

Utah Board of Water Resources

Board Briefing Meeting

January 25, 2024

10:00 AM

**BOARD MEMBERS PRESENT**

Vice Chair Mike Davis

Charles Holmgren

Brian Steed

Blaine Ipson

Spencer Jones

Kyle Stephens

Randy Crozier

**BOARD MEMBERS (Excused)**

Chair Juliette Tennert

Dana Van Horn

**STAFF PRESENT**

DNR Director Joel Ferry

Director Candice Hasenyager

Assistant Director Todd Stonely

Assistant Director Shalaine DeBernardi

Tom Cox

Ann Baynard

Ben Marett

Steven Gregerson

Marisa Egbert

Randy Staker

Russell Hadley

Shannon Clough

Rachel Shilton

Michael Sanchez

Ethan Stayner

Danyal Aziz

Mahmud Aveek

Olga Isupov

Hailey Kirlin

Jonathan Jennings

Craig Miller

Jake Serago  
AV Team: Carmen McDonald, Seth Magers & Matt Morgan

## WELCOME

VICE CHAIR MIKE DAVIS called the meeting to order at 10:04 AM and announced Board Members present. Chair JULIETTE TENNERT and Board Member DANA VAN HORN are excused.

DIRECTOR CANDICE HASENYAGER introduced staff present.

## OATH OF OFFICE-NEW BOARD MEMBER DNR DIRECTOR JOEL FERRY

DR. BRIAN STEED, GREAT SALT LAKE COMMISSIONER, Sworn in as new board member representing interests of the Great Salt Lake.

Manager Rachel Shilton introduced new employees: Hailey Kirlin & Olga Isupov  
Manager Craig Miller introduced new employees: Jonathan Jennings, Danyal Aziz & Mahmud Aveek.

## DISCUSSION OF BOARD AGENDA ITEMS:

**Approval of minutes:** No changes. Will be approved.

<u>Project#</u>	<u>Applicant</u>	<u>County</u>	<u>Project Manager</u>
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## FEASIBILITY REPORTS:

### **RE475 Hyrum Blacksmith Fork Irrigation Company Cache Russell Hadley**

Hyrum Blacksmith Fork Irrigation Company wants to replace their diversion structure that is badly deteriorating along with the head gates and about 2200 feet of pipe. The canal is built on a hillside, which causes safety concerns because there are homes located below the canal. They want to take care of it before something happens. The Applicant's unlined canal leaks substantially and has a lot of bush and tree growth on the banks, which makes it difficult to maintain. It is estimated that about 1,300 acre-feet of water is lost to seepage and plant growth along the canal. Project cost is \$460,000. Staff recommends the Board authorize 49.6% of the project cost, up to \$228,000, and that the project be purchased at 0% interest over 15 years with annual payments of approximately \$15,200.

KYLE STEPHENS in the map I notice there is a large section there that is identified as an existing, earthen ditch. Is that still in good order or is it something that they will be coming in the future to eventually pipe?

RUSSELL HADLEY Yes! They just didn't want to take on too much with this project. They figure with the diversion and a lot of clearing that they are going to be doing will be in the backyards of a lot of people, so they want to take care of the most dangerous areas and the areas they're most concerned about first.

BLAINE IPSON do they have the Agricultural Water Optimization Grant in hand? Did they just apply for it, or has it been approved?

RUSSELL HADLEY it has been approved.

#### **COMMITAL OF FUNDS:**

##### **RE468 Liberty Pipeline**

**Weber**

**Ann Baynard**

The project is to install a booster pump station and 11,000 linear feet of 8-inch PVC transmission line and a meeting house. This will help to make their system more drought resilient. They are going to connect the North and South zones. The cost estimate and sharing remain the same as reauthorized. Staff recommends the Board commit 27.2% of the project cost, up to \$1,000,000, and that the project be purchased at 0% interest, over 20 years, with annual payments of approximately \$50,000.

#### **SPECIAL ITEMS:**

##### **RC023 Consolidated Sevier Bridge (Add DS Funds) Juab**

**Tom Cox**

Sevier Bridge Dam is owned and operated by the Consolidated Sevier Bridge Reservoir Company (made up of the Delta, Melville, Abraham, and Deseret irrigation companies and the Central Utah Water Company) more commonly known as Yuba Dam. This is a dam safety upgrade project. Phase I was completed in 2004. Phase II has included removing and replacing the existing spillway structure and gates, constructing an auxiliary spillway, improving the downstream foundation materials, adding a stability berm, and installing toe drains. Construction is nearly complete. As we calculate the final cost it has been determined that the project cost will be about \$1 million more than estimated. The Board committed funds for a \$26 million project, and it is now up to \$27 million. The company will be here today requesting \$900,000 in grant funds. Their company will be providing some donated materials, so they won't need to ask for any additional loan money. Staff recommends the Board commit an additional \$900,000 in dam safety grant funds, and that the contract be amended to state the Board will provide 90% of the project cost, up to \$24,300,000, as a dam safety grant.

