

MT NEBO WATER AGENCY  
BOARD MEETING

Held via remote conferencing through Zoom Video Communications  
Monday, November 16, 2020

CONDUCTING

Gene Shawcroft, Chairman

BOARD MEMBERS

Gene Shawcroft, Central Utah Water Conservancy District  
Marty Larson, Genola City  
Warren Peterson, Goshen Valley Local District  
Brett Christensen, Payson City  
Howard Chuntz, Salem City  
Nick Miller, Santaquin City  
Brandon Gordon, Spanish Fork City  
ABSENT - Boyd Warren, Strawberry Highline Canal Co  
ABSENT - Nathan Ivie, Utah County

ALTERNATE BOARD MEMBERS

Chris Hansen, Central Utah Water Conservancy District  
David Tuckett, Payson City  
Richard Nielson, Utah County  
Chris Thompson, Spanish Fork City  
ABSENT - Paul Munns, Goshen Valley Local District  
ABSENT - Seth Sorenson, Salem City  
ABSENT - Lynn Mecham, Santaquin City

TECHNICAL COMMITTEE

Chris Hansen, Central Utah Water Conservancy District  
Travis Jockumsen, Payson City  
Norm Beagley, Santaquin City  
Richard Nielson, Utah County  
ABSENT - Melanie McVicker, Goshen Valley Local District  
ABSENT - Bruce Ward, Salem City  
Chris Thompson, Spanish Fork City

STAFF

Kim E. Holindrake, Payson City Recorder

OTHERS

Steven Clyde, Clyde Snow  
Steve Jones, Hansen Allen & Luce  
Sterling Brown, Strawberry Water Users  
Wes Quinton, Goshen Valley Local District  
Richard Tullis, Central Utah Water Conservancy District  
Jared Hansen, Central Utah Water Conservancy District  
Dave Pitcher, Central Utah Water Conservancy District  
Emily Lewis, Clyde Snow

1. Call to Order

Chairman Gene Shawcroft called this meeting of the Mt Nebo Water Agency Board to order at 7:30 a.m. The meeting was properly noticed.

2. Emergency Written Determination

Gene Shawcroft noted he signed an Emergency Written Determination authorizing this meeting to be conducted electronically (ongoing for the next 30 days).

3. Public Comment Period

No public comments.

4. Approval of Minutes – August 17, 2020 Meeting

Warren Peterson noted changes to lines 71 and 74 to be water banking committee not membership committee, line 62 to be 50% not 505, and line 141 to capitalize Pitcher.

**MOTION: Warren Peterson – To adopt the minutes.** Motion seconded by Marty Larson. Those voting yes: Gene Shawcroft, Marty Larson, Warren Peterson, Brett Christensen, Howard Chuntz, Nick Miller, Brandon Gordon, Richard Nielson. The motion carried.

5. Finance Report

Presentation:

Dave Tuckett reviewed since the last meeting three invoices were paid and revenues of interest and a deposit. It shows the reserve account (\$5,000), administrative account (\$31,294.69), and Capital Projects - Project 4 account (\$34,473.98).

6. Review of Fraud Risk Assessment

Presentation:

Dave Tuckett stated the state has changed some of the questions on the Fraud Risk Assessment, which includes additional requirements for the Board. One item is that the Board is to complete the State Auditor online training every four years. He assumes that if a board member has done the training with another agency, it would count. He will check with the State Auditor's Office.

7. Update on Groundwater Management Plan

Presentation:

Steve Clyde stated not much has been done on the Groundwater Management Plan. Recent discussions have been on the water banking. Emily Lewis will present information on the water banking statute, which just passed. The Groundwater Management Plan and water banking will work well together.

