

BOARD OF WATER RESOURCES
Briefing Meeting Minutes
DNR Regional Complex
319 North Carbonville Road
Price, UT
October 28, 2021
8:30 am

BOARD MEMBERS PRESENT

Chair Blaine Ipson
Vice-Chair Kyle Stephens
Juliette Tennert
Jim Lemmon
Norman Johnson
Charles Holmgren
Wayne Andersen
Randy Crozier

STAFF PRESENT

Candice Hasenyager
Joel Williams
Todd Stonely
Randy Staker
Michael Sanchez
Marty Bushman
Shalaine DeBernardi
Marisa Egbert
Jaqueline Pacheco
Russell Hadley (virtual)
Lindsay Russell
Thomas Moore
Paul Gedge
Carmen McDonald (virtual)

OTHERS PRESENT

Tom Thompson
Emily Lewis
Nathan Bracken
Sue Bellagamba

CHAIR BLAINE IPSON called the meeting to order at 8:39 and announced Board Members present.
DIRECTOR CANDICE HASENYAGER announced staff and others present.

CHAIR BLAINE IPSON the board was able to participate in a tour of several areas in Carbon and Emery Counties. It was well organized and a big thank you to Marisa Egbert for planning that. The new water year has begun and is looking much better in October, so let's hope that continues.

APPROVAL OF MINUTES:

CHAIR BLAINE IPSON asked for any changes that needed to be made to the minutes from the last meeting.

CHAIR BLAINE IPSON Asked what the status of the BRD commissioner was.

DIRECTOR CANDICE HASENYAGER we are working with the Governor's office to get me named officially as the UCRC Alternate. Because I am currently on the Colorado River Authority by statute, there is nothing additional we need to do regarding that. The Bear River Commissioner seat is being discussed and we will have that motion ready for the board at the December meeting.

PROJECT REPORTS

SPECIAL ITEMS

RE061, 352, 361 Ephraim Irrigation Company

CHAIR BLAINE IPSON I represent that area and this company has had a series of projects over the years to line their trans-mountain tunnel. It was supposed to take 2 years to complete but due to unexpected costs, it has taken 4 years.

MARISA EGBERT there have been a number of issues that have come up between the contractor and the company and while they were not able to work things out in mediation, they were able to come to a consensus after that and \$400,000 was the agreed upon amount. The other project numbers are ones they are still making payments on so they are a part of us potentially helping them with this delay in payments.

Staff recommends the board amend all three purchase agreements to state that principal payments will be deferred for 2021, 2022, and 2023, and will resume on March 1, 2024. Interest payments will be due on March 1, 2021, 2022, and 2023.

Staff also recommends that the board amend the purchase agreement for RE361 to state that the balance owed will be returned over approximately 18 years with annual payments of \$62,500. The interest rate will remain as contracted.

CHAIR BLAINE IPSON is Mike agreeable with these terms?

MARISA EGBERT yes, we discussed this with him and Shalaine and Marty and it sounds like these terms are ones they are amenable to. We have clarified with him that what they are wanting is not in the letter.

SHALAINA DEBERNARDI they added some things into their letter regarding interest and principal payments. They will be paying \$60,000 this year in interest. But they can accumulate some funds to pay

off the amount owed. We have explained that we do not need to address the late payment in 2021 because if this is approved by the board, the 2021 payment will be deferred and, therefore, not late. MARISA EGBERT the company has had discussions with the city about this settlement because they have a culinary line through the tunnel and they also did not want that tunnel to collapse. The city is helping pay for the project. We required there be a written agreement between the company and the city on how this would be paid and I believe that it is 50/50 but I am not 100% certain on the final outcome. VICE-CHAIR KYLE STEPHENS regarding the late fees being waived, if we approve this today, the payment for 2021 would not be late and there would be no late fees. We did not waive the late fees for another company so is it unusual to waive them in this way?

SHALAINE DEBERNARDI that company had several late payments and the board had decided that because it was an issue, this one has not been late before.

CHAIR BLAIN IPSON will Mike tell us in the full meeting that they will be paying the full amount of the settlement this year?

MARISA EGBERT there was a discussion with the contractor that stated that they would make one payment but that may have changed at this point.

JULIETTE TENNERT is there a written agreement around the settlement? This was taken care of outside of mediation and I just want some record or clarification on that.

MARISA EGBERT there are additional fees out there because of attorney fees and additional work. They have sent those invoices and we have reimbursed and if there are still more engineering fees after that, we will not be paying those through this settlement.

