

SHEEP CREEK WATER COMPANY
REGULAR BOARD OF DIRECTORS MEETING
November 7, 2023 ~ 6:00 PM
SNOWLINE SCHOOL DISTRICT-BOARD ROOM
4075 NIELSON RD, PHELAN, CA 92371

Anyone who like to attend meetings in person are required to RSVP not less than twenty-four (24) hours prior to the meeting.

Meeting Minutes

1) Open Meeting- 6:00 PM

- a. The Regular Board of Directors Meeting of November 7, 2023, was called to order at 6:01 PM by President Andy Zody. Director David Nilsen led the Pledge of Allegiance. Director Eric York led the Invocation.
- b. Directors Present:
 - a. Andy Zody is in attendance as Presiding President.
 - b. Luanne Uhl is in attendance as Presiding Vice President,
 - c. Kellie Williams is in attendance as Secretary/Treasurer.
 - d. David Nilsen is in attendance as Presiding Director.
 - e. Eric York is in attendance as Presiding Director.
- c. Guest Present:
 - a. Shareholder Peter Barnes
 - b. Shareholders Diane Hayball
 - c. Guest Yasha & Deborah Philips

d. Staff Present: General Manager Joseph Tapia and Therese Rodriguez, General Manager Assistant, were present.

2) Consent Motions

- a. Bills:
 - a. *October 17, 2023 through November 7, 2023*
- b. Managers' Report: Included in Board Packet

Luanne Uhl moved to accept the Bills and Manger's Report as present. Eric York seconded the motion.

11-7-2023 Minutes will be postponed until the December meeting.

Motion carried, 5 yes, 0 no

- 3) Open Forum/Public Comment-** Under this item any member of the Board or Public may address the Board on any item relating to the company not listed on this agenda. However, the Board is prohibited under AB 240 from taking any action on an item not appearing on the agenda. Board president will call on each participant and at that time you have three (3) minutes to speak. Please be advised that this meeting will be recorded for documentation purposes and to help the accuracy of meeting minutes.

Speaker 1: Peter Barnes

Since lawsuits are on the agenda, Barnes discussed the suit that he has filed against Sheep Creek Water Company. He has expressed many times that the water allotment specifically with Tier 1 is unfair but also just not allowed. And so, he filed a suit over that. He acknowledged that there are justifications that are given for why the allotment is so.

Barnes read, “The general purpose of the corporation is to procure, furnish, supply and distribute water at cost to and for shareholders only for domestic irrigation and all other useful purposes in proportion to the number of shares held by them respectively” [Corporation Code number was not stated by Barnes].

Barnes referred to the amendment to the [SCWC] bylaws in 2019, “but that allowed the water allotment to be changed.”

Barnes stated SCWC By-Laws take deference to the articles of incorporation. If there is a disagreement, the articles of incorporation win. Barnes mentions the past discussions on the California Corporation Code Section 400 B and stated he didn’t want to go into that, but he thinks under both above mentioned, the water allotment Tiers treats shares unequally. The first share, as opposed to all the shares owned by a shareholder are treated differently. Barnes stated this is not allowed under the California Corporation Code Section 400 B.

Barnes stated that maybe the allotment allowed by the water code sections 350 to 359. However, section 355 states, and he quotes that “those regulations are only in effect until the supply of water available for distribution within such area has been replenished or augmented.” He drew our attention to the water production table noted in the board packet from 2019 until now.

Barnes noted the production at the beginning of 2020. And ever since then, water production has been high. Barnes noted the production and usage and does not see how this could possibly be described as a water shortage. Barnes does not believe Tier allotment that's in effect if fair and he feels like it's illegal. Therefore, he has filed a lawsuit over this.

4) **Old Business**

Information Items:

- a. System Update – Tapia report on healthy productions and system updates – see Appendix below. Discussion followed.
- b. SWRCB Negotiations - Nilsen reported that we will be meeting in the near future we are waiting on Well #13 results and then SCWC will be meeting with the SWRCB.

Action Items:

a. Employee Holiday Gifts

Kellie Williams moved to accept the Employee Holiday Gifts as presented. David Nilsen seconded the motion. Discussion followed.

Motion carried, 5 yes, 0 no

b. 2024 Operating Budget

Nilsen moved to accept the 2024 Operating Budget as presented. Eric York seconded the motion. Discussion Followed.

