

Minutes of the Board Meeting of the  
TRUCKEE-CARSON IRRIGATION DISTRICT  
Regular Session  
**August 7, 2007**

The Board of Directors of the Truckee-Carson Irrigation District, in the Counties of Churchill and Lyon, State of Nevada, met in regular session at the offices of the District, 2666 Harrigan Road, Fallon, Nevada on Tuesday, August 7, 2007.

**Call to Order, Roll Call, Pledge of Allegiance**

President, Ernest C. Schank called the meeting to order at 9:03 a.m. in compliance with NRS Chapter 241. The following Directors were present constituting a quorum:

Present:	Ernest C. Schank Richard Harriman Ray Peterson Larry Miller Jerry Blodgett Lester deBraga Don Travis	President Vice President Secretary Director Director Treasurer Director
Others Present:	Dave Overvold Lyman McConnell	Project Manager Legal Counsel

The meeting opened with the Pledge of Allegiance led by Brian Baley, Water Master.

**Supervisors Reports**

**Walter Winder, O&M Foreman**

**Walter** reported that one of the drotts is on the L1-7 trenching and rocking due to gopher holes. They are forming the buildings of the checks at the Truckee Canal for the automation. Another carpenter crew is working on gates changing staff gauges. The caterpillar is pushing down spoil on drain banks and the end dump is at the gravel pit. The Rogers Road job has now been completed. It will be turned over to the county and they can start on their part of the project.

As soon as the short reach is released from the shop, the team will start on the Wildes Road project. Walter estimates that the completion of this project to be about a month away. There will be approximately 15' from the edge of the District easement.

**President Ernie Schank** requested that several items pertaining to Walter's crew were on the O&M Committee Recommendation review for today and should be addressed while Walter is present.

**Review/Approve O&M Committee Recommendations**

**Director Ray Peterson** reported the following:

<p>1. <b><u>Review Accident Incident Reports and Damage Claims</u></b></p> <p>No Board action required.</p> <p><b><u>Board's Request for Public Comment</u></b></p> <p>No Comments.</p>	<p>There were no damage claims this month. The following incidents were reported.</p> <p>An incident of a wash-in from the A11 into the A Line was reported by Walter on 7/19/07. The A11 headworks was probably opened more to provide a larger head to user. No reportable damage, however the O&amp;M crew had to move a lot of dirt to plug the very big hole.</p>
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	<p>An incident reported by Walter that happened 7/17/07 when John Baker reported that Kenny and Tammy Lee were getting flooded. Walter checked it out and found that water was going around and threw the closed yellow jack gate. The gate in question is not part of District facilities and private. No reportable damage.</p> <p>An incident was reported by David Watkins on 7/13/07 when his truck tire dropped into a hole and damage was sustained on the right rear fender when it hit a concrete wall.</p>
<p><b>2. <u>Review Claim made by Doug Koepke</u></b> Mr. Koepke attended the Board meeting.</p> <p>The committee recommends that the Board approve Mr. Koepke's request.</p> <p>A <b><u>motion</u></b> was made by <b>Director Ray Peterson</b> to approve the committee's recommendation to fill the drain, with less than one foot of fill, on Mr. Koepke's property level with the height of the culvert so that there is no more standing water seconded by <b>Director Jerry Blodgett</b> and approved by a vote of 6-1 with <b>Director Lester deBraga</b> voting against the motion.</p> <p><b>Director deBraga's</b> reason for voting against the motion was that he thinks that the District should not fill the drain as the standing water has not been proven to be the cause of Mr. Koepke's West Nile Virus.</p> <p><b><u>Board's Request for Public Comment</u></b> No Comments.</p>	<p>Mr. Doug Koepke was present and stated that his life has taken a turn for the worse since the District cleaned the Drain that borders his property. He has reported to the newspaper that he has West Nile Virus and blames the District because of the standing water that is now in the drain. The culvert on Boyer Lane is now higher than the invert of the drain so the drain water does not flow. The District has gone out to the culvert and cleaned it of weeds and debris at the request of Mr. Koepke to insure that water will flow if it gets high enough. Mr. Koepke asked the committee to fill the drain that is on his property level with the height of the culvert so that there is no more standing water. He stated that he would like a letter stating that the District will comply with his request within 10 days of the approval of the Board of Directors. The committee is concerned that there will be more requests to make drain water flow rather than sit. Dave stated that Mr. Koepke's area is different as his property is on the very beginning of a drain and not very long.</p>

**Open Discussion on Item #8 of O&M Committee Meeting Recommendations**

Since Walter Winder, O&M Foreman was still in attendance at the meeting, the Board discussed the Proposed Restoration Project on the Truckee River below Derby Dam. **Ted Renfroe, Shop Foreman** has researched bids for the new gates and operators to be approximately \$16,000.

