Bishop Creek Water Association Board Meeting Agenda November 10, 2020 7:00 pm

Meeting to be held via video conference

- Opening and Introduction
- Acceptance of the October 13, 2020 Monthly Board Mtg Summary
- Approval of the October Financial Reports
- Bishop Creek Precipitation, Flow, and Storage Report
- Old Business
 - Restriction in Nelligan Ditch at Norberg/Scott/O'Brien
 - Inyo County Road department policy regarding street culverts
 - Restriction in 4X Ditch @ East end of Sunrise Dr.
 - Membership Reconciliation (mapping)
 - Bishop Plaza maintenance and cleaning responsibility
 - Bishop Tribe BCWA Membership?
 - Collection of Past Due Assessments
 - Ditch Diversion Box Repair/Rebuild Project (Phase II/III)
- Water & Arbitration Committee Report
- Watermaster Report
 - Mtg with Chris T (Miles)
 - Other
- New Business
 - Other (By Board or Members in Good Standing)
- Next Monthly Board Meeting December 8, 2020 at 7:00 p.m.
- Adjournment

Bishop Creek Water Association Meeting Summary October 13, 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.

2. Acceptance of the September 8, 2020 Monthly Board Meeting Summary

The September 8th, 2020 Monthly Meeting Summary was accepted as written.

3. Approval of the September Financial Reports

The September Financial Report was accepted unanimously.

4. Bishop Creek Precipitation, Flow, and Storage Report

SCE maintained minimum flows per Chandler Decree through the end of September and expects to maintain winter flow of approximately 50 cfs.

5. Old Business

- a. Restriction in Nelligan Ditch at Norberg/Scott/O'Brien:
 - Mr. Bill Lampi, attorney for Mrs. Dee Norberg spoke on her behalf and stated that he sent letter. The letter was not received, so Mr. Lampi will email the letter to Gene. A meeting at the ditch structure will be scheduled when Mr. Lampi returns to Bishop.
- b. Inyo County Road Department policy regarding street culverts:

 The board sent a response letter with payment. The check was debited against the BCWA bank account (see September financial report).
- c. Restriction in 4X Ditch @ East end of Sunrise Dr.:

 Don gave the contractor information to the property owner and is waiting for said owner to contact the contractor.
- d. Membership Reconciliation (mapping):

 Matt said that he expects to finish the project by Friday.
- e. Aging Report
 - It was proposed that quarterly aging reports only showing parcel numbers be provided to the Board. This was agreed to unanimously by board.
- f. Bishop Plaza maintenance and cleaning responsibility DWP surveyors have this item on their task list.
- g. Bishop Tribe BCWA Membership?
 Issue is with the Los Angeles City Attorney's office.
- h. Collection of Past Due Assessments:
 - Waiting to move forward with item once the mapping work is completed.
- i. Ditch Diversion Box Repair/Rebuild Work (Phase II/III): Nothing new.

6. Water & Arbitration Committee Report

Nothing new to report.

7. Watermaster Report

- a. Highlands/Cherry Lane Water Trickle of water exists most days. Matt will not be able to fully test until more water is available. Item can be taken off the agenda for now.
- b. Meeting w Chris T (Miles)
 No meeting yet due to Covid-19 issues.
- c. Other 31-calls, 26-texts,

8. New Business

a. Other (By Board or Members in Good Standing) Nothing new.

9. Next Monthly Board Meeting

rin Tillomans

Nov. 10, 2020, 7:00 p.m.

