

**Reclamation District No. 2140**  
**211 Main Street**  
**Hamilton City, California 95951**

**Board of Trustees**  
**Minutes of Meeting Held July 29, 2016**

**CALL TO ORDER:**

The regular meeting of the Board of Trustees of Reclamation District No. 2140 (RD 2140) held on July 29, 2016, at the Hamilton City Community Services District office was called to order at 9:09 a.m. by Board President LeeAnn Grigsby-Puente.

**Board Members present:** LeeAnn Grigsby-Puente, Walt Stile and Dawit Zeleke.

**Board Members absent:** None.

**District representatives:** Bill Paris, Legal Counsel; Tom Anderson, Interim Secretary

**GUESTS:** Erik Nagy, Principal Engineer (LWA); Ryan Luster (TNC), Adrian Frediani (TNC by telephone), Seth Wurzel (LWA), Jose Puente, (General Manager HCCSD), Clifford Kitayama (PCA) and Dan James (Hamilton City Fire Chief – arrived 9:15 a.m.).

President Grigsby-Puente introduced Clifford Kitayama, Ph.D. Dr. Kitayama stated he is a licensed agricultural pest control adviser or PCA (license number 73506) and has been retained by The Nature Conservancy (TNC) to coordinate pesticide information exchange between area farmers and the Phase 1 construction contractor. He operates an agricultural consulting service under the name Kitayama Ag Services, LLC. He is not affiliated with any pest control dealer.

**PUBLIC COMMENT:** None.

**MINUTES:**

Board Member Walt Stile made a motion to approve the minutes for the meetings held June 17 and 30, 2016, as written. The motion was seconded by Board Member Zeleke and it passed by a unanimous vote.

**CORRESPONDENCE:**

1. Notice of Public Scoping meeting for M&T/Llano Seco pump project (see New Business item 3).
2. Miscellaneous correspondence – no action required nor taken.

**REVIEW of FINANCIAL ACTIVITEIS:**

1. The Director's report from the County Department of Finance (DOF) for the period ending 6/30/2016 was not received by the meeting date.

**OLD BUSINESS:**

1. Status report of the project:
  - a. Under Phase 1 construction Erik Nagy reported construction resumed after a two-week suspension of work due to concerns over spraying activities in nearby orchards on June 29<sup>th</sup>. After several communications between RD 2140 representatives and representatives of the U.S. Army Corps of Engineers (U.S. ACE) a protocol was put in place to notify the contractor of spray activities (e.g. chemicals used, timing and application method) and inform the contractor of other farming activities, all of which will now be facilitated by Dr. Kitayama.

Mr. Nagy reported that the training dike portion of this phase should be “topped out” sometime in August with work continuing on the levee embankment north of County Road 23. On July 26<sup>th</sup> Mr. Nagy met with Mr. Surjit Bains and various representatives for Mr. Bains to discuss the inconveniences the fencing is causing to his farming operations as well as to discuss the impact the concerns over spraying has had on construction activities. Mr. Bains acknowledged the importance of communicating spray activities. As to inconveniences with farming activities, at this point Mr. Bains stated he has been able to work around the fencing issue but indicated his preference that the fence be removed at specified points during harvest.

Mr. Paris emphasized the importance of completing the training dike on schedule. Mr. Nagy estimated the “earthen work” of the entire Phase 1 stretch should be done in October with the Phase 1 construction being completed in April 2017.

- b. Mr. Nagy reported U.S. ACE had advertised the Phase 1 restoration contract within the last week. The goal is to have the contract awarded in September, although there could be issues with “Small Business Administration” requirements as there were with the Phase 1 construction contract. The U.S. ACE has indicated they would like to include the “Vereschagin Property” in the Phase 1 restoration work. Adrian Frediani noted that work is being done to obtain “rights-of-entry” from the various landowners.
    - c. Under Phase 2 Construction, Mr. Nagy noted the U.S. ACE is considering splitting the effort into two contracts, one for work south of State Route 32 (SR 32) and the other for work done north of SR 32. He noted the hydraulic drainage models show upgrades to the culvert beneath SR 32 do not appear to be necessary as was at first thought. On the Pedersen property, the open channel with gravity flow alternative appears feasible. As noted in the June meeting, an open channel would relieve the private land owner from the current drainage costs, nor would it pass the drainage obligation to RD 2140.

