

**MINUTES**  
**CHURCHILL COUNTY SENDING SITE REVIEW COMMITTEE**  
Monday, June 17, 2013

Present: Michael K. Johnson, Chairman  
Bob Getto, Committee Member  
John Mincer, Committee Member  
Gwen Washburn, Committee Member and Applicant  
Diane Moyle, Recording Secretary  
Mark Kolwyck, Applicant  
Mary Kolwyck, Applicant

**CALL TO ORDER**

**Chairman Johnson** called the meeting held in the Planning Department Conference Room of the Churchill County Administrative Complex, 155 North Taylor Street, Fallon, Nevada, to order at 8:30 a.m.

**1. Verification of the posting of the Agenda**

**Chairman Johnson** verified that the agenda had been properly posted.

**2. Review and Adoption of the Agenda**

**Member Washburn** made a motion to approve the agenda as presented, which was seconded by **Member Mincer** and unanimously approved.

**3. Public Comment**

**Chairman Johnson** asked if there were any public comments on anything not on the agenda, and there were none.

**4. Review and Adoption of Minutes**

Committee members had previously been provided with the minutes of January 7, 2013.

**Member Washburn** moved to approve the minutes of January 7, 2013 as written. The motion was seconded by **Member Mincer**, and the minutes were unanimously approved.

**PUBLIC HEARING**

**Consideration and possible action re:** An application filed by Mark & Mary Kolwyck for a sending site located at 3780 Stark Ln, APN: 007-911-20, consisting of ±40.0 acres with ±31.90 irrigated water righted acres in the A-5 land use district. The applicant proposes to place a conservation easement on the property. Member Mincer disclosed that the applicants are his aunt and uncle; however, he doesn't get any direct benefit out of this process.

**Chairman Johnson** noted that a response had been received from TCID supporting this application.

Member Mincer questioned the change from the application where it says 35 water righted acres to the staff TDR calculation of 31.9 irrigated water righted acres. It was explained that this was done due to the total shown on the TCID water right detail report, which showed only 31.9 acres were being irrigated. This is also to prevent tying up water rights that may need to be moved elsewhere prior to recordation of a conservation easement. There was discussion regarding the use of all water rights so that they won't be challenged and that there is additional benefit for calculation of TDRs if they were to irrigate more than 31.9 acres. Member Washburn pointed out that TCID often figures irrigated acres from aerial photos, which are not always accurate. Member Mincer questioned the applicants if the irrigated acres were actually less than the 35 water righted acres. They responded that they do irrigate 35 acres and pointed out on the

aerial photograph about 3 acres next to the house that is actually planted in trees and they irrigate those. Member Washburn stated that she had gotten a legal opinion from Bureau of Reclamation (BOR) at one time that watering trees is a beneficial use of the water. Member Mincer suggested that the TDR calculation be refigured on the whole amount of water rights since they are actually using that much. The other members agreed that they should get all of the benefits for the total water rights that they own.

Member Getto verified that there is just one home site on this parcel. Member Washburn stated that she drove by the property. Member Mincer brought up that it borders the Navy property, which was also demonstrated on the TDR Acquisition Map. Mrs. Kolwyck mentioned that the Navy comes to talk with them on about a yearly basis. Secretary Moyle commented that they have been included on the Navy's Priority List for many years; however, they had not applied to be included in the program until now.

Motion by **Member Getto**, based on meeting the criteria for a Sending Site, including zoning designation, minimum acreage, water rights, and military operations buffer area, that the application concerning Assessor's Parcel Number 007-911-20, consisting of ±40.0 acres, with ±35 water righted acres, be approved as a Sending Site. **Member Mincer** seconded the motion and it passed unanimously.

There was more discussion regarding the zoning and potential development that would be given up. This property is also located in an area that the Navy would like to see it under a conservation easement. The Staff TDR Calculation was refigured to include the additional water rights, so instead of 48 TDRs they are eligible for 51 TDRs. There was some discussion regarding the calculation and how water righted land gives more benefit than a larger parcel with fewer water rights.