A **motion** was made by **Director Richard Harriman** to continue working with the Bureau of Reclamation for the new gates and operators for the Derby Spill seconded by **Director Ray Peterson** and unanimously approved.

**Board's Request for Public Comment**

No Comments.

<p><b>3. <u>Review Gate Application on Truckee Canal – Scott Dalton</u></b></p> <p>The committee recommends that the Board approve the installation of two gates on the Truckee Canal as indicated on the attached map.</p> <p>Board Action Taken:</p> <p>A <b><u>motion</u></b> was made by <b>Director Ray Peterson</b> to approve the installation of two manual 14' gates on the</p>	<p>Mr. Scott Dalton and Mr. Dwight Orton were present to answer any questions that the committee may have about the gate application. Mr. Dalton stated that although the automatic gate that was installed on the West end of the Truckee Canal is very nice he does not think that his neighbors can afford that type of gate. He would like to install two manual gates about 14 feet in width as the canal bank is very narrow there. He will keep the gates open during the irrigation season and farm lock on the gate during the off season. The residents that live on the Truckee Canal in that area are</p>
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<p>Truckee Canal to remain open during water season seconded by <b>Director Jerry Blodgett</b> and approved by a vote of 6-1 with <b>Director Lester deBraga</b> voting against the motion.</p> <p><b>Director deBraga</b> believes that the District easements should remain open.</p> <p><b><u>Board's Request for Public Comment</u></b> No Comments.</p>	<p>very concerned about the motor traffic that uses the canal to access the BLM land. They speed and Mr. Dalton fears that one will sooner or later not be able to negotiate a jog in the narrow dirt road and end up in the canal. He has talked to the motorcyclists that use the road and they are under the impression that the canal road is a public road. No amount of talking will change their minds. Mr. Dalton believes that a gate with signs will make the point and greatly reduce the traffic.</p>
<p>4. <b><u>Review Temporary T-13 Crossing – Shaw Engineering</u></b></p> <p>The Committee recommends the Board approve the installation of a temporary culvert instead of the box culvert approved at the last board meeting.</p> <p>Board Action Taken:</p> <p>A <b><u>motion</u></b> was made by <b>Director Ray Peterson</b> to approve the installation of a temporary culvert at the T13 by Shaw Engineering seconded by <b>Director Don Travis</b> and unanimously approved.</p> <p><b><u>Board's Request for Public Comment</u></b> No Comments.</p>	<p>The T-13 crossing was approved for box culvert crossing at the July 7<sup>th</sup> Board meeting. However, the County had already bid the contract with a culvert crossing. The County approached Dave Overvold and asked permission to install a culvert as originally planned on a temporary basis. The request was put on the O&amp;M Committee Agenda so that the committee could make their recommendations.</p>
<p>5. <b><u>Review Southwest Gas Easement Encroachment on Mesa Drive – Fernley Water Treatment Plant</u></b></p> <p>No Board action required.</p> <p><b><u>Board's Request for Public Comment</u></b> No Comments.</p>	<p>This was put on the Agenda for information only. The Bureau has not approved this encroachment due to issues with the Tribe protesting the treatment plant. The approval of this crossing is caught in bureaucratic red tape. This also affects the crossing that the City of Fernley applied for on Mesa Drive across the TC-1.</p>
<p>6. <b><u>Review Extension of Permit for Southwest Gas #'s 06-022 and 06-024</u></b></p> <p>The committee approved the extension of the two permits till August 2008.</p> <p>No Board action required.</p> <p><b><u>Board's Request for Public Comment</u></b> No Comments.</p>	<p>Southwest Gas asked the District for an extension of the above permits because they have not completed the projects but have plans to do so within the next year.</p>
<p>7. <b><u>Review Release and Fill of the TC-T39 – Lumos for Fernley School District</u></b></p> <p>Richard made a motion to recommend to the Board to approve the plugging and filling of the TC-T39 and notice the water users that are affected. It was seconded by Jerry and approved by all present.</p> <p>Board Action Taken:</p> <p>A <b><u>motion</u></b> was made by <b>Director Ray Peterson</b> to</p>	<p>The Bureau has asked the District to plug the TC-T39 and then fill the depression that was a ditch. This was requested in the RO&amp;M item number 06-3H. Q&amp;D Construction submitted a plan recently with the installation of an 18" water main to the Fernley School District that asks for a permit to cross this ditch by boring underneath it. Walter consulted with the Construction people and they agreed to plug and fill in the takeout and fill in the ditch rather than bore under it.</p>

