

**Mt. Nebo Water Agency
November 21, 2016**

Board Members: Chairman Warren Peterson, Gene Shawcroft, Marty Larsen, Soren Christensen, Rick Moore, Mike Mendenhall.

Board Alternates: Randy Brailsford, Chris Hansen

Technical Committee: Bruce Ward, Chris Hansen, Richard Nielsen, Chris Thompson, Norm Beagley

Staff: S. Junior Baker, Shelley Hendrickson, Steve Clyde.

Public present: Rich Tullis, Roger Barrus, Richard Noble, Keith Broadhead, David Hathaway, David Tuckett, Jeremy Sorensen, Calvin Crandall, Darrick Whipple.

Chairman Warren Peterson called the meeting to order at 7:41 a.m.

Public Comment Period

Chairman Warren Peterson invited public comment. There was none.

Discussion was held regarding the interest in deferring the interest of SWUA's letter for membership in the Agency. Chairman Peterson expressed that until they could all come to the same table it was going to be hard to talk to each other and if he had been in attendance that he would have been a dissenting vote on the topic.

**Board Action on Adoption of Minutes
August 15, 2016**

Gene Shawcroft **moved** to **approve** the minutes of August 15, 2016; with the noted changes. Soren Christensen **seconded** and the motion **passed** with all in favor.

Technical Committee Report – Chris Hansen

- a. **Regional Water Study Report on Phase II (who is participating)**
- b. **Update on BOR Grant Application**

Chris Hansen addressed the Board and said Hansen, Allen & Luce is on board working on Phase II of the water study and that they were present if the Board wanted them to give them an update. He also said that the Agency was not successful in obtaining the BOR grant. He reported that the Technical Committee did finalize the contract and it has been executed.

IV. Action on Technical Committee Report on Regional Water Study

Junior Baker explained that Agenda Item V, was taken care of in the last Agency board meeting. He said that the Agency received two billings from Hansen, Allen and Luce and that they have been paid out of the Agency's administrative budget. No entities have been assessed yet for Phase II of the study because all the parties to the study project had not yet been identified. He recommended assessing half of the tentative project assessment, then correct assessments to the final budget amount when the final project costs are known. He suggested that non-member participants can be billed their proper amount when the actual project costs are known.

Discussion was held regarding the cost of Phase II of the water study. Mr. Baker said we have commitment letters have been received from member agencies, but there are still outside agencies that may or may not participate and the Agency will still have to work through negotiations with them. According to the last cost breakdown sheet the following entities would be assessed the tentative amounts: \$3,250 for Spanish Fork, Salem & Payson, \$6,500 Utah County, \$32,500 Goshen Valley Local District, \$68,500 Central Utah, \$68,500 Strawberry Highline, \$3,250 Santaquin, \$1,625 Elk Ridge & Genola.

Marty Larsen **moved** to assess the members as read by Chris Hansen at the half rate. Rick Moore **seconded** and the motion **passed** all in favor. Chairman Warren Peterson verified the motion was to assess the members at half of the tentative participation amount based on \$280,000, and use that funding for paying the consultant through the January 2017 meeting.

V. EXECUTIVE COMMITTEE REPORT

a. Approve contract with Hansen, Allen, & Luce for Phase II of Regional Water Study

This item was discussed under Agenda Item IV

Hansen, Allen & Luce - Richard Noble, representing Hansen, Allen, & Luce, addressed the board and gave a brief update on what has been accomplished on Phase II of the water study since the Agency's last board meeting. He said they have been in the data collection portion of the study, looking at current water use water sources, infrastructure, have made annual projections of what water needs are from now until 2060, and are still compiling data and working on the water rights not held by Utah County. He said their staff have met with Utah County, member cities and other members who are not Agency members. He also said their next efforts will be collecting information on available water resources, existing rights, and analyzing the water rights in context with the hydrology and typical yield of the water right, including yield in a dry year and what surpluses may be available in wet years and how those could be used. He said that they were making good progress and were on track with projected schedule and budget.

Marty Larsen asked if the invoice and billing was detailed enough to show what work has been done. Richard Noble said that they meet with the Technical committee and review the invoices. Chris Hansen said that on the Phase I study that he forwarded the invoices to Junior Baker so there was not a paper trail. The invoices just changed hands. He is now putting a cover sheet on top of the invoices that he is certifying that he is approving it.

Chairman Warren Peterson would like to see a copy of the report that goes to the Technical Committee. Chris Hansen said that he could do that as part of the invoicing process by cc'ing the Board. He would like to share the water study data and that any of it would be available under GRAMA. Chris Hansen suggested that the information could be posted on the Agency website.

