

**November 12, 2020**

The Board of Directors of the Terra Bella Irrigation District met this day in regular session, the meeting was conducted by teleconference, from the District Office located at 24790 Avenue 95, Terra Bella, California.

**CALL TO ORDER**

President Wheaton called the meeting to order at 2:03 p.m.

**ATTENDANCE**

DIRECTORS PRESENT: Wheaton, Fowler, Doyel, Galloway

DIRECTORS ABSENT: Martinez

OTHERS PRESENT: Sean Geivet, General Manager  
Albert Smith, District Operations Superintendent  
Ann Nelms, District Secretary-Treasurer  
Aubrey Mauritson, Legal Counsel  
Matt Hendrick  
Renee Hendrick  
Rhett Anderson  
Brad Samelson  
Tom Prescott  
Paul Prescott  
Dyson Schneider  
Lee Cohen  
John Kinsey  
Gus Carranza  
Richardo Carranza

**AGENDA – CONSIDER CHANGES OR ADDITIONS TO THE AGENDA**

No changes were made to the posted agenda.

**PUBLIC INPUT**

President Wheaton asked for public input. There was no public input given.

**PUBLIC HEARING** – Hear comments on the proposed Setton Wheeling Agreement.

President Wheaton asked for Public Hearing comments and acknowledged the written comments received from Matthew and Renee Hendrick, Lauren Layne for The Gratian Bidart Trust and The Prescott Trust, and John Kinsey for Setton Pistachio, these comment were emailed to TBID’s Board of Directors and to TBID’s interest party email list. Attached hereto and incorporated by reference are a copy of the written comments received.

Manager Geivet pointed out an error in Mr. John Kinsey’s letter, TBID did not wheel any water for Setton or Deer Creek Water Company during the previous water year.

Public Hearing comments was received from Matt Hendricks, Tom Prescott, Lee Cohen, Gus Carranza and via teleconference from John Kinsey. Discussion followed on the concerns regarding the change in place of use and the quantity of water to be moved from Deer Creek Heights Ranch, the 1917 judgement and 1994 Barnes report, Terra Bella Irrigation District’s obligations and responsibility to wheel water, and the need for California Environmental Quality Act, (CEQA) review.

**SETTON WHEELING AGREEMENT –**

- a) **Review and consider approving Resolution, approval of the 2021 Wheeling Agreement with Setton Pistachio, and Notice of Exemption.**

Manager Geivet and Counsel Mauritson referred the board to the draft 2021 Wheeling Agreement and a proposed Notice of Exemption, both of which are attached hereto and incorporated by reference. Counsel Mauritson specifically referred the board to the Notice of Exemption, describing the proposed transfer as a project under CEQA but that numerous exemptions were applicable as described in said document. The Board took under review and considered executing a Wheeling Agreement with Setton Pistachio and the Notice of Exemption.

Upon motion by Director Doyel, seconded by Director Galloway, to approve the Notice of Exemption and approve the Wheeling Agreement with Setton Pistachio and to pass and adopt the following resolution;

*Ayes: Directors Doyel, Galloway, Wheaton*

*Noes: None*

*Absent: Director Martinez*

*Abstain: Director Fowler*

**APPROVAL OF WATER WHEELING APPLICATION**

**WHEREAS**, California Water Code, Section 1810 et seq., requires, under specified circumstances, that each local public agency make the unused capacity of any water conveyance facilities available to a bona fide transferor of water;

**WHEREAS**, on March 11, 2020, the District adopted a Policy on Wheeling Water (“**Policy**”), a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference;

**WHEREAS**, Deer Creek Water Company (“**DCWC**”) holds certain rights to the diversion and use of the waters of Deer Creek;

**WHEREAS**, DCWC and Setton Pistachio has made a request to wheel 1,200 acre-feet of water diverted from Deer Creek to Setton Farms pursuant to California Water Code, Section 1810 et seq., and the District’s Policy;

**WHEREAS**, the District’s General Manager has determined that sufficient unused capacity exists in the District’s conveyance facilities to accommodate DCWC’s request;

**WHEREAS**, on November 12, 2020, pursuant to the Policy, the District held a public hearing concerning DCWC’s wheeling request;

**WHEREAS**, several water users in the vicinity of Deer Creek have submitted written and oral comments regarding the potential effects of the wheeling requested by DCWC;

**WHEREAS**, to date, District has not been presented with sufficient evidence indicating that the wheeling requested will cause (1) injury to any legal user of water; (2) unreasonable effects upon fish, wildlife, or other instream beneficial uses; or (3) unreasonable effects upon the overall economy or the environment of Tulare County;

**WHEREAS**, consistent with Water Code Section 1810(d), DCWC and Setton Pistachio has stipulated that, upon receipt of evidence indicating that the requested water wheeling has caused, or will cause, (1) injury to any legal user of water; (2) unreasonable effects upon fish, wildlife, or other instream beneficial uses; or (3) unreasonable effects upon the overall economy or the environment of Tulare County, DCWC shall immediately cease wheeling water in connection with the instant request;

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, that DCWC’s request is hereby approved to the following extent, and subject to the following conditions:

- 1. Unless otherwise required by any provision of law, including, without limitation, subdivisions (a) through (d) of Water Code Section 1810, the District, upon the full execution of the Water Wheeling Agreement (“**Agreement**”) attached hereto as **Exhibit B** and incorporated herein by reference, will wheel DCWC’s Deer Creek water to Setton Farms under the terms set forth in the Agreement, and subject to the terms and conditions therein.