<p>approve a public hearing to plug and fill the TC-T39 after receiving Bureau approval with Kate Rutan to notify affected individuals seconded by <b>Director Lester deBraga</b> and unanimously approved.</p> <p><b><u>Board's Request for Public Comment</u></b> No Comments.</p>	
<p><b>8. <u>Review Proposal for Operators at Derby Spill</u></b></p> <p>The District put together a proposal and submitted it to the Bureau through Mr. Jim Lively. Walter would like to cost share on a project to replace the Operators at the Derby Spill with the District doing the labor and the Bureau paying for the materials.</p> <p>No Board action required.</p> <p><b><u>Board's Request for Public Comment</u></b> No Comment.</p>	
<p><b>9. <u>Review Method of Charging Water at G-T4</u></b></p> <p>No action was taken on this matter except to put it on the next O&amp;M Committee Agenda.</p> <p>No Board action required.</p> <p><b><u>Board's Request for Public Comment.</u></b> No Comment.</p>	<p>Dave has received a letter from Ms. Ure, legal council for Carlon Dodge, regarding this agenda item. She stated that Mr. Dodge was not ready to defend himself on this change for the G-T4 and asked that no action be taken. Dave sent a letter to Mr. Dodge and told him that the changes were going to be made to the water charging at the G-T4. After receiving the letter Mr. Dodge wanted to appeal the decision. Dave suggested he could do that before the O&amp;M Committee.</p>

**Brian Baley, Water Master**

Brian reported the following water storage levels data:

Lahontan Elevation	4,141.81	Feet
Lahontan Storage	127,500	Acre Feet
Lahontan Out Flow	825	CFS
Carson River Flow At Fort Churchill	.99	CFS
Truckee River Flow At Vista	314	CFS
Truckee Canal Flow At Wadsworth	172	CFS
Truckee Canal At Hazen (Bango)	40	CFS
Truckee River Below Derby Dam	129	CFS
Spilling At Gilpin Approximately	N/A	CFS

Diverted Last Month	<u>49,578 AF</u>
Delivered Last Month:	<u>32,726 AF</u>
Efficiency Last Month:	<u>66%</u>
Year To Date Diverted:	<u>177,903</u>
Year To Date Delivered:	<u>107,577</u>
Year To Date Efficiency:	<u>60.5%</u>

**Director Lester deBraga** commented that he would like to see more water in the Stillwater area. **John Baker, Water Master** stated that there are 80' to 100' of water flowing to Stillwater until the end of the season. He would like to see more water come out of Lahontan Reservoir.

**Walter Winder** indicated that he would like to fly over the area to observe from the air.

**Kelly Cecil, Hydro Foreman**

Kelly reported on the hydro department readings as follows:

<b>Location</b>	<b>KWs</b>
26' Drop	1,000 KW (maxed)
New Power Plant	3,360 KW (87%)
Old Power Plant	1,300 KW (maxed)
<b>TOTAL:</b>	<b>5,660 KW</b>

Handrails and walkways are currently being improved at the 26' Drop. Kelly also reported that the moss has been coming down the canal for the last four days and the moving screens are doing a good job of removing it. He indicated that they are dealing with a "carpet" type and "stringy" type moss. The plant generation is not dropping due to the screens and the savings in labor and manpower, alone, have been notable.

**Ted Renfroe, Shop Foreman**

Ted reported that there are many equipment breakdowns. The short reach is down but should be operational by the end of the week. One of the drotts is currently being worked on and vehicle #412 is has been fixed. Many of the ditchrider trucks have been down recently but most have been returned to operation. The Stillwater pump is out of order. The shop team is in the process of repairing electrical problems. The long reach is running but is still awaiting parts and the backhoe is out of order.

Ted has sold vehicle #12, a truck, for \$1,200.00 and a 10 wheeler dump truck for \$10,000.00. He presented the Board with information on a 2006 Volvo Excavator EW1813 with 400 hours on it selling for \$139,000. It reaches one foot further than the current excavator, has 20hp more and is 1,400 lbs. heavier. It is currently located in Las Vegas and the seller is willing to transport it to Fallon for the District to test drive for a week, IF they should be seriously interested. Ted has also purchase a 1-ton truck for \$2,500.00.

A **motion** was made by **Director Richard Harriman** allowing Ted Renfroe, Shop Foreman, to sell vehicle #326, a truck, seconded by **Director Ray Peterson** and unanimously approved.

**Board's Request for Public Comment**

No Comments.

After Ted's comments on the Volvo, there was some discussion on finances. **Director Ray Peterson** also asked for Board comments on the possibility of purchasing the excavator. Ted Renfroe agreed to research possible financing options.

