

**FRESNO IRRIGATION DISTRICT  
MINUTES OF THE SPECIAL MEETING  
HELD OCTOBER 14, 2014**

Fresno Irrigation District's Board of Directors met in special session at the District office located at 2907 South Maple Avenue – Fresno, California, on October 14, 2014. Meeting was called to order at 5:00 p.m. by Board President Ryan Jacobsen.

**DIRECTORS PRESENT**

President Ryan Jacobsen  
Vice President Steven Balls  
George Porter  
Gregory Beberian  
Jerry Prieto, Jr.

**DIRECTORS ABSENT**

None

**STAFF PRESENT**

General Manager Gary Serrato  
Assistant General Manager Bill Stretch  
Chief Engineer – Special Projects Laurence Kimura  
Watermaster Jim Irwin  
Controller DeAnn Hailey  
Director of Human Resources September Singh  
Staff Engineer Adam Claes  
Recording Secretary Lynn B. Rowe

**OTHERS PRESENT**

FID's Legal Council Gary Sawyers  
Provost & Pritchard Consulting Group Representative Ron Samuelian  
Provost & Pritchard Consulting Group Representative Kevin Johansen  
Members of the Public and Area Landowners

**REVIEW AGENDA**

There was no change to the agenda.

**REVIEW OF FUTURE MEETINGS**

There were no changes to the future meeting dates. President Jacobsen reminded the Directors and Staff that the regular meeting for October will be held on the 21st.

**PUBLIC PRESENTATIONS**

None given at this time.

**POTENTIAL CONFLICTS OF INTEREST**

**(Any Board Member who has a potential conflict of interest may now identify the item and recuse themselves from discussing and voting on the matter.) [FPPC §87105]**

None stated.

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Director Beberian stated with the number of people in attendance he wanted to ensure that everyone has an opportunity to speak. He also stated that he wanted to make a motion to rescind the policy of limiting 15 minutes of discussion per topic. The other Directors did not feel a motion was necessary and President Jacobson responded by saying that the situation would be assessed when it became appropriate. Mr. Serrato stated that everyone who wanted to make a comment would have the opportunity to do so.

**MANAGER'S REPORT**

Items 5 a. and b. were presented together by Staff.

- a. Review of Senate Bill X 7-7**
- b. Proposition 218 Election Discussion**

Mr. Serrato gave a brief overview of the three topics that will be discussed and that Staff members and FID's consultants would jointly present the information. Mr. Kevin Johansen of Provost & Pritchard Consulting Group was introduced to the Board. Mr. Serrato stated that Mr. Johansen has extensive knowledge of both SBx7-7 and Proposition 218 and would help answer any questions regarding them.

Mr. Serrato stated he would provide the information on the Gould / Friant Kern Canal Intertie and also wants to clear up any misconceptions about a pipeline being built from Pine Flat Dam to the Friant-Kern Canal. He stated there are no plans to build a pipeline from Pine Flat Dam and did not have any idea how the rumor was started.

Mr. Serrato stated that the Fresno Irrigation District General Fund Budget has been operating in the deficit for the past two years. The General Fund deficit will continue to increase every year the District delays the Proposition 218 election.

**Proposition 218 Election**

DeAnn Hailey, Controller – reviewed the historical rates and classification for FID prior to the 2005 Proposition 218 election and the increases from 2005 through 2010. Ms. Hailey explained how the voter approved increase paid for general maintenance of the canals and pipelines. Ms. Hailey also demonstrated the difference between the per-acre water service assessment rate and the rate of inflation. Over the years, the District has implemented cost saving measures and spending cuts. The District has saved approximately \$300,000 by implementing 1) a hiring freeze (six unfilled positions); 2) additional cost cutting measures by deferring some canal maintenance; 3) fuel savings due to the drought-driven shortened water delivery season; and 4) the reduced amount of purchased / applied aquatic weed control.

Ms. Hailey showed the projected budget shortfall for years 2015-2019 (using a 2% calculation rate of inflation per year). In 2015 the shortfall is projected to be \$445,000, in 2016 it is expected to be \$857,000, and going forward from 2017 it is anticipated to be over \$1 million.

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Bill Stretch, Assistant General Manager – reviewed the layout of the District by stating it has 680 miles of canals and pipelines (360 miles of pipeline and 320 miles of open channel). Mr. Stretch explained the following costs for pipeline replacement:

- Pipelines over 40 years old – 217 miles at a cost of \$145 million;
- Pipelines over 50 years old – 156 miles at a cost of \$90 million; and
- Pipelines over 60 years old – 103 miles at a cost of \$44 million.

