ESTABLISH COST OF SERVICE RATE FOR 2022. ACTION AS NECESSARY.**

Staff reported the District’s Cost of Services as reported in the District’s Annual Audited Financial Report for the year 2020 was \$3,975,839.00 and for the year 2021 was \$7,434,589.00. The total acre feet of water delivered in the year 2020 was 48,107 and for the year 2021 was 47,798. The average Cost of Service for the years 2020 and 2021 is \$5,705,214.00 and the average acre feet of water delivered is 47,953. The average Cost of Service (\$5,705,214.00) divided by the average acre feet of water delivered (47,953) equals a Cost-of-Service rate of \$118.98. Director Glenn Robertson made a motion to establish the District’s 2022 Cost of Service Rate at \$118.98. Director Mark Cardoza seconded the motion, and it carried by the following vote: Ayes: Directors James M Thoming, Kyle Robertson, Glenn Robertson, Annette Elissagaray and Mark Cardoza; Noes: None; Abstain: None; Absent: None

**ITEM 4 - MINUTES & TREASURER’S REPORT**

Director Annette Elissagaray made a motion to approve the minutes of the July 13, 2022, Board Meeting as presented. Director Kyle Robertson 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 5 - MISCELLANEOUS CORRESPONDENCE**

Secretary Howe reported the District received from Assembly Member Carlos Villapudua a Certificate of Recognition for the District’s 100<sup>th</sup> Anniversary video Emmy Award nomination.

## ITEM 6 - MANAGER'S REPORT & DISCUSSION ITEMS.

### MANAGER'S REPORT

August 17, 2022

Vernalis flow +/- 200 cfs Wheeling 0 cfs  
Water Delivery Commenced February 8, 2022

**COVID 19 – No** new cases of COVID among BCID employees since last board meeting.

**DMC Pumpback Project** – Awaiting final invoice for expenses on the design, planning, and inspection of equipment. No pumps and motors were purchased.

**Maintenance - Terrestrial** weed control through spraying and disking is on-going. Aquatic weed control is being conducted as well. All canals have been treated multiple times for algae and pondweed since the last board meeting. Algae has been an enormous problem in most canals. Pondweed is under control but not eliminated.

**Pump L4A** – A new 480-volt motor was purchased as there aren't any 2200-volt motors available. The 480-volt transformer at PP #2 is not big enough to operate the VFD motor on unit #4-40 and the new motor on L4-A. We disconnected the #4-40 and connected the new L4A motor to that Motor Control Center. The L4A pump does provide water to the Lift Canal, a maximum of 20 cfs. By disconnecting the VFD #4-40 we did lose total capacity at PP #2. But the loss hasn't impacted our flow through PP #2. We have purchased a new transformer to place solely on the outside pump. It will sit downstream of the existing 2400-volt motor control center (MCC), between the MCC and the new pump. This allows us to continue to use the old MCC for the outside pump, L4A. The existing VFD motor, Unit #4-40, will be re-connected to the existing transformer.

**FRIANT SJRRP Restoration Flows and Wheeling** – We are currently wheeling no water. They anticipate the possibility of having water in our reach of the river in August available for wheeling. No new news.

**Nonnative Predator Research Project, FISHBIO** – Predator 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. Fish trapping as ceased. River temperatures have exceeded the Permit thresholds requiring trapping to stop. This occurred in about the third week of May. Electro-fishing continues to sample. FISHBIO conducted a tour of the electro-fishing on August 16, 2022, with the staff from U.S. Senator Padilla's office. Tour included observation of the electro-fishing sampling in the river, tour of federal fish facility, and a tour of the federal pumping plant, Jones Pumping Plant.

**PROP 1 Grant Habitat study** – CBEC continues to develop and perfect alternatives for a habitat project adjacent to the BCID fish screen facility on the San Joaquin River.

**Lift Canal Final Grading Project** - Arnaudo Construction Inc. conducted work on final grading the new lining section of the Lift Canal in front of PP #4 in Spring 2022. Yet to be completed are drainage culverts.

**Peterman Lateral Pump Station Pipe Crossing Project** – The construction of the pipe crossing at Peterman Lateral Pump Station to serve the Yamasaki annexed property is completed. Water deliveries to the Yamasaki property on Koster Road commenced on Monday morning, July 18, 2022. The project is not fully completed has automation and electrical work still needs to be completed in order to operate the pump station in auto. We are currently operating the pump station in "Hand" mode.

**PP #3 Unit #4-40 VFD** – On July 12<sup>th</sup>, the VFD unit in PP #3 began shutting off and re-starting intermittently. This issue was caused by a PLC programming glitch. The glitch has been cleared and the VFD is back in service.