**Presentation of Recognition Awards**

**President Ernie Schank** presented **David Watkins, Water Conservation Technician with 25 years of service to the District** and **Brian Baley, Water Master with 20 years of service to the District** with a Certificate of Appreciation in recognition for their service. Each was presented with an award and thanked by the Board of Directors for their dedication on behalf of the Truckee-Carson Irrigation District and to the water users of the Newlands Project.

**Review/Approve July 2007 Disbursements**

A **motion** was made by **Director Ray Peterson** to approve the July 2007 disbursements for the New Lahontan Hydro Power Plant paid prior to Board approval and unpaid seconded by **Director Richard Harriman** and unanimously approved.

A **motion** was made by **Director Richard Harriman** to approve the July 2007 general disbursements paid prior to Board approval and to pay the unpaid bills seconded by **Director Lester deBraga** and unanimously approved.

**Board's Request for Public Comment**

No Comments.

**Supervisors were excused at 10:10 a.m.**

**United States Fish & Wildlife Service**

Mr. Mike Goddard was present and reported on the refuge. The Board asked Mr. Goddard if he would consider taking Walter Winder, O&M Foreman and Dave Overvold, Project Manager on a flight over the refuge and Stillwater area to get an aerial view.

Mr. Goddard indicated that he was pleased with the refuge's water supply and reported on their need for water. He thanked the Board for having the S-T75 ramp flume structure re-poured. He said he had spoken with ditchrider, Mike Story, about the refuge's standing water order on the S-T75 and that he would appreciate all extra water sent their way at the end of the season on the S-Line. He also said that they may need a delivery on the L-Line.

Mike announced to the Board that he would like to meet with Dave Overvold, Project Manager, to review the charges on several orders made to the S-T75 during the time the ramp flume was submerged. He believes that an adjustment in favor of the refuge is in order because he thinks they received less water than was measured due to that submerged meter. He said Stillwater needs the water at the wetlands and will give water to will resume deliveries to the Canvas Back Club after the wetlands are back up to speed.

A conservation easement is being purchased for the Shoshone wetlands and he would like to manage the wetlands for three years to train them to take over at the end of those three years.

**Natural Resource Conservation Service – Presentation by Steve Perkins, Great Basin Plant Materials Center**

Steve Perkins of the Great Basin Plant Material Center gave a PowerPoint presentation to the Board. The presentation provided information on what was the basic service of the center, what they study, and what information they are trying to produce to transfer onto the public through these studies. The information transferred to local farmers may provide them with other income producing growing options for the future possibly using less water.

Steve also asked for leniency on the seven day water delivery rule. He will be growing many different types of test plant that may need water in less than a seven day period. The Board was very willing to cooperate, especially with the possibility of providing vital information from the Center to local growers in the future.

**Award Concrete Contract for 2007-2008 Fiscal Year**

After being taken under advisement, **Walter Winder, O&M Foreman**, recommended awarding the concrete contract for the 2007-2008 fiscal year to Hiskett & Sons.

A **motion** was made by **Director Richard Harriman** to accept management's recommendation to accept Hiskett & Sons bid for the 2007-2008 fiscal year and award them the concrete contract seconded by **Director Ray Peterson** and unanimously approved.

**Board's Request for Public Comment**

No Comments.

**Review/Approve July 2007 Director's Compensation**

Ernest C. Schank	\$334.58
Richard Harriman	\$200.00
Ray Peterson	\$160.00
Larry Miller	\$80.00
Jerry Blodgett	\$347.88
Lester deBraga	\$105.00
Don Travis	\$160.00

A **motion** was made by **Director Lester deBraga** to pay the July 2007 Directors Compensation seconded by **Director Larry Miller** and unanimously approved.

**Board's Request for Public Comment**

No Comments.

**Review/Approve June 2007 Regular Session Board Minutes and July 2007 Regular Session Board Minutes**

A **motion** was made by **Director Lester deBraga** to approve the June 7, 2007 Regular Session Board Meeting Minutes seconded by **Director Larry Miller** and unanimously approved.

A **motion** was made by **Director Lester deBraga** to approve the July 9, 2007 Regular Session Board Meeting Minutes seconded by **Director Don Travis** and unanimously approved.

**Board's Request for Public Comment**

No Comments.

**Approve Sale of Fernley Land Off I-80**

A **motion** was made by **Director Don Travis** to sell the land currently owned by TCID in Fernley, Nevada located off I-80 with the condition that Lyman McConnell, Legal Counsel to TCID, review and approve the conditions set forth in the offer and that the current Lion's Club Lease be allowed to run out with no pro-ration to the seller. The money from the sell is to go into the Building and Land Acquisition Fund and the commission of 6% will be paid upfront to Real Estate Agent, Mr. Kim McCreary, by the District. This motion was seconded by **Director Jerry Blodgett** and unanimously approved.

