

STATE ASSOCIATION OF
WASHINGTON IRRIGATION DISTRICTS

Minutes of Meeting
February 12, 1960

A joint meeting of the Board of Directors of the Legislative Committee of the State Association of Washington Irrigation Districts was held in the office of Paul Lemargie, Ephrata, Washington. Those attending the meeting were:

R. W. Hendrick, Chairman
Kermit H. Rudolph
Van E. Nutley
Carl Ulhorn
Ralph Overbay
H. J. Eidemiller
Ernest Myers
Rogers R. Neff
William L. McAnlis

John Richardson
Gale L. Sterling
Paul Lemargie
Chris Larsen
Henry E. Alexander
Keith J. McDaniels
David P. Brown
Don Stock

The meeting opened at 10:30 A.M., with Dick Hendrick, President of the State Association, acting as Chairman. Minutes of previous meeting were read and approved. Persons present introduced themselves.

The Chairman read a letter dated January 16, 1960 from Malcolm Crawford asking to be relieved of his duties as Secretary-Treasurer of the State Association because of the press of additional work (Rehabilitation and Betterment Program) at the Yakima District. He then requested formal action be taken on said resignation and a motion was made by Harold Eidemiller, seconded by Gale Sterling, that the resignation of Malcolm Crawford be accepted by the group. Motion carried.

The Chairman then announced that nominations were open for a new Secretary-Treasurer. Gale Sterling nominated Dave Brown, and Bill McAnlis nominated Van Nutley. Nominations were closed, ballots were cast and Brown won. Altho vote was not unanimous, McAnlis made motion that David P. Brown be appointed as new Secretary-Treasurer for the Association to replace Malcolm Crawford. Motion carried.

The next item on the agenda was the Wage and Hour Act of the Department of Labor & Industries as it relates to irrigation districts. Considerable discussion was held on this subject.

In October, 1959, Kermit Rudolph prepared a brief in support of exemption of irrigation district employees from coverage of the Washington Minimum Wage and Hour Act, but it was not filed immediately. The brief was submitted to Attorney Jim Wilson (Seattle), Hearing Officer for the Department of Labor & Industries, but to date his reactions have not been received.

The two different aspects of this problem were discussed - whether to seek exemption for 14 weeks (seasonal) or whether to try to be exempt entirely. Kermit Rudolph had contended in correspondence that the 14 weeks would not do and prepared his brief on whether irrigation district employees, in carrying out the function of delivering irrigation water (which is essential to operation of farms and growing of crops within each district), could be deemed agricultural and exempt from coverage under the Wage Act. Van Nutley inquired whether we could get seasonal exemption without going into agricultural question.

It was pointed out by Paul Lemargie that if you were a permanent employee, you probably couldn't come under the 14 weeks' exemption, but anyone employed less than 14 weeks would come under the "seasonal" act. Chairman stated that an employee under seasonal exemption is paid regular time for 14 weeks - up to 56 hours - then paid time and a half. All agreed except Nutley - he doesn't favor adjusting pay scales for ditchriders - pays only straight time.

Meeting adjourned at 12:00 for lunch at Bell Hotel. Reconvened at 1:20 P.M., at which time Kermit Rudolph joined group. It was his contention that "seasonal" exemption under the Act means under 14 weeks (91 days). However, it was pointed out that the irrigation season is longer than that. Rudolph was concerned with potential liabilities - employees suing. If no decision is reached on ruling, districts would have to pay overtime. Set up wage scale, say \$1.00 per hour for first 40 hours - then pay \$1.50 for overtime. The question was raised about wages for ditchriders when they are "on call". There is a test case now before the Superior Court concerning overtime payments due a Tacoma City Fireman.

The question arose about the Association making application at this time to the Director of the Department of Labor and Industries asking that if he doesn't go along with our agricultural exemption suggestion, that we request he rule about irrigation districts being seasonal under the Act. Rudolph stated that there would be a psychological advantage, and also it would carry some weight in court if an employee sued. However, the disadvantage would be a false sense of security, and we would also be subject to liabilities. It was decided it would be well to delay talking to the Department until they rule on the agricultural exemption. Kermit stated that he didn't think there was much benefit in being declared seasonal. Each district is delivering water for the benefit of lands in the district whether agricultural or not.

Gale Sterling made a motion that the President, Secretary, Chairman of the Legislative Committee Kermit Rudolph, and Paul Lemargie go to either Seattle or Olympia - at Association expense - to size up the situation and discuss with Jerry Hagen of the Department of Labor and Industries and James Wilson, Attorney for the Department, the possibility of our being ruled as agriculture and, if possible, sit in on hearings. Motion seconded by Alexander, and carried. Others were encouraged to attend hearings at their own expense. The information secured would be beneficial and would help in presenting problem next year to Legislature. Specific language should be prepared to follow. We could find out if exempt under agriculture - otherwise, introduce bill to Legislature for direct exemption. (14 weeks no bearing on situation, however, Kermit said we should not turn our backs on "seasonal" exemption; it could be of some help and possibly covered in next Legislature.)

