



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Environmental Quality

Alan Matheson
Executive Director

DIVISION OF DRINKING WATER
Kenneth H. Bousfield, P.E.
Director

Drinking Water Board
Paul Hansen, P.E., *Chair*
Betty Naylor, *Vice-Chair*
Brett Chynoweth
Tage Flint
Roger G. Fridal
Brad Johnson
David L. Sakrison
David Stevens, Ph.D.
Mark Stevens, M.D.
Kenneth H. Bousfield, P.E.
Executive Secretary

DRINKING WATER BOARD MEETING
July 10, 2015 - 1:00 pm
Multi Agency State Office Building – Room 1015
195 North 1950 West
Salt Lake City, Utah 84116

DRAFT MINUTES

1. Call to Order – Chairman Hansen

Paul Hansen, Board Chairman, called the meeting to order at 1:06 pm.

2. Roll Call – Ken Bousfield

Board Members present: Paul Hansen, Betty Naylor, Tage Flint, Brad Johnson and David Stevens.

Roger Fridal joined the meeting at 1:23 pm as item 4(C)(ii)(a) was being presented .

Board Members excused: Brett Chynoweth, David Sakrison, and Mark Stevens.

Division Staff present: Ken Bousfield, Michael Grange, Bernie Clark, Tammy North, Heather Bobb and Marianne Booth.

Director Alan Matheson also joined the meeting at 1:33 pm.

3. Approval of the Minutes:

A. May 8, 2015

- Betty Naylor moved to approve the minutes. David Stevens seconded. The motion was carried unanimously by the Board.

4. Financial Assistance Committee Report

A. Status Report – Michael Grange

Michael Grange, the Construction Assistance Section Manager with the Division of

Drinking Water (DDW, the Division), reported that the State SRF fund currently has a deficit of \$770,000, however over the course of the next year the Division is expecting an additional \$6.2 million to come into the fund, for a total of \$5.5 million to be available for funding of projects.

Michael also reported that the Federal SRF fund currently has just over \$41 million and over the course of the next year the Division is expecting an additional \$15 million to come into the fund, for a total of approximately \$56 million to be available for funding of projects.

Michael did note that there is still a wide disparity between the House and the Senate so the expected additional funding is only an estimated amount.

There were a couple of questions on projects that are at or nearing their 1 year mark and Michael informed the Board that those projects are moving forward and working on getting their loans closed.

B. Project Priority List – Michael Grange

Michael Grange proposed that 2 new projects be added to the project priority list. The first is Hooper Water, with 6.6 points, and a project consisting of replacement of ductile iron pipe within their distribution system. The second is Helper City, with 17 points, and a project that consists of the continuing replacement of their distribution system, which up until now has been mainly funded by the Community Impact Board (CIB).

- Paul Hansen moved to approve the updated project priority list. Tage Flint seconded. The motion was carried unanimously by the Board.

C. SRF Applications

i. STATE:

a) Helper City – Michael Grange

Representing Helper City was Ed Chavez, Mayor; Gary Harwood, City Councilman; and Chad Brown of Franson Civil Engineers.

Michael Grange informed the Board that Helper City is requesting \$3.5 million to replace approximately 5.3 miles of 8 inch and 12 inch water lines in their system. He went on to explain that since 2012 Helper has replaced about 2/3 of the distribution line in their system with funding from CIB, and this proposed project will replace the remaining water lines in their system. The 2013 local MAGI for Helper City was \$41,307, or 102% of State MAGI. Their current water bill is \$39.92, or 1.16% of their local MAGI. The proposed base funding would increase their water bill to \$82.86 or 2.41% of the local MAGI, qualifying them to be considered for additional subsidization. The Financial Assistance Committee (FAC) recommends that the Board authorize a \$3.5 million construction loan at 0% interest for 30 years to Helper City, with \$1,050,000 in principal forgiveness, resulting in a repayable loan amount of \$2,450,000, through the State SRF program.

