BOARD OF WATER RESOURCES

Meeting Minutes

Department of Natural Resources

1594 W North Temple

Salt Lake City, UT

December 7, 2021

8:00 am

CHAIR BLAINE IPSON called the meeting to order at 10:00 am.

All board members present with the exception of Wayne Andersen and Randy Crozier.

DIRECTOR CANDICE HASENYAGER announced all staff and others present.

Happy birthday today to board member Charles Holmgren!

APPROVAL OF THE MINUTES

NORM JOHNSON moved to approve the minutes and JIM LEMMON seconded the motion. After a roll call vote, all members approved the minutes.

NRCS SNOW REPORT

DAVID ERICSSON provided an update on the snow report. The snow pack is 34% to normal and hoping for more moisture in the future. Precipitation is 103% to normal. Soil moisture is 53% to normal.

PROJECT REPORTS

FEASIBILITY REPORTS

RE454 West Cache Irrigation Company

Tom Griffin (board of directors), Steven Wood (engineer)

RUSSELL HADLEY the purpose of the project is to replace three miles of a canal with a pressurized pipe. Five individually owned pumps will be replaced with one high-efficiency centralized pump. This will save approximately 1,083 acre feet annually and will reduce operation and maintenance costs. It will also reduce weed/moss killer used in the ditch, reduce drought impacts, and provide electrical savings.

Staff recommends the board authorize 45.8% of the project cost, up to $940,000, and that the project be purchased at 0% interest over approximately 24 years with annual payments of $39,400.

TOM GRIFFIN we would like to ask for a 30 year repayment plan because of lower crop yields due to cooler temperatures and other economic impacts.

STEVEN WOOD the shareholders are excited about this project but there is some additional infrastructure on top of this project so the extended repayment period would benefit them.

JULIETTE TENNERT there was a point brought up that the pumps they are wanting to use are more expensive which bumps the amount above $1 million and that would include a change in terms for this agreement of 1% interest.

TOM GRIFFIN the reason we are wanting to do that is for efficiency on the electrical side.

STEVEN WOOD when the pump is run higher to its maximum output, with these more expensive pumps, the electrical bill over time is less and makes the motor last longer. We are looking at some additional grant money through the state to stay below the $1 million dollar threshold.

RUSSELL HADLEY is that a water optimization grant through the Department of Agriculture and Food?

STEVEN WOOD yes, and they are opening those applications in the spring.

CHARLES HOLMGREN this company did a phenomenal job at conserving water this year.

RUSSELL HADLEY if the board did approve the 30 year repayment plan, staff would then recommend the board authorize 45.8% of the project cost, up to $940,000 and that the project be purchased at 0% interest over 30 years with annual payments of approximately $31,400.

RANDY STAKER there were no public comments for this project.

SHALAINE DEBERNARDI if the years are set and the payments are approximate and they do not take the full amount of funds, the payment can be reduced. However, if the years are approximate and the payments are a set amount, they are stuck with that payment until it is paid off. We did approximate years initially but if you approve the 30 years, we would prefer you specify approximate amount instead of approximate years.

CHARLES HOLMGREN moved to approve the authorization of the funds, VICE-CHAIR KYLE STEPHENS seconded the motion to approve the authorization and after a vote, all approved. The motion to approve the authorization passed.

COMMITTAL OF FUNDS

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.

Staff recommends the board commit 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.

NORM JOHNSON is the water they are selling being run through a treatment plant? Are we protecting ourselves?

BEN MARETT it is not being treated because the special district they sell the water to takes care of that.

RANDY STAKER there were no public comments

JIM LEMMON moved to commit the funds for the project, CHARLES HOLMGREN seconded the motion to commit the funds and after a vote, all approved. The motion to commit the funds was passed.

SPECIAL ITEMS

RE453 Huntsville South Bench Irrigation Company

Ray Walker (manager) Sandra Walker (secretary) Richard Driesdale (board member) Brian Deeter (engineer)

BEN MARETT the purpose of the project is to replace 1,100 feet of open canal with 20” HDPE pipe and bore a new road crossing below Highway 39.

Staff recommends the board authorize and commit 85% of the project cost, up to $224,500, and that the project be purchased at 0% interest over 15 years with annual payments of approximately $15,000.

RAY WALKER without this update, we would not be able to get water to all of our shareholders. The last shareholder that is not able to utilize their full share has a large farm and they have put that in a conservation easement to preserve it.

VICE-CHAIR KYLE STEPHENS with the alignment, does that go close to the structure on the map? Are there issues with that closeness?

