

Pursuant to adjournment, December 14, 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 - MINUTES & TREASURER'S REPORT

Director Glenn Robertson made a motion to approve the minutes of the December 14, 2022, Board Meeting as amended. 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

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 Kyle Robertson made a motion to approved sending a contribution of \$500 to Pacific Legal Foundation. Director Glenn Robertson seconded the motion and it carried by the following vote; Ayes: Directors Mark Cardoza, Annette Elissagaray, Kyle Robertson, Glenn Robertson and James M. Thoming; Noes: None; Abstain: None; Absent: None

#### ITEM 3 - ELECTION OF OFFICERS AND HIRING OF LEGAL COUNSEL. ACTION AS NECESSARY

Director Mark Cardoza made a motion to retain Herum/Crabtree/Suntag as legal counsel, David Weisenberger as General Manager, Margaret G. Howe as Secretary-Treasurer & Assessor-Collector and to appoint Director James M. Thoming as President of the Board and Director Glenn Robertson as Vice President. Director Glenn Robertson seconded the motion and it carried by the following vote; Ayes: Directors Kyle Robertson, Glenn Robertson, James M Thoming, Annette Elissagaray and Mark Cardoza; Noes: None; Abstain: None; Absent: None

#### ITEM 4 - MANAGER'S REPORT & DISCUSSION ITEMS.

##### **MANAGER'S REPORT**

**January 11, 2023**

**Vernalis flow +/- 9300 cfs Wheeling 0 cfs**

**COVID 19** – There have been new cases of COVID among BCID employees and their families since the November 2022 board meeting. We don't have a precise count at this time.

**DMC Pumpback Project** – Awaiting final invoice for expenses on the design, planning, and inspection of equipment. The draft invoice shows that BCID will owe approximately \$56,300.

**Maintenance** - Terrestrial weed control through spraying pre-emergent herbicide is ongoing, weather permitting.

The #2 40 cfs pump at PP #1 has been removed for rehabilitation. It is at Geiger Manufacturing, Inc, in Stockton, for repair and rehabilitation.

Staff has also commenced working on repairing pipeline leaks.

**Homestead Property Lease** – WhitePine Renewables has inquired about the possibility of leasing some of the Homestead Ranch ground for installing a solar facility. Their initial inquiry suggested a \$1,000 per acre lease. No further action has taken place. Another solar company enquired about leasing that property for the same purpose.

**Pump L4A** – The new (used) dry transformer for the outside pump, L4A, is operational. The inside #4-40 cfs VFD pump has been reconnected and is operational.

**FRIANT SJRRP Restoration Flows and Wheeling** – We commenced wheeling water for the SJRRP on December 12, 2022 at a rate of 90 cfs. We wheeled continuously at that rate until Noon Monday, January 9, 2023. The San Luis Delta Mendota Water Authority, operators of the Delta Mendota Canal, had us cease pumping into the DMC as the DMC was at capacity with rain water runoff.

**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. We have engaged JCOMM, Inc, to produce a video of

about 12-15 minutes to share with outside groups and the public about the studies and preliminary findings.

**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. CBEC and FISHBIO are organizing a presentation to show regulating agencies in January our current alternatives in order to get their feedback on our current plans. Our PROP 1 grant requires that we engage the regulators at the 65% design level to get their feedback.

**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 project is not fully complete as 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.

**Local Creeks are running** – Corral Hollow Creek and Lone Tree Creek began flowing out of the hills down to the valley floor the morning of January 1, 2023. They have been running continuously since that morning at varying flow rates depending on the rainfall in the hills from day to day. It has been raining off and on nearly every day since December 26, 2022, with only a couple of days without showers. The Corral Hollow Creek flow has been crossing Kasson Road since January 10 onto the State Prison property, DVI. The Lone Tree Creek has had minimal flow across Kenner Road. But the Lone Tree Creek has periodically run at substantial flow rates crossing Bird Road, estimated at up to 100 – 200 cfs. Rainfall total for December was 2.86 inches and January to the 11<sup>th</sup>, 3.69 inches. And it is showering today. See daily totals on next page.

