



## MINUTES

### BEAR RIVER COMMISSION ANNUAL MEETING ONE HUNDRED FORTIETH COMMISSION MEETING April 19, 2022

## BEAR RIVER COMMISSION

226 South 200 West  
Farmington, Utah 84025-2407  
801-292-4662

CHAIR  
Jody Williams

IDAHO  
COMMISSIONERS  
Gary Spackman  
Kerry Romrell  
Curtis Stoddard

UTAH  
COMMISSIONERS  
Candice Hasenyager  
Charles Holmgren  
Norm Weston

WYOMING  
COMMISSIONERS  
Greg Lanning  
Adrian Hunolt  
Tim Teichert

ENGINEER-MANAGER  
Don A. Barnett

**I. Call to order** – The regular meeting of the Bear River Commission was called to order by Chairwoman Jody Williams at 1:35 p.m. on Tuesday, April 19, 2022. This was the one hundred fortieth meeting of the Commission. The meeting was held both in person and virtually. It was noted that Kevin Payne, alternate Commissioner for Wyoming, was filling in for Commissioner Tim Tiechert. Williams then introduced two new Commissioners, Candice Hasenyager from Utah, and Brandon Gebhart from Wyoming. She also noted that the Water Quality Committee had met the prior week and that the Records & Public Involvement Committee and Operations Committee had met that morning. Williams then asked those in the room to introduce themselves after which Don Barnett read the list of those who were virtually attending the meeting. An attendance roster is attached to these minutes as Appendix A.

Williams then addressed the agenda for the meeting. There were no changes made to the agenda and it was approved by vote of the Commission. A copy of the agenda is attached to these minutes as Appendix B.

**II. Approval of minutes of last Commission meeting** – Williams asked if there were any changes to the draft minutes of the previous Commission meeting held virtually on November 23, 2021. A motion was made to adopt the minutes. The motion was seconded and unanimously approved by the Commission.

**III. Commission Business** – Williams then turned to the election of Commission officers. She indicated that it has been the Commission's general practice to rotate officers every two years, but that last year the existing positions had been retained for another year. She then opened up the meeting for nominations for Vice Chair, Secretary and Treasurer. Upon motion and unanimous vote, Commissioner Hunolt was elected as Vice Chair, Commissioner Hasenyager was elected as Secretary and Randy Staker was elected as Treasurer.

Commissioner Hasenyager then presented a resolution of appreciation for Commissioner Blair Francis who has served the Commission for 43 years in a number of positions. The resolution was unanimously adopted after which Commissioner Francis addressed the group and discussed the unique nature of the Commission and its ability to address problems with respect and comity to each other.

**IV. Reports of Secretary and Treasurer** – Commissioner Hasenyager asked Randy Staker to discuss the FY2022 expenditures to date. Staker reported that the Commission began FY2022 with a balance of \$146,566.21, it received \$135,000 in state dues and \$10,136.86 in interest income and from the water quality agencies (\$556.45 in interest on savings and \$9,580.41 from the water quality agencies) for a grand total income of \$291,703.07. He indicated that total expenses to date were \$108,659.24 leaving a current balance of \$183,043.83. He indicated that the stream gaging contract had been paid for the year and that he yet anticipated income from the water quality agencies.

Commissioner Hasenyager then turned to the proposed FY2023 budget which she passed out to the Commissioners. She indicated that the proposed state assessments were unchanged at \$45,000 for each state. She also indicated that there were no anticipated changes to stream gaging costs and that the personal services contract was increased by 5% and the clerical expenses increased by 7%. Commissioner Spackman noted that the personal services contract amount shown for the out-year FY2024 also showed increases similar to the 2023 increases and he wanted to make sure that it was clear that the FY2024 amounts had not been agreed to. With that clarification, Commissioner Spackman made a motion to adopt the Commission's FY2023 budget as shown. The motion passed. Copies of the Treasurer's report and adopted budget are included in Appendix C.

**V. 2022 Water Supply Outlook** – Joel Burley reported on the 2022 water supply outlook (see Appendix D). He showed the snow-water-equivalent snowpack values in the Bear River Basin and compared them to the median values. As of April 18, the overall Bear River Basin was at 87% of normal. He then divided the Bear River Basin into subbasins and showed the snowpack for each area. In general, the snowpack was less in the lower portions of the basin. All sites were below normal for snowpack, though total precipitation was near normal. The soil moisture conditions were much better than they were in 2021. He also reviewed the reservoir storage conditions and the water availability index. He then turned to the streamflow forecasts by area. In summary, the forecasted stream flows in the Bear River were below normal, the snow water equivalent for the basin was at 87% of normal the reservoir contents were at 45% of capacity.

