

MINUTES

Oakdale, California
September 20, 2005

The Board of Directors of the Oakdale Irrigation District invited all to recite the Pledge of Allegiance and then met in Regular Session at the hour of 9:00 a.m. Upon roll call, there were present:

Directors: Frank B. Clark, President
Louis Brichetto
Tony Taro
Jack D. Alpers
Steve Webb

Staff Present: Steve Knell, P.E., General Manager/Secretary
Kathy Cook, Chief Financial Officer
Gary Jernigan, Support Services Manager
Bob Nielsen, Water Utilities Manager
Kevin King, Water Operations Supervisor/Special
Projects Coordinator

Also Present: Michael Ijams, General Counsel
Tim O'Laughlin, Water Counsel

ITEM NO. 1 **PUBLIC HEARING** **TO HEAR COMMENTS ON THE** **AG WATER MANAGEMENT PLAN**

Director Clark opened the public hearing to hear public comments regarding the draft Ag Water Management Plan.

There were no public comments and therefore the public hearing closed at 9:02 a.m.

ADDITION OR DELETION OF **AGENDA ITEMS**

The General Manager, Steve Knell, requested that Action Item No. 13 be deleted from the Agenda at the request of the developer. A motion was made by Director Webb, seconded by Director Taro, and unanimously supported to delete Action Item No. 13.

ACTION TO TAKE VARIOUS ITEMS OUT OF SEQUENCE

A motion was made by Director Webb, seconded by Director Brichetto, and unanimously supported to take Action Item No. 21 out of sequence and place it first on the action calendar.

Director Bricchetto requested that Item Nos. 7 and 9 be removed from the Consent Calendar.

Director Clark requested that Item No. 4 be removed from the Consent Calendar.

CONSENT ITEMS
ITEM NOS. 3, 5, 6, 8

ITEM NO. 3
APPROVE THE BOARD OF DIRECTOR'S MINUTES OF THE
REGULAR MEETING OF SEPTEMBER 20, 2005
AND RESOLUTION NOS. 2005-26, 2005-27, and 2005-28

A motion was made by Director Webb, seconded by Director Bricchetto, and unanimously supported to approve the Board of Director's Minutes of the Regular Meeting of September 20, 2005 and Resolution Nos. 2005-26, 2005-27, and 2005-28.

ITEM NO. 5
APPROVE IMPROVEMENT DISTRICT
STATEMENT OF OBLIGATIONS

A motion was made by Director Webb, seconded by Director Bricchetto, and unanimously supported to approve the Improvement District Statement of Obligations.

ITEM NO. 6
APPROVE THE TREASURER AND CHIEF FINANCIAL
OFFICER'S REPORT FOR THE MONTH ENDING AUGUST 31, 2005

A motion was made by Director Webb, seconded by Director Bricchetto, and unanimously supported to approve the Treasurer and Chief Financial Officer's Report for the month ending August 31, 2005.

ITEM NO. 8
APPROVE PROFESSIONAL SERVICES CONTRACT WITH
ROBERT TAYLOR & ASSOCIATES FOR THE MANDATORY
SEXUAL HARASSMENT TRAINING FOR SUPERVISORS AND MANAGERS

A motion was made by Director Webb, seconded by Director Bricchetto, and unanimously supported to approve the Professional Services Contract with Robert Taylor & Associates for the mandatory sexual harassment training for supervisors and managers.

ACTION ITEMS

**ITEM NOS. 4, 7, 9, 21, 10, 11, 12, 14, 15
16, 17, 18, 19, 20, 22**

ITEM NO. 4

**APPROVE OAKDALE IRRIGATION DISTRICT
STATEMENT OF OBLIGATIONS**

General Manager Steve Knell stated that the Statement of Obligations would be amended to delete the Johnson Western Gunitite Company's Retention Release of \$34,571.76 which will make an amended Statement of Obligations in the amount of \$526,956.93. There is a thirty-five day waiting period for payment after the adoption of the Notice of Completion.

A motion was made by Director Webb, seconded by Director Taro, and unanimously supported to approve the Oakdale Irrigation District Amended Statement of Obligations in the amount of \$526,956.93.

