

MT NEBO WATER AGENCY
BOARD MEETING
Salem City Offices, 30 West 100 South, Salem UT 84653
Monday, May 9, 2022

CONDUCTING

Marty Larson, Chairman

BOARD MEMBERS

ABSENT - Gene Shawcroft, Central Utah Water Conservancy Dis.
Marty Larson, Genola City
ABSENT - Wes Quinton, Goshen Valley Local District
ABSENT - Brett Christensen, Payson City
Seth Sorensen, Salem City
David Hathaway, Santaquin City
ABSENT - Kevin Oyler, Spanish Fork City
ABSENT - Boyd Warren, Strawberry Highline Canal Co
Richard Nielson, Utah County

ALTERNATE BOARD MEMBERS Chris Hansen, Central Utah Water Conservancy District

ABSENT - Neil Brown – Genola City
Paul Munns – Goshen Valley Local District
David Tuckett, Payson City
ABSENT - Kelly Peterson, Salem City
ABSENT - Lynn Mecham, Santaquin City
Chris Thompson, Spanish Fork City
Glen Tanner, Utah County

TECHNICAL COMMITTEE

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

STAFF

Kim E. Holindrake, Payson City Recorder

OTHERS

Steven Clyde, Clyde Snow
Sterling Brown, Strawberry Water Users Association
Dave Pitcher, Central Utah Water Conservancy District
Rachel Musil, Central Utah Water Conservancy District
Jared Hansen – Central Utah Water Conservancy District
Braden Shepherd, Goshen Valley Local Dis./Farmland Reserve
Sue Odekirk, Division of Water Rights
Jon Benson, Lake Restoration Solutions
Moriah Gamache – Central Utah Water Conservancy District
Chase McDonald – Division of Water Rights

1. Call to Order

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

2. Swear in New Board Members
a. Glen Tanner – Utah County

Kim Holindrake administered the oath of office to Glen Tanner, Utah County.

3. Public Comment Period

No public comments.

4. Approval of Minutes – February 14, 2022 Meeting

MOTION: Richard Nielson – To approve the minutes of February 14, 2022. Motion seconded by Dave Tuckett. Those voting yes: Marty Larson, Seth Sorensen, Paul Munns, Dave Tuckett, David Hathaway, Chris Thompson, Richard Nielson, Chris Hansen. The motion carried.

5. Technical Committee Report and/or Action

Chris Hansen stated there's not a lot changing on what the Technical Committee is doing; the Committee needs to get back to regular meeting schedule. Hansen Allen and Luce is still working on the ground water data base. He spoke with Steve Jones Friday for an update, and data is still being added to the database. The Board needs to determine how the Agency will update date in the future whether doing it ourselves or hire someone.

6. Update and/or Finalize Groundwater Management Plan

Chris Hansen stated no work has been done on the Groundwater Management Plan.

7. Update on Water Banking

Steve Clyde had no updates on water banking and suggested getting Emily Lewis involved.

Chris Hansen stated the Agency has approval for the grant money, but the process is not complete. Others are helping with this. The cost sharing plan is on the finance report later.

8. Legislative Updates/Changes
a. 2022 Legislative Session

Steve Clyde reported it was an extremely active year with 20 bills passed dealing with water rights in general and another 16 passed dealing with water conservation issues, landscaping requirements, zoning approvals, etc. It's going to be very important because it starts marring growth with water. Summit County led the way with this 10 years ago; the ordinance worked pretty well up there. The water companies were forced to show they had water rights and physical water resources. The Legislature adopted a bill that doesn't go quite as far. Others legislation dealt with landscaping improvements in

removing parking strips and unnecessary lawns. The Utah Lake Authority bill passed with an effort to work on water quality restoration and ecological aspects of the lake. There were a lot of feel good bills regarding the Great Salt Lake including a \$40 million stipend to move water to the Great Salt Lake couples with the extreme flow bill allowing water to be leased by state lands to get water to the Great Salt Lake. There were many bills but not too substantive. There were also bills regarding the Open Meetings Act requirements and electronic meetings with the COVID situation. Also, water shed enhancement for water in mountains.

