

Ag Water Board

Special Meeting July 27, 2015, 3-5 pm Whatcom Farm Friends conference room

AWB Board:

Keith Boon

Marty Maberry

Scott Bedlington

Mike Boxx

Ed Blok

Alternates:

Vern Vande Garde

Terry Lenssen

Greg Ebe

Rich Appel

Landon Van Dyk

Rod Tjoelker

Jon Maberry

Brad Rader

Andy Enfield

Jeff De Jong

Rolf Haugen

Others:

Fred Likkel

Gerald Baron

Henry Bierlink

Bill Clarke (tele)

David Haggith

I. Financial

- A. Director Insurance - SSK seeking new quote for liability insurance – cost doubled since we decided to purchase the policy. Henry was directed to pursue a few more quotes. Ed moved to allow Henry to purchase the most cost effective policy in consultation with the Board, Mike seconded, motion carried unanimously.

II. Status Report on Lummi/Ecology negotiations

- A. County and City Reaction – They received the same presentation we did and reacted in much the same manner. The State is meeting with the Lummis to discuss what they are willing and able to include in future negotiations.
- B. State perspective – Bill Clarke memo - Bill reviewed the legal issues surrounding the Tribal claims for water. The review was presented as attorney client privilege in preparation for litigation at some point in the future. There are expectations that court action would be to “bind” a negotiated agreement but if that doesn’t occur a future court action is likely. In either scenario having well prepared legal research is well advised.
- C. Prior legal research on Lummi claims – The Nooksack Water Users group had commissioned legal and historical research over the Tribal water claims in the late 1990’s. The Ag Preservation Committee was part of this committee but had not contributed to the legal costs. This data is owned by Bellingham, Whatcom County, and the PUD. It is not shared nor is it likely to be until court proceedings begin. At that point it could be a helpful contributor to our legal defense.
- D. Steps toward full preparation for anticipated court case(s) - Bill suggested that it would be advisable for the WIDs and AWB to form a Joint Defense

Agreement to be managed by a Litigation Committee. This would allow the WIDs and AWB to properly consider legal issues within the confines of Executive Sessions and guard the privileges of attorney, client communications. Marty moved to have Bill draft a Joint Defense Agreement for the 5 WIDs and AWB with a Litigation Committee made up of AWB members, first alternates, the four existing AWB contractors (Clarke, Likkel, Baron, and Bierlink) and WID Board presidents, Ed seconded, motion carried unanimously.

- E. Legal Concerns – The Board felt that while we have explored a number of legal issues we have yet to develop an orderly set of legal arguments that are unique to Whatcom Ag. Issues that should be included in such a document include – history of enforcement or lack of enforcement of water rights, the “Hussman” promise that Ecology would not enforce of farmers that make efforts to get legal, the In-Stream Flow document of 1985 that pointed farmers to abundant groundwater supplies, and the purpose and history of relinquishment policies. There was also concern that our legal team may need to be expanded if court action was imminent. Ed, Marty, Brad, and Greg were nominated to have this discussion with Bill in the upcoming weeks.

III. Communication/Education

- A. AWB website – feedback on Storymap has been positive, needs continued updating with fresh information.
- B. Possible creation of new Whatcom Family Farmers website/organization and relationship to Farm Friends, Dairy Federation, and Farm Bureau - the Board debated the best approach to allow for the transition to a common ag message under the Whatcom Family Farmers brand. They agreed that it would be best to transition Farm Friends’ organization to this new name and to suggest a new governing board to be made up of 5 appointees of the local dairy steering committee and 5 appointees by the AWB. The board also suggested that Fred Likkel and Henry Bierlink be on the board and that Gerald Baron be appointed as the Public Affairs director for the organization. The Dairy steering committee and Farm Friends board will meet soon to consider their support for the idea. The goal is to have agreement for the common Family Farmers brand prior to the next Herald water column, the displays at the NW WA Fair, and as the fundraising for the media campaign begins.

IV. New Business

- A. Septic System notices from County Health – a letter from County Health to the WIDs and a sample letter to be sent to residents with septic systems in the Portage Bay watershed was discussed. Consensus was that if we were serious about identifying the source of fecal problems the AWB would encourage the WIDs to support this approach.
- B. Formation of a New County Water Policy Board – Henry noted that the current structure of a Joint Water Board (County, PUD, Bellingham, and Tribes) was being reviewed and would likely transition to a new Water Policy Board with slightly different membership. Where ag is represented in this structure is not clear. Henry is meeting with the PUD and Lynden to further discuss this issue and how ag can better involve itself in water planning.
- C. Fred reported that the process of determining the need for CAFO permits for dairies was concluding with the determination that all dairies over 200 cows would need a federal CAFO permit.

VIII. Adjournment - Next Meeting – September 16 – board will consider the September 23rd. The board also plans another Special Meeting in later August – likely August 26th.