**RECESS**

A **motion** was made by **Director Richard Harriman** to recess for lunch at 12:15 p.m. seconded by **Director Ray Peterson** and unanimously approved.

**Boards Request for Public Comment**

No Comments.

**Public Comment**

The Board reconvened with a phone call from Jamie Mills, Executive Director, Newlands Water Protection Association.

**Lyman McConnell, Legal Counsel**, brought the Board up to date on the Bench / Bottom reallocations, where an individual gets a Bench allocation restored. He indicated that Jamie thought this letter from the Federal Water Master should be recorded for future reference to make sure that it is in the record. Jamie is trying to come up with a procedure to do this. Jamie spoke with the recorders office and was told that they needed the original document and was told that that original document comes to the

District and should be in each individual's file. Merliza Curtis can make a listing and notify those individuals that the District has the documents and if they would like to come get the original and have it recorded, they are welcome to do so if they would like.

Once the listing is produced, the files will be checked to see if the original documents are in each file. Jamie will then write an article for the District newsletter informing water users of the reason for suggesting recording of the original document and that these are available in the District office. The water user will be given the original and a copy will be put back in the District file.

**Director Richard Harriman** has offered to be the first to go through the process to see how it will work.

### **The Board Reconvened at 1:30 p.m.**

#### **Bureau of Reclamation**

**Locke Hahne** and **Karen Hunt-de Carlo** attended for the Lahontan based office. They discussed the operators at Derby Dam. The new cranes have been painted black and are ready for installation. He is ready to purchase the portable base for the cranes which can be moved from location to location.

**Locke** reported on the Safety of Dams review for Lahontan Dam. The field evaluations have been completed and are still writing the reports. There was evidence of road beds but no compacted fill for dykes. Clay lenses were also intercepted in the study and Locke is not sure how this will affect the probability of hydrologic failure. The formula for calculating risk is probability multiplied by estimated consequences equaling risk. The three types of risks that are considered are hydrologic, seismic and static. Currently Lahontan Dam has higher static risk than recommended. Locke indicated that ways of lowering this risk must be determined. Locke will also be working with Walter Winder, O&M Foreman, on working together with his team on the operators at Derby Dam.

**Karen Hunt deCarlo** spoke briefly on the subject of the status of the TCID Title Transfer of the Yard Facility. Karen indicated that the EA (Environmental Analysis) was very close to being sent out. The comments were all positive from the City of Fallon, the Stillwater Refuge and the others that had been received. There was very little comment received. The cultural resources part of the transfer has gone to the State Historic Preservation Office and the clearance is complete. The Hazardous Waste Clearance is also complete. The only item remaining that Karen is currently working on is the patent.

**President Schank** indicated to the Board that the letter regarding the Derby Dam Tenders House was on hold until an agreement was reached. He had suggested that the District employ the Dam Tenders as security people as he believed there is a need for security and that Betsy Rieke had agreed. Betsy had expressed two concerns. The first was whether or not they would qualify through a security background check and the second was the liability. They would need to be covered under the District's liability insurance policy. This is because the Bureau would not want the liability. Betsy also assured President Schank that these two issues were being worked on with the regional office. **Lyman McConnell, Legal Counsel**, suggested contacting the District in Reno, Nevada, regarding the Dam Tender's house at Boca Reservoir to get information on how these issues are handled there. He told the Board that within the lease agreement that part of their obligation includes the maintenance of the facility. **President Schank** indicated that he and Betsy had discussed that there would need to be a specific list of items that they would be responsible. One other concern would be if someone from the Bureau should show up at Derby Dam it has been agreed that they would have had to provide the District with a two week prior notice of the visit. As far as requirements for their quests, they would need to confirm that the individuals who arrive for the tour are the same individual's who's names were on the list originally submitted to the District.

**Dave Overvold, Project Manager**, asked Locke if there had been any progress at the Stillwater Point Reservoir, such as any future meetings scheduled. Locke indicated that this would be between the

District and the USFW. The USFW claims to have jurisdiction over the Stillwater Point Reservoir. In opposition, the District considers it part of the Newlands Project's works. He asked Locke if the Bureau would be acting as mediator between the two groups and **Locke** responded that the Bureau had never agreed to act as mediator. The Bureau had only agreed to talk with the USFW, which they did, and were assured by Mike Goddard that they would be willing very to work with the District. Locke also said that the where the real effort would need to be was between the District and the USFW working together to make things work. **Director Lester deBraga** asked Locke if the District had the support of the Bureau in regards to which organization the Stillwater Point Reservoir belonged. He also believes that if that the facility is considered to belong to the District, that the District should be able to operate it. **Locke** stated that the original question that was put before the Bureau was the USFW and the District not being able to work together without conflict. With regards to the Stillwater Point Reservoir there is a Department of Interior solicitor's opinion that indicates the USFW has jurisdiction over the property.