8. Water Banking Committee Report and Action

a. Committee meetings report and recommendation

Presentation:

Marty Larson reported three committee meetings have been held. Water banking was separated into education and public relations. There is a need among some of the Mount Nebo Water Agency

(Agency) members for a water bank but not all of the members would likely participate. Those who participate should not be harmful or impair another member. It should be funded by those who participate, but there may be a need for some funding to get started. Those who are not members of the Agency should have an opportunity to participate and participate early as far as education and understanding. There is a great need for water banking education, what it can accomplish, and its purposes. There is also a great need for public relations to understand the goals of the Agency, and how it can be of service. Emily Lewis will be a good resource for information, and Sterling Brown has a good pulse on the smaller organizations as well as expertise in that area. The Committee discussed implementation, legal requirements, the need, setting goals upfront, solutions, and why water banking is before us. The Committee's recommendation is to move forward with water banking with a focus of education, public relations, goals, and needs.

b. Summary of state water banking pilot program

Presentation:

Emily Lewis reported she, Sterling Brown, and Marty Larson discussed how the current water banking efforts or broader goal of the smart water marketing project funded by the Division of Water Resources could be applied and explored for the Agency. The water banking project has been going on for several years and is at a three-year culmination that developed a concept among the water user community, which has been codified in law as of 2020. This statute gives guidance or a market tool to local water users who are interested in a formal or official means for the temporary leasing of water rights. This is a temporary leasing of water rights and keeps the economic value of the underlying water right with the water-right holder. The purpose and goal of this project, which began in July, is to look at the criteria of the statute, look at the local water needs, and work with the local participants to determine if a water bank meets their needs. This pilot program will experiment and explore the setting up of a water bank in three different areas, i.e. Price, lower Cache Valley, and Snyderville Basin in Park City. Each of these areas are very different. The general purpose of the project is to ascertain the key questions that a local water-user community would need to ask to effectively prepare to file and prove a water bank under the statute. The project team has started a template of all the working considerations to think about for a local water user.

Realistically, water banking is water marketing, which could be a contract setting leasing terms or an entity conducting transactions for lessors and lessees. No one in the west has done this type of form. Typically, there is heavy state participation and more of an agricultural function. There have been banks created to meet municipal needs. The Agency will go through the paces of asking the right questions to determine the necessary interests and whether or not a bank will meet those interests. Most of the banks are for agricultural to agricultural transfers, but the Arkansas River Valley created the super ditch that provided municipal water.

Steve Clyde noted there is a concern in doing this for municipalities in the sense that a temporary water supply cannot be committed to new growth. This may be a benefit to municipalities for immediate drought relief in a short year. It works best in the agricultural world. It can work in the municipal supply side but not a solution to long-term growth.

Marcus Faust stated he has clients throughout the west that have effectively utilized this tool. The one in southern Nevada is more of a conjunctive use facility as opposed to a marketing bank. It allows water to be brought over that would otherwise be unused. The well pumps are operated to inject water into the ground water, which firms up the groundwater supply. It is 100% urban use and a

permanent water supply. In the CUP completion act, the central district has some federal authorities for conjunctive use of ground water and surface water supplies, which is a way to stretch the available supplies in an urban setting.

Emily Lewis continued that the Utah water banking statute is designed to be agnostic on whatever format the Agency wants use. If a program, system, or arrangement works in an area, by all means use it to see if it meets local conditions. The statute says there has to be a ground water bank and a surface water bank, which are intended to be separate, so she isn't sure it can be used to supplement a local recovery and storage project. If there was a desire, need, and viable structure for a conjunctively managed bank, the statute is a working document.

Warren Peterson noted this Agency has the sophistication to manage that and could be a good step to take.

Rich Tullis stated there are many advantages of using the water bank, but there are many ways to do many things without the statute such as an interlocal agreement. There are advantages and disadvantages with each one.

Emily Lewis continued that at the end of this three-year project the deliverable may not be functioning water banks but a broader, state-wide, water-marketing strategy report identifying what worked, what didn't work, and alternatives. There is bank development, bank application, and bank operations. The benefits of a water bank including water right protection from forfeiture, use of in-stream flows for water quality purposes, and a streamlined administrative process regarding change applications.