9. Finance Report – Dave Tuckett

Dave Tuckett reviewed the finance memo noting since the last meeting one invoice was paid and revenues included interest. Account balances include reserve account - \$5,000, administrative account - \$30,881.09, and Capital Projects, Project 4 account - \$4,524.34 for a total of \$40,405.43. There have been no member assessments in recent years for administration.

10. Resolution - Tentative Budget for Fiscal Year 2022-2023

Dave Tuckett reviewed the tentative budget for Fiscal year 2022-2023. Administrative costs are fairly low at \$2,750. The projects budget includes Project 4 with a contract amount of \$42,300 and expenses of \$40,062.96 leaving a balance of \$2,237.04. The Agency applied for the Water Banking Grant, and Goshen Valley Local District wanted to use their credit of \$2,287.30 from Project 4 to pay for the application. He's not sure who paid for the application so that needs to be worked out. Project 5, Water Banking, has a projected cost of \$88,000 with revenues coming from the grant (\$44,000), member participant assessments (\$27,920), and in-kind participation \$16,080).

Chris Hansen proposed the current version of the shared cost for the Water Banking (Project 5) stating it is in line with other projects in the past. This is a draft proposal, which was circulated through the Technical Committee with a couple changes made prior to the current proposal. These numbers will be used going forward. He didn't send it to Elk Ridge or Woodland Hills because they haven't been participating in anything. He had some cost allocations for Strawberry Water Users, but Sterling Brown indicated leaving it at zero until it is taken to their board. The in-kind services in Project 5 are typically assumed to happen and aren't really accounted.

Dave Tuckett stated today the Board will adopt a tentative budget (Administrative and Projects) by resolution and set a public hearing for the final budget on June 13. Between now and June 13, the Board can make changes for the final budget.

Chris Hansen suggested continuing with Hansen Allen & Luce on Project 4. He will talk to Goshen Valley Local District to see who paid grant application.

MOTION: Chris Hansen – To approve the (resolution) Tentative Budget for Fiscal Year 2022-2023 and set a public hearing for June 13. Motion seconded by Richard Nielson. Those voting yes: Marty Larson, Seth Sorensen, Paul Munns, Dave Tuckett, David Hathaway, Chris Thompson, Richard Nielson, Chris Hansen. The motion carried.

Sterling Brown questioned how a new project gets started.

Chris Hansen explained the Technical Committee looks at what would be helpful to the Agency and proposes a project to the Board. The Agency's first project looked at all the studies that have been done in the area including entity master plans, future planning, etc. The Committee works on costs, proposals, and cost sharing. The Agency guidelines allow all entities to choose to participate or not including a nonmember. Spanish Fork City purchased some muscle wall, which is a portable retaining wall system deployed for flooding. The Agency decided it would be good to have that as a group project, which included a trailer. Basically, the Committee looks at any and all possibilities that can help this Agency and move forward. Anyone can propose a project, and Technical Committee will look at it and propose to it to the Board.

11. Presentation on Utah Lake Distribution Plan

Sue Odekirk stated the Utah Lake Water Distribution Plan is an order of the State Engineer and was implemented November 1, 1992. A distribution order means an order of the State Engineer interpreting the water rights, confirming priorities of water rights, giving instruction or direction regarding the regulation, distribution, and/or measurement of water based on those water rights. Why? The Provo and Spanish Fork rivers bring water to Utah Lake and then the Jordan River take the water out of Utah Lake. In 1989, there was a situation where the Welby-Jacob Irrigation tapped out of the Jordan River. This exchange application came from State Engineer. Then Salt Lake City wanted to divert water from the Provo River to use in its pressurized irrigation system but leave its primary and secondary water rights in Utah Lake to deliver to the Welby-Jacob Irrigation. The State Engineer evaluated the application and determined that no other water users are impaired. So really there is a lack of surety on how to review this. There are hundreds of thousands of water users. The State Engineer was at a bit of a loss as to who counts as a water user in this application. Utah Code 73.5.3 states the state engineer shall carry into effect a judgment of a court in relation to the division, distribution, or use of water. At that time, this is what the State Engineer was doing. Distribution of court judgments include the 1921 Cox Degree on the Provo River, the 1899 McCarty Decree on the Spanish Fork River, the 1909 Booth Decree on the Utah Lake/Jordan River, and the 1901 Morse Decree on the lower Jordan River. This is how water was being delivered and how the State Engineer was used to looking at impairment questions. The other guidance in statute is Utah Code 73.3.1 stating between appropriators, the one first in time is first in rights. The question became, can a Welby-Jacob farmer call on water from the Heber Valley. The State Engineer determined yes, we need to affirm priority within the entire basin and not just within the sub-basins. The objective is to ensure the equitable distribution of water, according to the respective water rights, and to address problems from a more regional point of view. Direction is needed to better clarify the relationships of water rights within the basin particularly between storage rights in Utah Lake and storage rights on the upstream tributaries. The intent of the Utah Lake Water Distribution Plan is to maximize storage in Deer Creek and Jordanelle Reservoirs while ensuring Utah Lake primary and secondary rights are fully satisfied.