RANDY CROZIER we are talking about \$400,000 and I want to know if half is the city and half is the irrigation company?

SHALAINE DEBERNARDI technically, that is what should happen but the contractor's contract is only with the irrigation company. Although the city and irrigation company have a separate agreement, the settlement is only between the contractor and the irrigation company. The attorney that is working with the irrigation company is the city attorney so hopefully there is a reasonable resolution to all of this.

RANDY CROZIER so the city would essentially be a shareholder or something to that effect?

SHALAINE DEBERNARDI yes that is right.

RANDY CROZIER does the pipe hang in the ceiling or does it run on the floor?

MARISA EGBERT they put in a second one as a backup on the side but the main pipe is on the ceiling. There are shareholders that are paying repayments for all three projects and then the drought hit so they have all struggled. There were some issues with the contractor being unprepared as well.

RANDY CROZIER pre-planning can make a difference but I hope they can get it resolved.

MARISA EGBERT they do have some money ready and saved to pay the balance due on the settlement so that should help.

RE 427 Ashley Central Irrigation Company

RANDY CROZIER this project has been refinanced and changed quite a few times.

JAQUELINE PACHECO this is a recommitment of funds and the original project was to pipe a 2.4 mile canal. They expanded the scope to pipe and partially pressurize approximately 9.6 miles of canal within and near Vernal City to reduce seepage, increase conveyance efficiencies, and improve safety. They received

a WaterSMART to cover a portion of the original project but declined the WaterSMART grant in order to be eligible for funding from the NRCS. Although the overall cost has increased due to the expanded scope, the board's portion is the same.

Staff recommends the board recommit 7.7% of the project cost, up to \$1,000,000, and that the project be purchased at 0% interest over 25 years, with annual payments of approximately \$40,000.

RE 440 Nibley Blacksmith Fork Irrigation Company

CHARLES HOLMGREN we met with them some time ago and since then, the president of the company passed away and a reorganization took place. They found some funding elsewhere as well.

RUSSELL HADLEY the bids for the project did come in higher and the Blacksmith Fork diversion portion will be covered by Trout Unlimited. Even with that amount taken care of along with a WaterSMART grant and Water Optimization grant, the amounts are still quite high. They also wanted us to waive the requirement to only water before 10 am and after 6pm but because the lawn and garden water is such a small percentage, we decided to not have the lawn and garden portion on there and it will come from the revolving construction fund and treat it like an agricultural project.

Staff recommends the board re-authorize and commit 55.7% of the project cost from the Revolving Construction Fund, up to \$768,000 and that the project be purchased at 0% interest over 30 years, with annual payments of approximately \$25,600.

CHARLES HOLMGREN are they going to be online or in person?

RUSSELL HADLEY they will be virtually.

SHALAIN DEBERNARDI I am prepared to present if you want an in-person presenter but I am also happy to have Russell present virtually.

CHAIR BLAINE IPSON if we could have Shalaine stay up at the presenting table just in case there are questions and have Russell present virtually, that would be helpful.

JULIETTE TENNERT what is the magnitude of the lawn and garden part? I don't mind excluding it but I want to understand that a bit better. There are 181 homes versus 3100 acres of agricultural land or is it percentage smaller?

SHALAIN DEBERNARDI they have a 0.15% interest rate because of the inclusion of the lawn and garden section. When the lawn and garden aspect was excluded, we were able to drop the interest rate.

JULIETTE TENNERT yes that makes sense.

RUSSELL HADLEY the irrigation company treats the lawn and garden connections and homeowners association the exact same way as an agricultural user in terms of having the water available to them every 10 days.

RANDY CROZIER how many shares are owned by the subdivision?

RUSSELL HADLEY I can look that up for you.

RANDY CROZIER I just wanted know the acreage/lot sizes and what shares were actually owned.

CHARLES HOLMGREN it has been awhile since I have been there but I would guess that the residential area is around 50 acres but we can get those actual numbers from Russell.

RANDY CROZIER because those lawns go right up to the canal, it makes sense that the bids came in so high and it makes sense that this would be the case so I am disappointed that the engineers missed that.

SHALAIN DEBERNARDI things are much more expensive in 2021 than they were in 2020 and this was authorized just over a year ago.

RANDY CROZIER it is difficult to work with those homeowners and finish the project without issues.

