BOARD OF WATER RESOURCES

Briefing Meeting Minutes

George S. and Dolores Deore Eccles Wildlife Education Center

June 17, 2021

10:00 am

THOSE PRESENT

Board Members

Chair Blaine Ipson

Vice-Chair Kyle Stephens (remote)

Randy Crozier

Juliette Tennert

Charles Holmgren

Wayne Andersen

Norm Johnson

James (Jim) Lemmon

STAFF PRESENT

Todd Adams

Candice Hasenyager

Joel Williams

Randy Staker

Marcie McCartney

Lindsay Russell

Shalaine DeBernardi

Marisa Egbert (online)

Carmen McDonald

Paul Gedge

CHAIR BLAINE IPSON called the meeting to order at 10:19 am and provided some logistics on the virtual component. This is our first in-person meeting since January 2021 but we still have some participating virtually.

CHAIR BLAINE IPSON the State of Utah is dry. We have reservoirs getting extremely low and some will be drained, some that have never been drained before. Every area of the state is dry and we are anxious to hear some of the reports for today.

CHAIR BLAINE IPSON we will go through each agenda item one by one. The Approval of the minutes is the first item. We will have a report on the drought situation in the state from Candice Hasenyager. We will then go through the Feasibility Reports.

PROJECT REPORTS

FEASIBILITY REPORTS

RE438 Midway Irrigation Company

WAYNE ANDERSEN this project falls in line with other projects we are working on and it is a very responsible project overall.

MARISA EGBERT this is a really good project and just to note, the entire system is already pressurized. They are working on getting the meters on existing properties. The project will include the installation of 750 secondary meters along with the required software throughout the company’s service area. They have a WaterSMART WEEG grant for approximately $517,750 and they are cost-sharing $87,250.

Staff recommends the board authorize 44.8% of the project cost, up to $490,000, and that the project be purchased at 1% interest over 15 years with annual payments of approximately $35,400.

TODD ADAMS the Legislature appropriated funds for secondary metering but this project is not included in that because of the county class restriction.

JULIETTE TENNERT are the warranties around 15 years for these meters?

MARISA EGBERT the warranty on these is 20 years. I also want to mention that the applicant will be in person at the meeting and I will also be in person at the meeting.

RE446 Provo River Water Users Association

WAYNE ANDERSEN this is a large and exciting project. If we were to have this project and drain the reservoir, it would be impossible today. The work that will be done is something that is pretty special and important for this area. The cost of this is down from the original cost, which is still a lot but they have found ways to lower the overall cost. The applicant will propose that we extend the 30 year repayment period to 35 years. They are requesting this because they are repaying some other funding and would like to pay interest only for the first 5 years. It would make these repayments easier and there is a precedence in this group of going to 35 years.

SHALAINE DEBERNARDI as Wayne mentioned, there is precedence of this type of board action. Tom was able to find examples of this in our history. 35 years is not unreasonable for a project of this magnitude. We are asking you to bond with Provo River even though they generally do a purchase agreement but they do not own the project so there have been changes there as well.

RANDY CROZIER asked about why it was being financed this way. This is a federally owned project so why does it fall to the State?

SHALAINE DEBERNARDI this is the agreement that they have with the feds. They can use it but the association is responsible for it.

CHARLES HOLMGREN what will the language be like with the payback amount?

SHALAINE DEBERNARDI if this is agreed upon from the board, staff recommends the board authorize 71.3% of the project cost, up to $42.8 million dollars and that the bonded indebtedness be returned at 1% interest over 35 years with annual payments of approximately $841,000 the first five years and about $1,641,038 the remaining 30 years (including reserves).

JULIETTE TENNERT how does this large project fit in with the amount we have to do other projects? Does it leave us enough room to fund other projects?

DIRECTOR TODD ADAMS we will be going over the Status of Funds shortly and you will be able to see where we stand and that we do have the funds available for this.

SHALAINE DEBERNARDI we are also coming to the end of the fiscal year so we will be fine.

VICE CHAIR KYLE STEPHENS I had similar questions regarding Juliette’s question but I also had some questions regarding Quagga mussels and have they just found the DNA and not the actual mussel?

SHALAINE DEBERNARDI yes just the DNA was detected several years ago but it has not been detected lately.

SPECIAL ITEMS

RE208 South Weber Irrigation Company

VICE CHAIR KYLE STEPHENS this project was funded before I was involved in the board so there is a history associated and there were several different approaches to this project that had been presented.

MARISA EGBERT this project began back in 2006/2007 when the housing market was huge and then in 2008 when the market dropped, the project was already under construction. The purpose of this project was still to install a pressurized secondary system throughout the service area and they are requesting a modification of the repayment terms. They want set payments each year to get some relief from the repayments. Most of this will go to M&I use and we based the interest rate on today's rates for M&I projects.