Sterling Brown three founding principles of the water banking concept is voluntary, temporary, and local. component if a water bank established needs review and approval from water resource board. Has state component to it. The local component of water banking is to ultimately meet local needs; each bank has very different purposes, which determines how the bank is organized. The local water users determine how the bank is built through needs and how those needs are met. The Agency has a huge service area so a water bank will be tied to where the water can physically go. If the state engineer is unable to assess whether or not a water right can be moved or used in a bank service area, the change won't be approved or would be approved with conditions. A key component of a bank development discussion is identifying a service area that meets local needs and is feasible. It's the question of who are the participants, what do their water rights look like, what do their distribution systems look like, and can the water be physically moved in a wanted and desired way. There may not be a need for a water bank because the need can be accomplished another way.

Emily Lewis reviewed and explained a working water banking template for the Agency that identifies 10 or 12 big considerations that local water users need to work through to analyze whether or not the statute will work for them.

#### Agency Working Template

- Introduction
- Mount Nebo Water Bank: Working Concept
  - A water bank organized to fulfill the purposes of the Mount Nebo Water Authority.
  - Market Drivers: What are the local conditions that are influencing the demand for water?
    - Current Drivers – developing place of use for irrigation companies

- Developing Drivers
- Bank Concept:
  - Participants – Who is participating in the bank and a party to the water bank contract?
  - Form
    - Contract Bank:
      - A bank organized by contract that sets the terms for leasing available water.
      - Known lessees and lessors
      - Public entity needs to be the applicant
    - Statutory Bank:
      - An entity organized to complete all of the activity necessary to lease water between willing lessors and willing lessees (“turn-key” transaction).
      - Unknown or multiple lessors, unknown or multiple lessees.
  - Lessor
  - Lessee
  - Intended Use for Leased Water
    - Agricultural preservation
    - Municipal supply
  - Ancillary Bank Goals:
    - Public Education – water banking and Mount Nebo Authority
    - Enhance instream flows(?)
    - Develop with conservation and efficiency tools as a means of meeting broader drought contingency plans – deficit irrigation and fallowing
    - Experiment with implementing technologies necessary for quantifying water use – effective use of ET Technologies and enhanced metering of canal company system
    - Develop market infrastructure as a tool to develop with changing needs
  - Service Area
- Source of Water to Lease
  - Excess Member Shares
  - Efficiency Improvements
  - Conservation Improvements
  - Consumptive v. Non-Consumptive Water
- Lease Price Considerations:
  - Water Type
  - Distribution of Fee
  - Per acre yield
  - Per acre infrastructure/instrumentation costs
  - “Affordable and sufficient supply”
  - Those participating should costs
- Water Rights Considerations:
  - Farmland Reserve
  - Participating Company Rights
  - Strawberry Project Restrictions
  - CUWCD
  - Smaller independent water
- Distribution/Shepherding – Want to be able to ensure leased water reaches its destination
- Hydrologic/Technology Considerations
- Infrastructure Considerations

- Funding
- Corporate Considerations
- Water Bank Contract Considerations
- Administrative/Contracting

Warren Peterson stated a contract bank under an entity would allow the entity to parse out those who want to participate and those who don't, set the terms by which the water is managed and brought in. The Agency needs to look at how to structure this, and there is water available that could be put in now. One of the reasons for the Agency to exist is to preserve water supplies for agriculture. It seems ideal to put the water in the Agency to have available for lease to farmers. A non-permanent supply could be a five to ten-year commitment. Conceptually, it seems to be a good fit if the Agency wants to do this.

Emily Lewis noted the Agency has a lot of good ideas but needs to whittle it down to who wants to participate, who could participate, and the goals. What are the 1, 2, and 3 transactions that need to occur? Is agriculture the primary consideration or is it municipal? Then a contract is created focusing on the one or two items that fit those needs. If that works, then a consortium could be done in the future, and then maybe a statutory bank. Because the Agency is a multi-faceted agency, the goal is to figure out which obligation to do first. The template will help do this.

c. Local public relations

Presentation:

