

**Bishop Creek Water Association
Meeting Summary
November 10, 2020**

1. Opening and Introduction

BWCA meeting called to order 7:00 pm. Trustees in attendance: Gene Coufal, Mark Frumkin, Merry Armstrong, Don Kunze & Eric Tillemans. Watermaster Matt Durkee was present. Also present was Angela Scott.

2. Acceptance of the October 13, 2020 Monthly Board Meeting Summary

The October 13, 2020 Monthly Meeting Summary was accepted as written.

3. Approval of the September Financial Reports

The October Financial Report was approved unanimously.

4. Bishop Creek Precipitation, Flow, and Storage Report

SCE maintaining winter flow of approximately 50 cfs.

5. Old Business

- a. Restriction in Nelligan Ditch at Norberg/Scott/O'Brien – Board met on October 27, 2020 with Mr. Lampi, Attorney for Dee Norberg at Norberg residence. After the meeting Gene forwarded pictures from 2013 to Mr. Lampi, along with letters from historical record. Gene Coufal had not received a response from Attorney Lampi. A Findings of Fact document dated Nov. 10, 2020, on the Nelligan Ditch issue was approved unanimously by the Board (attached).
- b. Inyo County Road Department (ICRD) policy regarding street culverts -The payment check from September was lost, so another check was drafted against the BCWA bank account. The missing September check was cancelled. The board decided that the terms of agreement the ICRD was fulfilled, and that further payment was not be made at this time.
- c. Restriction in 4X Ditch @ East end of Sunrise Dr. - Don Kunze reported that the property owner has not responded so Don suggests the board send a letter to the property owner. Gene said that he would draft a letter to the property owner.
- d. Membership Reconciliation (mapping) - Maps have been marked up by Matt and given to Gene. Gene will review the maps.
- e. Aging Report – Quarterly Aging Reports, showing parcel number and amount past due, will be included in future meeting packages. Reports will be as of January 1, April 1, July 1, and October 1.

- f. Bishop Plaza maintenance and cleaning responsibility – DWP surveyors should have an investigation into Rocking W roadway ownership completed within the month.
- g. Bishop Tribe BCWA Membership? - Nothing new to report.
- h. Collection of Past Due Assessments - The effort to collect past due assessments is on hold until membership records and mapping are reconciled.
- i. Ditch Diversion Box Repair/Rebuild Work (Phase II/III):
Nothing new to report.

6. Water & Arbitration Committee Report

Nothing new to report.

7. Watermaster Report

- a. Highlands/Cherry Lane water on but will not be able to fully test until more water is available.
- b. Watterson Ditch was turned off by DWP because of flooding. The ditch was cleaned by homeowners and water was turned back on.
- c. Matt was off for 7 days - vacation. Watermaster duties were performed by Ray Durkee.

8. New Business

- a. Other (By Board or Members in Good Standing)
No new business.


9. Next Monthly Board Meeting

Dec. 8, 2020 at 7:00 p.m.

10. Adjournment

8:15 pm

Respectfully Submitted,



Eric Tillemans

Secretary

**BISHOP CREEK WATER ASSOCIATION
FINANCIAL REPORT FOR THE MONTH**

OCTOBER 2020

CHECKING ACCOUNT BALANCE	\$	14,994.69
SAVINGS ACCOUNT BALANCE		<u>44,737.36</u>

TOTAL BANK BALANCES - September 30, 2020	59,732.05
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DEPOSITS:

Customer Deposits - Into Checking	\$	-
Customer Deposits - Into Savings		216.00
Misc Refund		-
Interest Income		5.76
Transfer from Savings		<u>-</u>

TOTAL DEPOSITS	221.76
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CHECKS WRITTEN:

Water Master Pay - 863.26 X 2	\$	1,726.52
Truck Allowance - 200.00 X 2		400.00
Assistant Water Master Pay		-
Telephone		75.86
Payroll Taxes - IRS		867.51
Payroll Taxes - State		56.70
Payroll Taxes - IRS Unemployment		-
Alex Printing		-
US Post Office		-
Cal Rural Water Assoc Ins		-
State Fund - Worker's Comp Insurance		500.50
Holland & Allied - Quarterly Accounting		-
Inyo Road Dept - Labor		-
Brown's		-
Transfer to Savings		<u>-</u>

