

NEVADA IRRIGATION DISTRICT

BOARD OF DIRECTORS

MINUTES

June 9, 2010

The Board of Directors of the Nevada Irrigation District convened in regular session at the District's main office located at 1036 W. Main Street, Grass Valley, on the 9th day of June, 2010 at 9:00 a.m.

Present were W. Scott Miller, President; Nancy Weber, Vice-President; John H. Drew, Jim Bachman and Nick Wilcox, Directors.

Staff members present included Ron Nelson, General Manager; Tim Crough, Assistant General Manager; Marie G. Owens, Finance Manager/Treasurer; John Kirk, Operations and Maintenance Manager; Gary King, Chief Engineer; Yvonne DuBose, Human Resources Manager; Jeff Meith, District Counsel; and Lisa Francis Tassone, Board Secretary.

MINUTES – May 26, 2010 Meeting

Approved the Minutes of the Board of Directors' meeting of May 26, 2010, as submitted. M/S/C Weber/Drew

EMPLOYEE RELATIONS – Pinson Retirement (Res. No. 2010-27)

Adopted Resolution 2010-27 (Resolution of Appreciation upon Retirement – Gaye P. Pinson) after 5 years of service to the District. M/S/C Weber/Drew

EMPLOYEE RELATIONS – Shoemaker Retirement (Res. No. 2010-28)

Adopted Resolution 2010-28 (Resolution of Appreciation upon Retirement – Scott R. Shoemaker) after 20 years of service to the District. M/S/C Weber/Drew

EMPLOYEE RELATIONS – Flury Retirement (Res. No. 2010-29)

Adopted Resolution 2010-29 (Resolution of Appreciation upon Retirement – Joseph G. Flury) after 27 years of service to the District. M/S/C Weber/Drew

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IMPROVEMENT DISTRICTS – ASSESSMENTS (Res. 2010-30 through Res. 2010-38)

Adopted Resolutions upon motion made by Director Weber, seconded by Director Drew and passed with a unanimous roll call vote:

- No. 2010-30 (Placing Pino Alto Improvement District No. 10 Assessment on District Assessment Roll for Collection in Nevada County);
- No. 2010-31 (Placing Forest Park Improvement District No. 11 Assessment on District Assessment Roll for Collection in Nevada County);
- No. 2010-32 (Placing Green Improvement District No. 14 Assessment on District Assessment Roll for Collection in Nevada County);
- No. 2010-33 (Placing Rohr-Shanley Improvement District No. 15 Assessment on District Assessment Roll for Collection in Placer County);
- No. 2010-34 (Placing Troost-Hidden Valley Improvement District No. 16 Assessment on District Assessment Roll for Collection in Nevada County);
- No. 2010-35 (Placing Highland Park Improvement District No. 17 Assessment on District Assessment Roll for Collection in Nevada County);
- No. 2010-36 (Placing Edgewood Improvement District No. 18 Assessment on District Assessment Roll for Collection in Placer County);
- No. 2010-37 (Placing Starbright Acres Improvement District No. 19 Assessment on District Assessment Roll for Collection in Nevada County); and
- No. 2010-38 (Placing Lake Vera Improvement District No. 20 Assessment on District Assessment Roll for Collection in Nevada County).

ASSESSMENTS – DELINQUENT ACCOUNTS (Res. 2010-39 & Res. 2010-40)

Adopted Resolution No. 2010-39 (Placing Delinquent Accounts on District's Assessment Roll for Collection – County of Nevada) and Resolution No. 2010-40 (Placing Delinquent Accounts on District's Assessment Roll for Collection – County of Placer). M/S/C Weber/Drew

2005-2006 Strategic Planning Objective No. 1 – Expand Water Services – Policies that Inhibit Extensions (Excess Footage Charge)

Eliminated and discontinued the District's rules for Excess Footage Charges (Section 10.10.03 and 10.10.04 of the District's Water Service Rules and Regulations) and allocated all previously collected Excess Footage Charges, including accrued interest, to the Operations, Repair, Replacement and Rate Stabilization (ORRR) Reserve. M/S/C Weber/Drew

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EMPLOYEE RELATIONS – Service Awards

The following employees were recognized for their length of service with the District and were congratulated by their department manager or superintendent prior to being presented with recognition awards:

