

# CARSON TRUCKEE WATER CONSERVANCY DISTRICT

Regular Meeting  
June 14, 2022

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## **DIRECTORS:**

Todd Westergard  
John Capurro  
Mike Nevin  
John Enloe, (via Zoom)  
Ed James (via Zoom)

Karen Baggett, (Via Zoom)

## **ABSENT:**

Pete Olsen  
Tyler Henderson  
Ty Minor  
Ernie Schank

## **Staff**

Mary Pat Eymann

## **GUESTS:**

Kayla Dowty, Tri Sage Consulting  
Chad Blanchard, FWM  
Leo Bergin, Attorney

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### **1. CALL REGULAR MEETING TO ORDER -**

President Westergard called the Regular meeting to order.

### **2. PUBLIC COMMENT – None**

### **3. APPROVE AGENDA –**

- ❖ Director Capurro made a motion to accept agenda as posted; seconded by Director Nevin; motion carried.

### **4. APPROVAL OF MINUTES, CHECKS WRITTEN AND FINANCIAL STATEMENTS –**

- ❖ Director Capurro made a motion to approve the May 2022 Minutes; financial statements as submitted, and checks written on Bank of America #9746 – 9751 and Nevada State Bank 3139 – 3145; motion seconded by Director Nevin; motion carried.

### **5. FEDERAL WATERMASTER'S REPORT – Chad Blanchard**

*A complete copy of the Water Report is available at  
District Offices or on the internet at [troa.net](http://troa.net).*

Rates should be made until October.

### **6. DISCUSSION AND POSSIBLE BOARD DIRECTION REGARDING ENCROACHMENT PERMITS AND REQUESTS – Kayla Dowty**

*See Engineer's Report*

#### **a) 408 Encroachment Application 22-01 Arlington Bridges Replacement – Geotechnical Boring**

Ms. Dowty was planning on requesting Board approval of this permit. However, during the USACE

field inspection on June 13<sup>th</sup>, there was boring equipment set up on the north bridge of Arlington Avenue. Tri Sage approached the boring supervisor and asked if the work had a CTWCD permit, which it did not. Tri Sage has since had multiple calls with representatives from both RTC and Jacobs to understand how this work was scheduled. Ms. Dowty advised the parties that she was not exactly sure what this meant for their permit and would be discussing with the Board and the next meeting (6/14/22) what the next steps would need to be. Ms. Dowty also reached out to former District Engineer Lori Williams to see what happens if work is done without a permit. Ms. Williams stated that she did not know and that she would consult with the Board to see how it should be handled.

Pictures were shown to the Board (available at District offices) of the equipment. The inundation maps show that the entire area that is involved is inundated at the 14,000 cfs mark. At 14,000 the water runs entirely over the park. Ms. Dowty stated that all the parties involved were aware of the requirements of a 408 permit to do this work and were very aware of the inundation limits at 14,000. 2 of the 5 borings were already completed. The borings are 6" in diameter and 100' deep. It is a temporary encroachment and obviously the reason the USACE wants to see them is they want to analyze what the ultimate permanent impact to the hydraulics to the River is, once the bore is either backfilled or not backfilled. In the application they provided they proposed to not backfill the specific bore in the OHWM because if you place fill in the ordinary high-water mark then that kicks in an Army Core regulatory permit. They got a variance from the State to not backfill, but it is Ms. Dowty's understanding that they have backfilled the 2 completed bores which should be okay as they are outside of OHWM. This was all being done while the inspection was going on with USACE. The USACE representatives were from the inspection team and not the permit team and they were happy to have Kayla handle it.

The Jacobs project manager had spoken with Ms. Dowty on Friday (6/10/22) to find out if the permit approval had been put on the agenda for the June meeting. Jacobs was advised that yes it was on the agenda for the June 14, 2022, meeting and she did not see any reason why the Board would not approve the permit to go off to the Army Corp for their review. Jacobs stated that's great because they wanted to complete the work in July, at which point Ms. Dowty advised them, there is no way you are going to complete the work in July because as the USACE has told you it is a 9-12-month permit time frame. Jacobs then stated that is crazy at to which Kayla advised that it is what it is and probably the soonest you will be able to do this work is maybe next March, if things go smoothly. The Jacobs manager jokingly said (at least Kayla thought she was) – what would happen if we did this work without a permit. To which Kayla replied well since RTC needs a permit for the overall bridge replacement that would be a really bad idea because you need to maintain your relationship with the District and the Corp.

Director Westergard – The District did have to deal with something like this at which we relied on our attorney. At that time, it was said that we have 1. enforcement authority, to shut them down and 2. to make them remove them, and 3<sup>rd</sup> which is something that is very unclear is any punitive action, which at the time attorney Bergin did not think we had punitive authority. In the instance he recalls it was a deck which the District had them remove. Does the USACE have more authority than the District?

Attorney Bergin – The quickest way and least problem for the District – notify the Corp and let them come after them. The USACE can make up their own mind. The District does not have any authority to say it's alright because this is a Corp requirement. Notify the involved parties that the District will be notifying the USACE regarding the breaching of the requirement.

Director Westergard – In notifying the USACE we can also indicate that the District is totally on board with whatever they decide to do and cooperate in whatever action they deem is appropriate. We don't want USACE to come back on the District and say we didn't do enough. If we relate to them that there was a violation here and we support whatever they decide.

Attorney Bergin - Agreed that yes, give them notice that we have turned it over the USACE.

Engineer Dowty - There are still a couple of issues still at hand. The biggest is that there is still a permit in hand. They were only 30' done with the third bore that they were stopped on and they need 100'. There is still a 408-permit application that needs to be addressed. What are we doing with that application and are we ready to push it forward to the USACE? Before this was discovered it was an easy permit. It was straight forward but now not so.