ITEM NO. 7

**APPROVE CHANGE ORDER FROM
CLEAN HARBORS FOR TANK REMOVAL FROM OID YARD**

Director Brichetto asked by the Clean Harbors bill changed if they had bid on the project. General Manager Steve Knell explained that there had been a changed condition on the project and Clean Harbors found out that there was a double walled tank and the inside wall contained a lead substance which required an additional mediation measures. The contract contained a changed conditions clause and the contract was an estimated amount, not a firm set price.

A motion was made by Director Brichetto, seconded by Director Webb, and unanimously supported to approve the change order from Clean Harbors for tank removal from OID yard.

ITEM NO. 9

**APPROVE THE NOTICE OF COMPLETION – CANAL
AND TUNNEL REHABILITATION PHASE ONE (SOUTH MAIN)**

Director Brichetto thought the Notice of Completion was for another project. Thereafter a motion was made by Director Brichetto which was seconded by Director Webb for discussion. After a brief discussion it was unanimously supported to approve the Notice of Completion – Canal and Tunnel Rehabilitation Phase One (South Main).

ITEM NO. 21

**REVIEW AND TAKE POSSIBLE ACTION ON AN
ENCROACHMENT AGREEMENT REQUEST FOR
THE ADAMS NO. 1 PIPELINE (APN: 064-052-016)**

The Adams No.1 Pipeline is located in a forty (40) foot wide Oakdale Irrigation District (OID) easement centered on the north property line of the Crowley residence at 490

Shalako, in the city limits of Oakdale, as shown in the attached Exhibit "C". The Crowleys wish to install a swimming pool, the design of which proposes to encroach approximately six (6) feet into the aforementioned OID easement.

Despite OID's existing easement, it wasn't until OID received notification via USA North that OID was made aware of Mr. and Mrs. Crowley's intentions. After receiving notification via USA North, OID called both the pool company and the Crowley's to notify them of our existing facilities and that they would not be able to proceed until any and all outstanding issues were resolved. Correspondence dated August 29, 2005 outlined OID's position. Subsequent correspondence to Mr. and Mrs. Crowley dated September 9, 2005 outlined staff's position concerning the issue and set-forth the liability associated with moving forward as noted in the conditions of the Encroachment Agreement. Both of the aforementioned letters have been included and staff recommends a thorough review prior to making a final decision.

Mr. Crowley was present at the hearing and represented to the Board that he fully understood the contents of the Encroachment Agreement and the fact that there may be a possibility, at a later date, that the pool may need to be removed in order to allow the District access to the pipeline located on his property.

A motion was made by Director Webb, seconded by Director Alpers, and unanimously supported to approve the Encroachment Agreement on the Adams Pipeline (APN: 064-052-016).

ITEM NO. 10
REVIEW AND TAKE POSSIBLE ACTION TO CERTIFY
THE VOTE OF IMPROVEMENT DISTRICT 52 MEMBERSHIP
TO PROCEED WITH SURVEYING OF THE CAL-TRANS PROPERTY

To certify the vote of the improvement district membership regarding the approval or disapproval of the Expenditure of Funds to Survey the Cal-Trans Property for use by Improvement District No. 52 as a future well(s) site.

Improvement District No. 52 voted for the expenditure of funds to survey the Cal-Trans Property by the following vote:

Disagree	0
Agree	45
15	Yes
30	Non Votes (considered as yes votes)

A motion was made by Director Brichetto, seconded by Director Alpers, and unanimously supported to certify the vote of Improvement District No. 52 Membership to proceed with the surveying of the Cal-Trans property.

ITEM NO. 11
REVIEW AND TAKE POSSIBLE ACTION ON
ADOPTION OF THE REVISED SUBDIVISION PARCEL MAP POLICY

In May of this year, an ad hoc committee was established to address the concerns of several landowners in the area in the process of development of their properties. The landowners concerns were that the current OID Subdivision Policy was somewhat restrictive and costly with regards to property development.

