**October 26, 2016**

A special meeting of the Walker River Irrigation District (WRID) Board of Directors was held on October 26, 2016. The meeting was called to order at 10:04 AM at the district board room, 410 N Main St, Yerington, Nevada by President Jim SNYDER.

**Present:**

Jim SNYDER President

Richard NUTI Treasurer

Bridget BANTA Secretary

Robert BRYAN General Manager

Robert MARTINEZ Water Master

Gordon DEPAOLI Legal Counsel

**Public Present:**

Gary Garms

**Public Comment:**

GM BRYAN advised the Bridgeport Rancher’s Organization water shed meeting has been cancelled and will be rescheduled to a later date.

**Roll Call:**

3 members present. Director ACCIARI and Vice President GIORGI were absent.

**Review and discussion and possible approval and/or revision of October 3, 2016 draft Revised Walker River Irrigation District Rules and Regulations Governing the Distribution and Use of Water and resolution related to Bylaws of Walker River Irrigation District.**

Counsel DEPAOLI advised he would like to walk through the changes as a result of the September 14, 2016 meeting. He sent a compare copy of the changes made. The copy is included in the packet. He advised he will walk through it and let the board know what has changed.

**Background**

The Background is the first 2.5 pages. Counsel DEPAOLI advised this is the information on the district on the C-125 action, the role of the Chief Deputy Water Commissioner and the Board of Water Commissioners. Page 2 has the categories of surface water rights within the district including supplemental storage, decree water and Newlands water. This also includes information on the reservoirs and how the stored water is apportioned. At the end of the background section is information on the district well. Treasurer NUTI stated he likes the information in the background portion. It provides a better understanding as to why things are the way they are. Director LITTLE agreed it is good information. Treasurer NUTI advised on page 3 paragraph 2 there is an error. It states 89.612 acre feet and it should be 89,612 acre feet. Director NUTI requested to clarify the meaning of the wording, “the benefits of this groundwater right have never been apportioned.” Treasurer NUTI requested to know if the aforementioned water could be used on land with primary well water rights. Counsel DEPAOLI advised he cannot completely answer the question, but both permits have a legal description of the acres that the water can be used. He believes it could be used for all the water righted land in the district. Counsel DEPAOLI advised he does not know for sure if it covers the lands with primary water rights. He assumes it is only allowed to be used on surface water righted land. Director LITTLE requested to know what would prompt a question such as this. Director NUTI gave an example stating he has some lands that have primary well rights that he could put physically put ditch water on them. He is wondering if he is breaking the law by putting permit water on it. Director LITTLE advised it would seem right that the permit water would be able to go on those lands. He questioned the difference of putting extra water in the well ground and putting in a primary recharge ground. Counsel DEPAOLI advised there is a permit process for that through the state engineer. WRID would have to check if the description of the permit use does cover that portion of the land. Director LITTLE advised there has been talk of WRID putting in a recharge well in Smith Valley for the surplus years and advised he didn’t think there is anything wrong with that process. GM BRYAN advised to determine what area the permit covers, the Department of Water Resources is incorporating the description with their maps. This will help once they have it all mapped out and then it would be an appropriate time to change something regarding the permit. We can ask Reed with Department of Water Resources when he is here November 7, for the regular board meeting. Director LITTLE questioned whether the state has and say so on the permit water. GM BRYAN advised the permit comes from the state.

**Preamble**

Counsel DEPAOLI advised the preamble is pretty much the same.

**Regulation No. 1**

**DEFINITIONS**

Counsel DEPAOLI advised this section now has all definitions into a single section and have added a few. They used to be in number 14. Everything in green was there before and the blue parts are new. Most were added to define things such as Chief Deputy Water Commissioner, ditch rider, decree waters, etc. Treasurer NUTI had a question regarding “f” and “g”, Change Application and Change Petition. He asked if WRID, with the case pending in court, is being put in a bad situation by having regulations saying WRID will be sending water to Walker Lake. Counsel DEPAOLI advised the regulation is pretty clear on how far WRID is going as of now. With the new additions regarding permanent changes within district boundaries. Treasurer NUTI advised the definition says the water is going to Walker Lake. Counsel DEPAOLI advised Regulation 14 is a one year temporary demonstration program. It is not making any okay or not okay on any kind of permanent change. Anyone who wants to make anything permanent would have to go through the California State Water Resources Control Board change process which will require a full blown environmental impact statement to make that change on a permanent basis.