RE 452 Lindon City

WAYNE ANDERSEN straight forward project for secondary meters. They do have a grant from Central Utah Water Conservancy District for 14.2% and we will cover 42.9% and they will cover the other 42.9%. MARISA EGBERT this is a great project. They are not only metering the homes, they are bringing in several different sizes of meters to meter parks, institutional areas, etc. They have 250 meters installed already in residential areas. There are around 250 homes not in a pressurized system because it is so far out from the main area. They now have an option to add those outside homes to the system. This is also the first of the State's water grants for secondary meters. We are excited to get this out there. We will be having a press release about this project as well.

Staff recommends the board authorize and commit 42.9% of the project cost, up to \$1,205,000, as a secondary meter grant.

WAYNE ANDERSEN are they installing the meters themselves?

MARISA EGBERT they were planning to do that. But that would still need to be in the cost estimate, if they want that to be in the reimbursement.

DIRECTOR CANDICE HASENYAGER the legislature appropriated \$2 million ongoing per year to administer these grants at a 50/50 cost share.

SHALAIN DEBERNARDI these were the guidelines that the Board adopted at the previous meeting.

MARISA EGBERT we do have a financial feasibility in here even though they are not paying it back, they needed to submit this to show the need, which is required in order to be in compliance with the guidelines.

NEW APPLICATIONS

RE 453 Huntsville South Bench Canal Company

RE 454 West Cache Irrigation Company

LAKE POWELL PIPELINE REPORT

JOEL WILLIAMS will provide the report in the board meeting.

WATER BANKING REPORT

EMILY LEWIS we are continuing the process of the application process for Water Banking.

CHAIR BLAINE IPSON I asked some questions and one thing I did miss were that there are two different types of water bank: statutory water bank and contract water bank. The documents we have today are for contract water bank

JAQUELINE PACHECO the goal today is that the board approve the guidelines and I have the motion here today just in case you would be able to do that.

EMILY LEWIS we do want all parties to feel comfortable with everything so we are giving some time to them to get to that point.

SHALAIN DEBERNARDI I just want to clarify some of the tasks that the division is taking on. The board would still be required to sign off on it. The 5 step process sheet is not a part of the official board document that we are asking you to adopt. The division would be able to work within those guidelines

to complete the tasks but if there is something you don't like, we can change that. We would like the board to approve them as written so they are ready to go when the bank is ready.

NATHAN BRACKEN when these provisions were all written, it was meant to be through the Division but when we came to the statute drafting, we realized that the code was structured to require that the board direct the division on these matters. We changed it to the board to make it consistent with the rest of the statutes. The intent was never that the board do the groundwork.

DIRECTOR CANDICE HASENYAGER in the board guidelines, it does not mention the delegation of these certain responsibilities so does that need to be in there?

SHALAINE DEBERNARDI it is in the statute requirements.

JULIETTE TENNERT in these first applications, can the staff keep the board in the loop for each? I am comfortable with the staff taking on the duties through delegation but if we could have more communication on the happenings, that would be great.

MARTY BUSHMAN the board's authority is to take action and they can delegate that. Whether it's in the guidelines or they just make a motion, they are able to do that.

WAYNE ANDERSEN whoever represents the area that the application is coming from, the board member will need to sign off on that

RANDY CROZIER this seems similar to what we do now. Do we have to have a final document with the board's signatures?

CHAIR BLAINE IPSON all we have to do is approve the application.

MARTY BUSHMAN there is a review to make sure the application is complete which would be delegated to the division. The next step would be a board approval where you would vote to approve the application.

CHAIR BLAINE IPSON it is the same process as we have for projects in our areas.

JAQUELINE PACHECO that was our intent going through the process so it makes it easier to streamline the process.

EMILY LEWIS there is no board/applicant contract because we are not providing the funding. We want this to be done right and in the way that you feel comfortable with.

RANDY CROZIER I just want to know when a project is coming up and we can be aware and it gives the board member a bit more time to know.

CHAIR BLAINE IPSON on the agenda, we get notified that we have new projects coming up so perhaps a new application can be shared in that way as well?

SHALAINE DEBERNARDI yes, and the only thing I would add in that instance is that we don't always know there is a new application and how quickly the investigation came through, it can be something that does not end up on the agenda in those cases. But it does go through the same process as project funding. I will make a note that an email will go out to the board when we do have a new application for water banking.

JULIETTE TENNERT I know that these are pilots and this is helpful during these but eventually, we may not even need that once this becomes more common.