During the past seven years (2007-2014), the District has replaced almost 11,000 feet (2.06 miles) of pipeline. During the same timeframe, the District also completed \$23,378 million worth of pipeline, lining/rodent barriers, regulating structure and devices, measuring structures and devices, basins, trashrakes, canal structure, and right-of-way levees / encroachments improvements. A portion of the improvements (\$9.4 million) were paid for from outside funding (grants and contributions).

During the next three years (2014-2017), Staff plans on several capital improvement projects such as basins, continuation of lining/rodent barriers (repairs/replacement), regulating structures and devices, trashrakes, canal structures, right-of-way levees / encroachments, and other District-wide improvements at an estimated cost of \$2.5 million (not including any outside funding of grants or other contributions).

Laurence Kimura, Chief Engineer – presented the history and details of Proposition 218.

- Constitutional Initiative approved by California voter in November 1996;
- Amended CA Constitution by adding Article XIII C and XIII D;
- Constitutional Amendment governs over State statutes and local governing acts;
- Applies to cities, counties, special districts (including FID), schools, college districts, redevelopment agencies, and regional organizations;
- Imposed restrictions on local agency taxes, assessments, fees, and charges; and
- Limited local government revenue generating powers and enhancing taxpayer consent.

Proposition 218 affected: property-related fees (non-property related taxes were not affected); shifted power of taxation from elected governing boards to property owners; courts have upheld that water fees and charges are subject to the requirements of Proposition 218; and locally limits how the District can raise its revenues.

**Section 4 (Requirements)**

- Applies to any levy or charge upon real property by agency for a special benefit conferred upon the real property;
- Provides special benefit – a particular and district benefit over and above general benefits conferred on the property or public at large;
- Estimated amount of special benefit (detailed engineer's report required);
- Proportionality of total cost – ballots are weighted according to proportional financial obligation of the affected property;
- Mail notices and hold a public meeting;

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- Election of property owners by mail-in ballots (must be supported by 50% or more of weighted ballots);
  - SB 321 Clarified Section 4 Requirements
    - Ballot envelope (must be printed with “OFFICIAL BALLOT ENCLOSED”);
    - Ballot must contain the following: total amount, parcel amount, duration, reason, basis, and public hearing;
    - Tabulation of ballots must be done in public view by outside party;
    - Preservation of ballots must be for a minimum of two years.
  - Engineer’s Report
    - Prepared by registered professional engineer certified by the State of California;
    - Must substantiate special benefit and proportionality;
    - Special Benefit – a particular and distinct benefit over and above general benefits;
    - Assessment cannot exceed reasonable cost of special benefit; and
    - Proportionality – proportional to the special benefit conferred on that parcel.

**Section 6 (Volumetric Charges)**

- Not exceed cost to provide service;
- Not exceed proportional cost of service attributable to parcel;
- Not used for any other purpose;
- Not imposed unless that service is actually used or immediately available;
- Written notification – amount of fee/charge, basis of fees/charges, reason for fees/charges, and date, time, and location of public hearing;
- Hold public meeting (not less than 45 days after notice); and
- Reject if opposed by majority of affected property owners (un-weighted one protest per parcel).

**Senate Bill X 7-7**

FID has approximately 4,000 turnouts that will need to be metered to meet the requirements of SBx 7-7. Each meter will need to be routinely maintained and read at least monthly. Additional costs to the District will include the purchase of software for tracking water usage and Accounting Department personnel will need to be set up to bill customers for volumetric charges.

Kevin Johansen, Provost & Pritchard Consulting Group – reviewed requirements of SBx7-7 (Water Conservation Act of 2009):

- SBx7-7 requires that an Agricultural Water Management Plan (AWMP) be developed by any irrigation/water agency that supplies water to over 25,000 irrigated acres of land. The AWMP was required by December 31, 2012; updated plan is due by December 31, 2015; and every five years thereafter;
- USBR plan was acceptable with supplemental information to DWR;

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- Every agency with over 25,000 must implement Efficient Water Management Practices (EWMPs) by July 31, 2012;
  - Measure the volume of water delivered to customers;
  - Adopt pricing structure based at least in part on volume delivered; and
  - Implement 14 EWMPs if feasible and cost-effective (i.e. lining of canals).
- If AWMPs were not implemented by July 1, 2013, an agency would not be eligible for reimbursement of grant funded projects; and
  - May be eligible for grants if the AWMP included a schedule and financing plan to implement compliance with SBx7-7.