Definitions are all in a single session. We have added new definitions to the section. Treasurer NUTI requested to know if the judge comes back with a decision that the permanent change cannot happen with the transfer, is WRID open to more law suits stating the district has already allowed it once. Counsel DEPAOLI advised that would not be the case, whatever the judge decides will be. President SNYDER requested an explanation of the definition location. Counsel DEPAOLI advised the definitions used to be located in Regulation 14 on page 18. It was limited strictly to the temporary change to Walker Lake under Regulation 14. Counsel DEPAOLI wanted to be able to refer to change application both in regulation 14 and new Regulation 6A which is the one allowing permanent changes within the boundaries of the district but only for continued irrigation like the process Bryan Masini went through this year. Letter “F” only refers to permanent transfers within the district and “G” is in reference to the temporary transfer.

Director LITTLE referred to Regulation No. 12. He advised he had a problem with the wording, “The rotation of decree water is encouraged and recognized as beneficial, however, only that water which is available and of the same or senior in priority may be rotated during any one period, and may not be used on New Land or Non-Water Right Land during the rotation period in which one is entitled to the water.” Water Master Martinez and Counsel DEPAOLI both stated that wording came straight out of the C-125 decree action. Director LITTLE advised he thought it was “like waters.” Counsel DEPAOLI advised there is a difference between “like waters” and “senior priority.” Counsel DEPAOLI explained if the priority is set at an 1882 and someone with an 1884 wants to be in the rotation, that user is not supposed to be able to be put in the rotation of senior water right users unless their priority year is being served. Per Water Master Martinez, the wording came from paragraph 13 on page 72 of the decree.

Water Master Martinez questioned why NFWF is identified as a definition. Counsel DEPAOLI advised this definition was included because of Regulation 14 and NFWF needs to be identified. He advised he could move it back to Regulation 14, which could be temporary, instead of putting it in a more permanent location. Water Master Martinez required to know what happens to the lands that are stripped of the water being transferred to other non-water righted land. Counsel DEPAOLI advised that land is called Excluded land. Director LITTLE requested to know if you can move storage from Yerington to Smith. Counsel DEPAOLI advised single season transfers are allowed to a point and time. WRID has run into a few situations where there has been actual been some permanent transfers from East to West and West to East. GM BRYAN advised it can happen on a one year temporary exchange depending on the water season and the reservoirs. It was allowed up to a certain date. Counsel DEPAOLI advised if this is going to be allowed on a permanent basis, there will have to be stipulations where it may say they have some storage water on the East from the West or vice versa, however it may be undeliverable depending on the pools. Counsel DEPAOLI advised whatever WRID allows to happen, we have to make sure the assessment base stays the same. Director LITTLE advised Jeff Dengel with NFWF stated at a meeting NFWF is nearly at the halfway point in the water they are purchasing. He advised he understood they could only buy a certain amount of water. Counsel DEPAOLI advised Dengel was talking about the objective NFWF had and there was no agreement. They could still purchase more water at a later date if it is decided they need more. It was only a self-imposed limit. Director LITTLE was under the impression there was an agreement between WRID and NFWF regarding the amount of water they could by. Counsel DEPAOLI advised that was not the case. Treasurer NUTI advised he believes it is all based on money and if they can get more money, they will continue to buy more water. Gary Garms requested to know if there was going to be a leasing program. He advised the 5 year lapse is a couple months away from the expiration of the leasing program. Garms requested to know if the funds were still there. GM BRYAN advised there is still $17 million dollars sitting there. Garms asked what would happen if someone wanted to sign up two weeks from now to lease their water. Counsel DEPAOLI advised that is not the case. The court has said WRID cannot proceed with the program on both decree and storage water. No one would be allowed to sign up as the court has stopped the process.