EMILY LEWIS and one thing to remember is that this is making sure that all the boxes are checked and that all parties are protected and the water is administered in a way that meets the approvals.

SHALAINE DEBERNARDI as you look at the application form, this is much more detailed than a project funding application. This is reviewing the materials along with the application so it is just going to be a

matter of looking over it and ensuring everything is checked and then coming to the board with a recommendation.

CHAIR BLAINE IPSON what is the motion that you have for the board meeting?

JAQUELINE PACHECO the original motion that I had was "staff recommends the board adopt the application and guidelines for contract water banks as written" but it sounds like you would like there to be changes made before they are approved.

SHALAINE DEBERNARDI all we would ask is that in the board meeting you either designate specific changes you would like to see made or you can ask us to make the changes and bring them back to you in December.

MARTY BUSHMAN the guidelines state that the division has the responsibility of reviewing the applications for completeness. One way you could do the delegation is to approve the guidelines today but if you are sending the guidelines back for further modifications, you could have a clarifying sentence that the board delegates these responsibilities.

CHAIR BLAINE IPSON I would like some more time to go over it and wait until the December meeting.

EMILY LEWIS that is totally fine and it has been a big process. It was helpful for the participating parties to have this date, but we do need to have a practical timeline if we want to run water through the water bank in spring 2022. We also have to take into consideration the change application process and we would likely need to have that done by January or so, but we cannot move forward with that until the board application is approved.

VICE-CHAIR KYLE STEPHENS who will be the entity that we will receive these initial contacts from?

SHALAINE DEBERNARDI it would likely come from an attorney but it will be on behalf of a public entity. I would say that today we should just remove the motion for today but what we would like is specific direction on what changes you would like to see. Within the next week, we will incorporate those and get those to you so you can look over them and address concerns.

EMILY LEWIS this specific one would be the Price Watershed Conservation District. I also did include an example of what the signature block would look like in your documents.

RANDY CROZIER when this application comes forward, this will be completely filled out before we sign it.

CHAIR BLAINE IPSON we do not determine that it is complete, the staff will be doing that later.

SHALAINE DEBERNARDI the signature will signify that the project looks good to you.

RANDY CROZIER to me, it seems that my signature says that it is complete. I just want to feel comfortable in signing it because I will not have reviewed everything on there.

MARTY BUSHMAN the first review is just that the boxes are all checked in that all the material is included.

EMILY LEWIS right now, the signature line states "I have reviewed this application and forwarded it to staff of the Division of Water Resources to prepare a feasibility report". You are not attesting that you have seen the application and forwarded it on to start the process.

CHARLES HOLMGREN I would be comfortable with this motion today but I understand that we might be making changes as time goes on.

JULIETTE TENNERT I also like to think about things longer so I would appreciate some additional time to review.

EMILY LEWIS that is great and I would rather everyone be comfortable with it so December works but that is the time things really do need to be approved by.

RANDY CROZIER it would be helpful to have the motion ready so we can read that beforehand.

CHAIR BLAINE IPSON I would like something on the signature block and the application approval. There is a concern on making sure we are covered on delegation. I am not sure how to create that verbiage but I would like to see that addressed.

RANDY CROZIER I would like to have it laid out and have a separate sheet that goes with the application that the board can sign off.

CHAIR BLAINE IPSON I would like some feedback on the signature block and I want to make sure we are covered on the delegation.

RANDY CROZIER I just want it laid out clearly so we know what we are delegating.

SHALAIN DEBERNARDI yes, we can do that and have a summary report that includes the board's motion.

EMILY LEWIS it will be simple to add a sentence with the statute along with this to show that delegation.

2022 BOARD MEETING SCHEDULE

DIRECTOR'S REPORT

DIRECTOR CANDICE HASENYAGER we will go over water supply conditions and the water resources plan which is out for public comment currently (it closes Nov 15). There were some interim meetings last week that I will discuss as well. We are investigating a GSL basin study as well. We also want to introduce Michael Sanchez as our new Public Information Officer.

MICHAEL SANCHEZ it has been a great time spending time here my first few days. There has been a lot of information and Marty and Joel have been helping to fill me in. Please complete the training that Lindsay sent out and we do have our next meeting on December 7 which is a Tuesday.

CHAIR BLAINE IPSON we will waive our financial report for this meeting.

JULIETTE TENNERT moved to close the meeting and WAYNE ANDERSEN seconded. All approved and the meeting was adjourned at 10:21 am.