

## MINUTES

Oakdale, California  
April 4, 2006

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

Staff Present: Steve Knell, P.E., General Manager/Secretary  
Kathy Cook, Chief Financial Officer  
Gary Jernigan, Support Services Manager

Also Present: Michael Ijams, General Counsel

### **ADDITION OR DELETION OF AGENDA ITEMS**

There were no additions or deletions of Agenda items.

### **ACTION TO TAKE VARIOUS ITEMS OUT OF SEQUENCE**

There were no items taken out of sequence.

Director Clark requested that Consent Item No. 12 be pulled from the Consent Calendar.

At the hour of 9:08 a.m. the Board welcomed public comment.

### **PUBLIC COMMENT ITEM NO. 1**

Ken Krause asked if water had been turned into the North and South Main. General Manager, Steve Knell, responded no.

Steve Sperry had a question about the status of annexation. He stated that he applied for annexation with the District in 1996. He asked the District to forward a letter advising him of the status of the annexation process.

Roger Beymer had a question regarding the placement of signs on the OID fence.

Steve Fields had prepared a statement regarding his attorneys' fees matter to be presented in open session, but was advised that his matter was going to be discussed in Closed

Session. Mr. Fields gave his presentation in hopes that it would be discussed in Closed Session.

Gordon Pimley asked for some clarification on an article that was published in the Modesto Bee regarding the sale of water.

Public Comment was closed at 9:20 a.m. and the Board Meeting continued.

**CONSENT ITEMS**

**ITEM NOS. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11**

**ITEM NO. 2**

**APPROVE THE BOARD OF DIRECTOR'S MINUTES OF THE  
REGULAR MEETING OF MARCH 21, 2006  
AND RESOLUTION NOS. 2006-19 THROUGH 2006-21**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the Board of Director's Minutes of the Regular Meeting of March 21, 2006 and Resolution Nos. 2006-19 through 2006-21.

**ITEM NO. 3**

**APPROVE OAKDALE IRRIGATION  
DISTRICT STATEMENT OF OBLIGATIONS**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the Oakdale Irrigation District Statement of Obligations.

**ITEM NO. 4**

**APPROVE RESOLUTION ACCEPTING MEMORANDUM  
OF UNDERSTANDING WITH THE CONFIDENTIAL EMPLOYEES,  
THE EXEMPT MANAGEMENT EMPLOYEES,  
AND THE EXEMPT SUPERVISORY EMPLOYEES**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the Resolution Accepting the Memorandum of Understanding with the Confidential Employees, the Exempt Management Employees, and the Exempt Supervisory Employees.

**ITEM NO. 5**

**APPROVE NOTICE OF COMPLETION ON CONTRACT WITH  
JOHNSON WESTERN GUNITE COMPANY FOR FRYMIRE LATERAL**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the Notice of Completion on contract with Johnson Western Gunite Company for the Frymire Lateral.

**ITEM NO. 6**  
**APPROVE NOTICE OF COMPLETION ON CONTRACT WITH**  
**CUNNINGHAM & SONS, INC. FOR THE LOWER COMETA LATERAL**  
**CROSSING REPLACEMENT AT SSJID CANAL PROJECT**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the Notice of Completion on contract with Cunningham & Sons, Inc. for the Lower Cometa Lateral Crossing replacement project at the SSJID Main Canal.

**ITEM NO. 7**  
**APPROVE NOTICE OF COMPLETION ON CONTRACT**  
**WITH CUNNINGHAM & SONS, INC. FOR THE SCHULLER BOX PROJECT**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the Notice of Completion on contract with Cunningham & Sons, Inc. for the Schuller Box Project.

**ITEM NO. 8**  
**APPROVE NOTICE OF COMPLETION ON CONTRACT**  
**WITH MOZINGO CONSTRUCTION, INC. FOR NORTH**  
**DUDLEY PIPELINE CROSSING LOWER HORSESHOE ROAD PROJECT**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the Notice of Completion on contract with Mozingo Construction, Inc. for the North Dudley Pipeline Crossing of Lower Horseshoe Road.