**Regulation No. 2**

**LAND DIVISION AND RECORDS**

Counsel DEPAOLI advised the addition in Regulation 2 is the regulation dealing with people subdividing land. The draft of the regulation has been added at the beginning of Regulation 2. This puts a process in place to ensure people dividing land don’t put more burdens on the district to make the delivery of water more difficult. Director LITTLE advised he thinks the regulation looks good. Gary Garms advised when you have a canal 12 miles long does that apply to new diversions in the canal. Counsel DEPAOLI advised he believes so. Garms advised the user would have one takeout instead of multiple takeouts. President SNYDER confirmed this regulation would limit the takeouts if a subdivision occurs. Counsel DEPAOLI advised the regulation would limit any new takeouts for a subdivision. If someone subdivides the land into 4 different parcels, there would still only be one takeout and it would be up to the land owner to figure out how to get the water to their parcel from that one takeout. Counsel DEPAOLI advised the idea is for the district to decide one way or the other on any division of land. President SNYDER advised it seems the district may be intruding on the rights of the ditch company. The ditch companies should have a regulation like this in place. GM BRYAN advised the current procedure in any boundary line adjustment or parcel subdivision, before the county will sign off on any changes, the mylar copy of the map has to come to the district to be signed off. GM BRYAN advised he would notify the ditch company of any kind of changes affecting the ditch prior to signing off on that map. Counsel DEPAOLI advised he can add a provision to 2.1.5 requiring WRID to talk with the ditch company when subdivisions occur. This would require the district to talk to the ditch company prior to signing off on the changes. GM BRYAN advised because of past issues on the Campbell, the county added WRID’s signature to the mapping process. There are actual buildings on the Campbell easement, and that posing major problems. With the protocol, prior to GM BRYAN being employed to the district, the county must have WRID’s GM signature before the county can sign off on any new changes to maps. President SNYDER advised he believes there needs to be something added to 2.1.5 saying something to the effect, WRID will not take any position until GM BRYAN has met with the ditch company. GM BRYAN advised that is currently standard procedure and can be added in the regulation. Treasurer NUTI asked where the ditch companies go when they have a problem. GM BRYAN advised they come to him and the district. Treasurer NUTI confirmed letter “c” was already in effect. GM BRYAN advised that is already standard procedure. He also asked, regarding “d”, what role the district has in the water conveyance and delivery system. He asked after WRID has delivered to the gate, does WRID have any responsibility past that gate and does this section open the door for WRID to be responsible for the delivery past the gate. Counsel DEPAOLI advised this section is written to avoid that very situation. The provision is not intended to have the district be responsible for the water after the delivery to the gate. The word “may” is used where the district makes the decision. GM BRYAN advised that would not be a ditch company problem because it would be a private ditch once it is past the takeout. Counsel DEPAOLI advised 2.1.4 and 2.1.5 use the word “may,” which means we don’t have to if we don’t want to. There are two different ways to get at the same problem. 1: WRID can employ someone to do it and charge the user for it. 2: WRID can require the user to form a user association and WRID will only talk to the head of the association regarding where the water gets delivered and after that, it is the association’s problem. President SNYDER advised he has a problem with 2.1.4 and thinks WRID should have just 2.1.5. They should have to have a water user’s association. GM BRYAN advised he still goes back to what Treasurer NUTI said that at the end of the day, where do the ditches go to when there are issues. They come directly to GM BRYAN and expect issues to be fixed. President SNYDER suggested the directors come back to that at a later day.

**Regulation No. 3**

**BASIS FOR CHARGES**

Counsel DEPAOLI advised this regulation is the same as before. Water Master Martinez requested to know if the annual charges are by calendar year. Counsel DEPAOLI advised it is by fiscal year and that wording should be clarified in Regulation No. 3. Counsel DEPAOLI advised he will probably add something in the BACKGROUND section regarding the district operating under the fiscal year. Treasurer NUTI asked to go back to section 2.4. “…written authorization signed by the owner authorizing the lessee to order and use the land owner’s water must be filed with the District by the said land owner prior to any such order or use.” Treasurer NUTI requested to know if that had to be done annually or if it can be on a long-term basis. President SNYDER advised he has been told he needs to bring in written permission for the lands/water he is leasing. Secretary BANTA advised the written permission or copy of the lease needs to be on file with WRID.