**THE FOREGOING RESOLUTION** was passed and adopted by the District’s Board of Directors on this 12<sup>th</sup> day of November, 2020, by the following vote:

AYES: Directors Doyel, Galloway, Wheaton  
NOES: None  
ABSTAIN: Director Fowler  
ABSENT: Director Martinez

/S/Edwin L. Wheaton  
\_\_\_\_\_  
Edwin L. Wheaton, Chair

ATTEST:  
/s/ Ann Nelms  
\_\_\_\_\_  
Ann Nelms, Secretary

**Certificate of Secretary**

I do hereby certify that I am the Secretary of the Terra Bella Irrigation District, an irrigation district organized and existing under the laws of the State of California, and that the foregoing Resolution was duly adopted by the Board of Directors of said District at a meeting thereof duly and regularly held by District Office/Teleconference Terra Bella, California on the 12th day of August, 2020, at which meeting a quorum of the said Board of Directors was at all times present and acting, and that said Resolution has not been rescinded or amended in whole or any part thereof, and remains in force and effect.

IN WITNESS WHEREOF, I have signed this Certificate on this 12th of November, 2020, at 24790 Avenue 95, Terra Bella, California.

/S/ Ann Nelms  
Ann Nelms, Secretary  
Terra Bella Irrigation District

Matt Hendrick, Tom Prescott, Lee Cohen, John Kinsey, Gus Carranza, Richardo Carranza, departed from the Board room at 2:25 p.m.

**APPROVAL OF MINUTES**

M/S/U. Galloway, Fowler to approve the minutes of the October 14, 2020 regular meeting as presented.

**AUTHORIZATION TO PAY BILLS** Review and discuss outstanding bills. Discussed possibility of getting reimbursed for legal fees when legal fees are pertaining to one customer’s request.

M/S/U, Fowler Doyel, to authorize the Treasurer to pay all outstanding bills against the District as presented.

## **MONTHLY REPORTS**

Treasurer Nelms reviewed with the Board the financial status of the District, including TBID Investment Policy Review in Compliance with SB 564 and SB 866. Included in the review; monthly statements from California Bank & Trust, Local Agency Investment Fund, Friant Power Authority revenues and expenditure summary worksheet. Delinquent water account report was reviewed noting the increase in delinquent water accounts from the prior month.

TBID balance sheet's as of September 30, 2020 as well as Income Statements for the same period, including a year to date statements were reviewed.

M/S/U, Fowler Doyel, to accept the financials statements of the District as presented.

Rhett Anderson, Brad Samuelson and Dyson Schneider departed from the Board room at 2:55 p.m.

Albert Smith, Operations Superintendent, presented his monthly operating activities report for October 2020. Mr. Smith reported there is no employee accidents or matter in October.

Equipment maintenance and repair included greased all pumps and motors at station #7, #8, and #9. Car #6 clutch went out, waiting on an estimate. Disc was repaired. Water treatment plant air compressor control switch was replaced. Operations maintenance and repair included weeding and cleaned up at stations #7, #8, and #9. Turned on all motor and space heaters at all stations. Hooked up chorine pumps at station #3, well #86 and well #87.

WTP average flow through the plant is around 475 gpm.

The total precipitation is 7.41 inches YTD. USA locates: 37. Back flow's Tested: 15

Manager Geivet presented his monthly report. FWA has started the de-water of the canal process and TBID has started using well water. Discussion followed on well waters ability to keep up and on spray rig water. The water schedule carryover is at approximately 3,946-acre feet for this water year. Manager Geivet updated the Board on his progress with the RFP for Westside Recapture Water in San Luis Reservoir stating that Westside did not have a deal for TBID, Homer LLC had the best deal at \$300.00 an acre foot with TBID paying the fees.

**Friant Power Authority:** Manager Geivet reported Plant 2 will run through the winter when the river has water.

**Status of Authorities; ESPA, DCTRA, FWA, ACWA & AECA:** Manager Geivet reminded the Board of FWA's upcoming retreat with working session to focus on canal capacity, funding, and ETGSA obligations.

**Eastern Tule GSA:** Log-in information for the online Land IQ program is in the process of being tested. For the first time landowners will be getting their own invoice to pay. Credits can be use or sold they will accumulate for 5 years.

Renee Hendrick departed from the Board room at 3:16 p.m.

## **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION [Government Code Section 54956.9(d)(1)] *City of Fresno, et al. v. United States of America*, Court of Federal Claims, Case No. 16-1276L.**

Adjourned into closed session at 3:19 p.m.

The Board of Directors met while in closed session pursuant to Government Code Section 54956.9(d)(1) to discuss the above-entitled action.

The Board adjourned from closed session at 3:25 p.m.

### **Report Action Taken in Closed Session Required by Government Code 54957.1**

President Wheaton reported the board unanimously authorized initiation of litigation against the United States in the Court of Federal Claims regarding claims related to 2015.

## **ITEMS TO BE DISCUSSED PURSUANT TO GOVERNMENT CODE SECTION 54954.2 (Relating to items not appearing on the agenda)**

None to report.

## **ADJOURNMENT**

There being no further business before the Board of Directors, the meeting was adjourned at 3:27 p.m. by President Wheaton.

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Ann Nelms, Secretary