#### ITEM 5 - DIRECTOR AND STAFF ITEMS

Secretary Howe reminded the Board a memorial service will be held for Kelly Geyer, General Manager of Byron Bethany Irrigation District, will be held in Byron on January 20<sup>th</sup>.

The District’s annual audit is scheduled to start on February 28, 2023.

Secretary Howe reported the District has an overpayment at the San Luis & Delta-Mendota Water Authority(SL&DMWA) in the amount of \$182,362.44. She has requested the SL&DMWA refund the overpayment.

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

The District currently has about 17,500 acre feet of Warren Act Water in storage at the San Luis Reservoir. Due to the rainy current weather conditions the District is not pumping water into storage.

The District has been wheeling water for the Friant Water Authority from December 12, 2022 at a rate of 90 cfs. until Noon Monday, January 9, 2023. The San Luis Delta Mendota Water Authority, operators of the Delta Mendota Canal, had us cease pumping into the DMC as the DMC was at capacity with rain water runoff.

#### ITEM 7 - 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.

CBEC continues to develop and perfect alternatives for a habitat project adjacent to the BCID fish screen facility on the San Joaquin River. CBEC and FISHBIO are organizing a presentation to show regulating agencies in January our current alternatives in order to get their feedback on our current plans. Our PROP 1 grant requires that we engage the regulators at the 65% design level to get their feedback.

#### ITEM 8 - REVIEW 1<sup>ST</sup> DRAFT 2023 BUDGET. ACTION AS NECESSARY.

Staff did not have the 1<sup>st</sup> draft of the 2023 Budget ready for review.

#### ITEM 9 – REVIEW DISTRICT’S RESERVE POLICY, RESERVE LEVELS AND CAPITAL IMPROVEMENTS PROJECT LIST. ACTION AS NECESSARY.

General Manager Weisenberger reported that he would like to re-evaluate capital improvement projects value to the District.

**ITEM 10 – REVIEW DISTRICT CHECKING ACCOUNTS AND FINANCIAL CONTROLS. ACTION AS NECESSARY.**

Secretary Howe reported that District policy has been that all checks must be signed by one Director and either the Secretary - Treasurer or the General Manager. Currently only three of the Directors are able to sign on the accounts. Director Annette Elissagaray made a motion to add Directors Kyle Robertson and Mark Cardoza as signatures to the District's checking account and to maintain the policy of two signatures on all checks, one Director and one either Secretary – Treasurer or the General Manager. Director Kyle Robertson seconded the motion and it carried by the following vote; Ayes: Directors Kyle Robertson, Glenn Robertson, James M Thoming, Annette Elissagaray and Mark Cardoza; Noes: None; Abstain: None; Absent: None

**Banta-Carbona Irrigation District  
Resolution No. 2023-01**

**RESOLUTION AUTHORIZING ADDING MARK CARDOZA AND KYLE ROBERTSON AS SIGNERS ON THE BANK ACCOUNT AT OAK VALLEY COMMUNITY BANK AND ESTABLISHING SIGNATURE REQUIREMENTS THEREFORE**

WHEREAS, the Board of Directors of the Banta-Carbona Irrigation District (the "Board" and the "District," respectively) has received the report from staff recommending that the District add newly appointed Directors Mark Cardoza and Kyle Robertson as a signers to business bank account, with Oak Valley Community Bank; and

WHEREAS, the staff has recommended, in keeping with prior authorizations of the Board, that checks written on any District checking account at Oak Valley Community Bank be issued on two (2) original signatures, being any two (2) of the following: Directors: Mark Cardoza, Glenn S. Robertson, James M. Thoming, Annette Elissagaray and Kyle Robertson; and Staff: Margaret Howe and David Weisenberger, so long as one of the persons signing is from the Director group and one is from the staff group

NOW, THEREFORE, BE IT RESOLVED that:

Section 1. The facts set forth in the recitals above are true and correct and the Board so finds and determines.

Section 2. District officials are hereby authorized and directed to open a business bank account with Oak Valley Community Bank.