Since May, the ad hoc committee has met several times with members of the community in addressing the OID's Subdivision Parcel Map Policy. Significant changes and alterations have been incorporated to the policy based on those meetings.

There was a discussion by the Board members and the public regarding the revised Subdivision and Parcel Map Policy.

Thereafter a motion was made by Director Alpers and seconded by Director Clark to adopt the Subdivision Parcel Map Policy with the stipulation that the drainage policy would be reviewed within ninety (90) days, and was voted as follows:

Ayes: Directors Alpers, Webb, Clark
Noes: Directors Bricchetto and Taro

ITEM NO. 12
REVIEW AND TAKE POSSIBLE
ACTION ON THE STEWART POND (APN: 010-029-005)

Scott and Brandy Balch are the current owners of a 47.80 acre parcel located at 10010 Sierra Road in Oakdale. Of the 47.80 acres, Oakdale Irrigation District (OID) has a 9.4 acre flood easement for the Stewart Pond recorded in 1984. Mr. Balch approached the Board of Directors at their June 21, 2005 Board meeting regarding the current condition of the Stewart pond as it pertains to his agricultural operation. Mr. Balch's complaints were that the pond stinks, had mosquitoes, had poor water quality and was an eye sore. The information contained herein will provide a brief history (back to 1973) of how past Boards and legal counsels have viewed OID's responsibilities of this pond. In short the following points summarize Staff's position:

1. In May of 1984 an easement to flood this area was granted to OID by Mr. and Mrs. Strmiska. The easement granted to OID gives OID the "right to deposit irrigation water on the land of the servient tenement". That is the *only right* given or accepted by OID.
2. The easement states (Stipulation No. 6) that no oral modifications can change those rights except as agreed upon in writing and signed by both parties.
3. Mr. Balch was fully aware of OID's obligations to his property before he purchased the property and with that knowledge moved forward.
4. OID does not have a maintenance objective in cleaning the pond. The condition of the pond, existing or cleaned, would not improve OID operations nor benefit the OID.

5. To clean the pond without meeting an operational need could be considered a gift of public funds.
6. The pond is a wetland and could require substantial environmental review before OID could take action. Mitigation of impacts (i.e. added costs) may be in order too after the wetland is evaluated.
7. This pond had been an issue with every tenant that has owned it. To date, limited assistance has been the only course of action permitted by past Boards or recommended by past counsels.
8. The cost of cleaning could be substantial and would impact the maintenance budget significantly.

Staff was asked to move forward and investigate options that the Board might consider for resolution of the landowners concerns. To that end, included with this agenda are 5 options for consideration.

Scott and Brandy Balch were present at the meeting. Mr. Balch presented their position regarding the Stewart Pond.

A motion was made by Director Brichetto, seconded by Director Webb, and unanimously supported to have the Water Committee and Gary Jernigan visit the Stewart Pond, address the pros and cons of each issue, and obtain some private bids once the Board has determined what action to take.

At the hour of 10:20 a.m. the Board welcomed public comment.

PUBLIC COMMENT
ITEM NO. 2

There was no public comment.

Public Comment was closed at 10:20 a.m. and the Board Meeting continued.

ITEM NO. 14
REVIEW AND TAKE POSSIBLE ACTION ON
ADOPTION OF THE 2006 ANNUAL BUDGET

Staff presented the preliminary 2006 Budget at the Board's September 6, 2005 meeting as a Discussion Item. At that time it was requested that any director with comments to the budget submit their requests/comments etc. so they could be reviewed and discussed at this meeting. There were no comments submitted or changes made to the 2006 Budget presented September 6, 2005.

A motion was made by Director Webb and seconded by Director Alpers to Adopt the 2006 annual budget, and was voted as follows:

Ayes:	Directors Alpers, Webb, Clark
Noes:	Directors Brichetto, Taro

ITEM NO. 15
REVIEW AND TAKE POSSIBLE ACTION ON
AWARD OF BID AND AUTHORIZING THE GENERAL MANAGER
TO EXECUTE A CONTRACT FOR THE REPLACEMENT OF THE
COMETA LATERAL CROSSING OF THE SSJID MAIN CANAL

The District's Lower Cometa Lateral crossing the SSJID Main Canal is in need of replacement. Plans and contract documents for the project were prepared and distributed to four (4) pre-approved contractors. A pre-bid meeting was held on September 9, 2005 with all four contractors. The contractors are Cunningham and Sons, Inc., Mozingo Construction, RTC, Inc. and Syblon Reid, Inc. of Sacramento.