10. Adjournment

7:44 pm

Respectfully Submitted,

Eric Tillemans

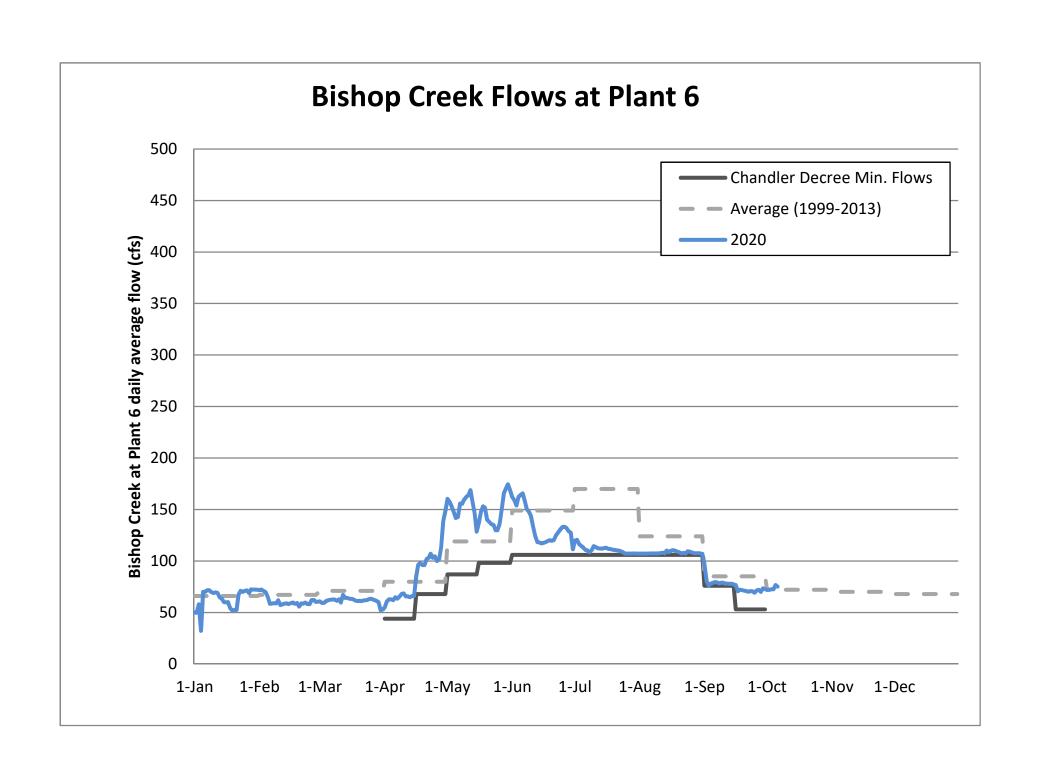
Secretary

Bishop Creek Water Association

BISHOP CREEK WATER ASSOCIATION FINANCIAL REPORT FOR THE MONTH

SEPTEMBER 2020

CHECKING ACCOUNT BALANCE SAVINGS ACOUNT BALANCE			\$	22,644.72 43,604.93
TOTAL BANK BALANCES - August 31, 2020				66,249.65
DEPOSITS: Customer Deposits - Into Checking Customer Deposits - Into Savings Misc Refund Payroll Tax Refund Transfer from Savings	\$	1,128.00 - 4.43	_	
TOTAL DEPOSITS				1,132.43
CHECKS WRITTEN: Water Master Pay - 863.26 X 2 Truck Allowance - 200.00 X 2 Assistant Water Master Pay Telephone Payroll Taxes - IRS Payroll Taxes - State Pairoll Taxes - State Cal Rural Water Assoc Ins State Fund - Worker's Comp Insurance Holland & Allred - Quarterly Accounting Inyo Road Dept - Labor Brown's Transfer to Savings	\$	1,726.52 400.00 - 75.74 - - 1,714.50 3,733.27		
TOTAL CHECKS WRITTEN	· -			(7,650.03)
UNION CHECKING ACCOUNT UNION BANK SAVINGS		\$	\$	14,994.69 44,737.36
TOTAL BANK BALANCES - September 30, 2020		\$	•	59,732.05



Gene Coufal, President Bishop Creek Water Association P.O. Box 1273 Bishop, CA. 93514

Re: RELOCATION AND REBUILDING OF NELLIGAN DITCH DIVERSION STRUCTURE

Dear Mr. Coufal:

I am compelled to respond to the misrepresentations and false statements contained in the letter dated August 17, 2020.

I. In April, the diversion structure was not only rebuilt, it was relocated to the south and downstream.

This is not a matter of argument. The photographs clearly show the relocation. As a result of the relocation, the flow of the ditch water was redirected toward the south bank and is eroding the bank and endangering the foundation of my home.