**Regulation No. 4**

**DISTRICT OFFICE HOURS**

Counsel DEPAOLI advised the change in Regulation No. 4 is what we talked about at the last special meeting. The change allows the board in its meeting in February, what the hours are going to be during the irrigation season and at the meeting in October, what the hours will be in non-irrigation season.

Director LITTLE stated he thought that was good.

**Regulation No. 5**

**ORDERING OF WATER**

Counsel DEPAOLI advised 5.1 states it is the Chief Deputy Water Commissioner who distributes the water and this is how the orders get to him. Section 5.6 is in regards to adjustments to water. The orders shall be in cubic feet per second (cfs) and there is a blank regarding how many hours will be allowed. Treasurer NUTI had a question regarding section 5.9 on the notice of turn-offs. He requested to know if there could be an exception in emergency situations such as a possible breach. Counsel DEPAOLI advised that would be a good addition to have on section 5.9. GM BRYAN suggested to put 24 hours in the blank for section 5.6 and 5.9. Treasurer NUTI agreed with that time frame so the proper calculations can be made when water is ordered from the reservoirs. Water Master Martinez advised he agrees with 24 hours notice on section 5.9. This section was made to avoid the problems when someone turns off and doesn’t tell anybody and gives time to maybe do something else with the water. Gary Garms requested a translation to section 5.7. Water Master Martinez advised if your ditch can only handle 20 cfs and you want to order 30 cfs, you will only be allowed to order the 20 cfs. President SNYDER asked about the wording in section 5.9, “…prior oral notice to the Ditch Rider, the River Rider, the Chief Deputy Water Commissioner and the District.” President SNYDER suggested it say “or” instead of “and.” This would eliminate 4 separate phone calls. Counsel DEPAOLI advised he can word it ,”…prior oral notice to at least one of…” President SNYDER and GM BRYAN agreed with the wording.