RICHARD it is adjacent to their sidewalk so there will not be issues with that building. It is also an existing pipe so this will replace that.

CHARLES HOLMGREN what is the cost per acre foot for water service in this area?

RAY WALKER about 85% of the canal is set up for flood irrigation. There is one large farm and 119 shares and a dam. They pump the water and they have pivot irrigation as well. I am not sure the cost per acre but we pay $175 per share per year for the current loan we have with the state. The board has been charging $40 per share to put aside for maintenance on the canal. There is a lease from Weber Basin that is $6600 per year.

RANDY STAKER there were no public comments

VICE-CHAIR KYLE STEPHENS moved to authorize and commit the cost of the project, NORM JOHNSON seconded the motion to authorize and commit. After a vote, all approved and the motion to authorize and commit was passed.

RL585 Powder Mountain WSID

Roy Watts (manager) Carrie Zenger (clerk) Brad Gilson (engineer) Marcus Keller (financial advisor) Robert Barron (chairman of the board)

BEN MARETT the purpose of the original project was to install two new booster pump stations, rehabilitate two existing pump stations, install a spring box and a pipeline to connect Pizzle Spring #3 to the eastern pressure zone. Since construction began, costs have gone up and the scope of the project has shifted to assist with changing goals of the applicant. They propose that they postpone the water storage tank indefinitely and construct a fourth booster pump station and install an additional 4,000 feet of pipeline to connect everything together. The cost estimate is now $3,741,000 which is an increase of $1,873,000. The cost share is still 85% and the amount goes up to $3,180,000 if approved.

Staff recommends that the board commit an additional $1,592,000, for a total bond of $3,180,000. The bonded indebtedness will be returned at 1% interest over 30 years with annual payments of approximately $128,000 (including reserves).

ROY WATTS we appreciate your consideration on this as this project is essential. The additional capacity at the top of the mountain is critical.

BRAD GILSON this project adds pipeline all the way up to the top of the mountain which reaches one of our main water sources.

MARCUS KELLER there was a request on the financial side that was discussed. The 15% match contribution is being reviewed and we were wondering if the cost share could be 10% instead. Would the board be amenable to that? This would allow the district to retain some of their cash on hand.

BEN MARETT it would involve some recalculations on the bond on our end to get the amounts for this proposed change.

VICE-CHAIR KYLE STEPHENS what is the revenue source that would cover the increase and regarding the cost share change, is that doable with the boards guidelines?

MARCUS KELLER the revenue source would be rates from the users through a tax exempt bond. The available revenues as described in the bond documents would be the source. It would be received in a tax exempt bond.

SHALAINE DEBERNARDI you would be issuing a new bond for one and not issuing a new bond to cover both, correct?

MARCUS KELLER yes.

SHALAINE DEBERNARDI the guidelines do allow the board to cover 90% of the cost in the past but we do not have those numbers at this time. What is the new bond amount for the new money?

MARCUS KELLER $1,774,900 and $93,100.

SHALAINE DEBERNARDI we may have different numbers based on my math but we would have to recalculate the payments on the new money. The terms could remain the same but the amounts would change and it seems that they are wanting to do a reissuance of a new bond.

Because this information only just came up now, I would recommend tabling this action item until the next meeting. That is, if the board is open to funding this increase at a higher rate for the second portion of the project.

MARCUS KELLER I know it is critical that the district get this approved as soon as possible to get the bills covered for the piece of the project. Can the board give you discretion here and approve the 10% cost share and your team can work on putting that together. We just want to avoid any hindrance to the project.

SHALAINE DEBERNARDI do they have funds available to pay bills on their existing project or have they all been spent?

BEN MARETT approximately $890,000 has been paid out so the $1.868 million from the last bond should have some available still. The reason we chose this board meeting was due to expected cash flow issues if this was put off.

BRAD GILSON one of the challenges is the short construction season on the top of the mountain. It really runs from June to September so we have a lot of work to do to procure contractors.

MARCUS KELLER this amount being requested is roughly the same amount as the prior loan.

SHALAINE DEBERNARDI I dont believe anyone is opposed to this suggestion but we do not like surprises and we had no idea this request was going to be made. We have had no time to discuss or prepare calculations to run the numbers so we can consider what this means. So, while this is a reasonable request, we are feeling unprepared and I am not sure I am willing to make that recommendation to the board. I am open if the board would like to discuss this further but this would not be deterring the project if we waited until the January meeting because we could close on the new bond as early as the first week of February.

MARCUS KELLER we would of course do whatever the district wants and if they feel they can get through the next little bit on the funds available.