**ITEM NO. 9**  
**APPROVE NOTICE OF COMPLETION ON CONTRACT**  
**WITH MOZINGO CONSTRUCTION, INC. FOR THE**  
**ROOT DRAIN CROSSING VICTORY ROAD PROJECT**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the Notice of Completion on contract with Mozingo Construction, Inc. for the Root Drain Crossing at Victory Road.

**ITEM NO. 10**  
**APPROVE CHANGE ORDER TO**  
**CONDOR EARTH TECHNOLOGIES, INC.**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the Change Order to Condor Earth Technologies, Inc.

**ITEM NO. 11**  
**APPROVE AWARD OF**  
**BID ON TRUCK MOUNTED CRANE**

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to approve the bid on truck mounted crane.

**ACTION ITEMS**  
**ITEM NOS. 12, 13, 14, 15, 16, 17**

**ITEM NO. 12**  
**APPROVE ENCROACHMENT AGREEMENT ON THE ADAMS NO. 1**  
**PIPELINE (APN: 064-058-010/012 – PALLIOS PROPERTIES, LLC)**

Director Clark wanted an explanation on the outside display of tractors on the Adams No. 1 Pipeline and whether or not it would be an eyesore for the neighbors. After further discussion the Board recommended that this matter be pulled from the calendar and be placed back on the Agenda for the next regularly scheduled Board Meeting in order for staff to provide more information and a map showing the location on the Adams No. 1 Pipeline.

**ITEM NO. 13**  
**REVIEW AND TAKE POSSIBLE ACTION ON**  
**AWARD OF BID ON HEAVY DUTY TRUCK AND TRAILER**

The District has a 1985 heavy duty truck and trailer scheduled to be replaced next year. The truck cannot legally haul some of the bigger excavators utilized by OID. Therefore, the District has to contract to transport this equipment. The District spent \$12,500 in 2005 and \$8,000 in 2004 to move this equipment, in addition to the cost to maintain the existing heavy haul truck.

While the truck is not budgeted this year, staff would like to exchange the purchase of the crane truck, which is budgeted this year at \$165,000 for the purchase of a replacement heavy haul truck and trailer at a cost of \$189,454. The difference between the budget amount of the crane truck and the purchase amount of the heavy duty truck and trailer is \$24,454. Half of that amount would be paid for in savings from not having to contract the work out and the rest from the salvage value from the sale of the current truck and trailer.

Staff solicited quotes from six (6) vendors for a heavy duty truck and trailer. Central California Kenworth Trucks and Valley Peterbilt were the two responding vendors. There was approximately a \$1,200 difference between the two vendors and staff preferred the Kenworth product over the Peterbilt product. The District also has a supply of Kenworth parts in inventory and many will be interchangeable with the new heavy duty truck.

After discussion by the Board, a motion was made by Director Clark and seconded by Director Alpers to purchase the new truck from Central California Kenworth Trucks, look into purchasing a used trailer, and bring this information back to the Board for consideration and was voted as follows:

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

**ITEM NO. 14**  
**REVIEW AND TAKE POSSIBLE ACTION ON RECONSIDERATION**  
**OF RESOLUTION NO. 2006-12 SETTING 2006 WATER RATES FOR**  
**IRRIGATION OF LANDS OUTSIDE OAKDALE IRRIGATION DISTRICT BOUNDARIES**

The 2005 water rate information submitted on the February 7, 2006 agenda report was incorrect. The correct 2005 water rate information is as follows:

In 2005, out-of-district water rates were as follows:

- \$19.59 per acre foot, or
- \$79.30 per acre for those landowners owning less than 10 acres and grand-fathered into the Agreement for Irrigation of Lands Outside District Boundaries adopted January 20, 2004, and
- \$62.40 per acre for those landowners owning 10 acres or larger and grand-fathered into the Agreement for Irrigation of Lands Outside District Boundaries adopted January 20, 2004.