There was discussion between the Board, Division Staff, and those representing Helper. In response to questions regarding this project using a large amount of the State SRF, Michael Grange, informed the Board that the FAC came to that decision due to the fact that this is an on-going project and to fund it through the Federal program would impose a number of new restrictions and added costs that are not believed to be beneficial or necessary. It was also noted that CIB recommended that Helper try to acquire funding elsewhere instead of continuing to use CIB funding and that Helper is not “shopping rates”.

- David Stevens moved to authorize a \$3.5 million construction loan at 0% interest for 30 years, with \$1.05 million in principal forgiveness, resulting in a repayable loan amount of \$2.45 million, through STATE SRF funds, to Helper City. Tage Flint seconded. The motion was carried unanimously by the Board.

ii. FEDERAL:

a) Hooper Water – Michael Grange

Representing Hooper Water was Dan White of Gardner Engineering; Cole Allen, District Recorder; and Alex Buxton, Zions Bank Public Finance Advisor.

Michael Grange informed the Board that the Hooper Water Improvement District (Hooper) is requesting \$5,423,000 in assistance to replace over 3 miles of 18 inch and 16 inch iron ductile pipe, as well as 1200 customer meters in their system and will contribute \$500,000 in additional funds to complete the project. Hooper, West Haven and West Point, have a local MAGI of \$58,733 or 145% of the State MAGI. The proposed funding would increase their water bill to 1.13% of the local MAGI, therefore Hooper does not qualify for additional subsidization. At the direction of the FAC, Hooper was offered and accepted the opportunity to take part in the Divisions’ water rate study with the incentive of a 0.5% interest rate reduction. The FAC recommends that the Board authorize a \$5,423,000 construction loan at 2.76% interest of fee for 20 years to Hooper Water Improvement District.

There was discussion between the Board, Division Staff, and those representing Hooper that they understood the additional requirements attached to the Federal program funding. Hooper also mentioned that Rich Peterson, Environmental Engineer with the Division, had informed them that if they could contribute additional funding up front, it would lower their interest rate. Hooper stated that it would contribute an additional \$120,000, for a total of \$620,000 in order to drop their interest rate to 2.62%.

- Tage Flint moved to authorize a \$5.303 million loan at 2.62% interest or fee for 20 years to the Hooper Water Improvement District. Roger Fridal seconded. The motion was carried unanimously by the Board.

iii. OTHER:

a) Oak City – Michael Grange

Michael Grange informed the Board that Oak City has withdrawn their application for the previously requested, but tabled, \$400,000 in financial assistance that was intended to fund

drilling of a new well, construction of a new well house, replacement of an existing well chlorination facility, and installation of a new 30,000 gallon chlorine contact time clear well.

- ❖ Paul Hansen noted the arrival of Alan Matheson, Executive Director of the Department of Environmental Quality and thanked him for his support. Alan took a moment to thank the Board, on behalf of DEQ and the Governor, for taking care of precious public resources that are entrusted to them and for providing for essential water services in Utah's communities.

5. **Authorization to Proceed with Rulemaking Actions:**

A. Request to Adopt Amendments to R309-510, *Facility Design and Operation: Minimum Sizing Requirements* – Tammy North

Tammy North, Environmental Engineer with the Division, reminded the Board that on May 8, 2015 they authorized the Division to start the rulemaking process for changes to R309-510, which came about as a result of the recent legislative audit. The changes made include the clarifications to the requirements and the procedures for reduction requests, as well as further defining what constitutes a recreational home. A public comment period was held from June 1, 2015 to July 1, 2015 and a joint letter from Sandy City, Metropolitan Water District/Salt Lake City, as well as a separate letter from Alta City were received. The Division felt that their comments had been adequately addressed with the existing changes and sent response letters to both entities. No additional changes were made to the rule. The Division recommends that the Board adopt the amendment to R309-510 and authorize staff to make the amended rule effective July 15, 2015.

- Roger Fridal moved to adopt the amendments to R309-510 and authorize staff to make the amended rule effective on July 15, 2015. David Stevens seconded. The motion was carried unanimously by the Board.