CARRIE ZENGER I will submit another requisition to Ben to update what has been covered but we do have enough funds to cover us until the next board meeting.

MARCUS KELLER for the upcoming meeting, we would ask for feedback on the contribution amount so that the district can prepare according with Ben and Shalaine.

CHAIR BLAINE IPSON I feel blindsided and I am not ready to take action on a proposal that we were not aware of today.

VICE-CHAIR KYLE STEPHENS I am prepared to make the original motion if there are no other questions on this.

NORMAN JOHNSON I am just confused as to why this was so last minute.

CHARLES HOLMGREN I feel like we need to put this off until January because there are too many open ended items going on.

CHAIR BLAINE IPSON the original motion may not even make sense to make at this time.

JULIETTE TENNERT I would be supportive of tabling this. I understand that a new bond would be issued at 95% which would make the whole project a 90% cost share but I do not want to set a precedent of setting a 95% cost share. Staff would need to document this thoroughly.

SHALAINE DEBERNARDI are we considering this two separate projects or one project with an expansion of scope? The fact that it is a bond and must be issued a different way is a technicality. If it's one project with additional funds, it should not be a problem. I do agree that this would require a different motion than what we were prepared for.

MARCUS KELLER would you prefer the district to refund the current bond to make one new bond?

SHALAINE DEBERNARDI I dont believe that matters but it changes the way we look at things. If we know that you are not reissuing a new bond, we can work with the payments and structure as they are. If you are going to reissue a new bond, then we would have different terms than how they are currently written. The board would still commit additional funds, but the new bond would be repaid with different terms.

MARCUS KELLER just for simplicity's sake, it would be the district's preference to just issue new money instead of new money and refunding.

SHALAINE DEBERNARDI we can work with this but it will require a new motion.

JIM LEMMON is it a better rate for the board if we reissued a bond?

MARCUS KELLER the bonds that were issued in 2020 is also at 1% so it would extend the term but it would be about the same.

SHALAINE DEBERNARDI we recommended 1% and that would be the same for the new bond as well. I did want to note that the reason we bring the 85/15 percent cost share before you is because that falls within your guidelines and that is what we have been directed to do. If you are open to a 90/10 percent cost share, we would like some direction on that today so we can prepare for that. We do not want a motion, just some direction.

CHAIR BLAINE IPSON bring us both so we can discuss that. That will give us time to look over the information.

JULIETTE TENNERT how often do we deviate from our guidelines and what are the circumstances?

SHALAINE DEBERNARDI we dont generally deviate from the 85/15 percent. Generally, they can do the work themselves if it is a smaller amount. Large amounts of money are more difficult for applicants to work with. There have been times when the board has gone outside the guidelines previously but this specific one is rare.

JIM LEMMON what is your cost to the district and would that change if we did it differently?

MARCUS KELLER our fee would not be affected either way because it is a fixed amount. There is a process if we change the bond but we just want to make sure all of our ducks in a row before we close in February.

RANDY STAKER there were no public comments

VICE-CHAIR KYLE STEPHENS moved to table the project discussion to the next meeting in January and NORM JOHNSON seconded the motion and after a vote, all approved and the project was tabled until the January 27th meeting.

WATER RESOURCES PLAN UPDATE

RACHEL SHILTON the plan was put out for public comment on September 29 and closed on November 15th. We received 275 comments. Many were not happy with the survey format. There were many comments regarding conservation and ongoing projects including Bear River, Lake Powell Pipeline, Great Salt Lake, etc. We are reviewing these comments, which along with our responses will be published with the plan. They are grouped by topic as well. We are hoping to have this available by the end of the year. There will not be a large number of hard copies printed but the plan will be available online.

RANDY STAKER there were not any public comments

LAKE POWELL PIPELINE REPORT

DEPUTY DIRECTOR JOEL WILLIAMS provided an update on Lake Powell Pipeline key efforts

RANDY STAKER there were no public comments

WATER BANKING REPORT

EMILY LEWIS provided an update on the water banking project based on what we went over in the October meeting. We will have one less participant in the bank than we had presented at the October meeting. We will have our first formal application next week and we will be asking for approval of that at the January meeting.

JAQUELINE PACHECO provided a brief update on the contract verbiage that was discussed in the October meeting.

Staff recommends that the board authorize and direct the Division of Water Resources to receive, date, determine completeness, and post notice of Contract Water Bank Applications in accordance with Utah Code 73-31-303.

Staff also recommends that the board adopt the application and guidelines for Contract Water Banks, as written.

