BOARD OF WATER RESOURCES

Briefing Meeting Minutes

Department of Natural Resources

August 5, 2021

10:00 am

BOARD MEMBERS PRESENT

Chair Blaine Ipson

Vice-Chair Kyle Stephens

Juliette Tennert

Charles Holmgren

Wayne Andersen

Norm Johnson

James (Jim) Lemmon

STAFF PRESENT

Todd Adams

Candice Hasenyager

Joel Williams

Todd Stonely

Shalaine DeBernardi

Ati Vainuku

Marty Bushman

Ben Marett

CHAIR BLAINE IPSON called the meeting to order at 10 am.

All board members are present with the exception of Randy Crozier.

DIRECTOR TODD ADAMS Lindsay Russell is on leave today so Ati Vainuku is filling in. All others present were announced.

CHAIR BLAINE IPSON there has been some moisture in the state over the last month. There have been areas in the state where flooding has occurred as well. We do need continued moisture in the state and the best thing we can hope for is a very wet winter.

CHARLES HOLMGREN I was off on one of the numbers I gave in the report that was supposed to state $100 not $10,000 on page 5 of the briefing minutes.

CHAIR BLAINE IPSON we will have a report on the drought from Candice and then we will move into the project reports.

PROJECT REPORTS

FEASIBILITY REPORTS

RE444 Willow Creek Irrigation Company

BEN MARETT the purpose of the project is to install flow meters on both secondary and agricultural connections within the company’s service area. They have seen people overusing water and this project will help them alleviate that concern. They are expecting to save around 280 acre feet of water annually which they intend to repurpose.

Staff recommends the board authorize 85% of the project cost, up to $315,500, and that the project be purchased at 1% interest over 15 years with annual payments of approximately $22,800.

CHAIR BLAINE IPSON will representatives from the irrigation company be present at the meeting?

BEN MARETT yes, they will be in person and also virtual.

CHAIR BLAINE IPSON its a combination of irrigation and AG users but mostly AG as far as percentage of acre-feet. They are saying that some have been over diverting but it seems like they might all be over diverting. I cannot make the motion but Jim Lemmon will make that motion.

SPECIAL ITEMS

RL588 Herriman City

BEN MARETT this is the first Bond Insurance Grant that I have ever seen so I will quickly describe what this is. This is a grant to the applicant so they can purchase bond insurance and the issuer will see the lower risk as it is insured and decrease the interest rate. The purpose of the project is to distribute pipeline, rehabilitate and install pump stations, build two two-million gallon water tanks, and install inter-developmental water connections. They have completed a few sections of this project already.

The cost of the project is approximately $23 million and the bond insurance will decrease the interest rate by about .15%. Or about $450,000 in interest and fees.

SHALAINE DEBERNARDI we have done this in the past when interest rates are higher but it is a way to make the funds from the board go a lot further. The guidelines specify that they can provide up to 10% of the funds for these grants.

JULIETTE TENNERT when I first saw this, I thought it was more of a moral obligation that the money would be there, not necessarily that we would have to put that money out there for the insurance. I do like the idea of doing this for these larger projects because it helps us make the project happen for a small investment. I do struggle with competing with the private sector but I think in projects this large, this is a good thing to do.

DIRECTOR TODD ADAMS it was about 10 years ago that Dennis Strong (previous director) worked with the legislature to have more of these options.

SHALAINE DEBERNARDI another part of this that we have not seen in a few years but is interest rate buy-down. This is where we provide funds at either a 0 or very low interest rate and they would also get funds on the open market at a higher interest rate which would get them to the equivalent interest rate that the board might provide them anyway but they would not have to pay the full amount.

RD576, RD792 Davis & Weber Counties Canal Company

SHALAINE DEBERNARDI this project represents 2 different phases of a project, one in Kaysville and one in West Point. The repayments for these projects were set up differently; the payments started off small and got bigger every year. They were both done at 5% interest and both started off low enough that it did not pay the full amount of the interest owed. On project D674, the project was set up to be amortized over the last 8 years after 2020 based on whatever was owed. The payments listed have been paid but because of the deferred interest set aside, finance charged interest on the deferred interest. On this particular project (D674) they have not paid anything toward principal, just toward interest, so the remaining 8 payments would be over $1.3 million each. If we do not charge interest on the interest, the principal balance should be closer to $6.9 million and the remaining 8 payments should be about $975,000 dollars. There are emails and memos going back 15 or so years on this and we have been informed that if the board agrees to dismiss the interest charged on the interest, they can amend the agreement.

On D792, the balance is due in the final year instead of split up over 8 years. I will have slides in the full meeting to show this.

VICE-CHAIR KYLE STEPHENS I am prepared to make a motion on this and I am sure that this was not the original intent so I am supportive of this motion.

New Application

RE450 Draper Irrigation Company

CHAIR BLAINE IPSON no action is needed on this but they will be requesting assistance from the board for constructing a new pump station, wells, and waterlines.