- d. Mr. Nagy reported that the U.S. ACE has concerns the project costs will exceed the “902 limit”. [Note: Section 902 of the Water Resources Development Act, or WRDA, of 1986 defines the maximum amount that a project may cost. “The maximum project cost includes the authorized cost (adjusted for inflation), the current cost of any studies, modifications, and action authorized by WRDA ’86 or any later law, and 20 percent of the authorized cost (without adjustment for inflation). The cost of modifications required by law is to be kept separate and added to other allowable costs. These three components equal the maximum project cost allowed by section 902.”]

President Grigsby-Puente expressed her concern about how the costs associated with the suspension of work during the first two weeks in July impacted the “902 issue”. Mr. Nagy responded that the U.S. ACE indicated their concern over the 902 issue “for a while” before the work suspension commenced. While the work stoppage may have resulted in nearly \$500,000 added costs, the majority of the potential exceedance is the result of costs associated with the P.G.&E. gas line relocation (approx. \$6 million) and the increased land values (approx. \$6 million). For 902 purposes, land values are determined at the time of the contract signing (which could be higher than the actual purchase price.) Mr. Nagy suggested RD 2140 have a reevaluation of the estimated cost increases. The U.S. ACE will undertake a “Gross Appraisal” of the Phase 2 which should be completed within two months.

Two options to deal with this issue are:

- Seek a legislative remedy, and
- Contest the “over estimates”.

Another possibility is to determine RD 2140’s ability to waive the land value at the time the agreement is signed (not the purchase price). Careful consideration is needed to maintain the RD 2140 contribution but to not exceed the 902 limit.

#### **NEW BUSINESS:**

1. A discussion was held regarding amending the agreement Larsen, Wurzel and Associates, Inc. (LWA). Board President Grigsby-Puente noted the extra work LWA has done and needs to do in preparation for the upcoming benefit assessment election. The additional work needed exceeds the original contract amount of \$39,905.00 by \$23,925.00 (bringing the revised amount required to \$63,830.00). Note: payment of the May and June LWA invoices have been on hold pending approval of the contract increase.

A motion to approve the contract amendment was made by Board Member Zeleke and seconded by Board Member Stile. The motion was approved by a unanimous vote.

2. A discussion was held regarding the preliminary findings of the audit conducted by the California Department of Finance (CDOF) with respect to the monies received and expended under the DWR grant. A State auditor visited the HCCSD office between July 5<sup>th</sup> and 14<sup>th</sup>. On July 20<sup>th</sup> he provided his informal and preliminary findings (subject to CDOF internal review and approval) to Board President Grigsby-Puente and Interim Secretary Anderson and asked for the District's response by July 29<sup>th</sup>. The District will have another opportunity to comment upon receipt of the formal written preliminary findings. Clarification/more information was asked for the three items listed below:

- The District has advanced \$1,862,319.80 in grant funds to the U.S. ACE without requesting or maintaining any documents to substantiate how the funds were used. (Note: On July 28<sup>th</sup>, the auditor revised this amount down to \$1,262,319.80.)
- Two key grant deliverables are behind schedule:
  - The greenhouse gas emissions and climate change technical analysis and report were scheduled to be completed by December 31, 2013, and they have not yet been completed.
  - Utility relocation (i.e., power pole and gas line removal and replacement) has been delayed 6-12 months.
- DWR grant agreement 4600009932 expired on May 23, 2016. On May 26, 2016, the District issued a letter requesting the grant agreement be extended to May 2018. However, no amendment to the grant agreement has been executed to date. As a result, the District is operating the grant project without a current agreement in force.

Mr. Nagy stated that he contacted the auditor and provided some information the U.S. ACE had given him; however, this was not completely satisfactory to the auditor. Mr. Nagy also stated that DWR is working on an extension of the grant agreement.

Mr. Wurzel noted that these audits are "compliance audits" and are not a statement of finances. The DWR grant calls for forwarding funds to U.S. ACE to perform work. Mr. Wurzel stated RD 2140 may be in compliance with the terms of the DWR grant with the information provided.