**Regulation No. 6**

**IRRIGATION SEASON CHANGES TO STORED WATER**

Counsel DEPAOLI advised this is more up to GM BRYAN on when the transfers should be presented to him. Secretary BANTA advised the transfers are presented to each board meeting from the first of the month through the last day of the month and the board meeting is at least 7 days after the last day of the month. Water Master Martinez requested to know if Secretary BANTA discussed transfers with GM BRYAN if they seemed out of the ordinary. Secretary BANTA advised it was. President SNYDER advised he doesn’t see a reason to change the current practice. He advised it should be written in the section regarding a report provided at each monthly board meeting to be approved. Treasurer NUTI confirmed the current process is to fill out a form with a signature and that practice will not be changing. GM BRYAN advised that process will not change. Counsel DEPAOLI advised he would take out that section and put in some wording the General Manager will approve the transfers and then provide a report at each board meeting. GM BRYAN advised Secretary BANTA puts together a report prior to each board meeting and brings in the actual signed transfer requests available for the board to review. Treasurer NUTI had a question regarding section 6.1. He advised the wording is, “Changes which involve an exchange of water from Bridgeport Reservoir to Topaz Reservoir (East Walker River to West Walker River, or Main Walker River to East Walker River or to West Walker River)…” The wording should include West Walker River to East Walker River as well. Counsel DEPAOLI advised he would add that. Counsel DEPAOLI advised in section 6.5 there was a question if you can moved stored water to land that did not have any water rights. An example would be someone who had a primary groundwater right or no water rights at all and purchased stored water, they would be able to use the stored water on that land. Director LITTLE advised he thought that should be allowed. He advised any movement of water should be allowed. Treasurer NUTI advised if that is allowed, WRID would be infringing. Gary Garms advised it was very clear in the hearing that primary stand-alone water rights to these lands have no opportunity to acquire water. Counsel DEPAOLI advised this would be a temporary move for each season. It would not be permanent. Treasurer NUTI confirmed there is no issue putting permit water on his primary water righted ground. Counsel DEPAOLI advised that is correct. Treasurer NUTI questioned if he has a piece of ground with no water rights and piece that does and for one season he wants to put water on the non-water righted ground, does he have to dry up the other piece of ground to use the non-water righted ground. Director LITTLE stated he thinks you would not have to dry up the other ground as long as the user stays under the 4.0 duty. Treasure NUTI advised Jim Weishaupt had it brought to his attention years ago in Washington D.C. when he was asked why he was allowing the district to irrigate non-water righted ground. Treasurer NUTI questioned how the district is going to explain irrigating non-water righted land. Director LITTLE asked why it would matter as long as the user does not go over the 4.0 duty. Gary Garms stated the water cards are very specific on what ground will be irrigated with the appurtenant water. The legal description is very specific. Counsel DEPAOLI advised the Federal Court in the administrative rules gave the district the authority to use the stored water on any lands within the district boundaries. Gary Garms questioned whether there is a process to go through. Counsel DEPAOLI stated this is the process in this section stating the user will fill out an application. Treasurer NUTI requested how we would argue in court when the tribe sues WRID because WRID has expanded our acreage. Water Master advised WRID is responsible for checking all the temporary changes that there is not a net increase on irrigable lands. Treasurer NUTI explained there are some users who have 1000 water righted acres and are irrigating 1100 acres. Water Master Martinez stated that is an increase of irrigable acres and that should not be allowed. Treasurer NUTI agreed and asked how we make sure irrigable acres are not increased. Counsel DEPAOLI advised WRID may be expanding acres but we are not expanding water use. He advised one of the issues not addressed that complicates things further is if there should be a provision that no one will be able to transfer a stored water right if the result is they are going to pump more water out of a supplemental ground water right. Treasurer NUTI asked how that would be patrolled through WRID. GM BRYAN stated it is going to be hard to track where the water would be used if allowed to temporarily move the water to non-water righted ground. Director LITTLE advised he doesn’t think the district should get involved with whether a farmer will be allowed to transfer it to non-water righted ground. Counsel DEPAOLI advised the current rules and regulations state the board can allowed stored water to be moved as long as the manner of use doesn’t change and as long as it is not used outside the district’s boundaries. Treasurer NUTI explained if he has 800 water righted acres and he decides to farm 40 non-water righted acres and the state engineer uses the satellite imagery to see he has expanded his acreage to 840 acres farmed, he believes he would be in violation of expanding irrigable acres. Counsel DEPAOLI advised if the regulation allows that, then the user would not be in violation as long as the user is not using any more water than allocated or allowed with the 4.0 duty. GM BRYAN advised his only concern is the District still has to convey the usage accurately to the state engineer. If users are irrigating non-water righted land, there is not a card providing the information regarding where the water is being used. There would have to be a description as to where the water is being used. GM BRYAN advised TCID has changed their usage to “on farm.” Users own 300 acres and only 150 are water righted, but as long as it is used somewhere on the 300 acres, it is considered “on farm” usage. GM BRYAN stated the WRID office must be able to track exactly where the water is used.

**Regulation No. 6A**

**PERMANENT CHANGES TO STORED WATER FOR IRRIGATION USE WITHIN THE DISTRICT**

Counsel DEPAOLI advised this presents the question in 6A.2 regarding permanently moving stored water from the West to the East or East to the West.

**BREAK 12:25-12:32**

President SNYDER called for a break.

The meeting reconvened at 12:32.