The action taken on February 7, 2006 was to increase the rate for landowners owning less than 10 acres by 25% and leave the other rates the same. Staff is submitting Resolution No. 2006-12 for reconsideration of the 2006 water rates as follows:

- \$19.59 per acre foot, or
- \$99.33 per acre for those landowners owning less than 10 acres and grand-fathered into the Agreement for Irrigation of Lands Outside District Boundaries adopted January 20, 2004, and
- \$62.40 per acre for those landowners owning 10 acres or larger and grand-fathered into the Agreement for Irrigation of Lands Outside District Boundaries adopted January 20, 2004.

A motion was made by Director Brichetto and seconded by Director Taro to leave the water rates as set in 2005, and was voted as follows:

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

**ITEM NO. 15**  
**REVIEW AND TAKE POSSIBLE**  
**ACTION ON AN AWARD OF BID FOR A**  
**HAZARDOUS MATERIAL SAFETY STORAGE ENCLOSURE**

Oakdale Irrigation District is currently out of compliance of state, local and county flammable material storage requirements. The citations requiring compliance include NFPA 30, Environmental Protection Agency Regulation regulations on petroleum pollution prevention, 40 CFR Chap. I Subchapter D Part 112. California Health and Safety Code, Division 20 Chapter 6.67 Sections 25270-25270.13- Spill Prevention Control and Counter Measures Plan and the OSHA General Duty Clause.

The current storage enclosure in use for approximately the last 30 years is in advanced stages of decay. The wood floor of the Army surplus portable office is soaked in petroleum

products, rain leaks in and out and the siding is rotting away inside and out. A new modern and code compliant enclosure has been budgeted and approved for 2006.

A motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to award the bid for the purchase of a hazardous material safety storage enclosure to Securall-A&A Sheet Metal.

**ITEM NO. 16**  
**REVIEW AND TAKE POSSIBLE ACTION ON**  
**CLAIM FOR DAMAGES ON THE**  
**LANGWORTH PIPELINE (BYRL BLOUNT)**

Mr. Blount runs a calve feeder operation on 0.41 acres, located at the southwest corner of Eleanor and Montgomery Road intersection. Mr. Blount claims that his feeder calves got sick, lost weight, and required medicine due to drinking water that was standing around a leaky District valve. The District installed a collar around the valve (which belongs to Mr. Blount) and no water was left standing in this area after its work. Staff's numerous trips to the site over the course of its investigation has determined that the water standing on Mr. Blount's property is due to rain water and not any storm water in the pipeline. The pipeline in the winter is not pressurized and water in the pipeline cannot rise higher than the ground. This is evident in the fact that Mr. Blount uses his private valve, attached to the OID Langworth Pipeline, to drain his property.

Staff has worked with Mr. Blount on this issue without resolution and believes the claim to be baseless and has advised Mr. Blount to file this claim.

A motion was made by Director Alpers, seconded by Director Brichetto, and unanimously supported to reject the claim and forward it to ACWA/JPIA for handling.

**ITEM NO. 17**  
**REVIEW AND TAKE POSSIBLE ACTION ON CLAIM**  
**FOR DAMAGES ON THE DIXON PIPELINE (DARLENE VIOHL)**

Ms. Viohl submitted a claim for damages to her private pipeline on March 1, 2006 for an incident that occurred on July 2, 2005. The damages were to her pipeline located off Dillwood Road. Ms. Viohl's claim was rejected in an OID letter mailed March 3, 2006. The rejection was due to her claim being non-compliant with Government Code §911.2 which has a 6 month limitation upon which to file a claim. Ms. Viohl submitted a letter dated March 16, 2006 requesting an Application for Leave to Present a Late Claim, which is permissible under the Government Code. Her letter and request for consideration of a late claim are why this mater is before the Board today.