The bids received were to be opened September 16, 2005. The results of the bid opening will be provided to the Board at its meeting on September 20, 2005. The length of time for the project contract is 120 days, which will end construction in and around February 15, 2006, if there are no delays.

A motion as made by Director Webb, seconded by Director Brichetto, and unanimously supported to approve the Award of Bid and authorizing the General Manager to execute a contract for the replacement of the Cometa Lateral Crossing of the SSJID Main Canal.

ITEM NO. 16
REVIEW AND TAKE POSSIBLE ACTION ON
AUTHORIZING THE GENERAL MANAGER TO AWARD AND
EXECUTE A CONTRACT FOR THE PREFABRICATION OF A
BRIDGE TO BE USED IN THE COMETA LATERAL CROSSING RELACEMENT

The Lower Cometa project requires a bridge with a 110-foot span to be fabricated and installed over the SSJID main canal. Initially, the supply of the bridge was in the scope of work for the contractor to supply and install. During the design phase of the project, Giuliani & Kull were getting delivery times of 6-8 weeks. Just recently, the delivery times given to Giuliani & Kull slipped to 12-14 weeks due to the impacts of Hurricane Katrina.

During the Pre-Bid meeting held on September 9, 2005, OID was informed by two of the bidding contractors that similar bridges that were quoted with a 12-14 week delivery were now slipping as well. For the Lower Cometa Project, the delivery of this bridge is critical. In order to meet the construction schedule, the supply of this bridge was removed from the contractor's responsibility and OID will procure this bridge. This will provide as much as a three week advantage on the delivery. The intent is to issue an award by September 30, 2005 where the bridge can be fabricated and delivered to site no later than the middle of January 2006.

A motion was made by Director Webb, and seconded by Director Alpers for discussion. After a brief discussion, it was unanimously supported to approve authorizing the General Manager to award and execute a contract for the prefabrication of a bridge to be used in the Cometa Lateral Crossing replacement.

ITEM NO. 17
REVIEW AND TAKE POSSIBLE ACTION ON THE
PURCHASE OF TWO EXCAVATORS AND A FRONT END LOADER

The District has been renting a Kobelco SR 115 Excavator, a Kobelco 210 Excavator and a Kawasaki 85 ZIV Front End Loader since last year. This equipment was new when it arrived on-site at which time the rental arrangements were on a month-to-month basis. Equipment on this type of rental agreement is very costly. However, Tri-West Tractor, Inc. has offered to apply all previous rental payments to the purchase price of this equipment. This arrangement lowered the purchase price substantially from the listed purchase price that included a government discount. In addition, the District has the option to purchase a Planned Equipment Maintenance Program and an Extended Power Train and Hydraulic System Warranty.

Upon review and consultation with the Finance Committee, Staff recommends purchasing the two (2) Excavators and one (1) Front End Loader with the Extended Power Train and Hydraulic System Warranty. The Planned Equipment Maintenance Program will be performed by the OID Auto Shop.

The purchase price for the three (3) pieces of equipment will be \$293,711 (adjusted based on the off rental date of the equipment) plus taxes. The 5-Year Extended Warranty for the same equipment would be \$12,376 total.

A motion was made by Director Webb, seconded by Director Brichetto, and unanimously supported to approve the purchase of two excavators and a front end loader.

ITEM NO. 18
REVIEW AND TAKE POSSIBLE ACTION
ON THE LONG TERM LEASE OF A DOZER

After numerous meetings and research on whether to lease or purchase a small dozer, the best arrangement for the District would be to enter into a long term lease agreement. After on site testing of small dozers; John Deere, Cat and Case, it was determined the best suited equipment for the District's needs was a John Deere JD 550 dozer on a long term lease agreement.