Measurement Requirements

- Existing device must be certified to be 12% +/- accurate by volume;
- New measurement installations must be 5% +/- (lab certified device) or 10% +/- (field certified device, i.e., metergate); and
- Measurement must be made at change in point of control (generally at the farm-gate turnout).

Mr. Serrato addressed the District's shortfall of the General Fund for the last several years, the need to replace older cast-in-place pipelines, and the need to take steps to meet the requirements of SBx7-7. Mr. Serrato also reminded the Board that the District followed the requirements of Section 4 during the 2005 Proposition 218 election process.

Costs for installing the meters have been estimated:

Propeller meters installed at each location (over 4,000) and implemented over several years:

- Landowner Costs: meter, stand and cover, pipeline connections, and trash screen (at canal turnouts) \$5,000 - \$7,700 (per location); landowner total capital approximately \$23.9 million; and
- FID Costs: propeller meter and installation \$3,140 - \$3,600; FID total capital approximately \$13 million.

Staff's recommendation is to:

1. Receive direction from the Board to proceed with a Proposition 218 Election (for either the Fall of 2015 or Spring of 2016);
2. Proceed with the Engineer's Report that includes:
  - Section 4 – Land Based Assessment; and
  - Section 6 – Volumetric Charges.
3. Proceed with the completion of the Ag Water Management Report (and submit to DWR) as required by SBx7-7, to include the implementation of measurement over a ten-year period;
4. Require Staff to present Final Engineer's Report to Board; and
5. Board of Directors to determine the Proposition 218 Election date.

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President Jacobsen inquired from FID's legal counsel Mr. Gary Sawyers, how other similar districts, within the state, have handled the requirement. Mr. Sawyer stated that most districts have complied with the SBx7-7 requirements (only about 25 out of several hundred districts have not). Ramifications for not complying, besides not able to receive grant funding, is the possibility of legal action against the District (including attorney costs of other parties) and being on a publicized list supplied to the state legislature that FID is out of compliance.

President Jacobsen opened up questions to Board members. Director Porter asked how long it would take to complete an engineer's report – Staff answered that it believes it could have an engineer's report ready and brought before the Board in six - nine months. Director Porter wanted to confirm that in order to meet the requirements of SBx7-7, Proposition 218 must include Section 6 (volumetric charges).

Director Prieto asked if the AWMP that needs to be submitted to the DWR has to have volumetric fees in place. Mr. Serrato stated that as long as we have a plan in place on how the District is going to implement water measurement, it would be an acceptable plan. Director Beberian asked about the districts that are in compliance and whether they are in compliance because they have submitted their reports or because they are actually doing metering. Mr. Sawyers stated that most of them are in compliance because they are metering their water and charging volumetrically. Director Beberian also asked if the law requires an actual meter; Mr. Sawyers answered that it requires volumetric measurement. Director Beberian wanted to know if the District can even meter water taking into account the fluctuation of flows from trash and other issues in the canals. Mr. Serrato says there will be challenges but there is technology that can assist.

The public comment period opened up at 6:15 p.m.

President Jacobsen asked the audience how many individuals wanted to speak on items 5. a. and 5 b. so he could get a sense on the time needed for discussion. The approximate five to six individuals wanting to speak were asked to come to the podium to present their questions / comments.

Speaker 1 asked if FID knows the amount of water that comes out of the dam and down the Kings River and where the water goes in the District. Staff responded in the affirmative and was then asked what the difference would be between that and what the meters would calculate. Staff responded that the difference could be as much as 20-40%. It was stated that if Staff knows where the water is going, then why the District needs to install meters. Staff responded that installing meters is not their choice – it is the law.

Speaker 2 asked what the cost of water per acre foot will be and how much will it cost to install meters. Staff replied that the engineer's report will supply that information. Mr. Serrato invited the landowners to attend the meeting when the engineer's report is finished and being presented to the Board. The landowner suggested that the meetings

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be more widely noticed. Director Balls stated that the engineer's report is required by law to be constructed and presented before a Proposition 218 Election can be held.

Speaker 3 wanted clarification that the volumetric charges were in addition to the annual assessment charges. Staff answered this was correct but stated that the engineer's report will need to determine the benefits for each parcel prior to increasing assessments.