B. Request to Adopt Changes to Proposed Amendments to R309-500, *Facility Design and Operation: Plan Review, Operation and Maintenance Requirements* – Bernie Clark

Bernie Clark, Environmental Scientist with the Division reminded the Board that on January 9, 2015 they authorized the Division to start the rulemaking process for changes to R309-500. A public comment period was held from February 1, 2015, to March 1, 2015, during which several comments were received. The Board then authorized the Division to make changes to the proposed rule amendment on May 8, 2015, and another public comment period was held from June 1, 2015 to July 1, 2015, during which no comments were received. The Division recommends that the Board adopt the change in proposed rule R309-500 and authorize staff to make the rule change effective July 15, 2015.

- Betty Naylor moved to adopt the change in proposed rule R309-500 and authorize staff to make the rule change effective on July 15, 2015. Roger Fridal seconded. The motion was carried unanimously by the Board.

C. Request to Begin Rulemaking to Amend R309-550-10, *Facility Design and Operation: Transmission and Distribution Pipelines – Water Hauling* – Bernie Clark

Bernie Clark informed the Board that the Division had identified an error in section 10 of rule R309-550, and is requesting authorization to begin the rule making process to correct it. Bernie then informed the Board that the change would involve moving the sentence “all proposals for water hauling shall be submitted to and approved by the director”, from paragraph 2 to the top of the rule section, which would then cover all community and non-community systems as well as emergencies. If authorized, the Division would file the amended rule with Division of Administrative Rules for publication in the Utah Bulletin and a public comment period would commence from August 1, 2015 to August 31, 2015. Division staff recommends the Board authorize them to begin the rulemaking process and file the proposed rule amendment for publication in the Utah Bulletin.

- Tage Flint moved to authorize staff to begin the rulemaking process and file the proposed rule amendment for R309-550-10 for publication in the Utah Bulletin. David Stevens seconded. The motion was carried unanimously by the Board.

6. Information Regarding Proposed Rulemaking Action:

A. Anticipated Request for Authorization to Amend R309-520, *Facility Design and Operation: Disinfection* – Bernie Clark

Bernie Clark informed the Board that Division staff anticipates requesting authorization to begin the rule making process to amend R309-520’s general disinfection requirements that apply to all forms of disinfection, including updating and clarifying the chlorination requirements, at the September 1, 2015 Board meeting.

7. Rural Water Association Report – Dale Pierson

Dale Pierson, Executive Director of the Rural Water Association of Utah (RWAU), started by thanking the Board for their time. He then informed them of a drought mitigation effort that RWAU is undertaking with the Division of Drinking Water, Department of Emergency Management, Division of Water Rights, Department of Water Resources, as well as others in the field, such as water rights attorneys; and hopes to come back to the Board with some recommendations on emergency planning for drinking water systems.

Dale Pierson also updated the Board on the “non-public system drinking water rule” that Curt Ludvigson, Development Specialist for RWAU, has been working on with John Chartier, P.E., District Engineer with DEQ. He reported that the expectation is that the 6 County area, Sanpete, Sevier, Piute, Wayne, Millard, and Juab, will adopt it by the end of summer 2015.

Terry Smith, Management Technician with RWAU, reported that he has been putting together some presentations and documents to assist water systems in the tracking of their annual water usage. He also reported that he has built a water rate model that systems can use to determine their revenue based on the water rate. He is currently assisting Price City, Goshen City, and Kanosh with water rate studies using this model, and also has plans to assist Helper. Terry then informed the Board that he is also currently assisting Pat Creek Ranch near Moab with a water conservation plan.

Brian Pattee, Compliance Circuit Rider with RWAU, reported that he is continuing to work with CAP (State enforcement list) and ETT (EPA enforcement list) systems given to him by Division staff. He also informed the Board that though on paper these systems may look horrible, the issues on the report frequently involve resolved deficiencies. He further stated that most of the operators in the State are very good at addressing deficiencies. He also informed the Board that he will be assisting systems in getting their cross connection control programs put together and implemented.