Employee Name	Title	Hire Date
<u>30 Years</u>		
Bruce W. Early	Asst. Maintenance Supt. – Weed Control	05/12/1980
Lawrence A. Sorensen	Equipment Operator	05/12/1980
<u>25 Years</u>		
Mark Woods	Sr. Water Distribution Operator	05/06/1985
<u>20 Years</u>		
Kathryn A. Anderson	Buyer	04/09/1990
Dean Rutter	Hydro Utility Worker	05/13/1990
Kenneth C. Hart	Operations Crew Supervisor	06/04/1990
Larry D. Markey	Water Superintendent	06/11/1990
<u>15 Years</u>		
Steve E. Barney	Chief Water Plant Operator	01/03/1995
Douglas R. Andrews	Maintenance Crew Supervisor	05/08/1995
<u>10 Years</u>		
Mark Kangas	Sr. Water Plant Operator	01/10/2000
William D. Barker	Sr. Water Plant Operator	02/07/2000

PUBLIC COMMENT - Gorre

Tyrone Gorre, property owner along the Bear River, stated that the District has two easements through his property. His issue is that he has been involved in the Federal Energy Regulatory Commission (FERC) relicensing process for about three years. During this process, he has affiliated his issues with public access to Combie South powerhouses. There are a number of electronic files that have been submitted to FERC addressing this issue. He has been contacted by FERC letting him know that he has filed using an incorrect license number, so Mr. Gorre is refiled using the correct licensing number. His main issue is that the District has a sign that is posted in front of his property. He has asked Ron Nelson, Tim Crough and John Drew to review the issue of access.

Mr. Gorre noted that there is a historical dam that is close in proximity to Combie or Van Giesen Dam. He would call this dam the Gold Hill Dam. It is not currently registered in the Historical Registry, but he is currently involved in registering the Dam. Because of this Dam and the access road to the original project, the public has unlimited access through his property. There is not good signage or fencing and nothing to protect him. Last year, he had issues with guns, fire, trash, etc. He has had as many as 30 people accessing his property during the past year. Currently, the youth use a swimming hole known as Jumping Rocks that is the deepest hole on the Bear River. There have been a number of incidents where people have been life-flighted out of the area. This is a huge issue. He would like the Board to agendize the matter or he would like to speak to

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the Board members on an individual basis to resolve this issue. He cannot stand by any longer. He has owned this property for four years. The District has not made a diligent effort. The minimum he asks for is that the gates be closed. He turned over to the Board three locks from gates that have been left open. He is asking for the Board to address this issue. At this point, he has to price fencing, easements, etc. Google Earth and every mapping industry demonstrates that the road is a through road all the way to the Dam. This needs to be changed. There is one road that has been used before, and now there is a second road that has been used. He does not even know what the legal access is, but the road that is shown on the maps is basically the road that the District is not using. He stated that he will be approaching his neighbors to try and work out another access.

Mr. Gorre read what is stated on the sign the District has posted:

Trespass and loitering forbidden by law. It is unlawful for any person to drive any vehicle hereon, including motor bikes and dune buggies, or to enter or remain hereon without permission of Nevada Irrigation District.

The District's attorney has commented that this sign is adequate. Mr. Gorre finds the sign very misleading. Attorneys that he has consulted say that this sign implies that the District can give permission for people to access this road. It also implies that this road is currently being used by the District. The general public knows that if the District has an easement, the public assumes they have access. At a minimum, he asks that the sign would be changed. He has been told that he has to "write the sign."

Mr. Gorre asked for the Board to "put a little more pressure" on management to resolve this issue. He would hate to move forward on his own and then send a bill to the District and enter into litigation after the fact.

President Miller requested that this matter be placed on the Maintenance and Resource Management Committee agenda for the meeting on June 22, 2010.

ELECTIONS (Res. 2010-41 and Res. 2010-42)

Director Drew explained that his name is included in Resolution No. 2010-42 (regarding the Placer County election).

Lisa Francis Tassone, Board Secretary, explained that there are a couple of parcels in Placer County that used to have registered voters. At this time, there are no registered voters residing on these parcels. Placer County has requested that Director Drew's name remain on the Resolution because the parcels in Placer County are in Division 2. Director Drew does not have to pay any election fees or campaign in this area if he chooses to run again.

Adopted Resolution No. 2010-41 (Calling General District Election, and Requesting the Board of Supervisors Consolidate with Any Other Election Called

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on Said Date and Requesting Election Services by the County Clerk – County of Nevada). M/S/C Drew/Miller

Adopted Resolution No. 2010-42 (Calling General District Election, and Requesting the Board of Supervisors Consolidate with Other Election Called on Said Date and Requesting Election Services by the County Clerk – County of Placer). M/S/C Drew/Miller

SHORT FORM CONSTRUCTION CONTRACT

Director Weber stated that this matter was approved by the Administrative Practices Committee. She asked when the District has construction contractors whose clean-up activities result in citations, if they would receive any financial penalties.