- 2. Your representations of the "historic south bank" both in the letter and in the enclosed sketch are false. What you have described as "debris" is actually the historic south bank. This is also not a matter of argument. There is a record of survey of the south bank and many photographs of its actual location in relation to the diversion structure. There is also a recorded boundary agreement acknowledging my ownership of the south bank. The fencing and supportive materials are there to protect the bank and my property.
- 3. The fencing and supportive materials are not in the Nelligan Ditch and they in no way obstruct or reduce the water flow in the ditch. The only obstruction or reduction in flow of the ditch which has occurred "over the past approximately 10 years" has occurred on the north side of the ditch. Again, there are many photographs that prove this.

- 4. Since the fencing and the supportive materials are on my property and they are not in any way obstructing, impeding, or diverting the flow of water, you have no legal right under the association's articles or bylaws to come onto my property and damage or disturb it in any manner. If you do so you will be committing a trespass and an illegal taking of my property without due process.
- 5. The "south wing wall" as you have described it would be located within the boundary of my property and not within the Nelligan Ditch. The contractor was correct to not violate my property rights in constructing where he had no right to do so. What you have described as "threatening, harassing behavior" was merely advising you and the contractor of the actual location of the diversion structure and my property boundary. Please recall that much of my exchange with you and the contractor at that time is recorded. Please also recall that when the Water Association began plans to repair the diversion structure, I requested that I be advised of the identity of the contractor so that I could coordinate with him for work I had planned to protect the south bank. Had you been willing to allow me to participate in the planning of this project we could have avoided our current disputes. As a result of your failure to allow my participation, the completion of the project has been delayed and additional work will be required to repair the damage to the south bank below the diversion structure.

As previously expressed, it has always been my desire to cooperate with the BCWA to complete the repair of the diversion structure. As part of that cooperation, however, I am not willing to allow you to take part of my property. I regret that I did not receive the letter in time to attend the meeting on September 8, 2020. I will be happy to attend the next meeting. As you know, I was happy to meet with several members of the board on my property. I identified my property boundaries and provided photographs of the original location of the diversion structure in relation to the boundary of the

south bank. I will be happy to do so again. If the board members desire additional information, please have them request it.

Sincerely, Ms. Ann Norberg

Mo. am Norberg 9/20/2026

cc: BCWA Board Members & BCWA Watermaster

Bishop Creek Water Association Monthly Meeting

Date 10/12/20

Attendance Sheet

Name	Address	Email
BILLLAMPR		
ANGELA SCOTT		
ANGELA SCOTT		
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BISHOP CREEK WATER ASSOCIATION

FINANCIAL REPORT FOR THE MONTH

OCTOBER	2020
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CHECKING ACCOUNT BALANCE
SAVINGS ACOUNT BALANCE
\$ 14,994.69
44,737.36

TOTAL BANK BALANCES - September 30, 2020

59,732.05

DEPOSITS:

Customer Deposits - Into Checking \$ Customer Deposits - Into Savings 216.00

Misc Refund 5.76

Transfer from Savings 5.76

TOTAL DEPOSITS

221.76

CHECKS WRITTEN:

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

TOTAL CHECKS WRITTEN (3,627.09)