8. Greendale Water Company – Michael Grange

Michael Grange started by reminding the Board that Greendale Water Company (Greendale) applied for financial assistance from the Board in April of 2013, at which time they intended to build a new water treatment plant. At the July 12, 2013 meeting the Board authorized a \$1.145 million construction loan with 3.92% interest or fee for 20 years to Greendale. After identifying a potential treatment process and receiving bids in excess of the authorized loan, Greendale returned to the Board and on May 8, 2015 the Board authorized an additional \$245,000 and extended the term, resulting in a \$1.390 million construction loan with 3.92% interest or fee for 30 years.

Michael also informed the Board that since the authorization a couple of issues have come to light. The first issue being that Greendale is a privately owned non-profit water company, and typically SRF loans to private companies require collateral, in the form of water rights or other real property owned by the water system equal in value to the loan, that is pledged as security. However as Greendale is built on Forest Service land and operated under Forest Service Special Permit the Company has no real property to use as collateral and the actual water rights value has not been adequately established. The second issue is that there are some within the Greendale service area that have expressed dissatisfaction and concerns about the project.

Paul Hansen, Board Chairman, requested that the presentation of the items for Greendale be rearranged.

C. Project Need – Michael Grange

Michael Grange informed the Board that because Greendale is a privately owned water company it is only eligible for financial assistance under the Federal SRF program. He then quoted from the Federal Register that a project must “address present or prevent future violations of health based drinking water standards including projects needed to maintain compliance with national primary drinking water standards,” and “projects needed to replace aging infrastructure are eligible if they are needed to maintain compliance or further the public health protection objectives of the safe drinking water act”; furthermore the following project categories are eligible for assistance: treatment projects “installation or upgrade of facilities to improve the quality of drinking water to comply with primary or secondary standards.” Michael then stated that based on this language and information provided on their application, Division staff determined that Greendale’s project met the criteria to receive financial assistance from the Federal SRF program and the Board authorized a \$1.39 million construction loan at 3.92% for 30 years to Greendale on May 8, 2015.

B. Water User’s Issues – Dustin Bambrough

Dustin Bambrough thanked the board for the opportunity to share some of the water user's concerns over this project with them and provided the Board with a handout. Dustin then gave the Board some background on his and other water user's dealings and problems with Greendale. He then reminded the Board that they required, in their May 22, 2015 letter, "that the Greendale water company hold a public meeting to determine if the public continues to support the project," record the vote, and any comments. Dustin reported to the Board that 56% were in favor of the increased funding, but 62% were opposed to the 30 year term. He then stated that Greendale has informed them that as users they can pay their portion of the assessment in 20 years instead of 30 years, but does not have confidence that Greendale can handle a complicated repayment plan such as that.

Paul Hansen noted that it is never the intent of the Board to mandate payments must go for a full 30 years, it is simply an opportunity that the Board provides to give flexibility to those receiving financial assistance; therefore the Board will leave the handling of the repayment options to the Greendale Board and its shareholders.

A. Collateral Issue – Eric Johnson

Eric Johnson, Special Financing Counsel to Greendale, began by informing the Board that Greendale has water rights to just over 72 acre feet, but as there hasn't been any comparable market sales in a long time and because it is located on Forest Service land by permit, it is difficult to determine exactly what the value of that water right may be. He then explained that because the company is a non-profit, it also holds no real value; and though the new construction would have the value of its purchase price, it again is on Forest Service land by permit which can be cancelled at any time, nullifying any real value. Eric did point out, however, that without the water rights, the properties, which are valued in excess of \$50 million, would lose at least ½ of their value.

D. Legal Issues – Bill Prater

Bill Prater, Bond Counsel for the Board, informed the Board, that when they lend money to a private water company, it is underwritten, just like a bank would, with a loan agreement, a promissory note, and collateral. He then reported that as he sees this issue, Division staff is struggling because normally they have the value of systems water rights to determine collateral, and in this case they do not, therefore staff would like direction from the Board.