JULIETTE TENNERT I am going to follow up with Russell on this project but will this be on the September meeting agenda or the October?

SHALAINE DEBERNARDI I have not heard from Russell on what he is planning so I am not certain.

CHAIR BLAINE IPSON the next agenda item will be a planning report from Jake Serago and then there will be a Lake Powell Pipeline report from Joel Williams. Emily Lewis will then give the water banking report and Director Todd Adams will give the Directors Report.

DIRECTOR TODD ADAMS there is an updated agenda with a new item (Water Horse Resources Litigation) on there to discuss.

WATER HORSE RESOURCES LITIGATION

MARTY BUSHMAN this is a matter where an entity out of Colorado, Water Horse Resources, filed an application to appropriate 55,000 acre feet of water out of the Green River in Utah. This was filed with the Utah State Engineer back in January 2018 to be used at the Front Range of Colorado. The State of Colorado has not approved this water at any place of use and has also not agreed that this water will come out of their Colorado River apportionment. This does present some problems for Utah and the board. The state engineer denied the application and Water Horse filed a petition for judicial review in the 8th District Court for Daggett County. I am asking for the board to intervene given the unique interest the board has in this.

CHAIR BLAINE IPSON Marty has touched base with me and it sounds like Water Horse is trying to speed this process up.

MARTY BUSHMAN this was filed in January 2018 and by statute, Water Horse has to give notice to all the individuals and entities that protested the application and that did not come until May.

CHAIR BLAINE IPSON there was the question on whether or not we needed to call a special board meeting for this but the date for this board meeting was timely.

MARTY BUSHMAN the State was able to get Water Horse’s attorney to agree to an extension on the response time but we do still need to move quickly. We have a motion to intervene prepared and if the court grants that, we will file an answer. I will coordinate with Chairman Ipson on this as well but due to the timelines, it is difficult to get them to the entire board.

CHAIR BLAINE IPSON I appreciate Marty’s efforts on this and staying on top of these things in behalf of the board. We will need a motion and I would suggest Kyle do that.

VICE-CHAIR KYLE STEPHENS I would be happy to do that and if Marty could get the language for that motion, that would be helpful.

CHAIR BLAINE IPSON we will have this right after the Lake Powell Pipeline report.

STATUS OF FUNDS

JOEL WILLIAMS provided the Status of Funds to the board.

VICE CHAIR KYLE STEPHENS what is the status of the legislative consideration for the ARPA funds?

DIRECTOR TODD ADAMS there is still $100 million dollars still being discussed amidst several suggestions. We are getting the final rules on how it can be spent but it’s looking like the idea is to put it towards metering, agricultural water optimization, and water quality. Both myself and Director Brian Steed have been involved in these discussions. We got a letter from Riverton City on secondary metering and I will have Shalaine speak on that.

SHALAINE DEBERNARDI the board had committed almost $12 million to Riverton City for the metering needs with a return of 1% over 15 years. This will be done in phases and the repayment structure was set to begin after they had paid off some existing bonds. They would just pay the same amounts from the old bonds to the new bonds. Once that $2 million was set aside through SB199 in the last legislative session, they felt that they should not have to borrow it if there is grant money available. They are requesting a modification and their thought process is clearly indicated by their attorney. I am not certain we would agree with everything in the letter, but we are getting a lot of questions on this grant funding. I am not coming forward with rules to adopt because we thought the legislation might be changed as written but it was not. We will be working with that and those will be brought to you at the next meeting but I would like some guidance from the board on a few items. The bill specifies that there is $2 million available, its grant funding, the grants can fund up to 50% of the project, and it’s for small systems (which is an interesting definition because it is an entity supplies pressurized, secondary water to the end user of secondary water and A. is a city, town, or metro township or B. supplies 5000 or fewer connections). According to the law, any city, town, or metro township qualifies. I don't know if you want to come up with a prioritizing system that focuses on the 5000 or fewer requirement or something else?

DIRECTOR TODD ADAMS When Candice and I were working with the legislature on this, they did want to help the smaller entities because they felt that the bigger ones had the ability to repay the costs but unfortunately, that's not what it says. We have been in touch with the sponsor but it will likely not be changed until the next legislative session.

JULIETTE TENNERT I believe we should consider this question and the policy that Shalaine is talking about outside this specific case but I also feel that once the rules are established, if there is room to help entities like Riverton, I would be open to that. But I do recall this situation with Riverton and I know they were really looking forward to getting the meters put in and that they were paying off past bonds. And a second comment, I would like to help entities likes Riverton but in terms of priority, I would prefer to support those systems with limited options.

DIRECTOR TODD ADAMS there are other options for these entities to go for funds as well so that is something to remember.

CHAIR BLAINE IPSON I agree with Juliette. We do need to leave the option in there but I think we should prioritize the smaller entities.

SHALAINE DEBERNARDI there was a request for a summary of funds the board has provided for secondary meters. So far, we have Payson City, Draper Irrigation Company, Riverton, Weber Basin Water Conservancy District, and Mountain Green Secondary Water Company. Midway Irrigation Company has also been authorized but it has not been committed or contracted yet.