Director Westergard – I understand that and do appreciate it but do think that while we want to be consistent in how we handle these things (violations). But it also reasonable to consider that this was going to be a slam dunk easy permit and is not something that would have had to be changed. There are no obstructions.

Engineer Dowty – All of the obstruction is below the Riverbed. Permanent obstruction is limited to the

backfill that was placed in the flood channel but this would not impact channel capacity.

Director Capurro – Thinks what needs to be done is a letter indicating that Ms. Dowty found a violation in progress and that they were shut down immediately, which removes the liability for the District. Stating what they did and that the District was going to review and approve the permit to be sent onto the USACE.

Director Nevin – Is there any repercussions to Jacobs as far as notifying the State Contractors Board as to what happened?

Engineer Dowty – Another issue that needs to be resolved is that they did have a City of Reno permit to do that work. The City had given them a permit to complete the boring on the bridge. Ms. Dowty spoke with the CME project manager on the phone asking what was going on and he knew about the CTWCD 408 permit requirements. The project manager stated that they were only doing the 2 outside of the River. Ms. Dowty stated that she is standing on the bridge, and they are doing the one in the flood channel. Based on all the follow up phone calls Ms. Dowty made she believes it was generally a breakdown in communications. RTC had no idea that Geotech drillers were going to be out there. They started last week, with each bore taking about a day. 2 were completed last week and Ms. Dowty just happened to catch the one yesterday. RTC did not know but obviously Jacobs did know.

Director Westergard – Does the City of Reno do their permitting independent of us? Are we on their checklist as far as needing a 408?

Engineer Dowty – Yes, we are on their checklist, typically. This is an odd issue. Since a Geotech boring is temporary it is an odd instance. This is another follow up item – is that they cannot approve Geotech borings within the 14,000 without the District's approval. Ms. Dowty does not think the City knew that.

Director Westergard – Does not think we can process the permit at this point.

Attorney Bergin – Agrees. Cannot process until USACE weighs in.

Engineer Dowty – They knew they needed a permit. They know the 14,000 fully inundates the park. There is not a good excuse. Ms. Dowty in her call on 6/10/22 with Jacobs that the reason they are in a hurry to get the Geotech completed is to have this in hand to complete the final design so they can put their overall bridges replacement plan, permit together for the District. They are under a stiff construction start date of 2024 because they have a grant that is at risk if they don't start construction by then. On the 6/10 conversation with Jacobs Ms. Dowty suggested they do the 2 borings outside of the River, outside of the 14,000. And there are multiple bore samples that have been taken in the River add a 130% factor on the soil values and complete the design. Then next March when the actual permit from the Corp is received there will be plenty of time to firm up the design. USACE had told them that if they need to make changes to the final design pending the Geotech that was fine.

- ❖ Director Capurro made a motion that the matter be referred to the USACE, to first call the USACE to let them know what exactly happened followed up by a letter to USACE and to let the City of Reno be copied, to wait to see what the USACE decides before contacting the Board of Contractors or any other agencies that may need to be notified; seconded by Director Nevin; motion carried.

#### **b) 408 Encroachment Application 22-02 City of Reno Booth Street Sewer Siphon**

- ❖ Director Nevin made a motion to approve the 408 Encroachment Permit (22-02) and statement of no objection to go along with the documents to be sent to USACE for the City of Reno Booth Street Sewer Siphon project; seconded by Director Capurro; motion carried.

### **7. DISCUSSION AND POSSIBLE ACTION OF THE AMBROSE PARK DIVERSION AND POSSIBLE INVOLVEMENT OF THE DISTRICT – Kayla Dowty**

*See Engineer's Report*

There is still no response from State Lands as to the ownership of the diversion. Ms. Dowty is hoping to get a response from State Lands prior to contacting contractors for an estimate on what needs to be done. Ms. Dowty is going to contact the Director of the Department stating that we have not received a response from the Division Director.

**8. DISCUSSION AND POSSIBLE BOARD DIRECTION REGARDING MAINTENANCE DEBRIS REMOVAL WORK, EMERGENCY DEBRIS/DEPOSIT REMOVAL WORK AND AUTHORIZATION FOR EXPENDITURES FOR SUCH WORK –Kayla Dowty**

*See Engineer's Report*

**9. ENGINEER/CONSULTANT REPORT –Kayla Dowty**

*See Engineer's Report*

**10. SUPERINTENDENT REPORT – Ron Penrose**

Mr. Penrose was not present.

**11. LEGAL COUNSEL REPORT – Leo Bergin**

Nothing to report.

**12. SECRETARY/TREASURER REPORT – Mary Pat Eymann**

Nothing to report.

**13. PUBLIC COMMENT - None**

**14. BOARD COMMENTS AND REQUESTS FOR FUTURE AGENDA ITEMS:**

**Future Agenda Item Requests:**

- None

**Board Comments:**

- Director Baggett – There is a 4-page letter from TCID to Fernley and Fallon land owners notifying them of an election to approve of the canal outage and getting only 140 cfs out of the canal, and repayment contract for extraordinary maintenance and notice of required voter registration. Director Baggett is forwarding the letter to the Board and the letter is available at District offices.

**15. ADJOURNMENT -**

- ❖ There being no further business Director Capurro made a motion to adjourn the meeting; seconded by Director Nevin; motion carried meeting adjourned.

**\*\*The next meeting will be the July 12, 2022, at 10:00 a.m.\*\***

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Todd Westergard,  
President

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Mary Pat Eymann,  
Secretary/Treasurer