**President Ernie Schank** stated that he believed the basic problem has always been that with the contract the District has with the Bureau of Reclamation which makes statements regarding project facilities with everyone's knowledge that there were several points left off the list within the agreement. As he recalls, the dam portion and outlet works were on the agreement but that the specific mention of the reservoir was not. 101168 was used by the USFW as authority to take over operations at Stillwater Point Reservoir. The problem with this is that the District had a prior agreement on Stillwater Point Reservoir as to how it was to be used as it is a project facility that was built and paid for by the project water users and not by the federal government.

**Locke** will try to get a copy of the solicitor's opinion and provide a copy to the Board.

**Director Don Travis** stated that he was sure that the District could work this out with the USFW without anyone having to intervene on it's behalf. This has been the policy in the past and this is how it should be dealt with.

#### **Presentation by the Bureau of Reclamation for Proposed Restoration Project on the Truckee River below Derby Dam**

**Mitch Blum, Hydrologist from HDR Engineering**, gave a slide presentation on the proposed project. Mitch reported that they had been contracted to do the design work for the Truckee River Below Derby Dam project. He talked about the project purpose and gave an introduction to the team working on the assessment document being produced as a result of the project, and the engineering concepts.

Presently, the project is only in the conceptual design stage and the measurements, etc. are not set in stone.

#### **Review/Approve Procedure for Water Rights to be Transferred to the District and the Payment of O&M**

**President Ernie Schank** currently holds a seat on this Board. At the last Alpine County meeting there was much discussion on what to do with the remaining monies in the AB380 fund, approximately \$200,000. There are currently 24 properties which total 64.65 acres. Directors.

The City of Fernley has agreed to abandon 64 acres of water and the Subconservancy District has determined to use that \$200,000 to pay TCID for the O&M on this water. The remainder of the money will go to the Paiute Tribe under the rules of forfeiture and abandonment.

There had been a question as what to do with these properties trying to dispose of as many as possible to make sure that TCID receives the O&M fees. The suggestion was made and brought to the District Board today to discuss and determine what the District would like to do. **President Schank** has been asked to approach the District Board and see if a letter could be written on behalf of TCID to the individual land owners explaining that the AB380 program has been completed. These individuals had

originally signed up to be a part of the program but it was determined, for whatever reason, that there was a problem with clear titles. The letter would ask that these individuals donate their water to the AB380 program so that it would count as AB380 water with TCID being paid the O&M with the remaining monies rather than the land owners being responsible for that cost ever again. They will continue to be responsible for the O&M fees on their properties if it is not donated to the program.

These individuals have only two choices remaining. One would be to keep the water and continue paying the O&M fees or two donate the water the to the AB380 program, without receiving any money for the water, but not having to pay the O&M fees in the future ever again, making TCID whole again by receiving the O&M fees through the program.

**Jamie Mills, Executive Director, NWPA**, indicated that the most of the issues are with clear title with these individuals. They pay the O&M but do not own the water rights. With the owners quitclaiming their interest in the water, it allows AB380 to pay TCID the O&M and specific ownership can be resolved later.

**Lyman McConnell, Legal Counsel**, indicated that most of the water rights are subject to forfeiture or abandonment and would be very difficult for someone to revive. **Dave Overvold, Project Manager**, believes that these individuals want to be relieved of the O&M responsibility and there should be a mechanism available for them to do so.

A **motion** was made by **Director Ray Peterson** to write a letter to the land owners asking that they turn over their interests in the water rights to the AB380 program in return for no longer being responsible for paying the O&M fees in the future seconded by **Director Richard Harriman** and unanimously approved.

#### **Board's Request for Public Comment**

No Comments.

#### **Review/Approve Procedure for O&M on Water Right that is Considered Abandoned/Forfeited After the AB380 Program**

**Lyman McConnell, Legal Counsel** explained the reason for this item being put on the agenda. It was a discussion at the case management conference on the 2000 petition cases as to where the AB380 program and lawsuit was headed. He explained that there will be some water rights that will be abandoned and forfeited in the future and a process is needed other than the NWPA for people to accept water rights and pay the O&M. One of his thoughts was that if NWPA did not want to accept the water rights that the District would accept the water rights and if the individual wanted to get out from under the O&M payment, then they would pay the District whatever the fee would be for their portion of the water right at the \$1,233.00 per acre for the one time O&M fee, putting them out of any future billing cycle for O&M. The other option was the process that is going on with some of the attorneys representing individuals in the litigation in the negotiations with the Pyramid Tribe was that neither one would pay anything to TCID. Mr. McConnell was concerned that people could take unilateral action and somehow have an impact on the rest of the users in the District in regards to their payment of O&M. He believes that the District could develop policy that accept the water rights in the payment of a one time fee based on the number of acres for each individual and establish a process where the District may have to intervene in any settlement actions by individuals with the Pyramid Tribe to ensure that the District's O&M is considered.