Marty Larson questioned is it correct that the river commissioners (Provo, Spanish Fork, Jordan) are employed by the State Engineer to deliver and implement what the degree says on delivery of water. Second, he questioned if during drought times, water can be moved between the systems when looking at it regionally. Third, he questioned if water banking allows first right water right users to use their water right more by leasing through the water banking.

Sue Odekirk stated yes, the river commissioners also review contracts, leases, and exchanges so long as they don't impair others rights. Water can be moved between systems.

Rachel Musil stated with the Central Utah Water Project (CUP), there is system storage, which is water owed to Utah Lake. If there is an issue with Utah Lake where priority users are not getting enough supply, the CUP is required to deliver that water downstream to make sure to keep those rights full. This is done from Jordanelle or Strawberry Reservoirs.

Sue Odekirk stated if a water user dedicates a water right into the bank, does it increase their opportunity to put that water right to beneficial use. Yes, but subject to two things. First, they have to have an approved change application, which could result in lowering the priority. Second, it can't be used every single day. For example, a beneficial use of the right to irrigate 100 acres with 11 cfs, is limited to both the acreage and cfs, whichever is less.

12. Presentation on Utah Lake Restoration Project

Jon Benson stated the Utah Lake Restoration Project team includes Lake Restoration Solutions, Geosyntec Consultants, and SWCA Environmental Consultants. Historically, Utah Lake was a thriving native ecosystem, with significant populations of trout and minnows, abundant aquatic vegetation, and clearer cleaner water. Over many decades, humans have caused Lake decline with the introduction of non-native carp and invasive phragmites, loss of natural filtration from aquatic vegetation, and high nutrient pollution in the lake bed. The Lake now is very turbid. The Lake has lost the native mollusk populations and 10 of the 13 original fish species. Harmful algal blooms originate from the result of excessive nutrient levels, which is very toxic. The Lake cannot recover without intervention. In 2017, the Legislature passed a concurrent resolution urging restoration of Utah Lake. In 2018, the Legislature passed the Utah Lake Restoration Act, and the State accepted the Lake Restoration Solutions' application. In 2021, Lake Restoration Solutions submitted a permit application to the US Army Corp of Engineers to begin the full NAPA process to vet and guide the project. The objectives for comprehensive restoration are laid out by the Utah Legislature.

1. Water – Restoring the clarify and quality of the water, conserving water resources, preserving water storage and supply functions, and preserving current water rights.
2. Wildlife – Removing invasive plant and animal species, restoring littoral zone and other plant communities, restoring and conserving native fish and other aquatic species, and increasing suitability for shore birds, waterfowl, and other avian species.
3. Public Use – Improving navigability, maximizing, enhancing, and ensuring recreation access and opportunities, improving the use of Utah Lake for residents and visitors, and substantially accommodating an existing use of land on or around the Lake.

The Utah Lake Restoration Project is a comprehensive restoration and enhancement plan. Dredging removes contaminated sediments, deepens the Lake and reduces turbidity. Dredge containment areas (islands) store and sequester sediments, maintains water levels, and reduces evaporation. The Plan restores native habitats, food web, and ecosystem functions including aquatic vegetation, benthic production, and mollusk population. Dredging and island creation benefits include removing, storing, and sequestering nutrient-loaded lakebed sediments; conserving water (tens of billions of gallons per year); maintaining the lake level; restoring submerged aquatic vegetation for natural filtration and habitat by reducing wave forces and improving water clarity; expanding the shoreline by 190 miles for new habitat and more wetlands; improving navigability and recreational opportunities; and increasing water storage capacity. The current project layout includes 18,000 acres in five phases with three land types (estuary, recreation, and community). This type of project has been done before in Mission Bay, San Diego, California, as well as over the last 100 years in this country and more elsewhere. The permitting process

includes USACE permit application (filed December 2021), application release to public (February 2022), anticipated NEPA process (at least 18-24 months), public release of all science and data, public comment periods, consultation with agencies, and alternatives analysis including no action.