A Long Term Lease Agreement was discussed with Pape' Machinery, Inc. and a rental program could be offered to the District on a 5-Year with a utilization of 1,000 hours per year arrangement. The cost for this would be approximately \$1,600/Month for five (5) years with a 5-Yr/5,000 Hour Extended Power Train and Hydraulic System Warranty. The monthly lease rate will be finalized once a firm date can be established for the start of the long term lease.

A motion was made by Director Webb, seconded by Director Alpers, and unanimously supported to approve the long term lease of a dozer.

ITEM NO. 19
REVIEW AND TAKE POSSIBLE ACTION ON ADOPTION BY
RESOLUTION THE OID'S AGRICULTURAL WATER
MANAGEMENT PLAN IN COMPLIANCE WITH AB 3616

In 1997, by OID Resolution No. 97-30, OID became a signatory to the Memorandum of Understanding (MOU) between the Ag Water Management Council and the Department of Water Resources (DWR) in compliance with AB 3616. As a condition of signing the MOU, OID was obligated to develop an Agricultural Water Management Plan. The Plan was due on July 18, 1999. The District developed a draft plan and submitted it to the Ag Water Management Council on July 18, 2000.

The District received comments on the Plan from DWR on June 21, 2001. In 2001, OID was not prepared to respond to the comments and took no action until September 10, 2002. In September of 2002 the District made a commitment to complete the Plan and subsequently, on May 20, 2003 the Board of Directors approved Davids Engineering to finish the task. In addition, on May 27, 2003 the Ag Water Management Council approved OID to receive \$10,000 for the development and submission of the Plan.

This assistance in the amount of \$10,000 is to be received once the Plan is submitted. Pending Board approval the Plan is to be submitted by October 7, 2005. If OID doesn't submit the Plan by October 7, 2005, the Ag Water Management Council would reduce the assistance by 25% (a potential loss of \$2,500).

A presentation of the plan was given to the Board at the September 6th, 2005 regular board meeting.

A motion was made by Director Webb, seconded by Director Alpers, and unanimously supported to adopt by Resolution OID's Agricultural Water Management Plan in Compliance with AB 3616.

ITEM NO. 20
REVIEW AND TAKE POSSIBLE ACTION
ON CLAIM FILED BY LOU ANN MITCHELL

In December 2004 and January 2005, discussions were held with the Landowner concerning the Union and Kearney Drain maintenance. At the time, the ditch banks were experiencing wash outs, cattle damage and excessive vine growth. There was no fence on the ditch nor did OID have an easement for the ditch. Staff agreed to clean and rehab the banks and install fencing to protect the bank. The Landowner indicated they would also fence some areas in order to fully protect the ditch banks.

However, the Landowner mistook the conversation as approval to proceed with the fencing of both sides of the Union Drain and the west side of the Kearney Drain. Upon completing the fence, the Landowner submitted a bill to the District for reimbursement. The initial invoice was rejected due to the fact the amount was for the total job. The invoice was adjusted and re-submitted to the District for payment on the portion of the ditch benefiting

the District. It was determined the portion for which the District could be obligated for is about 1/3 of the invoice.

In subsequent discussions, the payment would be contingent upon an easement granted by the Landowner and approval by the Board to pay the District's portion of the invoice.

A motion was made by Director Brichetto, seconded by Director Webb, and unanimously supported to approve payment of the claim submitted by Lou Ann Mitchell.

ITEM NO. 22
REVIEW AND TAKE POSSIBLE ACTION ON ENDING THE
2005 WATER SEASON AND BEGINNING THE 2006 WATER SEASON

The 2005 Water Season will end on September 30th, partially through completion of Rotation No. 16. The end of the water season ends OID's water availability for 2005 and all waters delivered after September 30th are charged to OID's 2006 water usage. Staff would like the Board to consider two options for the beginning of the 2006 water season.

Option No. 1: Speaking from a maintenance standpoint, two weeks provides an additional 12% of work time during the off season to affect repairs and provide needed maintenance and improvements to our system. From a water operations standpoint, using water early in 2006 puts our full deliveries next spring and summer at risk. As a staff preference, we would prefer to not deliver water in October for those reasons.