Gary King, Chief Engineer, stated that if the District is fined, the District can “go back after” the contractors for negligence.

Director Weber asked if what Mr. King just stated is contained in the Short Form Construction Contract.

Jeff Meith, District Counsel, explained that the District’s usual contract would state that the contractor is obligated to comply with the laws. Typically, the contractor will indemnify the District, including for penalties and claims.

Director Weber asked if there are financial penalties if citations are issued to the District due to the contractor’s negligence.

Mr. Meith stated that there is no penalty in addition to indemnification.

Mr. King referenced Section 6 of the Short Form Construction Contract (Contractor – Duties and Rights), Item d (Compliance with Construction Laws and Regulations) and Item e (Responsibility for Negligence of Employees and Subcontractors). These two Items would cover acts of negligence.

Mr. Meith stated that there is not a provision for a penalty above and beyond the indemnification for any penalties that are levied.

Director Weber would like to see this occur (a separate financial penalty) as a consequence for not doing a job well.

President Miller stated that the Short Form Construction Contract could move forward while a Committee discusses the separate penalty as a general philosophy of the District. He directed Staff to place this matter involving a separate financial penalty on the Administrative Practices Committee agenda.

Approved Short Form Contract to use on small construction projects. M/S/C Weber/Drew

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POLICY: Board Policies – Basis of Authority, Membership in Associations and Ethics Training (Res. No. 2010-43)

President Miller stated that the Staff Report referenced revisions, and he was unclear what the revisions that have been made since this matter was advanced from the Administrative Practices Committee.

Tim Crough, Assistant General Manager, explained that the revisions are innocuous, and he apologized for making the changes without an explanation in the Staff Report. He referenced Policy No. 4080 (Memberships in Associations). District Counsel advised the following:

4080.1 The Board of Directors ~~shall~~ *may* maintain membership in and attend meetings of such national, state and local associations as may exist which have applicability to the functions of the District, and shall look upon such memberships as an opportunity for in-service training.

4080.2 The Board of Directors ~~shall~~ *may* maintain membership in the California Special Districts Association, the Association of California Water Agencies, and other similar and/or appropriate associations, and shall ensure that annual dues are paid when due.

Mr. Crough referenced Policy No. 4095 (Ethics Training). District Counsel advised that under 4095.1.1 that Ethics Training apply to specific executive staff positions (General Manager, Assistant General Manager, Board Secretary and all Department Heads). Originally, the policy stated that Ethics Training shall apply to members of the Executive Staff, without any specificity.

Adopted Resolution No. 2010-43 (Establishing Administrative Policies for Basis of Authority, Memberships in Associations and Ethics Training). M/S/C Miller/Drew

WARRANTS

Approved the following warrants: Yuba-Bear Revolving Fund Nos. 22792 through 22808, inclusive; General Fund Revolving Account Nos. 50444 through 50517, inclusive; Recreation Fund Nos. 2323 through 2335, inclusive; and Payroll Direct Deposit and Warrant Nos. 54309 through 54482, Nos. 54269 and 54308 being void. M/S/C Wilcox/Drew

PURCHASE OF NEW VEHICLE – Water Division

John Kirk, Operations and Maintenance Manager, stated that a water truck was budgeted for in the 2010 budget. The purchase followed the Request for Quotation (RFQ) process by the issuance of RFQ 816 to three local suppliers. Three bids were opened on May 20, 2010. Mr. Kirk summarized the purchase as follows:

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	<u>Budget Amount</u>	<u>Cost Delivered</u>
<i>Maintenance Department</i>		
(1) Diesel Powered Water Truck	\$95,000.00	\$98,913.86
(1) One-Ton Dump Truck ¹	\$60,000.00	\$43,386.39
Total	\$155,000.00	\$142,300.25
Over / <Under> Budget		<\$12,699.75>

¹ One-Ton Dump Truck purchased earlier in 2010 utilizing the California Multiple Award System

Director Bachman asked if the District has had the opportunity to rent out a water truck for fire protection.

Mr. Kirk stated that this has not occurred to his knowledge. He stated that many local fire districts have contracted with Granite, Teichert, etc., for the use of water trucks.

Director Bachman suggested that the District look into this further.

