



# Board Meeting Minutes

Wednesday June 28, 2023 @ 7:00 P.M.  
102 West Forest Street  
Brigham City, UT 84302

## In Attendance:

### Board Members

David Forsgren, Chairman	DJ Bott, Vice-Chairman
Charles Holmgren, Financial Chairman	Jay Capener
Lyle Holmgren	Brodie Calder
Mark Larson	Joseph Summers
Richard Day	Tim Munns
Boyd Bingham	

## Staff:

General Manager Carl Mackley; Assistant General Manager Jeff Humphrey; Systems Operations Manager Chance Baxter; Administrative Assistant Jamie Williams

## Other:

Lance Nielsen, P.E. Engineer for District with Hansen, Allen & Luce

### **Closed Meeting 6:00 PM—Strategy session to discuss pending or reasonably imminent litigation.**

Chairman Dave Forsgren called closed meeting to order.

Lyle Holmgren made a motion to exit closed session, seconded by Tim Munns; all members vote aye.

### **Chairman David Forsgren - Welcome**

Chairman David Forsgren welcomed all in attendance and called the meeting to order at 7:00 pm.

### **Invocation & Pledge of Allegiance**

Offered by Board Member Richard Day

### **Declaration of Conflicts of Interest**

N/A

### **Adoption of the Agenda**

A motion was made by Board Member Mark Larson to approve the agenda, motion was seconded by Board Member DJ Bott; all members vote aye, motion passed.

### **Approval of Minutes**

#### **April 26, 2023 Meeting**

Board Member Tim Munns made a motion to approve the minutes for April 26, 2023 Board Meeting, seconded by Board Member Richard Day; all members vote aye, motion passed.

### **Financial Chairman Charles Holmgren – Financial Business**

The financial statements for April & May 2023 were prepared and provided to the board members, Financial Chairman Charles Holmgren has reviewed the financial business reports for the District and recommended the Board's approval, Mr. Holmgren also informed the Board of discussions he recently had with staff regarding the possibility of the board members being compensated for their time to complete the board training in person or online. Board Member Tim Munns made a motion to compensate board members \$100.00 for completing the local district training and obtaining a certificate of completion, seconded by Richard Day; all members vote aye, motion passed.

Tim Munns had questions on the cost of drilling a well and why the bids for drilling a well were coming in so high, Lance Nielsen with Hansen, Allen and Luce answered questions regarding costs.

Board Member Jay Capener made a motion to approve the April & May 2023 financial statements, motion was seconded by Board Member Mark Larson; all members vote aye, motion passed.

### **Public Hearing on County Water Master Plan (CWMP) Funding – Chairman David Forsgren**

- **Presentation of proposed CWMP by General Manager Carl Mackley**  
During the drought resiliency plan in 2021 the County was divided up into 7 regions, during that time many public meetings were held, in those meetings as well as subsequent meetings there was a significant amount of interest in implementing a county water master plan. The District is currently seeking to fund half of the CWMP costs with District funds over a period of 2 years, using the Studies and Exploration Budget.
- **Board discussion of all funding scenarios, including CIB Funding**  
Mackley stated the purpose of this public hearing is to fulfill a requirement of 50% of funding for the CWMP through CIB (Community Improvement Funding Board). A County Water Master Plan complies with recent legislative updates to state code HB110 which requires counties and municipalities to include water use and preservation element as well as drinking water source and storage capacity in their General Plan. SB76 requires counties to notify certain public water systems and request feedback on how elements of the General Plan effects certain water planning and requires counties to consider planning and regionalization of public water systems among other requirements; therefore, it seems reasonable for BRWCD to take some part in making the CWMP come to fruition. The estimated cost for the CWMP is \$500,000 over two years. The District is proposing to pay \$125,000 a year for two years. The District is requesting an additional \$250,000 through the CIB, in addition the District is confident that there are other sources of grant money to be obtained from the state and other entities to help reduce the Districts costs.
- **Solicitation of comments on size, scope and nature of funding of CWMP**  
The scope of the work would require holding a set of four public meetings. Meetings (1) and (4) would be a general county involved meeting; meetings (2) and (3) would be for the purpose of gathering input, reporting back and analyzing water suppliers. The District will start by getting the Mayors on board, Mayors will be submitting a letter to the Commissioners to show their support and also request that the Commissioners take a lead at the County level to oversee the efforts of the plan. “Growing Water Smart” a work group that has evolved over a conference held at the USU, is currently working on putting together a plan for smarter ways to use water more efficiently. The scope of work will also identify missing or needed hydrologic data, identify best management practices and level of support for each one, identify and describe appropriate rules and regulations. The District is looking for feedback from the public regarding the funding portion of the CWMP on size, scope and nature of the funding.