Member Mincer questioned if the drain ditch went all of the way along 2 sides of the parcel, whether there was water in it year round, which direction it ran, and if it drained into the Navy's wildlife refuge. The applicants responded that it is along the north (Stark Lane) and east (S Downs Lane) sides of the parcel, the water runs from west to east and then north to south, there is generally water in the ditch throughout the year, and they do believe it feeds into the habitat area. Mrs. Kolwyck mentioned that the other government entity that wanted the property was US Fish & Wildlife, which was primarily for the water rights.

Member Getto asked if they've discussed this with all of their family members since it would be a binding easement forever. It was pointed out that they still have a choice up until a conservation easement is recorded on the property.

**Member Getto** made a motion based upon the calculations for acreage, irrigated water righted acreage, and location in the military buffer zone to recommend a total of **51 TDRs** be approved for APN 007-911-20 at 3780 Stark Lane. The motion was seconded by **Mincer Mincer** and was carried unanimously.

Chairman Johnson stated that their application would be forwarded to the Planning Commission with this committee's recommendation for their meeting on July 10, 2013. Once the Planning Commission reviews the application their recommendation would also be forwarded to the Board of County Commissioners the following week. The Board of County Commissioners has the final decision regarding approval or denial as a sending site. The applicants will be notified of the upcoming meetings. The applicants were excused from the meeting.

**Consideration and possible action regarding:** An application filed by Washburn Family Trust for a sending site located at 834 & 870 Depp Road, APN: 006-851-38, consisting of ±177.3 acres with ±124.97 irrigated water righted acres in the A-10 land use district.

Since this property belongs to Member Washburn she will answer questions and abstain from voting. It was noted that there is still a quorum of committee members.

Member Mincer inquired if this was a new parcel that they have acquired, and Mrs. Washburn affirmed that it is. She pointed out that the TCID water right detail report wasn't available with their name on it for the application. She just wanted to get it on the list along with a couple of other properties that she already has approved as sending sites. The location of the property was shown on the TDR Acquisition Map. Member Getto stated that he is aware of the property and believes that it needs to be part of the program. It was mentioned that since the applicants have already participated in the program through other properties they are aware of the legalities of the conservation easement.

Motion by **Member Getto**, based on meeting the criteria for a Sending Site, including zoning designation, minimum acreage, water rights, and military operations buffer area, that the application concerning Assessor's Parcel Number 006-851-38, consisting of ±177.3 acres, with ±124.97 irrigated water righted acres, be approved as a Sending Site. **Member Mincer** seconded the motion and it passed by majority with Member Washburn abstaining.

The committee went over the acreage, water rights, military buffer zone and water recharge area bonus, and over 100 acres bonus calculations. These total 214 TDRs.

Mrs. Washburn also noted that they have been problems over the last few years with TCID and the State Engineer regarding the water rights on their properties. Those that have a conservation easement were settled previously, and she thought that they settled the others; however, every year they keep locating errors and she is required to pay fees for moving water again and again. She mentioned this because by the time a conservation easement is recorded on the remaining properties she has there may be more movement of water rights, so some adjustments in calculations may need to be made. Member Mincer stated that this could cause a problem if they start trying to mess with the water rights on property that is already under a conservation easement and those water rights are tied to that property. Member Washburn informed that at this point this is not affecting the properties that have recorded conservation easements.

Member Mincer expressed his opinion that the county should file some kind of a complaint against BOR, State Engineer, and/or TCID for messing with water rights of residents. These are owned by the people in this county and by the county. He wonders at what point TCID stopped representing the water right owners, and Member Washburn said that if you ask them they will tell you that they never have represented the water right users. Both feel that at one time they did.

**Member Getto** made a motion based upon the calculations for acreage, irrigated water righted acreage, and location in the military buffer zone to recommend a total of **214 TDRs** be approved for APN 006-851-38 at 834 & 870 Depp Road. The motion was seconded by **Member Mincer** and was carried by majority vote with Member Washburn abstaining.