Chris Thompson stated a time ago there was a dike off a portion of the ocean to convert property to farm land. The water savings from evaporation was huge. He questioned if this is contemplated here.

Jon Benson noted this is the same concept but here the shoreline is kept intact.

Chris Hansen questioned with the idea of the nutrient rich sediment dredging, can leaching of nutrients be controlled from going back into the waterway. He questioned the volume change and storage capacity of the Lake. He questioned how coordination has been with Provo and the Provo Airport on impacts from the project.

Jon Benson stated leaching of nutrients can be controlled. The sediments go into geo tubes to form the perimeter of the islands, and then clean fill goes over the top. The Lake is protected from leaching. The geo tubes are impermeable. The storage capacity is estimated at 400,000 acre feet. Early designs had islands near the Provo Airport, but they were asked to move it away, which is now near Goshen Bay.

Rachel Musil noted there are several water users that pump out of Utah Lake. She questioned if they will work with these water users to retrofit their pumping plants so they can access their water rights. There are multiple facilities; Bateman's Dairy, Saratoga Springs, Utah Lake Pumping Plant at Jordan River, and others all throughout the shoreline of Utah Lake.

John Benson stated yes, this is one of the key considerations. As they dredge, it deepens and adds water source capacity, which will be done over time to maintain historical water levels. They will need to coordinate with the State and upgrade pumping facilities. There are many considerations in play.

Rachel Musil questioned where they will get the water supply for new development. You stated it will conserve 90,000 acre feet but you are adding 400,000 acre feet of capacity. Sue Odekirk gave a broad overview Utah Lake Distribution Plan and how it is connected to Jordanelle. She questioned if they have done any detailed modeling on the different accounts in Utah Lake and how your project will impact those accounts. She's talking about import water and the evaporation that will either cause our water to spill more often or any kind of upstream reservoir impact.

John Benson stated they will procure water as any other developments. They are not claiming any water rights. He noted it would be helpful for Rachel Musil to be part of the water users' group.

Marty Larson noted the burns several years ago were the largest burns in Utah history, which has produced the largest amount of sediments down Spanish Fork River when it rains. Strawberry Water Users pulled out 6,000 dump truck loads last year. He questioned what will be the base of the islands and the financial backing.

Jon Benson stated Utah Lake bed has many different sediments. Most of the material will come from the lake bed with added imported fill for stability. Engineering shows it is all possible and feasible. Financing includes \$6.5 billion committed in various forms such as bonds, equity financing, etc.

David Hathaway stated back to 2016 and 2017, Santaquin was part of the Utah Lake Restoration. The State has been doing carp mitigation, and it's a losing battle. He questioned how this plan is different in getting rid of the carp. He questioned how they will deal with cities on injecting phosphorus/sewage.

Jon Benson stated the proposal includes helping fund upgrades to sewer facilities. If the echo system is functioning correctly, it should handle the phosphorus/sewage. The phragmites removal has been quite successful. The problem has been that there hasn't been enough funding to treat the full lake every year, which needs to be done until eradicated. They are looking to the State for help with the carp, which has been done in Strawberry Reservoir. Their focus is on habitat restoration.

Chris Thompson stated the phragmite plan needs to look at the whole valley, and work with surrounding jurisdictions and the whole county.

Jon Benson noted the phragmites will always be there.

13. Other Business

a. Information/Discussion Items for Future Meetings

- No projects from the Technical Committee.
- Memberships.
- Water outlook or lack thereof.

b. Other

No other business.

14. Next Meeting – June 13, 2022

15. Adjourn

MOTION: Chris Hansen – To adjourn. Motion seconded by Dave Tuckett. Those voting yes: Marty Larson, Seth Sorensen, Paul Munns, Dave Tuckett, David Hathaway, Chris Thompson, Richard Nielson, Chris Hansen. The motion carried.

This meeting was adjourned at 8:40 a.m.