BLAINE IPSON I've visited construction and it's really impressive. As a shareholder in four of the companies, I will recuse myself from voting for this item

The following projects will be withdrawn (without presentations)

**RE453 Huntsville South Bench Canal Co. (Withdrawal)      Weber Ben Marett/Ethan Stayner**

**RE316 Uintah Water Conservancy Dist. (Withdrawal)      Uintah Joel Williams/Ethan Stayner**

**RE369 Box Elder & Perry Flood Control (Withdrawal)      Box Elder Russell Hadley/Ethan Stayner**

**NEW APPLICATIONS:**

**RE476              King Irrigation Company                      Cache              Ethan Stayner**

**INTEGRATING WATER INTO GENERAL PLANNING:**

Rick Webster

Will be in the Board meeting to present.

**BEAR RIVER DEVELOPMENT RIGHT-OF-WAY UPDATES:**

MARISA EGBERT Just want to give a little background. But we are still in the planning stages and the need for this project continues to be pushed out. With a large diameter pipeline, we do need about 100 feet of right-of-way, which is why we're worried about this now. Gave background about why Water Resources owns homes, and how they're being used currently. Staff will have a recommendation and motion in the Board meeting to move forward with these homes.

**DIRECTOR'S REPORT:**

Candice Hasenyager

**INFORMATION TO THE BOARD:**

**STATUS OF FUNDS:**

SHALAIN DEBERNARDI

Reminded the Board about each of the fund basics - who is eligible and interest rates. Not a whole lot has changed since December. In the Revolving Construction Fund, we are asking you to withdraw one that's about \$224,000 and asking you to authorize one that's \$228,000, so we are replacing one with the other. The regular Revolving Fund isn't changing very much at all right now. The Dam Safety Funds are part of the Revolving Fund, so the additional \$900,000 being asked for today will reduce the amount available there.

Even though there aren't any projects listed (for dam safety), there are investigations underway that we will be bringing the Board projects in the near future for the \$19,000,000 that's available. We know where it needs to go, we just haven't had the chance to bring it to you yet.

The Cities Water Loan Fund, I told you I took off Millville City for almost \$1,600,000, but I couldn't find the withdrawal report, so we don't know if it's been officially withdrawn, so I put it back on. We still have a lot on record, and I think as we clean-up it will really help us with some of our balances if we could get them withdrawn. We do still have some funds available, even with the Hurricane City project that was authorized at the last meeting.

The C&D Fund a lot of it is going to the secondary meter projects along with the grants. If they need a loan this is where it comes from. We have one more project contracted. Not a lot of change. We still have some funds available, just not the balance that we sometimes carry.

The secondary meter grants: there hasn't been change. The ARPA funds have all been authorized and/or committed at this point. However, there are some who are looking for exemptions and may be returning their funds. There's currently legislation to discuss possible changes, so there might be even more. So we'll still have to figure out what might be coming back, and how to get that out.

CANDICE HASENYAGER was going to have a legislative preview but specifically legislation changing the exemptions and who can be exempt, so potentially ramification is that more might be eligible for exemptions and if the Board has already authorized money, they may turn it back. We may have a chunk of money that we have got to figure out what to do with or there's also legislation that could expand the exemption for those that are exempt to use the money for another purpose if the Board authorizes it.

SHALAINE DEBERNARDI Hopefully we will have some more information to present to you at the March Board meeting. We do have one new application, and they are expecting to ask the Board for \$960,000. It is an Ag project so we could fund that from the Revolving Fund at 0%.

As some of you are aware of the Deer Creek intake project, the Board has committed \$65,000,000 towards their \$100,000,000 project. They are \$11,000,000 short of the total funding needed to pay for their project. They have asked the legislature for it a couple of times. The legislature told them no. They have mentioned to our staff that they would like to come back and ask the Board for additional funds. I'm not comfortable with that right now. They are not at the point yet that they need it. They would like to know that it is committed. It is a multi-year project. They have only spent about \$28,000,000 of the Boards funds of the \$65,000,000 you've committed. It's going to take several years for construction. I would rather they come to the Board for additional funds when we know what they really need. The other option they have right now is they do have the availability to ask for Federal Loan Funds. They will have a lot more requirements to meet, which would drive the cost of the total project up. They would rather not do that if they didn't have to. We want you to know about this today and let you know this is out there and let you discuss it.