### **Public Hearing**

Vice-Chairman DJ Bott made a motion to enter into the public hearing specific to the funding of the CWMP, seconded by Board Member Lyle Holmgren; all members vote aye, motion passed.

### **Kelly Lemmon- Collinston**

I am just curious, there is no public here tonight, other than us, and we are regulars, pretty much. Did the word not get out? How does this get published? So, is that adequate? That meets the State requirements, but you're looking for public comment, does it really get it to the public? that is really my question.

Mr. Lemmon was informed that the posting notice for the public hearing met state requirements and Board Member DJ Bott stated that the question was not germane to the public hearing that was just open, but it was a good question; however, the motion was on a public hearing specific to the funding of the CWMP.

**Rich Garrett- Collinston**

I have a question, I hope that it's within the scope, you talked about having these regional meetings, how are people going to know about those regional meetings? That's part of the scope of the program. How are they going to be notified? Will there be any public notice? That's the question.

Carl Mackley stated that people would be notified through their communities. Vice-Chairman DJ Bott addressed the question of "Will there be any public notice?" by informing Mr. Garrett that Utah State Law requires us to notify the public by the legal standard.

Board Member Tim Munns made a motion to close the public hearing, seconded by Jay Capener all members vote aye, motion passed.

**Proposed Parameters Resolution 2023-11 for State Revolving Fund Application**

Chairman Dave Forsgren turned the time over to General Manager Carl Mackley.

Mr. Mackley reviewed Parameters Resolution 2023-11 for the purpose of authorizing a notice of public hearing and the ongoing steps in the bonding process.

Next Year the District will be paying off two large bonds as stated in the General Manager's report, reducing the District debt by \$127,000 over the next several years. The District is proposing to bond for no more than \$3 million of water revenue bonds over 20 years. Details are listed in proposed resolution 2023-11, the proposed resolution is not advertised publicly but is available for public inspection at the BRWCD office during regular business hours for the next 30 days. The resolution authorizes a notice of public hearing which would be set for July 26, 2023 @ 7:00 PM at the BRWCD Office. The public hearing would be in regard to taking on additional debt and providing a Final Bond Resolution to be adopted by the Board of Trustees authorizing and confirming the issuance and sale of the Bonds. The SRF application that the District has applied for is a funding source for the major projects the District is currently working on, many of which came from the 2022 Drought Resiliency Plan the Board adopted in September 2021, the SRF application also provides some of the matching funding of \$2 million in Bureau of Reclamation funds and nearly 1.3 million the District received through Box Elder County from ARPA. These proposed bonds are water revenue bonds, and property tax will not be pledged for repayment of the bonds. It is anticipated that the total cost of the bonds over the next 20 years would be \$3.183 million.

Financial Chairman Charles Holmgren made a motion to adopt resolution 2023-11, seconded by Board Member Tim Munns; all members vote aye, motion passed.

**Discussion on Proposed BRWCD Mitigation Plan/Policy – General Manager Carl Mackley**

Mr. Mackley discussed with the Board how mitigation might happen as the Division of Water Rights proposes to make changes to their Policy, explained mitigation and answered questions from the Board.

Conceptually in mitigation you are replacing your depletions. When you divert water out of a source you are taking a certain amount of water; depending on what the activity is, you are returning a certain amount, you can return a large amount or nothing depending on what the use is, the depletion from the hydrologic system has to be mitigated.

With the policy the State Engineer wants to change in Area 29 (Bear River Valley / Box Elder County) The proposal is to close down all new appropriations (change applications) or filing an application to appropriate with a mitigation plan. If you file a change application you have another water right or shares in an irrigation company used to file a change application, you are filing on the entire amount, when filing an application to appropriate you are replacing only your depletion.