**Regulation No 6A continued**

Counsel DEPAOLI advised the issue is if the supplemental storage right is being permanently transferred, does the decree have to be moved as well. Director LITTLE stated he believes it should have to move together because the supplemental storage would not be there without the late decree year. Legally, there isn’t a link in the decree or the California reservoir permits that say the storage must stay. There is nothing in the decree that prohibits a user from moving decree water to the new place of use. Counsel DEPAOLI stated the change in stored water that continues to be used as irrigation within the irrigation district. Director LITTLE requested to know if WRID allows the permanent transfer of storage rights at this time. GM BRYAN advised a permanent transfer is allowed as long as it’s within the District boundaries and the board approves it. Counsel DEPAOLI advised the federal rules say WRID should have rules and regulations in place to deal with the transfer of supplemental storage rights. He believes if we say on one spot WRID is not going to allow a transfer of a supplemental storage right without also moving the decree, that is not going to put WRID in a position that requires the board to allow NFWF to move the storage to Walker Lake. This is just in regards to irrigation use within the District. In the past, if someone moved a decree right with supplemental storage, prior to administrative rules set in court, the board would wait on the state engineer’s office to decide and then move the supplemental storage when it was approved. President SNYDER requested to know if these transfers could affect another water user. Counsel DEPAOLI advised it could affect another user. Director LITTLE suggested to keep the procedure the same as it is now. GM BRYAN advised he believes the current procedure works well and he would rather not change the procedure. Treasurer NUTI requested to know why the WRID Board in the lead with NFWF to transfer decree water. Counsel DEPAOLI advised he cannot speak for the board, but the deal made to transfer the decree water is good and is going to happen. If anyone thinks WRID is going to keep NFWF from ultimately transferring some quantity of decree water to Walker Lake, they are ill advised. Treasurer NUTI asked why the Federal Board was not in the lead on the transfer. Counsel DEPAOLI advised that is not the Federal Board’s role. They were offered the opportunity to sign onto the stipulation and they didn’t think it was an appropriate thing for them to do. Treasurer NUTI asked why the WRID Board, who deals with storage water, come up with the stipulation for decree water transfer. Counsel DEPAOLI advised it was decided because WRID had protested the change application NFWF filed and as it protested WRID could reach an agreement with NFWF. Director LITTLE stated the fact that the WRID Board protested, gave the board a place at the table to negotiate and come to an agreement. Treasurer NUTI stated he knows water is going to go to Walker Lake. He asked if WRID has any say in the permanent transfer for the supplemental storage to the decree. Counsel DEPAOLI advised California is not going to process a change with the transfer of Bridgeport to Topaz unless WRID is there with whoever is wanting the transfer. That process will involve a full blown environmental impact statement with the state of California. Treasurer NUTI confirmed if the judge decides the decree water can flow to Walker Lake, the supplemental storage could be held up for years until the change is filed and the environmental impact statement is completed. Counsel DEPAOLI advised that was correct. Treasurer NUTI asked if the board has the authority to deny the request to move the supplemental storage outside of the District boundaries if the decree is allowed to flow to Walker Lake. Counsel DEPAOLI advised the District has the authority to decide to apply for the requested change or not. Treasurer NUTI asked what happens when people start saying the supplemental storage to decree has priority over Newland storage water rights. Counsel DEPAOLI advised the stored water has the same priority across the board. Treasurer NUTI stated there are farmers who say their supplemental storage right has priority over Newland water rights. Director LITTLE advised the supplemental storage does have priority over the Newland water rights if you are talking ditch capacity. Counsel DEPAOLI advised that was correct. Treasurer NUTI confirmed if the decree holders on the Saroni Canal pulled together and put their supplemental storage to the ditch capacity, he would not be able to get his storage water in the ditch because the decree holders have supplemental storage. Director LITTLE advised that is how it works and it has happened on his ditch.

**Regulation No. 9**

**IRRIGATION SEASON**

If the underground and certificated water ever gets approved at the state engineer level, then WRID can change the season to whatever the changes are. He looked at the California rights for the two reservoirs and there is no specific season of use in those permits. Historically it has been April 1 through October 31. This gives the board the flexibility to change the dates in March. Treasurer NUTI confirmed decree specifies dates March 1-October 31. The certificated water doesn’t give a date. Counsel DEPAOLI advised the certificated water has a date of May 1-July 31. GM BRYAN advised the board requested to change the dates due to global warming. The flood waters could come earlier than usual and the certificated rights could be changed to April. Director LITTLE suggested the dates changed to April or March 21. The state engineer has to change the dates on the certificated water. Treasurer NUTI stated he is not against moving the storage usage start date to March 15, however he is against moving the end of the season date to anything later than October 31. He confirmed the allocation is set the first meeting in March. GM BRYAN advised that is correct. WRID stores water all the way through March 1. Counsel DEPAOLI advised there is no reason WRID would have to wait until March 1 to make an allocation. There is always a re-allocation option down the road. Director LITTLE would like to see the storage season to the 15th of March. Counsel DEPAOLI advised there does not have to be a fixed date set. President SNYDER advised this discussion should be delayed to a later date.

**Director’s Comment:**

None

**Public Comment:**

None

Director LITTLE made a motion to adjourn the meeting. Treasurer NUTI seconded the motion.

Meeting was adjourned at 1:04.

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Jim Snyder, President David Giorgi, Vice President

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Richard Nuti, Treasurer Dennis Acciari, Director

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David Little, Director