3. Ryan Luster reviewed the proposed M&T Ranch/Llano Seco Fish Screen Long-Term Protection Project on the Sacramento River. A "scoping meeting" was hosted by the California Department of Fish & Wildlife in Chico on July 27<sup>th</sup>. Board Member Stile and Mr. Luster attended the meeting.

One of the alternatives being considered is to place nine “rock groins” along the west bank of the river from approx. 0.6 mile south of County Road 23 beginning at the Sacramento River National Wildlife Refuge, continuing past the RD 2140 “Stile Property” and finishing at Val Shaw’s parcel (approx. 1.2 mile south of County Road 23). (Note: As described for this project, the groins are barrier-type structures extending from the riverbank inward intended to control gravel movement along a specified portion of the river). Mr. Luster stated that TNC has a “Conservation Easement” on the Shaw property which Mr. Shaw granted several years ago to TNC to prevent rock placement on the riverbank along his property. Both Mr. Shaw and TNC oppose the placement of rocks in any form along the riverbank. The question arose (unanswered) whether such an easement exists on RD 2140’s Stile Property.

Mr. Luster left the room as the Board discussed TNC’s position and if RD 2140 should provide written comments to the proposal. Mr. Paris advised that the District is not obligated to comment on this proposal now since it is during the scoping period. The Board may choose to comment later during the formal environmental review process. The consensus of the Board is to remain neutral on this issue at this time.

4. The Board discussed entering into a contract with LWA for project management and engineering support as it relates to the Department of Water Resources (DWR) grant.

A motion to enter into a contract with LWA was made by Board Member Zeleke and seconded by Board Member Stile. The motion was approved by a unanimous vote.

5. The Board discussed the contract (ID 1207716) with P.G.&E. for utility relocation (electrical power poles) at the Jensen property. This contract was initially proposed by P.G.&E in May at a cost to RD 2140 of \$19,915.64. Mr. Nagy recommended the contract be approved.

A motion to approve the contract and to submit payment, contingent on the availability of funds, was made by Board Member Zeleke and seconded by Board Member Stile. The motion was approved by a unanimous vote.

6. The Board discussed approving an agreement to remove abandoned irrigation pipe found buried on the RD 2140 Vereschagin Property. The pipe line was discovered when the contractor was taking soil (borrow) to be used for construction purposes. Exposing the pipe, which is made of “transite” (asbestos cement), poses a hazard for which RD 2140 is responsible to abate. Mr. Nagy has solicited cost estimates for removal and disposal which range from \$16,000 upward. The location where the pipe is found is in one of the proposed ecosystem

restoration areas and the intent is to eventually replace the soil when portions of the existing J-Levee is removed.

Board Member Stile commented it is possible more pipe could be found elsewhere (potentially increasing RD 2140's costs for removal/disposal) and asked why any pipe found cannot be left buried in place. Mr. Luster expressed his opinion that the pipe should be removed at some point. Interim Secretary Anderson noted that no money was budgeted for the removal and disposal of the pipe. Mr. Paris suggested removal and disposal could be done later as the funding becomes available.

Action on this item was tabled until the next meeting.

#### **REPORTS:**

1. **Board:** Board President Grigsby-Puente suggested that given the amount of business the board needs to consider perhaps the board should hold two meetings per month for the time being. She also reported that Congressman LaMalfa was in the area recently. The Congressman would like to view the work progress.
2. **Secretary:** No report.
3. **Legal Counsel:** Mr. Paris asked if the contractor had paid for the use of the irrigation well. Mr. Nagy stated he was not aware of any payments for the use of the well.

#### **PAYMENT OF RD 2140 BILLS:**

Interim Secretary Anderson presented a list of claims for payment (bills) submitted to the County Department of Finance for the period 6/27/2016 to 7/27/2016 and totaling \$21,795.98. Board Member Zeleke made a motion to approve payment of the bills. Board Member Stile seconded the motion and it carried unanimously.

#### **ADJOURNMENT: 11:35 a.m.**

The next regular Board Meeting will be held Friday, August 19, 2016, at the HCCSD office at 211 Main Street, beginning at 9:00 a.m.

Respectively submitted,

Arthur T. (Tom) Anderson  
Interim Secretary