Chairman Warren Peterson asked Richard Noble what land use data they were using for the demographic projections for land use. Richard Noble said that they are using the Governor's Office of Management and Budget numbers.

Discussion was held regarding population. Chairman Warren Peterson explained the RCLCO study prepared for Envision Utah quantitatively showed 875,000 additional people in Utah County by 2060 and he would like Hansen, Allen & Luce to look at the study. Richard Noble said that they would look at the study and include the data in the GIS system.

Larry Ellertson said as we develop those projections there is a corollary piece that says that we are attempting to preserve agriculture and so he suggested that they may see a change in housing type and land use.

Chairman Warren Peterson said the RCLCO study is market driven rather than regulatory driven although it takes both into account..

Soren Christensen said that he is always amused when we say that we are trying to preserve agriculture around here because we do nothing about it. Larry Ellertson said that they just completed the study with Envision Utah and that every City should receive a copy of the report and that every city official ought to be looking at it and deciding whether their city is really serious about it or not.

Mike Mendenhall asked about the Phase II study timeline. Richard Noble said that they were scheduled to have a draft report done by mid-summer of 2017.

VI. SUBSURFACE WATER TRANSFERS/LEVELS – Soren Christensen

Soren Christensen explained an issue with regard to water rights transfers. He said the issue is about the trade-off of accepting surface water rights from outside the southeastern Utah County area and then allowing this water to be withdrawn from our finite aquifer here. He explained that the Utah State Engineer

is the current arbitrator of these transfers and has allowed the practice to continue over the years based on their current policy and practice. He said that he recognizes that this subject is controversial and almost all of the Agency members have accepted dedication of significant water assets based on transfer from the Jordan River and other places outside of our area. He said we need to decide if we want to continue to support this practice or take another direction. He recommended that some entity needs to take on the role of being the steward of our aquifer before it is too late to do anything about it. He said that he felt there was a strong role that the Agency could take in trying to better manage our area aquifer and work with the State and others to better inform decisions for the benefit of everyone. The Phase II water study could help the Agency inform its position and help provide a road map on how to move forward.

Larry Ellertson said that Soren raised a valid question that a water rights change application proposes a source of water that cannot actually be utilized, then it raises the question as to whether or not it should be allowed as a transfer.

David Tuckett asked if there was someone with some expertise that could come and speak to the Agency because he felt there were conflicting stories. Some people say the water is going down but it doesn't seem that data from past years supports that the wells are dropping that much; except for the fact that we are in year five of a drought.

Richard Noble explained that as a component of the Phase II water study they will evaluate the aquifer and trends.

Randy Brailsford expressed that he did not feel that we should sit around and wait until it is a problem to do something about it. He said that Spanish Fork and Salem have, for over a year, not been accepting water transfers from outside our area

David Hathaway said that the State Engineer has taken the approach that you have a right to the water, but you don't have a right to the water at a certain elevation. The aquifer is going down and artesian wells have dropped. Whether or not they come back up in a wet period, in a seven year wet period versus the seven year drought we are currently in is yet to be seen. He expressed that he did not feel that it was sustainable. Everyone cannot just say I have a right to the water and drill 2,000 feet to get it. In Nebraska and down into Oklahoma and into Texas they literally just keep drilling and drilling and so it is obviously showing that it is not sustainable.

Steve Clyde gave some perspective on the issue from a water law stand point. He said that the State Engineer has very limited authority. The law is biased in favor of approving water transfers. The basis on which he can deny an application is primarily one of interference. If someone attempts to move basically paper water to a ground water source in this area it is incumbent on those who have existing water rights to bring claims of interference and contest the ability for this new resource to be developed. To do that you need suitable hydrologic evidence so that you have expert witnesses who can testify as to potential well

interference and deal with that. You can't just on a global policy say we don't like this, stop it, because that is not what the State Engineer's statutory authority allows him to do. There are tools within the statute that you can use to defeat change applications into the area, but expressing concern isn't going to do it, you have to be engaged in the process. As to ground water we have long adopted a reasonable diversion standard in Utah patterned after Colorado law, which is even when your artesian well may no longer flow, if the water is reasonably accessible to you without going beyond your own economic means to go get it you are required to follow the water to its source to get it. If your spring is dried up but the water is only fifteen feet below the ground and with some spring development you can restore those flows, that is your obligation rather than claiming interference. Steve explained some examples. A very comprehensive ground water management law was passed a few years back that would allow people within a ground water basin to get together and manage that ground water resource under the guidance of the State Engineer.