The Government Code permits an agency to allow the late submission of claims but only under specific circumstances. Ms. Viohl claims "excusable neglect" for two reasons;

1. Ms. Viohl thought that by having an incident report prepared by the DSO, that this sufficed as a claim against the OID and
2. Although the incident occurred on July 2, 2005, she was not aware of the damage until September 13, 2005 and hence the 6 month period requirement was met.

Regardless of whether the Board allows for reconsideration of the claim or not, the merits of the claim warrant a rejection of the claim.

Ms. Viohl claims that on July 2, 2005 the added pressure on her private pipeline (caused by OID) resulted in damages to her private line. OID staff reviewed the situation and made the following observations;

1. The overflow of a diversion box to the west of Ms. Viohl's property is an indication of the pressure in the pipeline. The height of the water in the diversion box likely increased 18-inches (0.7 psi) above normal water delivery pressure.
2. The pipeline in question is old concrete short jointed mortar pipe. The pipe is of an age in which it can not take small pressure fluctuations anymore.
3. The existing pipeline is poorly designed and provides no pressure relief along the pipeline for any variations in pressure that might occur, intentional or otherwise.
4. Ms. Viohl has the oldest section of pipeline yet to be replaced and this is the only section which sustained damage. This reaffirms the statement made earlier that age played a part in this incident.
5. The incident was requested to be documented by Ms. Viohl on July 2, 2005 in case the pressure damaged her pipeline. On September 13, 2005 she says she noticed the leaks in the pipeline. This is nearly 2-1/2 months after the incident and after receiving 7 rotations of water through the pipeline.

Utility services such as water and power inherently fluctuate. The burden of facility protection to guard against such fluctuations belongs to the recipient, not the utility provider. Much like the power companies which provide no compensation for electrical surges that damage home appliances, water districts are afforded the same benefits under the law.

The damage to this pipeline will continue to occur and will escalate in the coming years due to its age and deteriorated state. The OID should not be held accountable to pay for aged private facilities which are in need of replacement, which are poorly designed and poorly protected to withstand even the most limited pressure fluctuation.

A motion was made by Director Clark, seconded by Director Webb, and unanimously supported to approve payment of the claim in the amount of \$2,300.00 to Darlene Viohl.

### **DISCUSSION ITEM**

#### **ITEM NO. 18**

### **STAFF DIRECTION ON THE DEVELOPMENT OF AGRICULTURAL WATER CONTRACT DOCUMENTS FOR USE IN OID'S SPHERE OF INFLUENCE**

This item has been requested by a Director to expedite the development of contract documents for the purposes of supporting long-term water contracts to agricultural businesses seeking to expand into OID's sphere of influence and receive OID surplus water. The development of these documents now would better position the OID to provide for sphere of influence expansion more efficiently when surplus water is declared.

The development of these documents would best be served if done utilizing both our General Counsel (for the business contractual issues) and by OID's Water Counsel (for the

water rights issues). Staff's involvement would be minimal and used only on managing the implementation aspects of the contract.

Staff is requesting direction from the Board on its desire to pursue development of these contract documents this year. Knowing workloads for both Counsels, and staff work load, the estimated time to develop these documents could be 6-8 months and cost roughly \$10,000-\$25,000. This would be an unbudgeted legal expense should the Board desire to move forward this year.

After discussion by the Board of Directors Director Brichetto requested that this matter be placed on the Agenda for the next regularly scheduled Board Meeting as an Action Item to pursue the development of a contract documents.

At the hour of 10:15 a.m., a motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to move to closed session.

**CLOSED SESSION**  
**ITEM NO. 19**

Closed Session to discuss the following:

**A. Government Code §54957.6 Conference with Labor Negotiator**

**Agency Negotiator:** General Manager

**Unrepresented Employees:** Exempt Management Employees,  
Supervisory Exempt Employees and Confidential Employees

**B. Government Code §54956.9 Existing Litigation**

(1) Fields

(2) *Banducci v. Fields*

At the hour of 11:00 a.m., a motion was made by Director Clark, seconded by Director Brichetto, and unanimously supported to move to Open Session.