Speaker 4 asked if having micro sprinklers and the ability to meter complies with the requirements. Staff stated that they will need to research with the Department of Water Resources to determine the answer.

Speaker 5 asked if the District needs to hold a Proposition 218 Election to charge for the meter. Staff answered it does. The speaker then asked if this will be a two-part question on the ballot. Mr. Sawyers responded by stating that for a land based charge you have to vote on the Section 4 process with an engineer's report, the mailing out of ballots; and the District would have to win that election. To impose new or increased volumetric charges (Section 6) does not involve sending out a ballot but does require a public hearing to discuss the charges; after which the public is allowed an opportunity for protest. If there is no majority protest the volumetric charge can be assessed. If the District contemplates both sections, it may be beneficial to pursue them simultaneously.

Staff was asked about how big a bond and the cost of that bond would be to install meters. Staff responded by stating the engineer's report would answer those questions. The speaker also inquired how many turnout gates there are for five acres or less. Staff did not have an exact number but said it could find out. The speaker felt that it did not seem fair to charge the landowner of two acres the same amount for meter connections as for large acreage farmers.

Speaker 6 asked if similar districts to FID have published their reports; it was answered that they had. It was also asked if ballots were available as public records. Ballots are not considered open records.

President Jacobsen closed the public comments section of the meeting at 6:30 p.m. after no additional questions from the audience.

Director Prieto asked how long the "shelf life" of the engineer's report is valid. Mr. Johansen and Mr. Sawyers answered that there is no set timeframe in the legislation and it depends on if circumstances change. The implementation schedule will need to be considered as part of the report due to the amount of time it will take to install 4,000 meters throughout the District.

Director Beberian asked what the law is currently requiring. Mr. Sawyers answered that SBx7-7 requires that the District have the AWMP in place, have a water conservation / management plan adopted, ability to measure water, and implementation of volumetric charges. Director Beberian stated that the District should complete the water management report and submit it to DWR and leave it at that. Mr. Sawyers stated that

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the District would still be out of compliance without implementation of the Plan. Mr. Serrato also explained that the District has researched and spent money on trying out different meters, as well as having consultants and water agencies (i.e. Cal Poly, the DWR, and the Bureau of Reclamation) tour the facilities which gave FID Staff the opportunity to discuss our issues and the cost to implement metering in the District. Director Beberian wanted to know if the State could take any recourse against FID. Mr. Sawyers stated that the State could prevent FID from receiving any grant funds and that the District was leaving itself open to potential legal action.

Director Beberian asked the motion be split up into the three separate actions stated by Director Prieto but President Jacobsen explained that the motion had been made and seconded so it must be voted upon before any other action can be taken. After a short discussion among the Members, the motion by Director Prieto was voted upon:

**M/S/C/(Prieto/Balls)** That the Board of Directors approved that Staff should proceed with contracting with an engineering group for the development of the engineer's report including Section 4 – land based assessment and Section 6 – volumetric charges; proceed with the completion of the Ag Water Management Plan as required by SBx7-7, to include the implementation of measurement over a ten year period; and require Staff to present the final engineer's report to the Board for consideration by the following vote. (Ayes – Beberian, Balls, Jacobsen, Porter; Prieto, Jr. Nays – 0; Absent – 0; Abstain – 0)

**c. Proposed Intertie (Friant-Kern / Gould Canal Project)**

Mr. Serrato began by explaining that the District does not have the same water supply as it did ten years ago. Part of the reason is restoration practices along the Kings River (known as the Fishery Management Program) and the settlement of the litigation to restore the San Joaquin River. Mr. Serrato explained that when river restoration programs are negotiated that both water and funding is required. Because FID is the largest district in the Kings River Water Association, it also contributes the largest portion of water and funds. The San Joaquin River (SJR) also has a restoration program which includes the same two contributions. The SJR has two different classifications of water (Class I and Class II). Class I recipients are experiencing an eight percent reduction in water while Class II recipients experience a fourteen percent reduction.

In 2001, FID Staff and its Board members held a strategic planning meeting with the intent to develop a plan to address the following:

1. Solidify the Financial Position of the District
  - a. Proposition 218 Election
  - b. Water Sales
2. Storage – both surface and groundwater storage



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3. Partnerships
  - a. Irrigation Districts
  - b. Cities
  - c. Others
4. Elevate the profile of the District

FID met these goals and was successful with its Proposition 218 Election (Section 4 Land Assessment) in 2005 and implemented increases from 2005 through 2010. The election included a \$15 million bond for system improvements and the administrative office.