UNION CHECKING ACCOUNT \$ 11,367.60

UNION BANK SAVINGS 44,959.12

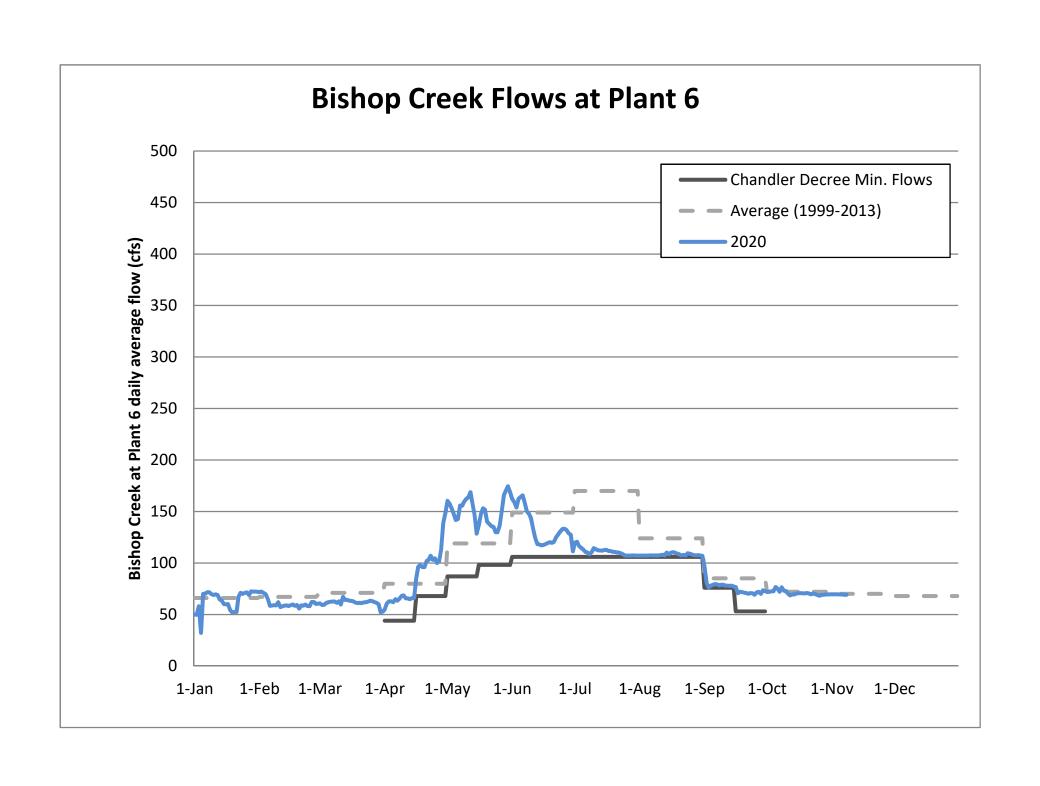
TOTAL BANK BALANCES - October 31, 2020 \$ 56,326.72

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 1 1- 340-13
48.00	08-151-05
-40.00 474.63	11-280-74
4.00	11-470-28
176.00	11-320-62
132.00	11-420-10
88.00	11-120-52
837.81	11-370-04 11-110-11
3.00	11-110-41
-60.00 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 11-192-16
44.00	11-430-24
40.00 -40.00	11-280-43
942.01	11-320-40
-10.00	11-320-39
40.00	11-191-01
-40.00	11 - 192 -4 5
44.00	11-020-46
88.00	11-500-09
89.00	11-500-10
282.04 -10,00	11-110-14 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 11-250-14
254.80 -4.00	11-170-19
-4.00 -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 11-500-21
88.00 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
217.14 764.38	08-140-37 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



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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 to downstream 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 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:
 - o Article VIII, Section 2

"Any owner of real property whose property is traversed by, borders on, or

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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. "

o 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."

o 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 Invo 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,

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				Invoice No	14274	
873 North Main Street			k_{ij}	Date	01/28/2020	
Bishop, CA 93514		Customer No	900902			
			Description:			
Please keep your backup for bill.		For Services Rendered DEC				
					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	
N N						
				TOTAL DUE	\$5,391.82	
Budget Name						
Budget Number Invoices Approv	ved By					
Object Name						

JE Number

Date

Date Approved

Object Number

Run Date: 01/28/2020 09:58:43am Fiscal Year: 2020 Selection Criteria: See Cover Page

Inyo County
Department of Public Works
Cost Accounting Management System
Project Cost Source Report

Page 1 By: KD

5,391.82

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				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					0.00		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 I	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
* LER Subtotal				-	60.00		5.00	- 7	3,733.27	0.00	0.00	3,733.27

OVH Overhead

D- 1-	B1	122 (CC)	Blocked on	Amount
	Employee		Division	
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
12/10/2019	MOO-2732	Moose Jr., Gordon T.	0300	169.40
12/18/2019	PLA-0465	Platt, Shannon D.	0300	233.97
total				1,007.98
2020) DEC Subt	total			5,391.82
ubtotal				5,391.82
al				5,391.82

* OVH Subtot ** 2019 (FY 2020) DEC Subtotal *** TR-19-049 Subtotal

**** 034600 Subtotal

***** Grand Total