Staff recommends that the board amend the purchase agreement to state that the principal balance will be returned at 2.03% over 29 years with annual payments of approximately $49,300.

RE447 Draper Irrigation Company

JULIETTE TENNERT they are looking to get some support to do secondary meter boxes and pipeline. Part of this is a new area and some is a subdivision where the developer installed the system and it is really not done well. The applicant wants to install that properly. The request is not for the meters themselves, it's for the infrastructure to do them. They want to move them to the front yard from the backyard as well. It is a great project.

SHALAINE DEBERNARDI there were 73 connections that had backyard meters and it is just falling apart so they would like to ensure that it is done properly.

Staff recommends the board authorize the project and commit 85% of the project cost up to $1,402,500, and that the project be purchased at 1% interest over 25 years with annual payments of approximately $63,700

NEW APPLICATIONS

RL588 Herriman City

RE448 Centerfield City

RE449 Center Creek Water System

CHAIR BLAINE IPSON we will then have a Lake Powell Pipeline report from Joel Williams during the meeting. After that, we will have Emily Lewis give a Water Banking Report. Director Adams will then be giving his report.

DIRECTOR TODD ADAMS as Candice said, it is hot and dry and our staff is working hard to do what we can to get information out. We are also back in the office but there is flexibility with telework and Utah Works. We have 16 staff that are no longer working in the office and it has been interesting to work through this process. We have had surge days on top of that but it has been great to see faces of people.

STATUS OF FUNDS

JOEL WILLIAMS we are nearing the end of the fiscal year with new beginning balances and we can see the projects that we are contracted with. The first board meeting in August will look slim in terms of how many projects we are contracted with as we start the new fiscal year and we are almost at capacity for this current fiscal year.

VICE-CHAIR KYLE STEPHENS I am just wondering about the title of the Revolving Construction Fund because grants come out of there so they don't really revolve, should it be retitled to something else to clarify?

JOEL WILLIAMS they could all be retitled revolving funds technically because they are all revolving but the original revolving fund that was created in the 1940’s is the oldest fund in the board's history. It was in the 90’s that the Dam Safety Act was written and those Dam Safety grants are the only grants to come out of the Revolving Construction Fund as written in that act.

SHALAINE DEBERNARDI the titles of these funds are in the Utah Code so they cannot be changed.

DIRECTOR TODD ADAMS yes, those titles are in Utah code and we are directed to provide grants for Dam Safety from the $3.8 million that comes into that fund every year.

DIRECTOR TODD ADAMS we would like to introduce our newest staff member in the project funding section: Steven Gregerson.

SHALAINE DEBERNARDI he is the replacement for the board project funding duties. We are excited to have him join.

STEVEN GREGERSON these are unique times to come into this position and I am excited to learn this process. I come from a land development and construction background and have done work in contracts and water rights as well. I am looking forward to this position.

DIRECTOR TODD ADAMS our next meeting will be August 5 and the plan was to go to the Blanding area but we will have either Norm or Shalaine talk to us about that.

NORM JOHNSON lets have Shalaine discuss that.

SHALAINE DEBERNARDI we wanted to ask the board what they wanted to do. We have some options and there are some projects to see in the area. After speaking with Norman at Water User’s we can do a virtual tour and we can also push the board tour to September or October as well. There are projects to see in the area but because they are spread out, the virtual tour might be an option unless there is one specific area that is available to get to. We really wanted the board to make that decision.

CHARLES HOLMGREN perhaps we could move it to October.

NORMAN JOHNSON I will be gone for the September meeting.

JULIETTE TENNERT I would like to have it in person.

WAYNE ANDERSEN I would also like to be in person and I would like to move to October.

CHAIR BLAINE IPSON all other board members would like to move the board tour to October 28 in person.

SHALAINE DEBERNARDI we will look at those dates and plan something.

DIRECTOR TODD ADAMS we will have the August meeting in Salt Lake City and the board tour will be moved to the southeast part of the state in October.

CHARLES HOLMGREN I had some questions about Covid funding. In Box Elder County the cities are getting approximately $10,000 per person and I know that in Tremonton specifically, they are using most of that for secondary water issues. Also, we had a canal board meeting this week and our canal manager commented on Senator Iwamoto seeking funding for water measurement such as telemetry. Our manager was not sure what was going to be available but he is investigating that more.

DIRECTOR TODD ADAMS in the special session we just had, the legislature appropriated $100 million of the ARPA (covid funding) funding and they are still deciding how that will be allocated. If that money is spent there may be another $180 million more. We are working with the legislative, executive, and DNR leadership on these things. There is money coming for infrastructure.

VICE CHAIR KYLE STEPHENS I was asked the other day about the monitoring of the construction of the projects going on?

SHALAINE DEBERNARDI that is a great question. Anytime we provide funding, our staff does regular visits to the construction sites. We do have very thorough project managers that monitor costs and the actual construction. They then get firsthand knowledge of what is going on and that the funds are being used as they were meant to be used. One example was that one of the engineers from our office found an issue with a Dam Safety upgrade and although that is not the general reason for going out, our engineers are very on top of these projects.