MIKE DAVIS did they go back and look at potential savings pertaining to the \$11,000,000? Or are they just going off their projections?

TOM COX They have been doing this one a little differently. It's a CMGC so it's not a bid. They've been working with the contractor all along and his maximum bid puts them at the top of about \$100,000,000 with the engineering so hopefully it won't change much, but there is a possibility.

MIKE DAVIS have they already used up their contingency throughout the plan or is that not considered?

TOM COX I think there is still some contingency in there, but it's probably pretty much committed. The project is scheduled to be completed by the Spring of 2026, so there is a little bit of time to work through the Federal process if they need to.

BRIAN STEED What is the remaining capital stack? What are the rest of their funding sources?

TOM COX they are getting 17% (\$17,000,000) from Central Utah. And \$7,000,000 on their own. There was a time they applied to the Drinking Water Board, but when our funds were committed that was withdrawn. And it's my understanding that Drinking Water doesn't have much funding available.

SHALAINE DEBERNARDI I think it would be good to go back and look at the original project report when this was first presented to the Board just to understand the scope of how much of the State's water goes through that intake structure. This project is a significant benefit not to just Utah County but also a large number of Utah's population. I'm not completely comfortable with the Board providing them with \$11,000,000 myself. This is something we do need to discuss. If they want to submit an official request they can do that whenever they want to, but it would be a letter or email to Mike as the representative of the area, and then Tom would proceed with creating a report to bring to the Board.

CANDICE HASENYAGER They have tried other ways to get grant funding and have been unsuccessful.

RANDY CROZIER I know this project is extremely difficult because they are doing it underwater, which adds to the cost. I feel regardless of the cost the project is going to have to be completed. It's just a matter of how we make it all work. In reality, the project is going to get done.

CANDICE HASENYAGER To clarify the Board's position, it is to let the project proceed and come back later.

Board members agree.

## **INFORMATION TO THE BOARD:**

**Application for a potential project: Wallace's Peak Water Company**

SHALAINE DEBERNARDI Wallace's Peak Water Company submitted an application for a project. They estimate the project is about \$10,000,000 to construct a dam. We accepted the application but were not sure what we could do with it. So, at the direction of the Board we got an Attorneys' opinion. Wallace's Peak Water Company is a company made up of a man and his two sons.

TOM COX It's a partnership so there's no formal shares. They pay for things on a percentage of costs.

SHALAINE DEBERNARDI So it's a company but they are family. The reason we brought it to the last briefing meeting is because the Board's guidelines do state that the Board will not fund projects sponsored by families, but this application was in the name of a company.

In an email, Attorney General Liz Harris stated the following: "Based on my reading of the statutes and rules, the Board has been given broad discretion to decide which projects it wishes to fund. Under Utah code-73-1-26(6) the board may fund a project for a wide variety of groups including incorporated groups, so long as it determines that the proposed project is in the best interest of the state and public. I looked up the corporate filings and confirmed that it is a registered LLC in good standing, so it technically would meet the requirement for being an incorporated group eligible to receive funding for a project. However, in Rule 653-2-2 the Board appears to have outlined additional factors it wishes to consider when determining whether or not a project is in the best public interest. In particular, those guidelines state that the Board will not fund a project sponsored by individuals or families. In this case, even though the project is being sponsored by an LLC, it is a closely held LLC completely owned by members of the same family. From the description of the project, it looks like the family will be the only ones who will benefit from the project. In my opinion, this project would fall under R653-2-2(1)(b)(iv) and is one that the Board has indicated it would not fund. I don't believe that the family incorporating as an LLC changes that determination."

The company also wanted to act as their own contractor on this project. The Board's guidelines indicate that they expect a competitive bid process before construction, although a company can act as its own contractor for small projects. But this is not a small project. We are uncomfortable with this application and considering the Attorney General's opinion, we will send a letter to the company stating that the Board will not consider their application based on their guidelines to not fund family projects. This project has not had any motion by the Board.

TOM COX explained that our staff geologist visited the site and doesn't believe it's a good site for a reservoir even if the Board was to consider it.

SPENCER JONES I will withdraw because of conflict of interest. If there is any voting I will abstain.

MIKE DAVIS If you have the ability, from a staff standpoint, to then reject the application based on what the Attorney General's office has written.

RANDY CROZIER I think to protect us you will need an official letter from the Attorney General.

#### **OTHER ITEMS TO DISCUSS:**

CANDICE HASENYAGER We have three different loan funds. The question we have for the Board is the potential to re-evaluate the Board's rules for projects, especially to enhance conservation practices for projects that come before the board.