The District has been successful in developing four groundwater banking facilities: Waldron, Lambrecht, Empire, and Boswell (approximately 425 acres combined). FID partnered up with the City of Clovis in the construction of the banking facilities and was able to achieve this at no cost to the landowners. It was accomplished by the use of grant funds, the City of Clovis, and Proposition 50 funding. From 2005 through 2014, FID has been able to capture 133,823 acre-feet of flood water and banked the waters in the facilities. To date, 50,218 acre-feet of water has been recovered.

For the first time since Friant Dam was constructed, allocation of water for 2014 was 0% for both Class I and Class II recipients due to extremely dry conditions and the call for water from the San Joaquin River by the Exchange Contractors. Because of the water banks that FID has, the District was able to facilitated transfers, exchanges, and the sale of water from previously banked water. Mr. Serrato reviewed the revenues the District received from the sale of water and explained how they were disbursed, including USBR 9D contracts, administration building, OPEB (Other Post Employment Benefits), and water right fees.

The purpose of the proposed intertie is to facilitate in the development of additional water supplies and funding for the present and future stability of the District.

This year, the District was able to assist the USBR in supplying water to disadvantaged communities because of the zero allocation of water from Friant. By providing this water, the District received payment and additional water that was used to deliver to FID growers on the east side.

Mr. Serrato reviewed the following points of the Kings River Importation Policy (allowing water to come into Pine Flat Dam and stored (in empty storage space) for future deliveries or groundwater recharge:

- Replacement Policy;
- Kings River Pre-1914 Water;
  - 1.6 million acre-feet
- CVP Contractor;
  - FID Class II Water (75,000 acre-feet);
  - 215 Water (flood water);
  - Recovery Water Account; and

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- Uncontrolled Season.

Benefits of tying the Gould Canal with the Friant Kern Canal includes the development of additional water for future sale or use, recharge of groundwater supply, additional storage space, the recovery of flood water during wet years, and the delivery of water to disadvantaged communities.

Staff's recommendation is to:

- Proceed with the proposal from Provost & Pritchard Consulting Group; and
- To include the environmental studies and construction of intertie.

Director Beberian asked how big a pipeline is proposed and what is the cost estimate. Mr. Serrato stated an 84 inch diameter pipeline with a cost of approximately \$4 million is being proposed. The reason for the large pipeline would be to return water to Friant District when it is most needed during the summer months. Mr. Serrato assured the Board that they still have control of where the water would be delivered / sold. President Jacobsen stated that there is potential to make the canal work even during years when the District does not have its own water. Mr. Serrato also stated he sees the potential for other districts to use the pipeline as well.

Director Beberian asked what would keep the State from coming in and taking water since we will be opening up to the CVP. Mr. Sawyers gave a brief legal explanation on the State's limits of taking individual agencies' water and that it could be taken away with or without the pipeline in place. Mr. Sawyers stated the pipeline does not give the State any more access to our water than they have now.

Director Prieto stated that this would be FID's pipeline and that the District would have control over it but if the State was to take the water, it could bring in its own pumps and take it. Director Prieto also stated that it is the Board's responsibility to explore every opportunity to increase the water supply into the District and the Board needs to consider this option and any others opportunities that present themselves. The Board has the authority on all decisions regarding the sale of water.

President Jacobsen opened public comment at 7:42 p.m.

Speaker 1 would like to see water flow both ways. Mr. Serrato explained how the transfer of water would work and how water can be brought into the District by other means.

President Jacobsen closed public comment at 7:45 p.m. after seeing there were no additional comments.

Director Beberian asked if the land has already been selected or purchased for the construction of the pipeline. Mr. Serrato stated that there is no easement or purchase of land at this time and that the study will determine the best options; along with also performing the environmental studies (NEPA and CEQA) as required by law.

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**M/S/C/(Balls/Porter)** That the Board of Directors approved to proceed with the development of the study of the intertie pipeline by Provost & Pritchard Consulting and to move forward with the environmental reports by the following vote. (Ayes – Balls, Jacobsen, Porter; Prieto, Jr. Nays – Beberian; Absent – 0; Abstain – 0)

**ADJOURNMENT**

President Jacobsen adjourned the meeting at 7:48 p.m.

Submitted By,

Gary R. Serrato  
Secretary of the Board