Nilsen thanked the staff for developing the budget, it was a lot of work.

Peter Barnes discussed Well #11 and Tier 2 rates. Asking for more information on Tier 2 rates and does not believe we are selling water at cost. Barnes is requesting understanding of the cost analysis for how the previous rate increase came into effect. Barnes does not understand how we could possibly have a rate increase on Tier 2 when we're not even using Well #11.

Barnes continues to state he has submitted a letter to the California Public Utilities Commission (PUC), because it is his belief that Sheep Creek Water Company is not selling Tier 2 water at cost because that water is not coming from Well 11. And the cost basis, at least in 2019 for the Tier 2 rates was simply for water being pumped for Well 11. And instead, we're getting water that's coming from the canyon, which otherwise is being charged, at now in this rate increase 65 cents per hundred cubic feet. So, he thinks that at least the Tier 2 rate increase should not be going forward. Not when we are using Well 11 and haven't used it all year really, except to turn it on and make sure that it works.

Motion carried, 5 yes, 0 no

c. 2024 Rate Increase Approval

Nilsen moved to accept the 2024 Rate Increase and Meter Cost. Williams second the motion.

Discussion followed regarding meter cost and installation. The motion is only for the cost of the meter to be hooked up to the system.

Motion carried, 5 yes, 0 no

d. New Meter Installation Cost

Nilsen moved to accept the New Meter Cost to \$11,825 as presented. Luanne Uhl seconded the motion. Discussion followed.

Motion carried, 5 yes, 0 no

5) New Business

Action Items:

a. Board Appointed Representation

Nilsen moved to accept the Board Appointed Representation, David Nilsen and Kellie Williams to represent SCWC at the upcoming small claims.

Luanne Uhl seconded the motion. Discussion followed.

York asked about a lawyer representing us and paying for our gas to get out to Barstow. The board stated a lawyer cannot represent SCWC in small claims court. Nilsen stated as thoughtful the suggestion is to pay for the gas, the offer was declined by Nilsen and Williams.

Motion carried, 5 yes, 0 no

6) Next Scheduled Meeting

a. December 19, 2023

Zody moved the December meeting to December 12, 2023. York second the motion. Discussion followed.

Motion carried, 5 yes, 0 no

7) Closed Session – 6:27 pm

a. Legal Counsel-Lawsuits

8) Adjournment

Out of closed session 6:55, for the record we discussed legal action and information presented by Sheep Creek Water Company Legal.

Uhl moved to adjourn the meeting at 6:57. York second the motion.

Respectfully Submitted,

Kellie Williams-Secretary/Treasurer
Sheep Creek Water Company
Board of Director

Appendix:

November 7, 2023

PRODUCTION

- October Production- 44.62 AF- 2023 Year to Date Production- 463.59
- October Meter Service Usage- 38.16 AF; 2023 Year to Date Consumption- 380.43

Well soundings, 2023:

- Static Water Levels compared Oct 2022 to Oct 2023:
 - Well 2A.** Static level is up 32.34 feet.
 - Well 3A.** Static level is up 41.58 feet.
 - Well 4A.** Static level is up 46.20 feet.
 - Well 5.** Static level is up 39.27 feet.
 - Well 8.** Static level is up 60.06 feet.
 - Well 11.** Static level is up 1 feet.
- Tunnel** the Tunnel flow is currently averaging 178
- Total pumping capacity as of Oct 2023 is 2,375 gpm.
- Current usage is averaging 400,000 gallons per day, 279 gallons per minute
- **Allotment Tier 1 – First share on account remain 750 CF/Share and Remaining shares 150 CF/Share. \$0.55 per hcf**
- **Allotment Tier 2 – 150 CF/Share all shares after Tier 1 \$4.50 per hcf**
- **Tier 3 Overage- No Allotment \$10.00 per hcf**

Work Completed or in Progress-October 2023

- Work orders as office requests
- Well soundings – weekly
- Samples- weekly
- 8- Meter upgrades
- 2-Mainline leaks / 0- service line leaks
- Replaced fire Hydrant
- Line Flushing
- Well 13 Update:
 - Test Pump Completed- Waiting on testing results
 - Title 22 Testing Completed- Waiting on test results
 - Currently in Process of Designing Pump and Motor