Section 3. Checks drawn on the District checking account at Oak Valley Community Bank shall be issued on two (2) original signatures obtained from any two (2) of the following: Directors: Mark Cardoza, Glenn S. Robertson, James M. Thoming, Annette Elissagaray and Kyle Robertson; and Staff: Margaret Howe and David Weisenberger, so long as one of the persons signing is from the Director group and one is from the Staff group.

Section 4. The provisions of any form of resolution prescribed by Oak Valley Community Bank for adoption by the District to implement the actions authorized by this Resolution are hereby adopted and incorporated herein by reference as though fully set forth herein.

Section 5. District Treasurer Margaret Howe and President of the Board of Directors James M Thoming are hereby authorized and directed to execute all documents, including without limitation contracts for deposit of moneys and waiver of security agreements, and to take any and all other steps which may be necessary or convenient to implement the intent of this Resolution.

Section 6. The Banta-Carbona Irrigation District requires two signatures for withdrawals/checks written, however the bank will not be held responsible for monitoring our compliance with this requirement. This requirement will be monitored internally within the irrigation district.

Section 7. This Resolution shall take effect immediately.

PASSED AND ADOPTED, this 11th day of January 2023 on the following vote:

AYES: Directors James M Thoming, Kyle Robertson, Glenn Robertson, Annette Elissagaray and Mark Cardoza  
NOES: None  
ABSENT: None

President James M Thoming and Secretary Howe have an appointment scheduled with Oak Valley Community Bank to discuss other possible financial controls.

**ITEM 11 - UPDATE ON THE GROUNDWATER SUSTAINABILITY PLAN (GSP) FOR THE TRACY SUBBASIN. ACTION AS NECESSARY**

The District filed an application for \$13 million grant funds to extend the 3 East Pipeline to Durham Ferry Rd. There were only a total of 15 applications filed and grant funds available of

\$200 million so the District is likely to get some funds.

**ITEM 12 - REPORT ON SAN JOAQUIN RIVER FISH POPULATION STUDY. ACTION AS NECESSARY.**

General Manager Weisenberger reported Patterson Irrigation District and West Stanislaus Irrigation District are both interested in participating in the cost of a video to be produced by J.Comm. The video would combine scientific information, visuals and animation to tell the story and would be approximately 12 to 15 minutes long. It is anticipated it could be shown at an ACWA conference and used on the participating agencies websites. The cost of the video would not exceed \$50,000. There is a meeting scheduled for Friday to discuss process of producing the video.

**ITEM 13 - CLOSED SESSION:**

- 1) CONFERENCE WITH LEGAL COUNSEL on EXISTING LITIGATION PURSUANT to Subdivision (a) of Section 54956.9 of the Government Code
  - A. 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 REAL PROPERTY NEGOTIATIONS
  - A. Property: Negotiate purchase of water from Oakdale Irrigation District WY 2023  
Agency negotiator: David Weisenberger and District Counsel 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 case)

The Board returned to open session with no announcement.

**ITEM 14 – DISCUSS AND CONSIDER INVESTIGATING GROUNDWATER BANKING OPPORTUNITIES. ACTION AS NECESSARY.**

General Manager Weisenberger inquired if the Board had an interest in investigating Groundwater banking opportunities. After some discussion, the Board authorized staff to look into possible groundwater banking.

**ITEM 15 - REVIEW CLAIM FROM J&K ROBERTSON FAMILY, LLC. ACTION AS NECESSARY.**

Director Kyle Robertson recused himself from discussion or voting on the matter due to a conflict of interest, and left the room.

The Board reviewed a claim received from J&K Robertson Family, LLC in the amount of \$ ????? for damage to his 2022 walnut crop caused by flooding from cracked water line. After some discussion, Director Mark Cardoza made a motion to approve the claim and Director Annette Elissagaray seconded the motion and carried by the following vote: Ayes: Directors Annette Elissagaray, Glenn Robertson, Mark Cardoza, and James M. Thoming; Noes: None; Abstain: None; Absent: None

**ITEM 16 - APPROVAL OF WARRANTS**

Director Annette Elissagaray made a motion to approve January 2023 warrants in the amount of \$338,321.90 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, February 15, 2023, at 9:00 a.m.

Respectfully,

Margaret G. Howe  
Secretary – Treasurer