**President Ernie Schank** asked Mr. McConnell if he agreed that the District proceed with this matter and suggested the Board work with the Policy Committee in developing a new policy to present to the Board for approval. Mr. McConnell also indicated the NWPA has offered to take those water rights and pay the O&M fees in a lump sum format to the District with the understanding that possibly in the future they could utilize those water rights. If the NWPA does not want to utilize these water rights with an

alternative being possibly the District accepting a quitclaim deed of those water right with the individual paying to the District their proportionate share of the one time O&M fees. In regard to any negotiated settlements with the Tribe to try to declare that certain water rights are abandoned or forfeited that the District takes action to ensure that the District's interest in the O&M is protected. This may require an intervention in a court proceeding on the basis of that there is a third party interest in those water rights with the interest being the Project, as a whole, for the continued payment of O&M. **Dave Overvold, Project Manager** asked if this is the concern only if the case is not dismissed. And Mr. McConnell acknowledged, yes, but in the interim there are ongoing negotiations and that is why this issue has come up.

Current status of the Laura Schroeder negotiations with the Tribe for her individual clients is not known by the District. The District has only been informed that they are not in the stage of completion at this time and further negotiations will be required. The indication to the District was that neither of the parties intended to pay any O&M to the District and so if the District needs to protect that interest, they would have to do it in a format outside of their negotiations.

**Director Richard Harriman and Lyman McConnell** will get together so that when the District does meet on this issue, that Mr. McConnell can give the Board some input as to how a policy such as this should and could be structured.

**Policy Committee Recommendations**

<p>1. <b><u>Review Policy to Address Failing Private Crossings on Laterals and Canals</u></b></p> <p>The committee recommends that the Board approve the above mentioned change to the Management Policy manual.</p> <p>Board Action Taken:</p> <p>A <b><u>motion</u></b> was made by <b>Director Richard Harriman</b> to add the Drain Crossing Evaluation Table to the policy manual and a sentence that refers to that table seconded by <b>Director Lester deBraga</b> and unanimously approved.</p> <p><b><u>Board's Request for Public Comment.</u></b> No Comments.</p>	<p>The Policy Committee members reviewed the present policy on Private Crossings. It was first suggested that the Drain Evaluation Table be applied to canals and laterals as well. But the cost of the materials for a box culvert would not be as much as the labor. In the table the District is responsible for the labor for the water user, however, a culvert installation is not as labor intensive as a box culvert. After much discussion the present policy for Private Crossings is clear and meets the needs of the District so there will be no change except to add the Drain Crossing Evaluation Table to the manual and a sentence that refers to the table.</p>
<p>2. <b><u>Review Disciplinary Guide</u></b></p> <p>A <b><u>motion</u></b> by Lester to recommend that the Board submit the above mentioned <u>Disciplinary Guide</u> to the Employee's Association was made, seconded by Dave, and approved by all.</p> <p>Board Action Taken:</p> <p>A <b><u>motion</u></b> was made by <b>Director Richard Harriman</b> to accept the changes recommended by the committee to submit it to the Employee's Association seconded by <b>Director Lester deBraga</b> and unanimously approved.</p> <p><b><u>Board's Request for Public Comment.</u></b> No Comments.</p>	<p>The committee reviewed the Disciplinary Guide, attached to these minutes, created by staff members. The committee recommended two changes to the Guide. The first one was to add the words "water records" to the infraction of "Falsifying company records to include time sheets". The next requested change was to add "Discharge" to the 4<sup>th</sup> Time infraction of "Stopping work before end of shift".</p>

3. **Review Policy on Delivery of Water to Non-Water-Righted Land**

The committee's recommendations to the Board are to make some minor changes to the policy with the deletion of monetary penalties and deleting the last sentence of the present policy. Also the references in the policy to the Department of Interior should be changed to the Bureau of Reclamation.

The letter will be sent so that the individuals in violation will have the chance to come into the District office and correct their acreage.

Board Action: Taken under advisement.