CHAIR BLAINE IPSON Norm will be signing the application next week and he will be signing to authorize the staff to review it.

RANDY STAKER no public comments

VICE-CHAIR KYLE STEPHENS moved to authorize and direct the Division to ensure the applications are complete. CHARLES HOLMGREN seconded the motion and after a vote, all approved and the motion passed.

VICE-CHAIR KYLE STEPHENS moved to approve that the board adopt the application and guidelines for Contract Water Banks, as discussed. NORMAN JOHNSON seconded the motion and after a vote, all approved and the motion passed.

ARPA SECONDARY METER GRANT GUIDELINES

DEPUTY DIRECTOR JOEL WILLIAMS provided a breakdown on the proposed guidelines and the application process. There will be an application form at the meeting in January to make a motion on.

CHAIR BLAINE IPSON these are guidelines and they may change as time goes along. Regarding the 45 day application period, I believe that needs to be determined as soon as the application is done so we can get the information out to as many people as possible. At the next meeting, I would like to see how the Division plans to do that.

RANDY STAKER no public comments

JULIETTE TENNERT moved to adopt the guidelines as written for the ARPA Secondary Water Meter Grants. VICE-CHAIR KYLE STEPHENS seconded the motion and after a vote, all approved and the guidelines were approved.

INTERSTATE STREAMS

DIRECTOR CANDICE HASENYAGER we have had great representation by Todd Adams on this Commission and in discussions with Brian Steed and Theresa Wilhlemson, it has been decided that the Director of Water Resources would serve in that capacity if approved by the board.

CHAIR BLAINE IPSON communication lines between all entities is integral in this process and hopefully include Todd Adams in these discussions because of his background and wealth of knowledge. I am very comfortable with Candice being appointed to this position.

CHARLES HOLMGREN communication is imperative so I would echo that sentiment along with Todd Adams being included as long as he would like to in these discussions.

RANDY STAKER there were no public comments

CHARLES HOLMGREN moved to nominate Director CANDICE HASENYAGER to act as the board's representative on the Bear River Commission, subject to the approval of the Director of Natural Resources and the Governor. JIM LEMMON seconded the motion. All approved and the nomination of Director CANDICE HASENYAGER was approved.

CHAIR BLAINE IPSON the next agenda item deals with the Upper Colorado River Alternate Commissioner position which Candice will update us on.

DIRECTOR CANDICE HASENYAGER when Todd Adams moved to the Department, it was recommended that I be appointed into that position. Through a letter to UCRC, the Governor Cox appointed me to that position so we ask that you ratify that appointment.

RANDY STAKER there were no public comments

NORM JOHNSON moved to ratify Governor Cox’s appointment of Director CANDICE HASENYAGER as the alternate commissioner to the Upper Colorado River Commission. JIM LEMMON seconded the motion and after a vote, all approved and Candice’s appointment was ratified.

PUBLIC COMMENT

DIRECTOR CANDICE HASENYAGER there was a public comment on the ARPA funding which was from Rick Smith:

Thank you for considering ARPA funds for secondary water meters. We have a concern about the funding percentages of the grants. We would prefer 100% grants because entities will have long term cost of operation, maintenance, and future replacement of the meters once they are installed. The grant applications will also require entities to expend monies to create estimates and project scopes with a professional engineering signing off on the project. It would be difficult for most secondary water providers to come up with the matching funds. In order to come up with these matching funds, secondary water rates would have to be increased in some entities to the point where they are as much or more than culinary water rates. The State of Utah secondary water meter grant program has a 15% match, and this would potentially cause some confusion between the two programs. Another challenge is to actually install fifty million dollars in meters by the end of 2026. We have completed two small metering projects over the last three years and we have already found it difficult to find contractors who are willing to install these projects in a short amount of time. Another concern is supply chain issues which we are sure everyone is well aware of. We are not sure we can even get that amount of meters by the end of 2026. Thank you for considering our comments.

There have been questions on these repayment schedules for years and we appreciate the coordination, time, and efforts of DWR staff to investigate further and working with state financing. We continue to pay back said loans, and these adjustments ensures that we're not paying interest on deferred interest. We appreciate the Board and their assistance over the decades DWCCC has sought and received funding.