Director Wilcox stated that the District only has one water truck whereas other companies have multiple pieces of equipment and would have more flexibility to be able to rent out their equipment.

Mr. Kirk added that the District's existing water truck is in disrepair and is unreliable. Further, it does not meet the California Air Resources Board (CARB) requirements. The retrofitting of that piece of equipment would exceed its current trade-in value. The existing truck will be sold in Nevada if it cannot be sold in California. In the past, the District has been receiving above book value for equipment sold in Nevada.

Approved purchase of a water truck in the amount of \$98,913.86 from Northern California Kenworth of Sacramento (budgeted for 2010). M/S/C Drew/Wilcox

POWER SALES AGREEMENTS – Goals, Objectives and Process

Ron Nelson, General Manager, stated that the District is at the half way mark in the process of relicensing the Yuba-Bear Hydroelectric Project. The draft license application will be submitted this Fall/Winter. The District is entering into a new phase and it would be prudent for the Board to begin a discussion on the goals and objectives for the process for power sales agreements. The District has had a long standing relationship with Pacific Gas & Electric (PG&E) Company in the sale of power and in the movement of water. For such a complex system, the movement of water and sale of power has worked remarkably well. Staff would like to begin to explore the power sales agreement with PG&E and see if the goals and objectives can be met while maintaining the current relationship. If Staff was to come to a point where they felt the goals and objectives were not being achieved, a Request for Proposals (RFP) would be distributed to test the market. With the right consultants and the District's team (District Counsel, General Manager, Assistant General Manager and the Finance Manager), there would be

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careful consideration of values, risks, and making certain the District is consistent with the marketplace. These guideposts would be used to make sure Staff is meeting the Board's expectations. Mr. Nelson stated that there will be a number of meetings to discuss the power sales agreement, and this will take some time.

Director Wilcox asked if conveyance issues would be dealt with using this strategy. Currently, the District has right of access problems that have never been formalized. The District would need some concessions from PG&E.

Mr. Nelson stated that there are several pieces to this relationship with PG&E: 1) working with PG&E on relicensing; 2) potential power sales to PG&E and 3) the ongoing operational needs of the District, whether or not there is a new contract or a new license. The District would like to have the rights to run water through the appropriate systems without regard to a timeline.

Mr. Meith responded to Director Wilcox's question by stating he "thinks so." Discussions with PG&E regarding power sales should provide opportunities to also discuss conveyance. The District would like to make sure it has perpetual rights to convey District water through their system. A power contract on the other hand may only last 20 years.

Mr. Meith recently had a discussion with PG&E regarding target dates. PG&E stated that by the end of this year, there should be a good indication of how the process of negotiations is proceeding. At this point, the Board should be able to make a decision to continue negotiations with PG&E or begin the RFP process.

Director Wilcox stated that the key element to this proposal is finding and hiring a consultant who can make a reasonable evaluation of the proposed contract.

Mr. Nelson stated that Staff has utilized MacDonald and Associates in the past and will utilize them for this contract. They assist in the negotiations and analyze the values.

Mr. Nelson stated that with regard to the timing, Staff is choosing to begin this process now because the ultimate goal seems to be April 2013. The California Public Utilities Commission could take up to one year to approve the contract. Now is right time to get a sense of whether or not this will be the best solution. If not, the District will have enough time to change course.

Director Wilcox stated that he found the discussion in the Staff Report regarding the Brown Act confusing.

Mr. Meith stated that there is always the typical issue of whether or not pricing elements, etc. will be routinely discussed at the Committee level or the Board level. The dynamic that occurs is that there is a confidentiality agreement, and there is concern about "throwing" numbers out. Various components of the transaction if reported out would be qualified as public information. An ad hoc committee can be established

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without being subject to the requirements of the Brown Act. If the Board is interested in ongoing dialogue, the pricing elements will need to be maintained in confidence.

Director Weber stated that the problem with an ad hoc committee is that there are no minutes. If there were minutes, they would be considered a public record. She thinks the public is going to be interested in this topic. It has some relevance to the economy of the District. She is not happy with the establishment of an ad hoc committee.

Mr. Meith stated that reports can be provided to the Board as to the progress, but discussion about what might be paid for renewables, etc. would not be included in a report. Reports to the Board can include price per kilowatt hour, but there would be no open discussion about what price would be paid for green energy, spinning reserves, etc. Staff can keep the Board informed of the overall process.

Mr. Nelson stated that there are four or five attributes that have tangible values in the course of developing power sales agreements. There may be a smaller list of intangible values. He suggested that a work session could be scheduled. He would invite MacDonald & Associates who can explain to the Board these attributes and what they mean.