TOTAL CHECKS WRITTEN	<u>(3,627.09)</u>
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UNION CHECKING ACCOUNT	\$	11,367.60
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UNION BANK SAVINGS	<u>44,959.12</u>
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TOTAL BANK BALANCES - October 31, 2020	\$	56,326.72
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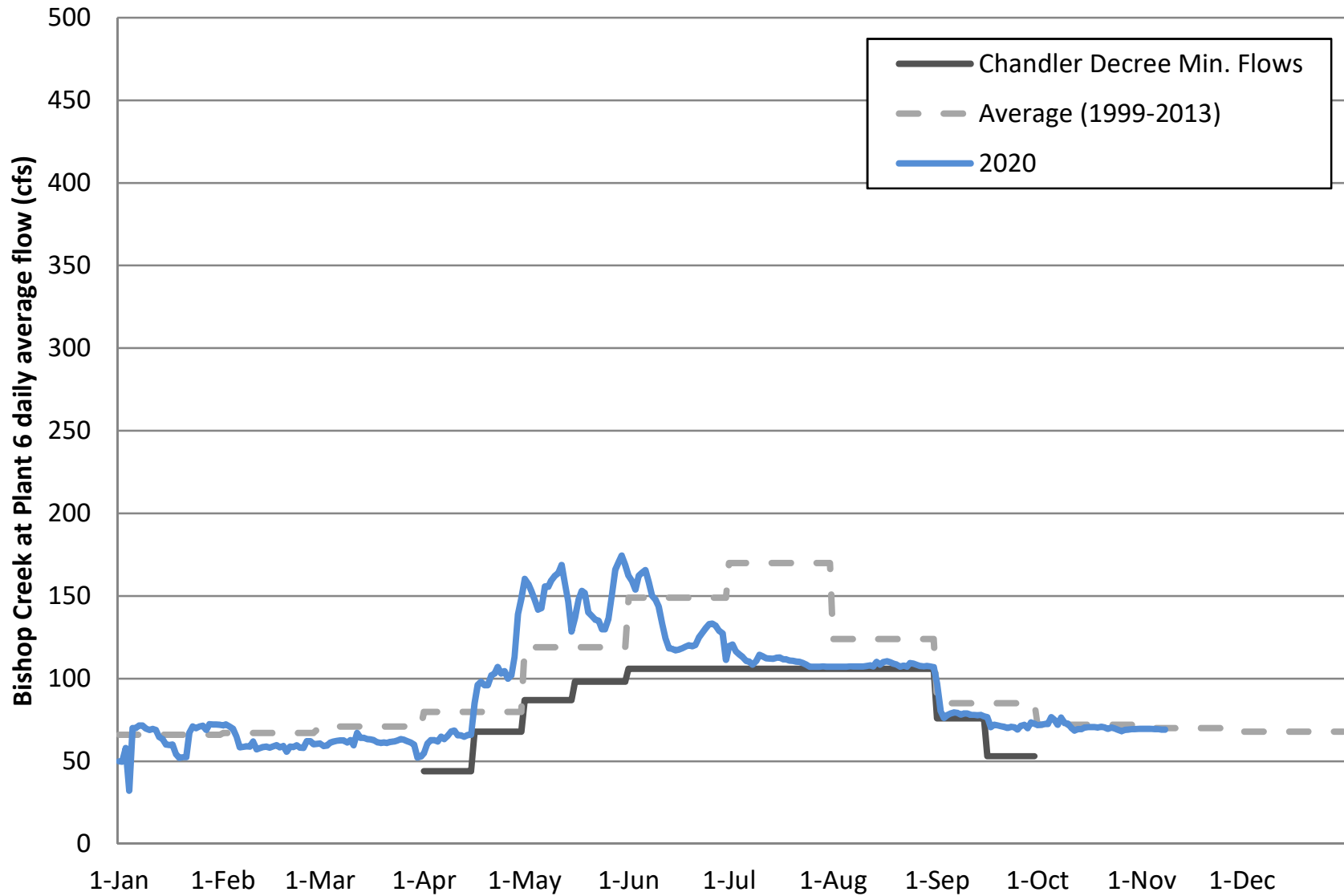
11:45 AM