VICE-CHAIR KYLE STEPHENS I was pretty sure that was the case and I appreciate the explanation. I was taken back by the comment and I wanted to make sure that I was correct in my assumptions.

CHAIR BLAINE IPSON and each sponsor does have a consulting engineering firm that is responsible for quality control of the project and of course the Division’s engineer has the project manager who produces regular reports. There is quite a bit of oversight on these projects.

SHALAINE DEBERNARDI on another topic, I wanted to make you aware that as Water Rights works on their adjudications, there have been some books they are working on finalizing and from that, we have been getting notice that the Board has water rights that if we don't make claim, we will lose them. Most of them that we have seen are actually water rights that were transferred from an emergency relief situation from wells that were drilled in the 1930’s as drought emergency relief. Should we really be letting this go? I did speak with Water Rights with Michael Drake and he said that if the Board made a claim, we would look at them and discern whether it was a primary right or a supplemental right. If the Board stakes a claim to that, they would need to decide who has the claim to that primary right.

This brought up the question of if we want to make these types of claims. We were thinking that we don't want to do that but we wanted to get some feedback from the board.

RANDY CROZIER so these water rights, were they filed in the name of Water Resources or were they transferred to us? More than likely when the legislation did this, a private irrigation could not hold a right but we could so they transferred it.

SHALAINE DEBERNARDI the transfer happened long ago but we have had requests from people that have found wells on their property and the water right was in the name of the board. Water Rights would not allow that previously. The issue becomes now that do we want to potentially be in a fight with local entities on a right that we may or may not use.

CHAIR BLAINE IPSON coming from a water rights background, I would not want to be in that fight either. How would we show in the example you gave that that we have beneficially used the water there? I just don't think we should be getting involved.

RANDY CROZIER we just need to look at them as individual rights.

SHALAINE DEBERNARDI most have been fairly small so the effort involved would likely not be worth the trouble. Especially if we have not used them in decades. Do you want us to bring those to you in the future or do you want us to continue making those internally? When it comes to things regarding the Lake Powell Pipeline and other rights that are yours, we are very particular about those, but these were not in the name of the board.

RANDY CROZIER do we need to discuss this in a future board meeting in the name of a motion to make these decisions or do you already have the authority to do that.

SHALAINE DEBERNARDI we will look into that.

WAYNE ANDERSEN are these water rights being administered by local companies or local people right now?

SHALAINE DEBERNARDI no, these water rights are not used right now and have not been used in 75 years.

CHAIR BLAINE IPSON these are paper water rights.

WAYNE ANDERSEN if it is paper water rights, then as far I am concerned, they have no basis.

SHALAINE DEBERNARDI most were used in 1934 and 1935 and have not been used since then.

WAYNE ANDERSEN so they fall under the jurisdiction of the local water companies?

CHAIR BLAINE IPSON they are not being used at all. The land they were going to be used on is covered with other entities' ownership and water rights. This is just paper water rights.

WAYNE ANDERSEN so it is essentially a mirage and there is not anything of substance there. I don't see the purpose in holding it.

DIRECTOR TODD ADAMS these were likely a supplemental water right in a very dry time. It helped get through the droughts in the 1930’s. We can research what we have and what we have got. We can look at these individual water rights and come back to the board with a recommendation to proceed as we are or get the authorization to act on your behalf on these issues. Perhaps it would be good to have the Chair look through these if we have questions based on your background.

CHAIR BLAINE IPSON does that satisfy your concerns Randy?

RANDY CROZIER yes, we just need to make sure it is done legally.

DEPUTY DIRECTOR CANDICE HASENYAGER one thing we need to note is that these are all based in a certain time period. The only concern I have of setting it with specific board meetings or motions is that they have to be reviewed and acted upon within a certain time period.

SHALAINE DEBERNARDI yes, the adjudications announced have a certain amount of time to be reviewed and discussed. We do have a spreadsheet with the water rights that we believe we have the title to that were for the drought emergency situations. I am happy to go through them and bring that information in to the board so it can be a blanket decision. There are other water rights that may require individual consideration. But with these, we can make a blanket decision as they all fall under the same scenario.

RANDY CROZIER I had a conversation at the Water Users Conference with someone regarding the fact that Ag users hold around 80% of the state’s water rights and they were frustrated with that. I told him that I was one of those Ag users and asked him what he thought that water was used for? He was unsure and I told him that we use that water to put food on the table and water our animals as well. He had never thought about that. There is such a disconnect with how people believe we use water but we need to educate people more on what it takes to make sure food and water are provided to people.

CHARLES HOLMGREN moved to adjourn the meeting WAYNE ANDERSEN seconded, and all approved. The meeting ended at 11:42 am.