Director Weber stated that Proposition 16 was included on the June 8, 2010 Primary Election Ballot. This Proposition funded by PG&E, and much of the advertising was misleading. She thinks that the District has to be in a position to negotiate very strongly with PG&E. She is not sure the District would be able to under the process outlined in the Staff Report with no exposure to the public.

Director Drew stated that he hears what Director Weber is saying, but it can cut both ways. He can see where PG&E might not be as forthcoming with their offer to the District were they to know that what they are doing will be "broadcast." He appreciates Director Weber's concern about clarity and transparency, but at the same time, the District should maintain both options. Reports should be made to the Board as appropriate while respecting the confidential aspects of the negotiations.

Director Weber stated that the District needs to maintain a position where there is competition for a product that the District is going to sell.

Director Wilcox stated that having the prospect of distributing an RFP will hold PG&E's feet to the fire to some extent. They may be more willing to "get to their bottom line quicker." His overall feeling is that the proposal presented by Mr. Meith makes sense to him.

Mr. Meith stated that this process worked most recently with South Feather Water & Power. They established timelines, and the Board was able to see at the end of that process the pricing structure, analysis, etc. and came to closure rather quickly.

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Mr. Nelson stated that the team and the consultants will be motivated to maximize the benefits and to ensure that the public is very well served.

Director Wilcox pointed out that Tri-Dams chose a company other than PG&E and he understands that now they regret this decision.

Director Weber stated that she cannot agree with the process as it being presented if there will be an ad hoc committee, but she is only one Board member.

Mr. Nelson stated that Staff is trying to lay out some parameters in order for the Board to feel comfortable that Staff is meeting the Board's goals. At the right point, the information will be reported to the Board.

Director Drew stated that if it is appropriate he can make a motion to adopt the procedural outlines as presented by District Counsel for negotiations with PG&E.

President Miller stated that he does not feel that a motion is necessary. He asked for comments from Director Bachman.

Director Bachman state that he agrees with the proposal. He feels that the District has no choice, but to deal with PG&E. He understands that if the negotiations do not achieve the Board's goals and objectives, an RFP process will begin.

Director Weber asked Mr. Meith how the team and consultants would determine the process was not working.

Mr. Meith stated that at the end of this year, or sooner, the team could inform the Board that there is no progress and that it may be time to distribute an RFP.

Mr. Nelson added that the determination of whether or not the process is working will be the economic analysis.

Director Wilcox stated that he does not have a problem with the ad hoc committee concept, although he would like the General Manager to keep the rest of the Board informed of the progress.

Mr. Meith clarified that the General Manager can report to the Board members.

Mr. Nelson stated that this is "a bit" risky, because an allegation could be made that he is conducting serial discussions.

President Miller stated that Mr. Meith has had experience with this process. Having said this, President Miller established an ad hoc committee asking Director Wilcox to join him on this committee.

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President Miller made a motion to authorize Staff to proceed with initiating negotiations with PG&E utilizing the guidelines as presented by District Counsel. Director Wilcox seconded the motion.

Mr. Meith provided clarification to the Board on matters that were not included in his letter, but that were brought to his attention by PG&E. The public advocacy group that is observing the negotiations is not participating in the negotiations. PG&E has to report to that group monthly as to the progress. There will be a neutral observer ensuring that the process is fair for all parties. This observer will not be a participant. Approval of the Public Utilities Commission is only required if the District sells to a regulated public utility. If the District is selling to a private marketer, approval from the Public Utilities Commission is not required.

Motion passed on the following roll call vote:

Division I	No
Division II	Aye
Division III	Aye
Division IV	Aye
Division V	Aye

PURCHASING DEPARTMENT - Adjustments

Ron Nelson, General Manager, stated that he anticipates making adjustments to the Purchasing Department. In order to do so, he will need to advance to the Board a Resolution that will allow the General Manager to make this change. He will advance this Resolution to the Board of Directors' for their approval at the meeting of June 23, 2010.

Marie G. Owens, Finance Manager/Treasurer, asked the Board if Staff could proceed with the change prior to the Resolution presented to the Board on June 23. She added that she is not asking for a vote.

Mr. Nelson stated that unless he hears an objection by the Board, he would like to make the adjustments.

Jeff Meith, District Counsel, stated that if the Board takes action inconsistent with the resolution, Staff must be prepared to take the risk.