Chris Thompson said that this is a big issue and the biggest power that Cities have is what will the cities accept for their water supplies; that most of the water for change applications is related to development in the cities. He said Spanish Fork has not allowed well water to be transferred in for development for quite some time and he feels that it is a good policy. This is an issue that the Technical Committee discussed and asked Hansen, Allen & Luce to go back in time and evaluate how the wells have produced and if the ground water is dropping. Also, to give us a historical take on that and then provide a tool going forward so that we can track every year to know what is happening to our ground water.

Bruce Ward reminded everyone that there is a ground water model that is dated as recently as 2012 or 2013 done by SUMWA and that model was produced by USGS in conjunction with the consultant so that is public information and can be used. They predicted hundreds of feet of draw down in the wells especially up on the benches.

Chairman Warren Peterson used the white board to draw out a simple column graph of sustainable surface and ground water supplies, which is exactly what the water study is about and articulated his vision of what this agency can do as a basin clearing house. He said that water rights change applications will continue to be filed for diversion of water within the Agency boundaries. He described two scenarios. In the first, where many change applications are filed over a period of time and developed over a long period of time, the Agency would have to be vigilant in protesting and monitoring all of these applications and their related water development to make the water resources in the area would not be overdrawn. In the second scenario, the Agency could contract with one or two major water rights holders to bring a defined group of water rights into the area and the Agency would become a clearing house for managing these water rights for the benefit of cities and other water rights suppliers in the area. The contract would provide that the Agency and the Utah State Engineer would define how much of this water could be safely used from year to year. Mr. Peterson said he was aware of one water rights holder that would enter into such an arrangement with the Agency and that perhaps there were one or two others. Discussion was held regarding the idea of the Agency being a regional basin planning agency and water clearing house..

Richard Noble said that one of the things they had talked about as part of this Phase II water study is at some point there is going to be a need for each City to act on a more cooperative basis rather than independently managing their water assets. That includes the surface water and ground water because currently City A may enjoy a very diverse suite of water assets including surface and ground water and in some years enjoys a surplus of surface water that they do not use and so it ends up going to Utah Lake, whereas City B relies heavily on ground water and is pumping ground water heavily while City A is sending water to Utah Lake and is there a more cooperative way to use the assets within the entire Agency then the ground water could be preserved.

Discussion was held regarding other means and ways to deal with water such as city policies and land use planning.

Larry Ellertson **moved** to put together a committee that will bring information back to the Agency's February meeting suggesting Chairman Peterson be involved. Marty Larsen **seconded**. Discussion was held regarding the motion. The committee will be called the Water Resource Management Committee consisting of Soren Christensen, Rick Moore, both legal advisors and the Technical Committee with Mike Mendenhall as an alternate. The motion **passed** with all in favor. Chairman Warren Peterson disclosed that even though he has no personal financial interest in the item proposed, he **abstained** from voting to avoid any appearance of conflict of interest.

Status of Adding New Members – Marty Larson

a. Discussion about Amended Interlocal Agreement

The board was given a hard copy of the amendments to the interlocal agreement. Junior Baker explained the proposed changes and discussion was held regarding commitment letters for Santaquin and Genola. Member entity fees will be based on the Agency's current assets and depreciation and levels of participation on the board as a seat at the table or on a rotation schedule.

Chairman Warren Peterson suggested changes to the provisions regarding future members, regional planning, the Agency being a basin regional planning agency, inventory water rights, plan for future water supplies and providing a forum in which basin water issues can be resolved.

Junior Baker will make the suggested changes and then send out the document to be reviewed and approved by their governing bodies.

MEETING SCHEDULE

a. Next Meeting: February 13, 2017

b. Annual Meeting Schedule for 2017

(February 13, 2017 - May 15, 2017 - June 19, 2017 - August 21, 2017 - November 20, 2017)

Larry Ellertson **moved** to **approve** the 2017 meeting schedule. Gene Shawcroft **seconded** and the motion **passed** with all in favor.

OTHER BUSINESS

Junior Baker said that the Agency had received a letter from the State Auditor. He explained that a member of the Board would need to fill it out and sign it. He said that this may be Larry Ellertson's last meeting with the board and thanked him for his service. Commissioner Ellertson explained that the Utah County Commission had not yet appointed a replacement for him and that he is willing to continue his service as a board member until a replacement is appointed. Mr. Baker noted that the next agenda may need to include swearing in a new board member representing Utah County along with a new alternate for Goshen Valley Local District. Chairman Warren Peterson noted Tyler Coon's service as well and reported that Mr. Coon has moved to Indiana.

Larry Ellertson asked the Board to re-consider SWUA's application to join the Mt. Nebo Water.

Rick Moore **moved** to adjourn. Larry Ellertson **seconded** and the motion **passed** with all in favor at 9:29 a.m.