It was noted that the applicants are willing to accept payment for a conservation easement on this property of the Navy's portion and take a loss on the county's portion in order ease the burden on the county.

## **DISCUSSION ITEM**

### **Updates and other items of interest.**

Member Getto liked receiving the response from TCID regarding their support for the property in the TDR Program, which he has never seen before. Secretary Moyle noted that most often the responses we did receive came after their meetings and were placed in the applications for the Planning Commission and the Board of County Commissioners and in the applicant's file. Member Washburn inquired who receives notifications regarding the applications. Secretary Moyle went through the list of entities that are sent letters and mentioned that the majority of these do not respond. Member Washburn stated that she has spoken with the conservation districts before and encouraged them to respond. She believes that if we could show a lot of support for this program throughout the years, it would help in the future in the event someone wanted to change the program or to undo the conservation easements.

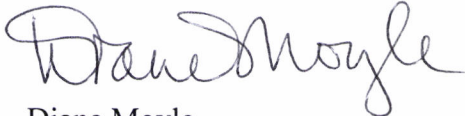
Chairman Johnson informed that John Mincer was approved for another term on the Sending Site Review Committee by the Board of County Commissioners. There was discussion on the types of people who are needed to serve on the committee and how important it is to get people with the right knowledge to serve. Member Mincer said that he has seen a big shift concerning water rights. He believes that putting the water rights under a conservation easement is a good thing because it keeps the water in the valley. He has seen a big difference in who thinks that they own the water. He stated that he is having problems with the water providers trying to tell the water right owners what to do with that water, and it's getting to be a problem. Member Getto mentioned that he went to a seminar by Laura Schroeder concerning water rights in Nevada where he learned a lot. There was more discussion on water rights and how some feel that the water right owners gave up their rights in order to bring the water program here, which wasn't true. Member Mincer said there are federal government rulings supporting the fact that these water rights belong to the people who have filed on them for whatever use. He commented that beneficial use could be as simple as applying water for a jack rabbit. Member Getto questioned if there would be a way that we could keep water rights from being transferred out of the valley, which he is worried about. Member Washburn agreed this is something that we should watch for. Member Getto stated that after attending the class he thinks that they are going to just keep slicing and slicing away at the water coming to this valley. Secretary Moyle mentioned that educating the people here how selling their water rights to upstream users hurts this valley. Discussion took place regarding those that could sell to upstream users and those that cannot at least at this time. Member Washburn believes that someday someone or some group may get the legislature to pass a law that would allow this to occur though. Chairman Johnson brought out that this is another reason the county decided to purchase the golf course due to the large number of water rights that needed to stay in the valley. He reiterated that if this had been a large city that had numerous golf courses where a person could play he would disagree with the purchase; however, it is the only golf course in this area and had a benefit to the county in keeping those water rights here. Member Mincer believes that the farming community needs to form a committee, but he's not sure what it is that keeps them from pulling together. It was mentioned that there is an anti-trust of the government, they think that it doesn't matter what they do because it will not make a difference, they think that everything is already pre-decided, and they don't have the confidence in the system. Member Mincer reiterated that he doesn't understand why the water right owners won't get together. He said that he spent a lot of money and time in order to have his vested water rights, and he pointed out that he owns these water rights and TCID was put into place in order to deliver that water to him. That's why he

pays for that service. He said that for some reason TCID has taken it upon them to think that they own those water rights and that whatever the actual water right owner doesn't use belongs to the BOR. He doesn't agree with this. He shared his experience with TCID at this point. Chairman Johnson suggested that Member Mincer attend the TCID Board meetings and explain his situation during the public comment portion. Member Washburn agrees that there are problems with how TCID is figuring some things and shared her experience also.

**ADJOURNMENT**

**Chair Johnson** adjourned the meeting at 9:08 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane Moyle". The signature is written in black ink and is positioned above the printed name and title.

Diane Moyle  
Recording Secretary