11/06/20

**Bishop Creek Water Association
Customer List
November 6, 2020**

Balance	Tax Item	Account No.
217.14		11-040-10
44.00		11-192-44
136.00		11-320-56
44.00		11-530-03
176.00		11-020-07
176.00		11-120-09
48.00		11-340-13
-40.00		08-151-05
474.63		11-280-74
4.00		11-470-28
176.00		11-320-62
132.00		11-420-10
88.00		11-120-52
637.81		11-370-04
3.00		11-110-11
-60.00		11-110-41
88.00		11-020-29
4.00		11-330-04
942.01		11-320-36
4.00		10-290-01
88.00		11-490-14
132.00		11-420-03
88.00		11-120-40
176.00		11-110-39
44.00		11-192-16
40.00		11-430-24
-40.00		11-280-43
942.01		11-320-40
-10.00		11-320-39
40.00		11-191-01
-40.00		11-192-45
44.00		11-020-46
88.00		11-500-09
88.00		11-500-10
282.04		11-110-14
-10.00		11-050-35
217.14		11-090-25
44.00		11-170-06
44.00		11-410-18
282.04		11-480-07
132.00		11-110-10
-25.00		11-192-30
-300.00		11-280-21
48.00		11-460-20
254.80		11-250-14
-4.00		11-170-19
-6.00		11-280-77
48.00		11-320-05
176.00		11-090-33
217.14		11-330-43
128.00		11-510-22A
88.00		10-290-13
-2.60		11-020-43
88.00		11-500-21
88.00		11-020-42
88.00		11-330-42
-3.00		11-090-08
419.54		11-120-04
217.14		11-080-22
44.00		11-090-43
217.14		08-140-20
217.14		08-140-37
764.38		11-100-03
132.00		11-080-36
711.09		11-320-67
59.80		11-280-55
4.00		11-270-19
40.00		11-280-12

Bishop Creek Flows at Plant 6



Flow in Nelligan Ditch at the No Mountain View Rd Diversion Structure

November 10, 2020

Ditch flow in the Nelligan Ditch in the vicinity of the No. Mountain View Rd. diversion structure has been increasingly obstructed in recent years reducing the ability of the Bishop Creek Watermaster to deliver sufficient flow downstream, potentially causing damage to other users. This condition is bore out by several facts:

- The entrance to the structure has been encroached upon by the placement of materials and debris wood, rocks, concrete, dirt, screens, fencing, etc.) in the ditch channel immediately upstream of the structure. Materials have been placed in front of the opening of the control structure over the southerly approximately ½ of the opening and within several inches of the opening. This in effect increases the backwater curve, raising the water level upstream of the structure. In addition, it makes operation of the diversion more difficult pushing more water to No. Mountain View Rd. The amount of debris and materials has increased over the past approximately 8 to 10 years. The current increase in the obstruction at the site has been observed physically at the site by the Bishop Creek Water Association (BCWA) Board and can be seen historically in photos of the site taken in recent years (presented to the BCWA Board).
- In response to requests for irrigation water downstream the BCWA Watermaster has attempted to increase flow in the Nelligan Ditch at the upstream Bishop Creek Diversion Structure. This has resulted in recent calls from property owners in the vicinity of the No. Mountain View Rd diversion structure that the flow was to high and needed to be reduced. These being the only calls for reduced flow in the Nelligan ditch identify this as the bottleneck to flow system.
- Per the BCWA Watermaster, he now receives high flow complaints from property owners in the vicinity of the No. Mountain View Rd diversion structure at lower flows than as recently as a few years ago. This has restricted his ability to move as much water as he did a few years ago in the Nelligan Ditch.
- Mrs. Norberg has been notified via numerous letters in 2019 and 2020, as authorized by the BCWA Board, which are part of the written record, to have the materials/debris that is obstructing the ability to distribute water removed.

In Addition to the above:

- The BCWA By-Laws provide:
 - Article VIII, Section 2

“Any owner of real property whose property is traversed by, borders on, or has access to any stream, canal, or ditch carrying the water of Bishop Creek, and located within the boundaries as shown on Exhibit A, shall automatically be a member of this Association and shall be entitled to the benefits and burdened by the duties imposed herein. “

- Article IX, Section 4
“Each member shall keep his ditches free and clear of debris (sand, silt, rocks, grass, weeds, and trash) so that water, including waste water, may move for the beneficial use of members below. “
- Article IX, Section 5
“In the event the equitable distribution of water is impeded or interfered with causing flooding, wastage or other detriment to the flow of water to occur by reason of the refusal, inability or neglect of any member or members to remedy the same, the association may, after due notice, have the remedial work performed and the responsible member or members shall be billed therefor, at the cost of the work.”
- The Annual Water Assessment statement:
“Member agrees to comply with the rules and regulations of the Association, to reasonably manage Bishop Creek water flowing on Member’s property (including, but not limited to, removing weeds, leaves, trash, and debris from, and reasonably maintaining ditches and pipes conveying Bishop Creek Water located on Member’s property) and to change no settings on any boxes, headgates or diversion works owned by the Association which may regulate Bishop Creek Water, whether or not on Member’s property.”