HIGHWAY 49/LA BARR MEADOWS ROAD WATER MAIN RELOCATION PROJECT - Update

Ron Nelson, General Manager, reported that he will be advancing two change orders, one for ratification and one for approval by the Board at the next meeting, regarding the Highway 49 / La Barr Meadows Road Water Main Relocation Project. One change order is in the amount of \$60,000 because of rock, and the other change order is in the amount of \$51,000. These change orders exceed Mr. Nelson's authority.

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BOARD OF DIRECTORS' MEETING OF JUNE 23, 2010

Ron Nelson, General Manager, informed the Board that he will not be in attendance at the June 23, 2010 Board meeting due to a conflict with a relicensing meeting regarding mitigation measures. Tim Crough, Assistant General Manager, will be available.

Mr. Nelson stated that the Nevada County Land Trust is scheduled to address the Board about the proposed Garden Bar Reservoir project. He added that the project's sponsor has been invited to speak at a subsequent meeting.

Director Weber stated that she had received a telephone call in April 2010 about the proposed Garden Bar Reservoir project and the potential risk to the District. She had another call yesterday. She had asked for a report on this project and would like to see a report from Staff.

Mr. Nelson stated when this issue first came up several months ago, he made an inquiry to South Sutter Water District asking for details, and invited South Sutter to a Committee meeting or a Board of Directors' meeting. A response to Mr. Nelson's inquiry was received about a week ago. They are willing to address the Board and provide an update on the proposed project. Until Mr. Nelson feels comfortable knowing what is being proposed, he does not feel he could provide a detailed report at this time.

Director Weber stated that she is hearing that the proposed project is a threat to the District's water rights, and that the way it is written in the Water Bond, it would be possible for them to go through an Integrated Regional Water Management Plan and receive approval so that the project can progress. She would like to keep this from happening until the Board has enough information to make a decision.

Mr. Nelson stated that fundamentally, the District must protect its water rights. This is the District's first and foremost concern.

WATER TASTE TEST - Auburn Elementary School

John Kirk, Operations and Maintenance Manager, reported that the District received correspondence from Gail Burch, a science teacher at Auburn Elementary School. Her class conducted a taste test of four different waters as a science experiment. The District won the taste test. The teacher and each student took the time to write a letter acknowledging the District for the quality of water and their appreciation.

Mr. Kirk provided the correspondence to the Board Secretary.

Ron Nelson, General Manager, thanked Mr. Kirk and his team for doing such a good job.

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DS CANAL FLUME REPLACEMENT #13 – Concerns of Director Weber

Gary King, Chief Engineer, provided a presentation in response to Director Weber's concerns about construction being done on Flume No. 13 on the DS Canal. He presented a power point that John Kirk, Operations and Maintenance Manager, had prepared prior to the emergency repairs made to the facility. He explained the photographs in the presentation indicating the need for the emergency repair.

Mr. King stated that Flume No. 13 bridges a ravine that is a tributary to Deer Creek. Failure from the facility would mean discharge into Deer Creek in the amount of 30,000 gallons per minute.

Mr. King responded to Director Weber's inquiry about why the Project was initiated under unfavorable weather conditions when it had been known for two years that the Flume had to be replaced. He stated that the Maintenance Department had done a great job "limping" the facility along. On October 7, 2009, the DS Canal Flume Replacement Project was approved by the Board. On February 10, 2010, the DS Canal Flume Replacement Project construction contract was approved by the Board and awarded to T&S Construction Co. Inc.

With regard to the weather, Mr. King referenced a graph indicating precipitation averages for the Nevada City and Grass Valley areas. In October, the area normally does not receive much rain. In March and April, rainfall decreases fairly quickly. Construction began in March 2010. Staff expected the weather conditions to be somewhat favorable, and could not have predicted the increase in rainfall. Because the Flume replacement is an in-line facility, once the pipe is cut, the District is committed to replacing the facility.

Mr. King stated that the violation has been posted on the District's website. The District immediately responded to the issues raised in the violation. He referenced the inspection report from the Regional Water Quality Control Board:

- Was the Storm Water Pollution and Prevention Plan (SWPPP) on site? *Yes*
- Photos taken? *Yes*
- Was there evidence of erosion? *No*
- Was there evidence of tracking? *No*
- Was there evidence of non-storm water discharge? *No*

He acknowledged that the SWPPP did not include the storm water inspection checklists; the District's inspector responded to this immediately by providing the information.