**VI. Mill Creek interstate regulation** – Teresa Wilhelmsen, Utah's State Engineer opened this discussion. She indicated that in response to concerns from water users, several meetings were held with water users and representatives from Utah and Wyoming's state engineers' offices. The two states have entered into an agreement for the 2022 irrigation season. The agreement includes a jointly-adopted water priority schedule, the weekly exchange of measurement data and a common divertible flow worksheet. Several water rights will not be regulated this year as the issues of futile call and imported water are studied. Additional measuring devices with telemetry will be installed, and Utah may need to file an exchange application. Kevin Payne indicated that several Wyoming petitions were included in the agreement which will need to be worked through. Commissioner Gebhart indicated that the agreement expires on September 30, 2022. Both he and Kevin Payne expressed appreciation for the efforts and hoped that things will be moved further along by then.

**VII. Water Quality Committee report** – John Mackey gave the report from the Water Quality Committee meeting which was held the previous week. Don Barnett had given to the committee a report on the limited water supply forecasts. This coupled with water demands associated with growth and dealing with invasive species weighed on the committee's discussions. Mackey reported on a significant tri-state water quality monitoring effort which was ongoing. He also discussed monitoring in the Bear Lake area including monitoring of tributaries and the continuation of monitoring of a number of constituents in Bear Lake with the water quality platforms. Mackey reported that each of the states had some additional funding in 2022 some of which was used on

water quality projects, mostly in the area of assisting agricultural users. He also discussed the 50-year anniversary of the Clean Water Act and their biennial reporting of water quality trends. The committee had discussed harmful algal blooms and other emerging pollutants.

**VIII. Records & Public Involvement Committee report** – Charles Holmgren reported on the meeting of the Records & Public Involvement Committee earlier that day. Kevin Payne filled in for Commissioner Teichert at the committee meeting. At the meeting the Committee reviewed a list of stream gages, and it learned the City of Evanston will pick up the cooperative gage costs for the Bear River near Evanston gage. Commissioner Holmgren reported that Don Barnett had participated in a USGS stream gaging seminar where he had informed USGS employees of the value of the stream gaging data to the Commission. Commissioner Holmgren reported that there would not be an increase in next year's stream gaging costs. He also indicated that the state water quality agencies would continue to pick up 20% of the Commission's stream gaging costs. The committee also received a report from Mike Allred on the value of the stream gaging for water quality efforts. There were not reported any plans for new real-time gages in Wyoming and Utah, but Idaho intended to place a gage on the West Cache Canal Company's new diversion on Cutler Reservoir (in Utah). There had been a discussion of a tour below Oneida Reservoir. Commissioner Holmgren reported that the 21<sup>st</sup> Biennial Report has now been completed and published and the 22<sup>nd</sup> Biennial Report is underway with the 2021 chapter now completed and he reviewed some of the initial findings. He indicated that there was also a review of the Commission's website and library. He further reported that as meeting information is made available, Barnett will post it to the website. He reported on meetings which had occurred since the last meeting as well as several publications of interest which had been reported to the group. At the close of the committee meeting, Curtis Stoddard was elected as chair moving forward.

**IX. Operations Committee report** – Adrian Hunolt noted that the Operations Committee met earlier in the day. Hunolt asked Mike Johnson to make a brief summary of the notes from the meeting to the Commission. Johnson reviewed current storage amounts in the upstream reservoirs. He also noted the extremely dry conditions and the probability that the Bear River will be in interstate regulation for much of the summer. Johnson indicated that at the meeting there had been a discussion on the depletion estimates and that there would be a need to update the Commission's depletion procedures. There had also been a discussion on new applications in the Bear River Basin. Commissioner Hunolt reported that Commissioner Holmgren was elected as the new chair of the committee.

Connely Baldwin then addressed storage supplies in the Lower Division. He indicated that in 2021 the natural flow was the lowest it had ever been and it was hoped that with improved soil moisture in 2022 these conditions would improve. Baldwin provided a handout to the group and reviewed some of the hydrologic data on it. He indicated that the 2022 allocation of storage water was 225,700 acre-feet. Baldwin reported on anticipated boater flows, Cutler relicensing and the Dry Canyon Project.

Baldwin's information is attached as Appendix E.

**X. Technical Advisory Committee report** – Kevin Payne, chair of the Technical Advisory Committee (TAC), reported that the TAC has continued to meet about monthly since the last Commission meeting, generally remotely, to work on updating the depletion estimates. In addition, the GIS leads have been working on the mapping updates and their efforts were nearing completion. He reported that a review of industrial uses shows that depletions are mostly unchanged. Payne indicated that the 2020 census data is now available, and the TAC's review of the municipal

depletions is moving forward. He indicated that, as in 2009, the estimate of depletions associated with supplemental water rights and supplies was proving to be challenging. He reminded the Commission that it had charged the TAC with coming up with either a common number or a common method for estimating the supplemental depletions. Payne indicated that Wyoming had continued to explore this matter since 2009. Idaho has been able to replicate some of the Wyoming data. For the purposes of this review, it is recommended that the common number of 40% of the full supply depletion be used for supplemental water rights.