Thereafter the Board reported the following:

- A.** A motion was made by Director Clark and seconded by Director Alpers to approve the percentage pay for the employees in the amounts provided by the General Manager to the Board and was voted as follows:

Ayes: Directors Alpers, Webb, Clark

Noes: Directors Brichetto, Taro

This information is available in the Office of the Chief Financial Officer of the Oakdale Irrigation District upon request.

- B.** A motion was made by Director Brichetto, seconded by Director Alpers, and unanimously supported to direct General Counsel to proceed with settlement negotiations with Mr. Fields' counsel.



**COMMUNICATIONS**  
**ITEM NO. 20**

**A. GENERAL MANAGER'S REPORT**

**Safety Activities**

1. Continuing to implement our Target Zero Program.
2. To date, we have gone 116 days since our last lost-time injury accident.
3. Steel toe boot incentive program being developed

**Water Operations Activities**

1. Start of water season is still in flux. More information to be provided at the meeting.
2. Staff preparing a drought framework plan for implementation as part of the WRP.
3. Meeting scheduled for ID 52, Thursday, the 30th to review their options.
4. All deep wells are serviced and ready for the water season.

**Administration Activities**

1. Received bulk of revised PR&R policies back from our labor contractors.
2. Strategic Training Plan (Taylor and Associates) skills matrixes reviewed and sent back to Taylor.
3. Another Stanislaus County Water Summit has been scheduled for April 26th.
4. A Union meet and confer session was held Wednesday, March 15th. OID's negotiating team continues to meet regularly.
5. City of Oakdale is preparing for its 100th Anniversary in September.

**Finance Activities**

1. Preparing 2005 Annual Report.
2. Reviewing and preparing a revised Capital Asset Policy.
3. Working on an Anti-Fraud Policy.
4. Assisting in 2006 meet and confer process.

**C&M Operations Activities**

1. OID recorded one of its lowest, if not the lowest, loss of tools and equipment at the end of the winter work season. All employees need to be congratulated and commended on their work efforts this winter.
2. The Clarke Pipeline completed.
3. Root Drain Victory Road Crossing completed.
4. North Dudley Horseshoe Road Crossing completed
5. Mootz Pipeline in construction.

**Engineering Activities**

1. Engineering on the Campbell, Fairbanks and Grider Pipelines continues
2. Field inspections of ongoing construction work
3. Engineering and Surveying activities to support field construction
4. Responses to a number of Suspense Forms

**Legal Issues Being Addressed**

1. Working with ACWA/JPIA on the Gregg flooding suit. Meetings set up for May on this with legal counsel.
2. Working with the attorneys on the Fields vs. Banducci case

B. **COMMITTEE REPORTS**

C. **DIRECTORS' COMMENTS/SUGGESTIONS**

Director Clark

Director Clark had no comments.

Director Brichetto

Director Brichetto stated that he would like to see the District work harder at trying to be more farmer friendly and user friendly by providing water to people that need water instead of providing them with all of the reasons why they cannot get it.

Director Taro

Director Taro agreed with the comments made by Director Brichetto. He also had question regarding the 17/18-day rotations. General Manager, Steve Knell, stated that there has been no direction from the Board of Directors to switch from 14-day rotations.

Director Webb

Director Webb had no comments

Director Alpers

Director Alpers congratulated the District on the fact that he only had one complaint regarding a problem with storm drainage in the Riverbank area. He stated that the District did a really nice job on McGhee Road.

**OTHER ACTION**  
**ITEM NO. 21**

At the hour of 11:14 a.m. a motion was made by Director Brichetto, and seconded by Director Webb, and unanimously supported to adjourn to the next **regular Board of Director's Meeting** to be held on **Tuesday, April 18, 2006, 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, April 20, 2006, at 9:00 a.m.** in the Board Room of the South San Joaquin Irrigation District, 11011 East Highway 120, Manteca, CA.

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Steven A. Webb, President

Attest:

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Steve Knell, P.E., Secretary