Mr. King referenced another violation for the E. George Water Treatment Plant Expansion Project:

- Was the Storm Water Pollution and Prevention Plan (SWPPP) on site? *Yes*
- Photos taken? *Yes*

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- Was there evidence of erosion? *Yes – off the soil piles and off access roads*
- Was there evidence of tracking? *No*
- Was there evidence of non-storm water discharge? *No*

Adjustments were made immediately to remedy evidence of the erosion.

Ron Nelson, General Manager, stated that if there are changing circumstances or unusual circumstances, Staff needs to be able to adapt and react in a timely manner. He holds Mr. King and his Staff responsible for adapting to changing conditions.

Mr. King indicated what actions have been taken taken:

- All items indicated verbally or in written form were immediately corrected by the contractor either while the California Regional Water Quality Control Board (CRWQCB) inspector was onsite or when weather conditions permitted
 - E. George Water Treatment Plant
 - The garbage dumpsters will be covered unless being used
 - Adjustments have been made to the facility as indicated by the inspectors
 - Additional sandbags have been added to the plastic covering on the dirt to reduce the potential of plastic being moved by winds
 - Concrete waste area was added on the west side of the facility
 - DS Canal Flume No. 13
 - Lime is no longer used on site
 - Adjustments have been made in the erosion control throughout the site
 - Painting will no longer occur onsite other than touch up
- Response letters with documentation supporting corrective action were sent to the CRWQCB for DS Canal Flume No. 13 on May 12, 2010 and for the E. George Water Treatment Plant on May 7, 2010
- Board was informed on April 28, 2010 of the Notice of Violation on the DS Canal Flume No. 13
- Internal meeting with department heads was held on April 30, 2010 to discuss changes in current policies
 - Department heads determined that additional control if needed should be provided and paid for
 - District will create and implement the SWPPPs as part of the construction documents and include these with the construction documents
- District has discussed the issue with the CRWQCB and requested that all communication with contractors should be through a District representative to ensure that requests are followed through by the District (the permit holder)
- District has discussed the issues with the contractors and reviewed and implemented on the site for more stringent pollution prevention requirements than indicated by the CRWQCB inspector
- District will have a storm water training course on June 10, 2010 at 8:00 a.m.; the CRWQCB representatives will provide a presentation within the program

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- In the Save Our Historical Canals meeting on May 13, 2010, District Staff indicated that mistakes had occurred and Notice of Violations were issued to the District
- District posted both Notice of Violations on the website for public viewing on May 17, 2010
- District Staff is requesting courtesy inspections from CRWQCB on all District projects

With regard to Best Management Practices (BMPs), they were in place, but were not sufficient for the inspector at that time, so Staff added more. The District was following the BMPs approved by the State.

Mr. Nelson reiterated that the District needs to be reactive to changing conditions. The BMPs may have been adequate at the time, but given the extraordinary conditions, the District had opportunities to improve the BMPs.

With regard to training, Mr. King explained that the SWPPPs are prepared by SWPPP professionals, not by Staff. The District's inspectors review the SWPPPs and make sure they have been trained in storm water management.

With regard to supervision of the project, he, as the Chief Engineer, is responsible for the management of the project. He takes responsibility for what has occurred and he is not happy about the situation.

Mr. Nelson found that while the incident itself was unpleasant, Staff took advantage of the incident to learn lessons in a positive manner. He thanked the Board for helping create the atmosphere where a safe, positive discussion could take place that will lead to better practices in the future.

In response to Director Wilcox's question regarding when and where the storm water training will be held, Mr. King stated that the training is scheduled for Thursday, June 10, 2010 at 8:00 a.m. in the District's Board room.

Director Weber appreciated Mr. King's presentation. She would really like to see something constructive come out of this. If the Flumes are going to fail before they are replaced, the District needs to have a plan for replacing them. Her understanding from talking with someone involved with California Environmental Quality Act (CEQA) is that the District could have obtained a Categorical Exemption before the Environmental Impact Report was completed. If that was an option, and if there are flumes that may fail, she would like the District to use any option it has.

Director Wilcox stated that a Categorical Exemption is not an option because the Flumes are being upsized. It is not a maintenance issue but an upgrade to a facility.

Director Weber asked if there is any emergency process the District could utilize to allow the project to be completed at a favorable time of year.

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Jeff Meith, District Counsel, stated that he agreed with Director Wilcox's interpretation. He also stated that there is an emergency exemption to CEQA which is defined by the courts as a threat to life and property. This is a hard standard to meet.