The committee discussed the present policy and reviewed the letter that is currently being sent to the individuals that irrigate non-water righted land. Dave explained that they are not using water that is not allocated to them. They order the water and water land that is not part of their designated land with water rights. It is their water to use but not wherever they want. The policy has instructions on how to do temporary transfers of water rights from one piece of property to another. That process is required before the beginning of the water season and because of the length of time involved must be started in the previous year. Diane Baley came in and explained that every year the Bureau sends the District a list of people that they believe are watering non-water-righted land. The District has typically only investigated anything over an acre because of man-power issues. However, the Bureau has indicated that they would like to pursue the individuals that have less than an acre. This is the reason that the committee is looking at their present policy. During the discussion it was felt that a monetary punishment was not effective because it was not enforceable. The letter that is sent to the violators should be changed deleting the monetary fines. It was felt that a reduction in water allocation may be the answer as far as an enforceable penalty for irrigating non-water-righted land. All verified violators will be noticed with a letter.

**Board's Request for Public Comment.**

**Jamie Mills, NWPA**, had several suggestions. She indicated that if the penalty is attached to the taxes, there is a process and it may be that Diane Baley would not be aware of actions in the works. If an onsite does show that perhaps they were not irrigating and should not have been fined, then TCID can write to the County Treasurer to get that fee removed of showing as satisfied. She understands Diane's concern for an on-site visit and suggests a committee member, Board member and/or representative appointed by the Bureau be the one's to do the visits starting with the largest acreage violations.

**Board's Request for Public Comment**

**Mr. Raul Santos, Water Right Owner.** Mr. Santos lives at 1600 Wildes Road and stated that he is concerned with takeout L5-T2. He has been irrigating with this takeout since last year and says he has nothing but problems with being flooded. He has lost one crop. He stated that he has received a letter from his neighbor, Mr. Ernie Schank that was sent to the County Manager regarding this matter. He is not receiving any help and the leaks are out of hand. He would like to know if it is possible to stop the irrigation from this takeout until the ditch is repaired.

**President Schank** indicated to Mr. Santos that the Board was unable to take any action on the matter this day. He also happens to be the neighbor of Mr. Santos, who he claims is flooding his crop each time.

**Director Lester deBraga** wanted it clarified that this was the L5-T2 which irrigated the old Davis property now owned by the County of Churchill. **Mr. Ernie Schank** said that he entered into a lease with the county a year ago to lease the property which they transferred water back onto in order to keep this land watered. Gopher holes that were partly the cause of the flooding of Mr. Santos's crop have been repaired. At the time of yesterday's irrigation of this area, Mr. Schank said that he had several individuals monitor his irrigation to make sure that no water flooded onto Mr. Santos's field, yet Mr. Santos stated that there was water in three separate locations. **Mr. Santos** would like to do something with his field, but cannot if the flooding continues.

**Mr. Rusty Taylor, Water Right Owner**, also attended this portion of the public comment session. He indicated that the ditch used to be square. The ditch originally cut through diagonally through a hill that is no longer there. Mr. Davis had originally purchased his 10 acre portion of the property from Mr. Aden Davis. There was a sand hill in the corner which the ditch in question now flows through. When he built his home he did not have any problems. He removed the sand hill when he built his home and constructed an arena in that corner. The water subs out under this arena and floods his riding arena.

**Mr. Schank** said there were two problems he addressed in his letter to the county. One, when the hill was removed it exposed building sand and second, this is a private county ditch and the responsibility belongs to the county to correct the problem. It was also discovered that there is an old sewage pipe under this ditch.

**Jamie Mills** suggested that there may be an opportunity through the conservation district or NRCS to temporarily line the ditch with liner. She has offered to speak with Terry at the Bureau to see if something could be done on their end.

**Director Don Travis** asked if it would be appropriate to assign this issue to the O&M committee for an onsite investigation and further review. **Kate Rutan**, confirmed that this issue currently has a spot on the next O&M committee meeting agenda.

**Review/Approve McFarlane Lawsuit Serviced on July 26, 2007 and Approve Representation for Employees and Past Employees**

A **motion** was made by **Director Richard Harriman** to approve representation for employees past and present named in the McFarlane lawsuit seconded by **Director Ray Peterson** and unanimously approved.

**Board's Request for Public Comment.**

No Comments.

**Review/Approve Personnel Matters**

A **motion** was made by **Director Lester deBraga** to concur with the recommendations for the performance evaluations completed by management seconded by **Director Larry Miller** and unanimously approved.

**Adjourn**

A **motion** was made by **Director Ray Peterson** to adjourn the meeting at 3:45 p.m. seconded by **Director Don Travis** and unanimously approved.

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Ernest C. Schank, President

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Ray Peterson, Secretary

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Date