

MINUTES OF THE HENRY'S FORK TRIBUTARIES DISTRIBUTION SYSTEM

January 26, 2006

McKinnon Schoolhouse, McKinnon, Wyoming

The meeting convened at 4:00 p.m. and was conducted by Lee Sim of the Utah State Engineer's Office. Mr. Sim introduced representatives of the State Engineer's Offices of both Utah and Wyoming.

The minutes of the 2005 annual meeting were read by Bob Leake of the Utah Division of Water Rights. No corrections were needed to the minutes. Charles Bergmeier made a motion to accept them, seconded by John Wilde. All Approved.

Mr. Sim discussed the financial report for the 2005 season. He reviewed the finances received from both states. Utah's contribution of \$3,464.00 from last year's assessment was paid two weeks ago to Wyoming. Total expenditures for the year were \$15,000.26.

A motion was then made by Jack Hickey, seconded by Jon Wilde to accept the financial report as read. All approved.

Mr. Covolo then gave his commissioner's report for last season. He mentioned last winter had excellent snowpack with very good flows during most of the summer. The only request for regulation was on Burnt Fork which remained in place most of the summer. Unlike the past two dry summers, most ditches were able to stay on long enough for the irrigators to raise a crop.

Some of the accomplishments of the past season include:

1. The Interstate Canal was able to get a staff gage and a rating table on Island Lake.
2. The GPS readings on Burnt Fork and Beaver Creek with pictures of the headgates and measuring devices were compiled for future use.
3. The Kirkendall Ditch headgate stem was replaced.
4. Correct amounts of water were delivered with the help of Gino Foianini in the Gregory Basin Canal.
5. Mr. Covolo was able to take Jade Henderson and John Yarbrough, on a tour of Burnt Fork deliveries.

Some concerns still to be address include:

1. Control of the water flows at the split on Burnt Fork needs to be managed only by the commissioner to ensure the proper allocation of the supply to the users.
2. The users of the Beach Desert Ditch need to address their own ditch loss down to their points of use.
3. All users need to remember to have locking headgates and maintain their measuring devices.
4. All ranches need to have a single contact person available for communication with the commissioner.

Mr. Covolo indicated that last year was a good one for water supply and the need for regulation was limited. He complimented the water users for their cooperation in his duties

A motion was then made by Mark Andersen to accept Mr. Covolo's report, seconded by Fay Wadsworth, all approved.

The subject of the assessment to the water users was brought up. Mr. Sim responded by saying that a conflict had arisen in the method of assessment to the water users because of questions regarding the budget and assessment practices on Henry's Fork. Recently Mr. Covolo received a substantial increase in

salary from the Wyoming legislature. There had been no input from the Utah water users and if they did not agree to the salary increase, would they request Utah to reduce the percentage amount to be paid to Wyoming or would they request a separate person to act as commissioner for the Utah portion of the system. There appeared to be a conflict between two Utah statutes.

73-5-1 states that the water users are to set the compensation for the water commissioner. On the other hand, the interstate river compact requires that distribution of Henry's Fork be done without regard to the state line and that the cost of distribution and regulation expenses be paid 30% by Utah and 70% by Wyoming. This implies one commissioner and a joint effort. In the current situation we could not comply with both statutes.

Mr. Sim indicated he discussed this with the Attorney General's Office and was told that in situations of conflicting statutes, the more specific statute has precedent over the more general statute. In this case 73-5-1 is the more general statute and the compact is the more specific statute. Therefore the water users in this area are required to pay 30% of the expenses but they do not necessarily have the opportunity to set the annual budget.

This situation also brought into question the method of assessing the Utah waters on the Henry's Fork system. Upon review it appeared that the Utah assessment should be based on all Utah water rights regardless of where the irrigated land was located. It also became apparent that since all the water users lived in Wyoming, even those whose irrigated land was totally in Utah, all the water users were helping to pay Wyoming's 70% through their state taxes since the 70% is paid from the Wyoming General Fund but only Wyoming water users who had land in Utah were helping to pay the Utah 30% of the assessment. In reviewing the lands being assessed it was also realized that when the Henry's Fork Distribution System was organized it was also expanded to include the lands directly on Henry's Fork in Utah and also the lands in Utah on Poison Creek, however, these lands had never been included in the Utah assessment. It was also realized that the water rights for the storage reservoirs in Utah and generally used in Wyoming had never been assessed. The storage water is used on the same lands that the direct flow water rights are used on but it is a separate distribution effort for the commissioner to deliver storage water so it should also be assessed. On the other distribution systems in Utah, the water released from storage is assessed at the same rate as direct flow water diverted from the stream. It was decided it would be equitable to take the storage capacity of the reservoirs and divide that by the irrigation duty in this area to determine the number of acres that each reservoir company would be assessed.

The current acreage basis for the Utah assessment is 4952.50 acres. By including the lands irrigated in Wyoming from Utah water rights, the lands on Henry's Fork and Poison Creek, and the lands allocated to the reservoir companies, the acreage basis for the Utah assessment increases to 9814.22. These numbers represent a quick research of the water rights and further research to identify water right owners and to verify the actual acreage amounts will be required. This work will be done by the Vernal Office and Distribution Section during 2006. Wyoming agreed that for the 2006 assessment, Utah could base its assessment on the commissioner's salary level prior to the 2005 raises. This adjustment is as follows:

	Actual 2005 Expenses	Expense basis for Utah's 2006 Assessment
Vehicle Charge	\$ 854.00	\$ 854.00
Salary	\$11,897.61	\$ 8,203.72*
Employer benefits	<u>\$ 2,248.65</u>	<u>\$ 2,248.65</u>
TOTAL	\$15,000.27	\$11,306.37

* based on 758.2 hours @ \$10.82/hour

Utah's 2006 assessment will be 30% of \$11,306.37 = \$3,391.91

Starting in 2007, the Utah assessment will be based on the actual 2006 expenses incurred by the Wyoming water commissioner and the assessment will be prorated to the Utah water users based on the acres of irrigated land associated with all Utah water rights.

Mr. Sim then discussed changes that have occurred in Utah Law with regard to enforcement procedures for the State Engineer's Office. He passed out a brochure explaining the Water Rights Enforcement Procedures to the water users.

With no further business, the meeting adjourned at 5:35 p.m.

Those attending the meeting were:

<u>Name</u>	<u>Representing</u>
Lee Sim	Utah Division of Water Rights
John S. Larsen	Utah Division of Water Rights
Bob Leake	Utah Division of Water Rights
Jade Henderson	Wyoming State Engineer's Office
John Yarbrough	Wyoming State Engineer's Office
Todd Covolo	Water Commissioner
Charles Bergmeier	Water User
Bill Gamble	George Gamble
Jon C. Wilde	Water User
Fay Wadsworth	Water User
Donald Behunin	Lyman Grazing
Jack Hickey	Water User
Bob Taylor	Water User
Pauline Sadlier	Water User
Mark Andersen	Water User
Wade Stephens	Water User
Larry Andersen	Water User
Gino Foianini	Water User
Julie Iorg	Water User