Director Drew thanked Mr. King for his presentation. All the work that was done on Flume No. 13 to reduce the amount of leakage did nothing to address the failing structural integrity of that facility. The District still had a Flume that was susceptible to immediate failure and, in his opinion, was a very necessary project to complete. The Flume was cut in favorable weather conditions. Work progressed, and then the rain arrived. It was a "perfect storm." Using the situation to learn more about adaptive management is the right course to take.

In response to Director Bachman's question regarding whether or not CEQA has been completed for the Project, Mr. Meith explained that the Environmental Impact Report (EIR) is in effect and the District is authorized to proceed. The EIR is subject to a challenge.

Director Weber asked if Flume No. 19 will experience the same results as Flume No. 13.

Mr. King stated that Flume No. 14 is the next Flume to replace, and it has started leaking. Construction for Flume No. 19 is scheduled for this winter.

President Miller stated that Mr. King's presentation fulfills the obligation to the Board and thanked him for his presentation. The District can learn more from mistakes.

WATER RATES COMMITTEE - Update

Director Wilcox reported that the Water Rates Committee met on May 26, 2010 and will be meeting again on June 9, 2010. The Committee is in the process of updating the Cost of Service Study and will be discussing an analysis of lost revenue from the previous Proposition 218 notices in 2009 and the rates that were implemented for 2010. The Committee reached agreement to recommend that the 2011 treated water rates be implemented as authorized in the 2009 Proposition 218 notice. The Committee also reached agreement to recommend eliminating the five percent discount for early payment by raw water customers. It turns out that this discount costs the District approximately \$80,000. This is one way to increase revenue without raising rates.

With regard to raw water rates, the Committee would like to involve community members in this discussion, and would like to ask each Board member to recommend to the Committee one individual from their division who might be able to participate and contribute to this process.

Director Weber stated that the idea of the Citizen's Committee is to identify where the problems are and what the District might do respond to these problems.

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CALIFORNIA WATER QUALITY AND ITS IMPACT ON SUPPLY - Conference

Director Weber is interested in a course being offered in San Francisco by Law Seminars International. She is not able to attend, but would like to purchase the materials. She asked if any other Board member is interested. The conference covers State issues, but also issues that relate to the District. The cost of the Home Study course is \$1,005. She would like to request that the District purchase the materials (DVD and binder). She would be happy to take the course and report on the matter.

WATER AND HYDROELECTRIC OPERATIONS COMMITTEE – Field Trip

President Miller stated that as a result of the June 8, 2010 WHO Committee, a field trip will be scheduled next month to visit Dave Barhydt, a local agriculturalist. He has managed to reduce his water usage from 30 Miners Inches to 10 Miners Inches using Environmental Quality Incentive Program (EQIP) funds.

Director Weber stated that this information could be used for the Citizen's Committee.

BOARD MEETING SCHEDULE

President Miller stated that there is a possibility that the Board of Directors' meeting of July 14, 2010 may be canceled.

Ron Nelson, General Manager, stated that the Board could cancel the meeting at this time, or decide to cancel the meeting at the June 23, 2010 meeting.

Director Wilcox stated that he and his wife are planning on taking a trip to New Zealand in November. He does not want to miss any more than one Board meeting.

President Miller stated that the tradition has been that the Thanksgiving and Christmas Board meetings have been cancelled. Discussion ensued regarding when rates might be established.

Marie G. Owens, Finance Manager/Treasurer, stated that she anticipates that recommendations for rates will be advanced to the Board no later than August so that the Board could vote on the rates in September. If a new Proposition 218 notice needs to be issued, the Board will need to take action sooner rather than later.

CLOSED SESSION was declared at 11:22 a.m. pursuant to Government Code 54957.6 to provide direction to the District's designated bargaining representatives – Nelson, Crough, Owens, DuBose and Meith – regarding 2010 salary/benefit/working conditions.

CLOSED SESSION was declared at 11:22 a.m. to discuss existing litigation with District Counsel pursuant to Government Code Section 54956.9; the name of the case is Robbins vs. Nevada Irrigation District, County Superior Court Case No. 75530.

June 9, 2010

MEETING RECONVENED in regular session at 11:40 a.m.

MEETING ADJOURNED at 11:40 a.m. to reconvene in regular session on June 23, 2010, at 9:00 a.m. at the District's main office located at 1036 W. Main Street, Grass Valley, California.

Board Secretary

Attest a true record of actions
had and taken at the above and
foregoing meeting our presence
thereat and our consent thereto.

Director
Division I

Division II

Division III

Division IV

Division V