Option No. 2: If October water is offered, it should begin where Rotation 16 ended and provide all users the opportunity to take one irrigation in October, thereby ending Rotation No. 1 at midnight on October 12th.

A motion was made by Director Webb, seconded by Director Taro, and unanimously supported to end the 2005 water season at midnight on October 14, 2005.

COMMUNICATIONS
ITEM NO. 23

A. GENERAL MANAGER'S REPORT

Irrigation Activities

1. Season winding down. Completed 16 rotations during 2004/2005 water year.

Safety Activities

1. Trench Safety classes were held September 15th by ACWA /JPIA.
2. OID is up to 496 days for which it has not had a lost time injury accident.

Administration Activities

- a. Bill Jennings has left Delta Keepers and looks to be forming a separate and "new" enviro watch group in California for Delta issues.
- b. PG&E rates are going up 3-4% as we were recently noticed.

- c. We will be destroying dated confidential financial records as required by policy in early October. Should any director wish to inspect such records please see Kathy.
- d. OID will be hosting Sexual Harassment Training for Supervisors as required under new State Law on October 27th. Both Tri Dam and SSJID will have employees in attendance.
- e. Art Baggett will be vacating the chairmanship of the SWRCB per the governor but retain his seat on the Board. Tam Duduc will be the new chair of the SWRCB.
- f. OID's Annual Employees BBQ is on October 22nd.

Accounting Activities

- a. The sale of surplus equipment netted \$45,000 for the 950B Loader that was 19 years old and less a transmission. Equipment sold by Ritchie Bros Auctioneers.

C&M Operations Activities

1. Developing Long Term Lease and Purchases report for equipment
2. Emergency work on the Garr P/L
3. Contract Close Out for the Construction Contracts
4. Developed tracking and reporting format for JSF's for the Winter Work
5. Developing Winter Work Scope and Schedules
6. Continued with project identification and Scope Development for the 2006 Capital Projects
7. Held Pre-Bid Meeting for the Lower Cometa SSJID crossing.
8. Continued with the Ditch Cleaning program on the Root and Frymire
9. Condor submitted drawings to review for the South Main repairs to the High Hazard area between Goodwin Dam and 2-Mile Bar.

Engineering Activities

1. Supporting C&M Operations

B. WATER COUNSEL'S REPORT

Water Counsel, Tim O'Laughlin, was present at the Board meeting and discussed the items set forth in the attached Status of Assignments dated September 14, 2005.

At the hour of 12:10 p.m. a motion was made by Director Webb, seconded by Director Taro, and unanimously supported to move to Closed Session.

CLOSED SESSION **ITEM NO. 24**

Closed Session to discuss the following:

A. Government Code §54956.9 Existing Litigation

- | | |
|---------------------------------------|-------------------|
| (1) <i>Fields</i> | (4) <i>RTC</i> |
| (2) <i>Goad</i> | (5) <i>Cahoon</i> |
| (3) <i>Banducci v. Fields, et al.</i> | |

At the hour of 1:05 p.m., a motion was made by Director Brichetto, seconded by Director Alpers, and unanimously supported to move to Open Session.

It was reported by Director Clark that no action was taken in the closed session.

A. **COMMITTEE REPORTS**

There were no committee reports.

B. **DIRECTORS' COMMENTS/SUGGESTIONS**

There were no director's comments.

OTHER ACTION
ITEM NO. 25

At the hour of 1:05 p.m. a motion was made by Director Webb, and seconded by Director Alpers, and unanimously supported to adjourn to the next **regular Board of Director's Meeting** to be held on **Tuesday, October 4, 2005 at 9:00 a.m.** at the Oakdale Irrigation District Office, 1205 East F Street, Oakdale, CA 95361.

The next **regular Joint Board Meeting for the Tri-Dam Project** is scheduled for **Thursday, October 20, 2005 at 9:00 A.M.** in the Board Room of the Manteca Irrigation District, 11011 East Highway 120, Manteca, CA.

Frank B. Clark, President

Attest:

Steve Knell, P.E., Secretary