E. Greendale Water Company Board – Craig Collett

Those representing the Greendale Board were:

- DeArmon Batty, President, representing the Flaming Gorge Acres HOA
- Troy Gale, Vice President, representing the Flaming Gorge Pines HOA
- Kevin Clegg, Member, representing the Flaming Gorge Resort
- Brent Felch, representing the Flaming Gorge Acres Coporation
- Craig Collett, Manager of the Greendale Water Company

DeArmon Batty thank the Board for their time with regards to this issue and provided them with handouts. DeArmon informed the Board that Greendale has been operating for 43 years and that their Board is made up of 5 members, balanced as 50% commercial interest and 50%

homeowner (HOA) interest. He then stated that Greendale bills each of the 5 individual entities, and then leaves it up to them as to how they assess their businesses or members as they see fit.

DeArmon then referred the Board to a letter from Kenneth G. Anderton, P. G., Attorney at Law, in which he states

“legally the board is entitled to make decisions independent of the entities and the customers it serves. In the case of the loan application to the Drinking Water Board, it has generously involved all of its customers and have listened to their comments at public hearings. I am informed that there may be a few people who are serviced by the water company who disagree with the Boards decision to move forward with the loan and the building of the new treatment plant. These individuals have had an opportunity to express their opinions in public hearings and otherwise. I do not believe they have legal standing to object at this point in time to the board going forward with the loan process and the building of any new treatment plant.”

DeArmon went on to inform the Board that Greendale has come up with \$250,000 of their own funding and have used that to pay for the pilot study, engineering permits, water sampling tests, etc, and requests that they regard this as indication of Greendale’s commitment to the project. He also noted that the Flaming Gorge HOA has put another \$100,000 in reserve.

DeArmon then referred the Board to the letter from Lesa Asay, Daggett County Assessor, in which the lot valuations for the Flaming Gorge Pines and Flaming Gorge Acres HOA’s are

- \$58,000 for up to .50 acre lot improved with a water share
- \$29,000 per acre for a lot that is vacant/no water share

After discussion between the Board members it was determined that as the State will still hold the Greendale Water Company’s water rights as collateral and the valuation letter from Daggett County, though not a traditional water right appraisal, is still a valid opinion of the County that the water right represents a \$29,000 value.

- Tage Flint moved to proceed with the Greendale Water Company’s previously authorized construction loan with the conditions that: a) the loan term remain at 30 years as already approved, and b) that based on the uniqueness of this application their collateral is sufficient to secure the loan. Roger Fridal seconded. The motion was carried unanimously by the Board.

9. Chairman’s Report

In the interest of time this item was skipped.

10. Directors Report

A. Utah Tax Review Commission

Ken Bousfield, Director of DDW, reported that the Utah Tax Review Commission is a body appointed by Legislature and has recently been focused on “earmarks” from the State’s sales tax revenues, of which the Division gets a 1/16 of 1% that is used for the State SRF program. He then reported that there are questions as to whether the State should have earmarks from State sales tax revenues. Ken reported that Senator Lyle Hilliard, a member of the Commission, made supporting comment relative to DDW’s use of sales tax funds for a project in his district. Ken then reported that the Division will make another presentation to the Commission on August 27, 2015 and will report on the results of that meeting at the September 1, 2015 Board meeting.

B. Natural Resources, Agriculture, and Environment Interim Committee and C. Revenue and Taxation Interim Committee

Ken reported that these two meetings were held on the same day and at the same time and focus on large water districts and their usage of property tax monies to pay off their loans. He then reported that no decisions came out of either of these meetings, but there were a lot of questions answered by those testifying before the Committees.

Ken also took a moment to report on a June 29, 2015 meeting that took place in the Governor’s Office involving the Division of Drinking Water, Water Rights, Water Quality, and Water Resources which Alan Matheson, Michael Grange and he attended

11. Next Board Meeting:

Date: Tuesday, September 1, 2015
Time: 1:30 pm
Place: The Davis Conference Center
Zephyr Room
1651 North 700 West
Layton, Utah 84041

12. Other

Dale Pierson reminded the Board that they were all invited to attend the full RWAU Fall Conference in Layton in addition to their Board meeting that will take place there.

13. Adjourn

Paul Hansen adjourned the meeting at 3:26 pm.

In compliance with the American Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Dana Powers, Office of Human Resources, at: (801) 499-2117, TDD (801) 536-4414, at least five working days prior to the scheduled meeting.