SHALAANE DEBERNARDI There have been a few questions about current Board guidelines and rules. It's been four years since it was updated. So I've printed the Board guidelines for the Board to read to see if they would like any changes. We will have further discussion in the future. Let me know if you think there are some things we should consider updating or changing.

BRIAN STEED yes I think it is needed. In the last four years we have seen a lot of changes, and water generally in the state and water concerns. I think it's probably prudent for us to look at how we are doing business.

BLAINE IPSON I agree, and I think we need some time to look at them and not do anything today.

#### **Exemption Status on secondary metering.**

MARISA EGBERT all the money has been authorized and committed from the ARPA funds. We have about \$9,000,000 that is in limbo because there are systems that we know are interested in the current exemption options and they are working with Water Rights. We have met with Water Rights a few times because the penalties for their main exemption (subsection 13) don't hit until 2030, but we have a more urgent need. Water Rights is trying to flip around those applications that they have received for our sake. Some of those that are interested, we believe, have not applied yet for those exemptions.

There are two changes (in the legislature). One through Representative Snider saying the three options that go through the Division of Water Rights that you could be exempt. Only one of those was called out in 73-10-34.5 as saying, if you're exempt under this one you can use the ARPA funds for an alternative project, that will conserve more water than metering individual connections to the satisfaction of the Board of Water Resources. The change he is making is that all three of those exemptions could have that possibility (to use the funds for something else).

The other one Senator Hinkins is looking at 73-10-34 is the meat of Secondary Metering, where (73-10-)34.5 is about the ARPA funding. But talking about changing that same exemption that is for 1,000 connections or less, to 2,500 (connections) or less. Senator Hinkins said it will affect 2 systems. But of those that have applied for funding from us it could affect 13 systems, and 10 of those fall in the Great Salt Lake Basin. We have had a few different discussions about how to handle this from our standpoint. Those additional systems could jump us from \$9,000,000 to



potentially \$30,000,000 in limbo. No one else is asking for the money except for those larger systems that have already maxed out. So there's a lot going on.

CANDICE HASENYAGER we started the conversation of if this is what the legislature really wants to do, is there potential to raise the cap as well. Right now, the entities that could probably use the most money, and get it in the ground quickly, and still meet the deadlines are all capped out. That's another option we are looking at to see if this goes forward.

KYLE STEPHENS Senate Bill 125 - is Senator Hinkin's bill I read about. I had a number of questions. Marisa answered those questions. I did wonder about existing projects, one of the main concerns is supply chain issues. Is that still a concern, or have those issues been resolved? I just had the basic question: are we being concerned about conserving water, or hypocritical about exempting some of these and not conserving water? There was a big push a couple of years ago to do that, and now we're coming back and saying well maybe.

TOM COX as far as supply chain goes, Lehi City was the very first application the Board received and they were proactive, so they don't seem to be having a supply issue. Weber Basin is ordering a lot of meters and they're doing okay too. Water meter pits, the covers and radios are backed up a bit. Other smaller providers have placed orders and are just waiting for them to come in.

MARISA EGBERT we do have some entities that have started, but have said if these changes go through they will not complete their meter project. And if they want to do a different project, this cannot be used for ag. Funds could be used for an alternative project to conserve water (not agricultural water), and they would have to come back before the Board for approval.

CANDICE HASENYAGER it's been challenging with these changes and not knowing what the Legislature is going to do to enforce the January 1st deadline.

#### **LEGISLATIVE UPDATE:**

CANDICE HASENYAGER

I will hand out a list of Bills that we are tracking. The big one that impacts the Board is Rep. Snider's HB280 Water Related Changes. This bill drastically changes how water infrastructure projects could potentially be funded, or planned for in the future. His idea is to create a Unified Water Infrastructure plan in conjunction with the other water funding agencies, similar to what Transportation does in planning for their projects. This could really change the way things are done. It also requires the Board to do a study on charging a fee for infrastructure to water providers for each end user. This would be some sort of fee that would go on a water bill, and then the State would collect. Then the Boards would distribute it out. Then the fee would be implemented in 2027.

MIKE DAVIS Water is not like transportation, so how is this feasible?

CANDICE HASENYAGER It really is a big concern for us, how we will go about this and how it will all be done. It is not simple, and will take time.

KYLE STEPHENS What kind of support is there in the legislature?

CANDICE HASENYAGER There are a lot of concerns in the water community, but there is leadership support for the bill.

#### **ADJOURNMENT**

CHARLES HOLMGREN made the motion to adjourn. The meeting adjourned at 11:57 AM.