DIRECTOR TODD ADAMS when you look at the specifics and look at the number of small secondary systems in class 1 and 2 counties, there are not many. We have mentioned that perhaps we can move to 3 and 4 class counties but thats not part of the classification.

DEPUTY DIRECTOR CANDICE HASENYAGER one thing that was discussed was the requirement of these 1st and 2nd class counties to have a secondary meter on a new connection, which was part of their intention. If the senator does make a change, it might be good for the board to adopt a rule that any new connections require a secondary meter.

DIRECTOR TODD ADAMS in the 2018-2019 legislative session, there was over $2 million dollars earmarked from the C&D fund for Transparent Water Billing that we have been working through some billing software companies. We do now have a billing company that is willing to work with us and we have begun the process of writing up a contract.

SHALAINE DEBERNARDI as we were discussing this, it was decided that the board would need to approve this as it is similar to contracts for Bear River Development and Lake Powell Pipeline. We just wanted the board to be aware that this is out there and we would like to ask if you want each of these brought to you when they come up or would you like to authorize us to take care of these contracts? As a previous example, we used to have to complete damn studies before the damn safety grants and the grant fund for that was 50% and we did not bring each of those from the board. We got a blanket approval that if an eligible application came through, they could receive the 50% funding.

DIRECTOR TODD ADAMS this would not be something decided in this meeting but it would be on a future meeting if you decide that this is what should be done.

VICE-CHAIR KYLE STEPHENS it would be my recommendation that we give staff the authority to do that.

NORMAN JOHNSON I think we should have a report on those but not necessarily each individual to be approved.

SHALAINE DEBERNARDI yes that would be a report similar to what is reported in properties in the Bear River Development.

WAYNE ANDERSEN most of these projects will be rather small due to the low number so I think you should be able to do that.

DIRECTOR TODD ADAMS yes, we will have that prepared for a future meeting. Moving forward, the Great Salt Lake hit a new all-time low on July 21st. Utah held its first Colorado River Authority meeting on July 30. They did a lot of the administrative components such as setting up electronic meetings and setting up budgets. We took some public comments and we will be having these meetings every month. Darrin Bird has retired and last week was his final one at the Department. Nathan Schwebach has been selected to be the Deputy Director of the Department. Marcie McCartney in our Division has left the state and Kim Wells has been promoted to Nathan Schwebach’s previous position as communications director for the Department. Candice and I are working to get those two positions filled. Things are still very dry and we are working on helping those who are being most affected. We have yard signs as a part of our Slow the Flow campaign and would love for you to take one. We have a meeting on September 16th in SLC and the plan is to have a board tour in Blanding October 28 and then back to SLC for the December 9th meeting.

SHALAINE DEBERNARDI we just wanted some clarification because it was my understanding that everyone wanted to meet in person but there were some concerns about the actual tour and Norm had expressed that a virtual tour might be favorable. Marisa has volunteered to put something together and mentioned a hybrid of virtual and in-person tour. We just want to know what the board would like to do.

NORM JOHNSON due to distance and recent weather, we are down to 1-2 projects that I am aware of that we can get to in a reasonable period of time.

SHALAINE DEBERNARDI do you want the meeting to be in Blanding or Moab?

CHAIR BLAINE IPSON one of the big projects is Millsite Reservoir which is closer to us and might be closer to other things.

JULIETTE TENNERT we are a statewide board and I think it is beneficial for us to get off the Wasatch Front and see a project in another area. I would be open to some sort of hybrid as well but I want to be respectful to the time put into this by staff.

SHALAINE DEBERNARDI yes, I appreciate that. We can plan as long as projects are accessible. We do have staff go out often so getting video or photos of the projects would not be an issue if that is what is decided. Getting on a bus might be difficult but doable. Because Millsite is such a large project, I am assuming you would like that on the list of projects.

CHAIR BLAINE IPSON we have spent a lot of money on Millsite and I would like to see that. Muddy Creek is also close and I would also like to see that.

SHALAINE DEBERNARDI if we had hotels and a meeting site close to those sites, would that be something that is acceptable?

NORM JOHNSON we would certainly be off the Wasatch Front going to Millsite.

DIRECTOR TODD ADAMS we can work on this and have something together.

JULIETTE TENNERT I did want to report that I have an afternoon conflict for September 16 so if we could have a morning meeting that would be great.

NORMAN JOHNSON I will not be in attendance at the September meeting.

VICE-CHAIR KYLE STEPHENS I also have a conflict with a planned vacation.

DIRECTOR TODD ADAMS we can look at other times and dates but because we do have action items previously discussed, we will need to have a September meeting. Let us look at the 17th perhaps?

JAMES LEMMON why don't we do a virtual meeting in September?

DIRECTOR TODD ADAMS we can look at that if the chair agrees? It sounds like we can do it in the morning and have a virtual component.

Kyle moved to close the meeting, Wayne seconded it, and all approved.