Based on these facts and information the BCWA Board of Trustees hereby approve the pursuit of remedying the obstruction of flow in the southerly portion of Nelligan Ditch immediately upstream of the No. Mountain View Rd diversion so that the flow ability of the ditch can be restored and utilized as provided for in the BCWA By-Laws.

October 27, 2020

Bishop Creek Water Association
Board of Trustees
PO Box 1273
Bishop, CA 93515

VIA U.S. MAIL

Dear Board of Trustees of the Bishop Creek Water Association:

I write in response to your letter dated September 16, 2020. It appears that there are two issues to address: first, payment for the repairs that the Road Department performed on Bishop Creek Water Association's ("BCWA") Sierra Vista culvert on January 14, 2020 and second, general culvert maintenance responsibilities and your interpretation of Water Code § 7034.

With respect to the first issue, your letter states that a check for \$3,733.27 was enclosed with the letter. However, no check was enclosed with the letter, and Inyo County has yet to receive any checks from BCWA. Additionally, as noted in the invoice that I provided you, \$3,733.27 does not cover the full amount owed to Inyo County for the work that the County performed on your culvert. Your assertion in your letter that Inyo County agreed to pay for equipment is incorrect. Rather, the parties agreed that Inyo County would, as a courtesy, provide the labor and equipment necessary to repair BCWA's failing culvert. However, I was very clear that BCWA would be required to reimburse Inyo County for any expenses that the County incurred, as the labor and equipment that Inyo County provided for this project would have to come from Road Department funds. Road Department funds are protected funds that can only be expended on authorized projects. Work performed for a private organization or utility—such as BCWA—is not an authorized project. Therefore, Inyo County is obligated by law to obtain full reimbursement for all expenses that the Road Department incurred in performing work for BCWA per the agreement between BCWA and the Road Department. **Please remit payment in the full amount of \$5,391.82 by November 16, 2020 or Inyo County will not hesitate—and indeed, will be obligated—to pursue further collections actions against BCWA.**

Regarding culvert maintenance in general, Inyo County disagrees with your interpretation of Water Code § 7034. Section 7034 states in full:

*Bridges or conduits heretofore or hereafter constructed in a permanent manner, whether by encroachment permit or otherwise, which cross county highways **and which have been constructed or brought up to county standards, and have been accepted, either formally or informally by appropriate action**, shall, after such acceptance, and regardless of who constructed them, be the sole responsibility of the county, so far as maintenance, repair, improvement for the benefit of the county, reconstruction or replacement of such bridges and conduits are concerned. If any such county highways become state highways, the State shall succeed to the foregoing obligations of the county.*

Section 7034 does not automatically impose responsibility on the County for all culverts that may cross a county highway. As is shown by the bold, italicized text above, section 7034 only imposes the responsibility for culvert maintenance on the County if two conditions have been met: 1) the culvert "ha[s] been constructed or brought up to county standards" and 2) the culvert "ha[s] been accepted, either formally or informally by appropriate action." Inyo County is unaware of any documents demonstrating that the culverts that convey BCWA's water have met these conditions. Therefore, Inyo County will not be maintaining any culverts that exclusively convey BCWA's water.

Inyo County is aware, as stated in your letter, that BCWA was granted certain rights to distribute water pursuant to the Chandler Decree. However, the fact that BCWA may have been granted some rights under the Chandler Decree does not automatically impose a responsibility on Inyo County to finance BCWA's enjoyment of those rights. Rather, if BCWA wants to enjoy whatever rights it obtained under the Chandler Decree, BCWA must also assume the responsibilities associated with its rights. Those responsibilities include maintaining the culverts that convey the water that BCWA controls.

Finally, please be aware that, pursuant to Streets & Highways Code § 1480.5, I am authorized by the Inyo County Road Commissioner and Public Works Department Head Mike Errante to mandate the immediate removal of any encroachment on a county road. Prohibited encroachments include the pooling of water on a county road, which often occurs when BCWA's culverts or water features on private property are blocked or improperly maintained. Streets & Highways Code § 1483 further permits the County to impose a fine of \$350 per day on any individual or organization who the County deems to be responsible for the encroachment. Therefore, as we enter the rainy season, please keep in mind that I will not hesitate to mandate the removal of prohibited encroachments caused by either BCWA or private property owners.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Cash", written over a horizontal line.