**Truck hit BCID Powerline** – In the early morning, approximately 4 am, of Saturday, June 18, a semi-truck was driving on our lift canal and hit a power pole guy wire at PP #2. It ripped off the power lines that dropped from that pole onto PP #2. This killed that pumping plant, which in turn required us to shut down the remaining pumping plants, 3, 4, and 5. We were able to get Bockmon and Woody Electric onsite to repair the damage and restore service to that PP #2. Service was restored by 2 pm that same day. We will turn this event into the JPIA to pursue the truck operator's insurance. The truck did not remain on-site but our night watermaster saw him leaving our lift canal after the power had gone off. The truck driver turned himself in to the highway patrol later that morning and a police report has been prepared. A claim is being prepared by BCID with JPIA to chase down the claim with the driver's insurance company.

## ITEM 7- DIRECTOR AND STAFF ITEMS

Secretary Howe reported she has registered Directors James M Thoming, Glenn Robertson, Kyle Robertson and General Manager David Weisenberger for the ACWA Fall Conference to be held in Indian Wells, November 29 – December 2, 2022.

## ITEM 8 – REVIEW CLAIM FROM HAROLD WINEINGER. ACTION AS NECESSARY

The Board discussed the claim from Harold Wineinger and reviewed the timeline provided by District Counsel Jeanne Zolezzi based on information provided by both Mr. Wineinger and District staff. After the discussion Director Mark Cardoza made a motion to deny Mr. Wineinger's claim and directed to staff to notify him of the decision. Director Glenn Robertson seconded the motion, and it carried by the following vote: Ayes: Directors James M Thoming, Kyle Robertson, Glenn Robertson, Annette Elissagaray and Mark Cardoza; Noes: None; Abstain: None; Absent: None

## ITEM 9 - 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 State Water Resources Control Board's curtailment of Pre-1914 divertors was lifted on July 13, 2022. As of August 16, 2022, the District is not under a curtailment order. The District has approximately 18,000-acre feet of stored Warren Act Water available.

## ITEM 10 – REVIEW PREVIOUSLY APPROVED WATER RATES FOR WATER SERVED UNDER A PER ACRE ALLOCATION, IF AN ALLOCATION IS IMPOSED ON GROWERS. ACTION AS NECESSARY

At the May 11, 2022, Board meeting the Board authorized a rate of \$105 per acre foot on allocated water use based on the cost of using a pump-back system to be able to access the water. Since the District will not be using the pump-back system this year, Director Mark Cardoza made a motion to charge the normal rate of \$65.00 per acre foot for allocated water use in the 2022 irrigation season. Director Kyle Robertson seconded the motion, and it carried by the following vote: Ayes: Directors James M Thoming, Kyle Robertson, Glenn Robertson, Annette Elissagaray and Mark Cardoza; Noes: None; Abstain: None; Absent: None

## ITEM 11 - UPDATE ON SAN JOAQUIN RIVER FISH POPULATION STUDY. ACTION AS NECESSARY.

FishBio will be hosting a luncheon and presentation at their office in Oakdale on August 24, 2022. Directors James M Thoming, Mark Cardoza, Kyle Robertson and General Manager David Weisenberger are planning to attend.

## 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 reported he had nothing new to report. CBEC continues to work on developing alternatives for a habitat project adjacent to the BCID fish screen facility on the San Joaquin River.

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

General Manager Weisenberger reported he had no information to report. District staff continues to map ground water wells.

## 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

2) CONFERENCE WITH LEGAL COUNSEL – REAL PROPERTY NEGOTIATIONS

Property: Negotiate purchase of water from Oakdale Irrigation District WY 2023.  
Agency Negotiator: David Weisenberger and Jeanne Zolezzi  
Negotiating Party: Oakdale Irrigation District  
Under Negotiation: Water

3) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (1 potential cases)

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**

The pipeline to the Yamasaki Farms ground started delivering water in July. There have been inquiries from outside district property owners regarding service.

**ITEM 16 - UPDATE ON FILLING FUTURE OPEN POSITION OF SECRETARY/TREASURER. ACTION AS NECESSARY.**

Staff presented the Board with several applications received for the position of Secretary/Treasurer. President of the Board James M Thoming suggested the Directors review the applications and called a special board meeting for August 26, 2022, at 10:00 am to discuss the application.

**ITEM 17 - APPROVAL OF WARRANTS**

Director Kyle Robertson moved that the August 2022 warrants in the amount of \$662,305.50 be approved for payment. 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:

The meeting was then adjourned to Wednesday, September 14, 2022, at 9:00 a.m.

Respectfully,

Margaret G. Howe