Rudolph and Richardson talked to Attorney Wilson on the telephone. Wilson had not yet read Kermit's brief but promised his reactions soon. They did not attempt to arrange a meeting date (re: above motion) until Wilson has chance to review brief. Discussed the possibility of whether we are agriculture or not - it would be well to get seasonal exemption for industry. He feels that regardless of whether they uphold question, we should be on safe side and have the Association on behalf of districts apply for seasonal exemption. Wilson said seasonal exemptions could be used for any 14 weeks and wouldn't necessarily have to be consecutive.

Amend legislation at next session re: exemption of ditchriders. We should file statement of reasons in support, by stating it would work hardship on industry if we do not have exemption. Regardless of whether or not we are agriculture, we should be advised that we are within seasonal exemption. Kermit felt that the Association should apply for seasonal exemption for all districts and also take the further step of attempting to set up wage rates in compliance with law.

Nutley made a motion, seconded by Don Stock, that the President be instructed to write a letter to Hagen and request a hearing on the possibility of getting 14 weeks. Our application should set forth 6 months' operation period, within which there is a 14-week "peak" period. Since seasonal provision would change wage scale, it was decided to wait on 14 weeks' exemption until Attorney Wilson sends his reactions to brief. Motion not carried - Nutley requested that it be stricken. Although motion not unanimous, President now has authority to secure above information if and when needed.

The next item on the agenda was a discussion of Legislative problems presented by Chairman of the Legislative Committee Van E. Nutley. He stated that there were nine bills he would like each member of the committee to work on and submit written reports to Secretary Dave Brown within 60 days (with copy to Nutley). The Secretary was directed to send copies to each district after they had been given legal review and approval.

1. Filing of damage claims - certain requirements as to time limits - should be in writing. Any reason for not getting such a law? Kermit referred to R.C.W. 53.52.020 - Claims against Districts. Question arose as to whether "irrigation" districts belong in this category since Code defines "district" as all "municipal corporations". Paul Lemargie stated that Districts should be "notified" of damage as soon as it is discovered but definitely within 45 days so that something can be done to correct situation or damage. Would not be necessary to "file" claim immediately (one year). Cecil Clark and Ted Newstrum were concerned about this timing problem, old correspondence on this should be reviewed. Overbay suggested that we strive for a 30-day limitation on notification. Eidemiller made a motion, seconded by Dave Brown, that "notice" of claim for damages should be submitted in writing as soon as possible after it happens or is discovered (within 30 days), then at later date (within 1 year) "file" claim for damages. Motion carried.

2. Requirement of voter registration for eligibility to vote. Bill McAnlis and Don Stock were requested to secure data on this question.

3. Permission for voting place to be outside the district where it would be more convenient to voters. How far should it be outside? Adjacent, or in vicinity of election outside a Port District had been ruled by State Supreme Court not objectionable. Write Don Stock, Box 8, Selah, Washington, who will take over this subject for Bill McAnlis.

4. Requirement for nominations of director be given by 15-day notice - do away with sticker or write-in candidates- in event of only one person being nominated for director, he should be declared elected without holding election. Eidemiller read a portion of the Oregon State Law applying to nominations. Alexander was instructed to get bill.

5. Voting by Absentee Ballots. Cecil Clark's amendment to this was faulty. Hendrick and Brown requested to check on this item.

6. Question of whether 7 directors for districts of 200,000 acres or more should be permissive. McAnlis will check on this.

7. Stipulation of method of payment of assessments on State Lands. Richardson requested to handle.

8. Qualifications of voters. Continue work on amendment to this law and include clarification. Five-acre fee ownership qualification should not apply. Eidemiller instructed to handle this.

9. Permissive legislation on setting up director divisions (Kennewick District) on less than 200,000 acres. Present objection is that all directors can be from one small area. Van Nutley said he would secure information on this, and once again reminded members to send their reports to Secretary Brown as soon as possible.

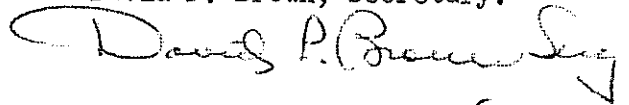
Chairman Hendrick then read a proposed draft of letter to the Department of Labor and Industries, prepared by Kermit Rudolph re: Nutley's motion above, which will be submitted on behalf of the Association. (Delivery of irrigation water to lands within each district - need seasonal exemption."

The next question discussed was whether there should be any change made in adopting a schedule for 1960 duos. Although it is possible that this year during Legislature more funds will be needed, there is about \$4,000 in Treasury, which should be sufficient. Gale Sterling made a motion, seconded by McDaniels, that the 1960 duos remain the same as for year 1959, and that Secretary be directed to send out bills. Motion carried.

Gale Sterling also recommended that the President be directed to write a letter to Malcolm Crawford instructing him to turn over all records to Dave Brown, the new Secretary. The President and Secretary should check these records to be certain everything is in order, otherwise the books should be audited.

Overbay made a motion that the President write a letter of appreciation to Malcolm Crawford for his fine services as Secretary to the Association in the past. Seconded by Brown, and motion carried. There being no further business to come before the Board, the meeting was adjourned at 3:00 P.M.

David P. Brown, Secretary.

A handwritten signature in cursive script that reads "David P. Brown". The signature is written in dark ink and is positioned below the typed name of the Secretary.