Sterling Brown stated the subcommittee thoughts center around helping the Board avoid a potential trap if moving forward with water banking. The trap could simply be misconceptions of what water banking is or is trying to be. Prior to the passage of water banking, there was a significant grass-roots road show effort to educate rural Utah on this concept of water banking. Many traveled the state to educate and gain the necessary legislative support. From an agricultural standpoint leading up to the legislative session, they were hesitant because they didn't understand details, benefits, or ramifications of water banking. It came down to enough key players supporting water banking that are trusted and supported it. It's coming up on one year of having this on the books, and there is growing support. We are talking about a water bank in the heart of Utah's breadbasket. Utah County has ranked repeatedly as number one in the state as the agriculture county in cash receipts. Does water banking have a history with urban encroachment? Utah County is also dealing with a tsunami wave of population so does water banking work in that kind of environment. Emily's response was it has a track record of being successful, and Marcus' comments supported it. What is the public perception? The best example is UDOT rolling out a highway master plan that goes over someone's hay field and everything hits the fan because it's not where it's wanted. UDOT is simply saying this is 1 of 6 options. People go home concluding that is where the highway will go. As the Agency goes forward with water banking, the roll out of water banking is important. The Agency needs to ensure that those relatively small agricultural interests making up the majority are informed as to the mechanics, purpose, and intent so they feel it isn't the slam dunk.

Emily Lewis concurred. It has to be seen as useful and helpful. At the end of day, the goal to help everyone feel whole. The intent is to be a net benefit.

d. Questions and Answers

Gene Shawcroft noted that the Board needs to determine if there is enough interest to continue, do we watch awhile to see how the other banks work out, and what are the next steps. The purpose of the Agency was to more efficiently use the water resources in the south end of the county and have mechanisms to do that. This has been a great discussion. He would like the committee to keep going and conclude some of the finer points of who is interested and what water will be used. Water to be used? There is more work to be done before formal action.

Marty Larson stated he wanted to make sure the committee had the support and consensus of the Board to explore more and proceed.

Howard Chuntz stated he is still uncertain how cities can participate in water banking. He's not sure cities have water that could be leased on a temporary basis and how that water would get to someone. What water can be leased and for what use? If available irrigation water could be pumped into the ground water, that might be useful and create something long term. Do we have the ability or authority to do this?

Warren Peterson stated the committee has had some discussion on this, which is one of the key ideas addressed. It can be put on the agenda to address the possibilities with Howard involved in the conversation.

Marty Larson stated he's hearing that the Board wants to move forward and exploring this. Emily has a good template and is very knowledgeable.

Emily Lewis stated there are some funds in the project management budget that can be used to ensure the banking discussion moves in the same direction. At some point, it will need to become Mount Nebo Water Agency work.

Gene Shawcroft stated anyone can participate on the committee and bring any specific questions to focus on, which would be a beneficial use of time. An item on the next agenda would be to whittle out those who are interested and those who are not interested, create a project, and sort out the funding arrangements.

OTHER

Technical Committee Report

David Hansen reported on the ground water database status. Additional requests were put out to several of the entities. Six entities have data entered to October and even November. Two entities have data entered to July and August, but it's not up to date. Three entities were contacted who were interested, but no data has been entered. three additional entities have not replied to requests at all. They are in the process of looking through the current data to identifying holes as well as if there could be more data. More importantly, comments are added as to the status of a well. An example is data on a well was added but the well hasn't been operated except for pumping for a water quality test. Overall, it's a mixed success.

Chris Hanson noted they will continue to work with the Technical Committee and keep the Board updated.

9. Resolution - Set 2021 Meeting Schedule

- a. February 16 (Tuesday), May 17, June 21, August 16, November 15

**MOTION: Marty Larson – To adopt the resolution.** Motion seconded by Richard Nielson. Those voting yes: Gene Shawcroft, Marty Larson, Warren Peterson, Brett Christensen, Howard Chuntz, Nick Miller, Brandon Gordon, Richard Nielson. The motion carried.

10. Other Business

- a. Information/Discussion Items for Future Meetings

- Water banking
- Regional planning efforts in south Utah County and east Juab County
- Legislative session activity
- Database

11. Next Meeting – February 16, 2021 (Tuesday)

12. Adjourn

This meeting was adjourned by Gene Shawcroft, Chairman, at 8:45 a.m.