## **BRWCD MITIGATION PLAN**

### **Simple Mitigation Plan Outline:**

1. Adopt a Standard Depletion Value (SDV) of 45% or 45 AF per 100 AF. This is a reasonable and defensible quantity based on the HAL Memo.
  2. Apply a factor to the SDV of 5/12, representing the percentage of time in the Bear River Basin that senior water rights are not met. This creates an Adapted Standard Depletion Value (ASDV) of  $45\% \times 5/12 = 18.75\%$ .
  3. Use capture software to determine the % captured from rivers and springs (capture percentage). Multiply the capture percentage by the ASDV. This is the Mitigation Amount.
  4. BRCC shares are used as mitigation currency for the Mitigation Amount. Wet water mitigation is delivered during the low flow seasons to senior right holders until their beneficial uses or water rights are 100% met. BRWCD feels that this is the best way to use the BRCC shares since trying to “leave them in the river” creates problems with the canal company and also offers wet water to “make whole” senior right holders during the time when their water rights are least likely to be met. Mitigation of depletion must be made with depletion of the shares at a rate of 2.2 acre-feet per share.
  5. Enter into Mitigation Agreements with Potentially Impaired Parties (PIPs) as necessary. These are likely to be the senior rights holders.
  6. Develop standard monitoring for local interference concerns, install monitoring and keep records.
  7. BRWCD exacts Mitigation Amount from Developers under Development Agreements/Water Company Contracts. Mitigation shares are delivered to PIPs as per Mitigation Agreements.
  8. Water gets developed and is used by customers.
  9. Tracking of Diversions, Depletions and Mitigation Amounts is done on an annual basis. Credits, debits or neutral amounts are reported to the Division of Water Rights with Water Use Data.
- I would like to give four examples using 29-4621, 29-4622, 29-4623 and 29-4625.

### **Example Mitigation for 29-4621:**

1. SDV assumed to be 45%
2. ASDV is 18.75%
3. Capture software determines an average of 77% captured from rivers and springs. Mitigation amount =  $1000 \text{ AF} \times 45\% \times 5/12 \times 77\% = 144 \text{ AF}$ .
4.  $144 \text{ AF} = 66 \text{ BRCC shares}$ , or 6.6 shares per 100 AF developed.
5. BRWCD has a written mitigation agreement with USFWS and Bear River Club Co. as PIPs. The agreement is particular to describe the type or class of shares required.
6. BRWCD monitors for local interference with other groundwater sources at our discretion or as required by the State Engineer. It is likely that a test well would be drilled in this location prior to drilling a production well.
7. BRWCD exacts canal shares prior to development of 29-4621. A production well would need to be in place and agreements with wholesale customers (public water suppliers) or retail customers (developers/development) in place as well. Mitigation shares would then be delivered to PIPs.
8. BRWCD customers begin water use.
9. BRWCD would track customer usage and identify the amount of water diverted (meter records), depleted (based on type and seasonality of use) and associated mitigation amounts.

### **Example Mitigation for 29-4622:**

1. SDV assumed to be 45%
2. ASDV is 18.75%
3. Capture software determines an average of 98% captured from rivers and springs. Mitigation amount =  $500 \text{ AF} \times 45\% \times 5/12 \times 98\% = 92 \text{ AF}$ .
4.  $92 \text{ AF} = 42 \text{ BRCC shares}$ , or 8.4 shares per 100 AF developed.

5. BRWCD has a written mitigation agreement with USFWS and Bear River Club Co. as PIPs. The agreement is particular to describe the type or class of shares required.
6. BRWCD monitors for local interference with other groundwater sources at our discretion or as required by the State Engineer. It is likely that a test well would be drilled in this location prior to drilling a production well.
7. BRWCD exacts canal shares prior to development of 29-4622. A production well would need to be in place and agreements with wholesale customers (public water suppliers) or retail customers (developers/development) in place as well. Mitigation shares would then be delivered to PIPs.
8. BRWCD customers begin water use.
9. BRWCD would track customer usage and identify the amount of water diverted (meter records), depleted (based on type and seasonality of use) and associated mitigation amounts.

**Example Mitigation for 29-4623:**

1. SDV assumed to be 45%
2. ASDV is 18.75%
3. Capture software determines an average of 85 % captured from rivers and springs. Mitigation amount =  $500 \text{ AF} \times 45\% \times 5/12 \times 85\% = 80 \text{ AF}$ .
4. 80 AF = 36 BRCC shares, or 7.2 shares per 100 AF developed.
5. BRWCD has a written mitigation agreement with USFWS and Bear River Club Co. as PIPs. The agreement is particular to describe the type or class of shares required.
6. BRWCD monitors for local interference with other groundwater sources at our discretion or as required by the State Engineer. It is likely that a test well would be drilled in this location prior to drilling a production well.
7. BRWCD exacts canal shares prior to development of 29-4623. A production well would need to be in place and agreements with wholesale customers (public water suppliers) or retail customers (developers/development) in place as well. Mitigation shares would then be delivered to PIPs.
8. BRWCD customers begin water use.
9. BRWCD would track customer usage and identify the amount of water diverted (meter records), depleted (based on type and seasonality of use) and associated mitigation amounts.