Will answer any questions the Board may have concerning our project

SHALAINE DEBERNARDI there was another public comment that was very similar to the first also by Rick Smith:

We are grateful that ARPA funds are being considered for secondary water meters. We would prefer 100% grants since the secondary water companies will have the long term costs of operation and maintenance, and future replacement of said meters. The grant applications will also require entities to expend monies to create estimates and project scopes with a professional engineering signing off on the project scope. Most secondary water providers do not have matching funds due to the tight margins and trying to keep the cost of secondary water comparable to or less than culinary water rates. The State secondary water meter grant program has a 15% match, so there may be some confusion if you have two different match percentages (State 15%, ARPA 25%). The other challenge is to physically install $50M worth of meters by December 2026. We have done two large metering projects in the last 6 years, and the maximum we've been able to install in a 2-year time period was 700 meters. At the cost of approximately $2000 per meter installation, that is $1.4M (costs may be higher now). Both supply chain concerns as well as labor shortage pressures will create challenges. Thank you for the opportunity to provide these comments.

CHAIR BLAINE IPSON in the briefing meeting we had discussed that the 75/25 was more of a recommendation from the legislation committee correct?

DIRECTOR CANDICE HASENYAGER yes, Brian Steed, Kim Shelley, and Craig Buttars presented to the Executive Appropriations Committee and it was their recommendation which was accepted by the committee. 2026 is based on the ARPA rules, not our division or board.

VICE-CHAIR KYLE STEPHENS that is the response we should send back to Rick Smith.

DEPUTY DIRECTOR JOEL WILLIAMS it was decided that the applicant can come to the board for a load to help with that 25% as well. It is good for these applicants to know they can apply for a loan for that amount which would put the applicants amount to cover at 3.75%.

CHAIR BLAINE IPSON these are guidelines so they can be tweaked if need be. Do we need to open this discussion again? I believe we have already had this discussion thoroughly.

DIRECTOR CANDICE HASENYAGER is the it the direction of the board that we reply to Rick Smith with these comments?

CHAIR BLAINE IPSON yes please.

DIRECTORS REPORT

DIRECTOR CANDICE HASNEYAGER I want to share appreciation for the members of the board and the team at Water Resources. There are four quick items I want to cover:

In 2021 the Utah Legislature approved $270,000 for integrated land use and water planning and we were able to leverage an additional $30,000 from the Great Salt Lake Advisory Council to issue a “Phase 1” of this project. That happened on June 30 and we developed a Utah specific Assessment Framework for Community Action and Stakeholder Outreach that is available on our website. Most recently we were able to contract with the Babbitt Center to complete a “Phase 2” of integrating land use and water planning that will include the development of curriculum stakeholder workshops and technical assistant through 2023.

Another item I wanted to discuss was regarding the Bear River Commission, it was a tough year for this river and there was a request for petition for interstate water delivery pursuant to the compact. This is on tributary flows so this is something we will be working on over the next few months. We will work closely with the water users to explain the compact and help them understand the water rights.

Regarding Interstate Streams, there have been meetings with the seven basin states over the last 6 months to discuss the renegotiation of the interim guidelines. We are working on improving the modeling for the Colorado River by April 1 and then moving on to the sensitive analysis. With Lake Powell reaching record lows, we are trying to protect the lake at a higher elevation and there has already been an emergency release by the Bureau of Reclamation. The 24 month study that was released projected Lake Powell Pipeline to be below the target elevations of 35/25 in March or April so they are exploring another kind of drought emergency response action where they would change the release patterns at Lake Powell. The releases would be reduced from January to April and increased from June to August. This is just a proposal at this point so we should know more in the coming weeks.

Regarding Demand Management as a potential tool to protect against drought and low reservoir conditions, this concept is for Colorado River water users as a voluntary and temporary reduction in water use. This is a similar idea to water banking. Water Resources has a contract with the University of Utah’s Environmental Dispute Resolution to do a situation assessment on Demand Management.

The Governor had a press event today to discuss his budget. There were some specific items regarding water and I wanted to give a highlight on those. There will be an estimated additional $2 million in ARPA funds to Secondary Water Metering. They added $1.5 million to incentivize homeowners to replace their grass/turf with water wise landscaping. This is a one time fund. There was also $500,000 for water storage enhancement but we will have more information on that later because we are not sure what the goal is there. There was $45 million that was set aside for Great Salt Lake preservation.

ELECTION OF THE 2022 BOARD OFFICERS

JIM LEMMON moved to nominate KYLE STEPHENS as the chair. NORM JOHNSON seconded the motion and after a vote, all approved.

NORMAN JOHNSON moved to nominate JULIETTE TENNERT as the vice-chair. CHARLES HOLMGREN seconded the motion and after a vote, all approved.

KYLE STEPHENS moved to adjourn the meeting and NORM JOHNSON seconded the motion. The meeting ended at 12:28 pm.