Chris Cash
Road Superintendent and Deputy Director of Public
Works

**Inyo County
ROAD DEPARTMENT**

P.O. DRAWER Q
168 N. EDWARDS - ANNEX BUILDING
INDEPENDENCE, CA 93526
PHONE: (760) 878-0209 FAX: (760) 878-2001

To:

Bishop Creek Water Association
ATTN: Gene Coufal
873 North Main Street
Bishop, CA 93514

Invoice No: 14274

Date: 01/28/2020

Customer No: 900902

Description:

For Services Rendered DEC 2019

Please keep your backup for bill.

Page # 1 of 1

Project	Description	Quantity	Unit Cost	Unit of Meas	Total Cost
034600-TR-19-049 ROAD FUND / Sierra Vista Way	Equipment	1	650.57	Each	650.57
	Labor	1	3,733.27	Each	3,733.27
	Overhead	1	1,007.98	Each	1,007.98
				TOTAL DUE	\$5,391.82

Budget Name _____

Budget Number _____

Object Name _____

Object Number _____

Invoices Approved By _____

Date Approved _____

JE Number _____

Date _____

034600 (Project (W/ Lead Elmnts)) ORG NO: ROAD FUND
 TR-19-049 PROJECT NO: Sierra Vista Way Culvert Replacement Project
 2019 (FY 2020) DEC December
 EQP Equipment

Date	Employee	Name	Division	Activity	Equipment No	Units	Rate	Amount
12/18/2019	BRO-3152	Brown, Denver	0300	0055	06139	2.00	47.33	94.66
12/18/2019	LON-2697	Longest, Kevin	0300	0055	07002	2.00	21.59	43.18
12/18/2019	CAR-0441	Carr, Robert W.	0300	0055	07102	1.00	20.93	20.93
12/18/2019	DON-3382	Dondero, Danyel	0300	0055	08298	1.00	21.59	21.59
12/18/2019	CAR-0441	Carr, Robert W.	0300	0055	09138	2.00	47.33	94.66
12/18/2019	PLA-0485	Platt, Shannon D.	0300	0055	09953	11.00	21.59	237.49
12/18/2019	MOO-2732	Moose Jr., Gordon T.	0300	0055	10502	6.00	23.01	138.06
* EQP Subtotal								650.57

LBR Labor

Date	Employee	Name	Division	Activity	Description	Reg Hrs	Reg Rate	Ot Hrs	Ot Rate	Labor	Overhead	Equipment	Amount		
12/18/2019	BRO-3152	Brown, Denver	0300	0055	Rd/Bridge Maint - General Maint - L	10.00	49.84	1.00	38.22	536.64	0.00	0.00	536.64		
12/18/2019	CAR-0441	Carr, Robert W.	0300	0055	Rd/Bridge Maint - General Maint - L	10.00	67.71	1.00	42.08	719.19	0.00	0.00	719.19		
12/18/2019	DON-3382	Dondero, Danyel	0300	0055	Rd/Bridge Maint - General Maint - L	10.00	45.41	1.00	28.84	482.91	0.00	0.00	482.91		
12/18/2019	LON-2697	Longest, Kevin	0300	0055	Rd/Bridge Maint - General Maint - L	10.00	46.42	1.00	36.37	500.55	0.00	0.00	500.55		
12/18/2019	MOO-2732	Moose Jr., Gordon T.	0300	0055	Rd/Bridge Maint - General Maint - L	10.00	62.74	0.00	42.08	627.41	0.00	0.00	627.41		
12/18/2019	PLA-0485	Platt, Shannon D.	0300	0055	Rd/Bridge Maint - General Maint - L	10.00	81.21	1.00	54.51	866.57	0.00	0.00	866.57		
* LBR Subtotal										60.00	5.00	3,733.27	0.00	0.00	3,733.27

OVH Overhead

Date	Employee	Name	Division	Amount
12/18/2019	BRO-3152	Brown, Denver	0300	144.89
12/18/2019	CAR-0441	Carr, Robert W.	0300	194.18
12/18/2019	DON-3382	Dondero, Danyel	0300	130.39
12/18/2019	LON-2697	Longest, Kevin	0300	135.15
12/18/2019	MOO-2732	Moose Jr., Gordon T.	0300	169.40
12/18/2019	PLA-0485	Platt, Shannon D.	0300	233.97
* OVH Subtotal				1,007.98

** 2019 (FY 2020) DEC Subtotal 5,391.82
 *** TR-19-049 Subtotal 5,391.82
 **** 034600 Subtotal 5,391.82
 ***** Grand Total 5,391.82