Payne reported that beyond the depletions estimates, the TAC has stayed informed on the interstate regulation on Mill Creek. It has reviewed the gages in the system and kept informed on the Idaho adjudication efforts and other projects within the States. It has also followed environmental and watershed health matters which may affect the overall management of the Bear River. Because there were no specific requests to make presentations to the TAC this year, the TAC held a joint meeting with the Bear River Water Quality Task Force on April 7 and discussed common concerns and coordination of efforts. He reported that on April 8 the TAC heard a report from the USFWS regarding their interest in extending the parameters in the water right accounting models and the time frame during which they are run. They also expressed concern about the impact of new wells and potential regulation under the Compact.

**XI. Management Committee report** – Commissioner Spackman reported for the Management Committee which had met the previous evening. Commissioner Spackman discussed the rotation of Commission leadership and committee chairs. He indicated that the Management Committee has now appointed Matt Anders to chair the Technical Advisory Committee. He also provided a review of the Management Committee’s financial discussions including the unusual increases in staffing costs and that it appears that there will not need to be an increase in state dues until maybe a \$5,000 increase in the spring of 2024. Commissioner Spackman then reported on the depletion estimates efforts of the TAC and the need to update the estimates every ten years. Advances in technology has led to new opportunities in making depletion estimates. He discussed the difference between potential ET and actual ET depletion estimates. The Management Committee has asked the TAC to report back at the November meeting on the use of these methods for making depletion estimates. He discussed the potential that the Central Division of Idaho and other areas, particularly if depletion estimate rates are increased, could be bumping up against their allocations.

Commissioner Spackman then reported that there have been productive discussions with the States of Idaho and Utah with landowners in the Gentile Valley about acquiring flood easements. It is hoped that these easements could accommodate both additional storage in Bear Lake and the potential for spinning reserve for PacifiCorp and that both of these could have positive influence on the potential pump back storage project at Dry Canyon. He also indicated that the Management Committee is aware of the requests by the USFWS regarding inclusion of its water rights in accounting models and the Commission looks forward to continuing these discussions. He also indicated that things could change in the future, but in the past the Commission has concluded that its administration under the Compact is to surface water.

**XII. Engineer-Manager’s report** – Don Barnett reported that all his matters had been discussed under other agenda items.

**XIII. State Reports – Idaho** – Commissioner Spackman reported for Idaho. He first reported on Idaho’s Bear River adjudication. The legislature is on board for appropriating moneys for the

adjudication over the next ten years with an office and staff coming soon to Preston. He also mentioned that the Idaho Legislature appropriated significant funds to the Idaho Department of Water Resources for water projects in the state which shows a significant commitment to water in the state. He also indicated that they have pending in the courts a request from the federal government to adjudicate all of the small domestic and stockwatering uses in the Snake River Basin which could be a very significant undertaking.

**XIII. State Reports – Utah** – Commissioner Hasenyager reported that Utah remains in significant drought (eight of the last ten years), and it is anticipating another tough year. The Utah Legislature provided a lot of attention to water this year with over 40 bills on water which included \$460 million invested in water. She indicated that the legislation fell into four buckets: 1) water conservation, 2) Great Salt Lake, 3) Utah Lake, and 4) tweaks to Utah water law. Utah Water Resources has also been busy publishing a number of action plans and efforts with the Governor’s Office of Planning and Budget on Infrastructure Investment in Jobs Act. She then turned to Commissioner Holmgren who reported that Utah has continued its interest in cloud seeding. He also reported that the Utah Division of Water Resources is 75 years old. Hasenyager indicated that John Mackey is the new acting director of the Utah Division of Water Quality.

**XIII. State Reports – Wyoming** – Commissioner Gebhart reported that Wyoming is similarly under drought conditions. Wyoming also had a number of water bills including reinstating the deputy State Engineer position and creating a new technical position in Colorado River Basin. The legislature gave significant funding for water projects. He also indicated that cloud seeding continues to be supported in Wyoming.

**XIV. Other** – Emily Lewis provided a few comments on behalf of the Bear River Water Users Association. She indicated that in 2021 there were good discussion regarding the governance of Bear Lake storage water. She reported that some fortunate rainstorms made it so that changes were not required but requested that as we move into this new year, particularly if things stay dry, that such discussions continue as the parties seek to find mutual solutions to such agreements.

Claudia Cottle from Bear Lake Watch expressed appreciation for the ability to meet together. She concurred with Emily Lewis in expressions of appreciation for past agreements and the desire for parties to work together. She discussed lakes that are in peril and indicated that though Bear Lake is not one of those lakes, that it does have issues and requested that entities work together to solve Bear Lake’s problems. One of those issues is the lands around the lake which are laid bare when water levels are down. She reported that there is no overarching plan or program for dealing with this issue and she requested everyone’s help and support on this matter.

**XV. Next Commission meeting** – Chairwoman Williams noted that the by-laws provide that the Commission meeting is set for the Tuesday of the week before Thanksgiving. There was a request to move the fall Commission meeting to November 22, 2022. Upon motion the meeting was moved to that date to be held in Salt Lake City, Utah.

A motion to adjourn the Commission meeting was made and approved. The meeting was then adjourned.