**Example Mitigation for 29-4625:**

1. SDV assumed to be 45%
2. ASDV is 18.75%
3. Capture software determines average of 85 % captured from rivers and springs. Mitigation amount =  $500 \text{ AF} \times 45\% \times 5/12 \times 85\% = 80 \text{ AF}$ .
4. 80 AF = 36 BRCC shares, or 7.2 shares per 100 AF developed.
5. BRWCD has a written mitigation agreement with USFWS and Bear River Club Co. as PIPs. The agreement is particular to describe the type or class of shares required.
6. BRWCD monitors for local interference with other groundwater sources at our discretion or as required by the State Engineer. It is likely that a test well would be drilled in this location prior to drilling a production well.
7. BRWCD exacts canal shares prior to development of 29-4625. A production well would need to be in place and agreements with wholesale customers (public water suppliers) or retail customers (developers/development) in place as well. Mitigation shares would then be delivered to PIPs.
8. BRWCD customers begin water use.
9. BRWCD would track customer usage and identify the amount of water diverted (meter records), depleted (based on type and seasonality of use) and associated mitigation amounts.

**Trustees Reports**

**DJ Bott** – Brigham City is looking good, this budget year we have received a grant to improve springs up in the Mantua valley, and we also have a second grant which is a matching grant to build a million-

gallon reservoir on the north end of town to be completed by 2026, the city will be looking for a million-dollar match within the next 2 years.

**Charles Holmgren** – Acme Water had a leak, the south end of town was without water for about 4 hours, Acme Water is improving their system a little at a time, they are also looking at updating their water rights, I talked to their President the other day and he told me how they need to put more punitive burdens on individuals that are using large amounts of water which are Primarily Box Elder School District and the LDS Church. West Corinne was out near my residents putting in new meters. Acme did  $\frac{3}{4}$  of a block of line improvement and charged the developer \$57,000 for the improvement. Last week I went to a Pacificorp meeting on pump back projects, they are now going to do three pump back projects on the Bear River, they are going to do one at Bear Lake, one at Oneida and one at Cutler. They are really excited about doing these projects. They are expecting the Oneida project to be the quickest one to put into service. Canal Company had a meeting with Bear Lake Watch and discussed some of the proposed target elevation of Bear Lake, and are in negotiations with them, trying to increase the elevation of Bear Lake, it is all contingent on whether we can get a flood easement through Gentile Valley. Tomorrow Tremonton is coming to Board of Water Resources to apply for a \$2 million ARPA grant for secondary water metering.

**Jay Capener** – Had good water in the canals, we have some of our automated gates in and telemetry working, so far that has been good for us, we have a yard full we didn't get put in because of the winter and the weather, we are making plans to do that this fall. We are working with Tremonton City on some equalization ponds.

**Lyle Holmgren** – I had the opportunity to attend with Carl and several others from our county, the Growing Water Smart Workshop, around the 6<sup>th</sup> of June, we went over to Utah State and attended this workshop with representatives from all over, with the state and so forth, and basically putting together a master plan that we can become more water wise, with our water, everything from secondary water to culinary water. Part of the deal was we left that conference we would organize a working group and begin developing a county-wide water plan in the county that goes along with what we have been talking about. We are looking forward to that, its going to be a good thing, and a lot of good information will come from it. It is a well-rounded group that we are working with, it's everything from Realtors to Farmers to Municipalities, it's a good group, I am looking forward to working with them, and we are hoping this \$2 million grant comes through.

**Brodie Calder** – Ukon hired on a new manager, Brian Schaffer is going to be managing Ukon Water and will be the main point of contact, Derek Oyler was spending a lot of time on that regard, the Board wanted to have someone who was able to take calls when needed and be able to help out. They have three employees now, Brian Schaffer, Craig Christophersen, and Clarinda Wood. Brian will be the individual you will need to contact for any of the challenges we will be facing at this point. The other portion is they have done a study and found and identified locations that they would like to present or a well that they have a water application in for, and they would like to see if the District has any desire to join them in that well, we have a full study and presentation that they would be more than happy to come in and discuss.

**Mark Larson** – No report

**Joe Summers** – I don't have anything to report from Thatcher, in Bothwell we are getting bids to update our meter reading systems.

**Richard Day** – No report

**Tim Munns** - I have been in touch with the municipalities of Howell, Snowville and Grouse Creek, I just came back from a Cattleman's meeting in Jackpot NV, the Idaho Water Users president was there, which is different from Idaho Department of Water Resource, but that curtailment they are purposing up there will affect 700,000 acres.

**Boyd Bingham** – No report

**Dave Forsgren** – Honeyville spring is running about 750, the pump above the center of town hasn't started to run yet, so we are just using spring water and the contractor is putting in an 8 inch pipe to get rid of a 4 inch pipe that has lead joints, so that will be a good project to get done, they should be done laying the pipe Friday.

**Adjournment**

Richard Day made a motion to adjourn, seconded by Mark Larson; all members vote aye, meeting adjourned at 9:00 PM