D R A F T

Upper Salmon Water District Steering Committee
Oct. 4, 2005
Challis, Idaho

The meeting was called to order at approximately 7:05 p.m.

The minutes of the Sept. 13 steering committee meeting were approved by the committee on a motion by Jack Challis, seconded by Carl Ellsworth.

Tim announced that the public information meeting about water district formation would be held Oct. 24, 7:00 p.m. at the Challis High School cafeteria. Advertisements will be published in the Challis Messenger and the Blaine County paper (Wood River Journal). Individual notices will be sent to holders of non-de minimis water rights in Basins 71, 72, 73, 74 and 75. Holders of water rights for domestic and stock water rights will not receive individual notice. IDWR excluded domestic, stock and other uses as defined in Section 42-111 (both surface and ground water sources) for purpose of sending notice since these uses will be excluded from the proposed district.

Karl Dreher, Director of the Idaho Department of Water Resources, will conduct the hearing scheduled for November 9th bout water district formation (also at Challis High School cafeteria at 7:00 p.m.). The Director will present some information about how the Wild and Scenic Rivers agreement was reached and allow questions from attendees before taking testimony for the record. Written comments will be due Nov. 21.

The steering committee does not need to make any decisions about the Upper Salmon Water District structure or operation before the public meeting or hearing.

Some questions were raised about the water rights spreadsheets Tim had sent electronically. Tim said Basins 71 and 72 should be accurate because those rights have been decreed and the database tables have been cleaned-up. The other basins are still being adjudicated. Bob Loucks brought up the fact that processing of ownership changes is a problem, and they are not reflected in the spreadsheets, especially where land has been subdivided. The numbers of acres irrigated are over-stated where there are stacked water rights.

The US Forest Service (USFS) water rights were discussed. Some Forest Service irrigation water rights are rights that the Forest Service purchased a number of years ago so that all or a portion of the rights could go towards instream flows or uses. Bob Kenworthy, USFS, stated that some of these rights are currently in the water supply bank. There are still some irrigation or other consumptive use rights that the Forest Service uses, and these rights will be subject to water district assessments when the district starts doing assessments. The USFS also has some stock water rights. Tim Luke mentioned that non-consumptive use rights, if any (example, fish hatchery rights) can be assessed at different rates, but based generally on the amount of time and effort expended by the watermaster in administering such rights.

Some committee members said they were surprised at how many water rights are held by the USFS. Katie Breckenridge said it is not fair to other water users in Basin 71 who have to pay

assessments when the USFS has many water rights that will not be assessed. Tim stated that the Idaho Code provides that water district assessments are based on water use or water delivery, so the rights that are not used cannot legally be assessed except for perhaps a minimum charge of up to $50. This is common practice in other water districts.

There was a discussion about the moratorium on issuing new rights on the Salmon River. The committee asked for clarification before the next meeting on whether there would be any forfeiture of water rights during the moratorium. Some people commented that forfeiture is not related to the moratorium. The question that needs clarification is when does the clock start on non-use? Tim agreed to research these questions further and respond via e-mail. Water rights and permits issued prior to Sept. 1, 2003, do not count toward the cap allowed in the Wild and Scenic agreement.

One difference between the State Water Bank and the Lemhi Water Bank was discussed as it relates to assessments. There is no assessment on rights placed in the State Water Bank, only on water that is beneficially used. There is an assessment in the Lemhi Water Bank if water is leased and shepherded downstream because there is an administrative cost. Water does not go into the Lemhi Water Bank unless there is a renter for it.

The illegal use of Salmon River water was raised. A number of people without water rights pump out of the river to water lawns. Tim pointed out that one duty of the water master would be to enforce against illegal water use.

A question was raised about the map of diversions on the Pahsimeroi River. The map shows a diversion at the head of each creek. What is this showing?

How long will Basins 71 and 72 have to come on line with measurement and reporting? Tim said that the Department might issue an order requiring headgate and measurement structures in the two basins as early as this winter, or sometime within the next twelve months. The order should provide some deadline for installation. Tim said the Department would probably allow some reasonable time for installation, such as the start of the 2007 irrigation season for example. Allowing some limited amount of time may give users an opportunity to get some funding or technical assistance from government agencies.

A question was asked about whether the water master or measuring devices comes first Tim answered that the water master would have duties beginning in 2006, which would include measuring diversions. The water master needs to be in place first to help evaluate diversions, and provide assistance and guidance to the basins on such things as measuring devices and headgates. Measurements made in 2006 may help with sizing and design of measuring devices that need to be installed over the next year or two.

The issue was raised again that not all diversions need measuring devices. Gary Chamberlain pointed out that Idaho Code 42-701 requires diversion structures to have a measuring device. Tim added that pursuant to the Code and the Wild and Scenic Agreement, there is a general expectation that measuring devices be installed on most diversions in water districts, but there is some flexibility provided by the agreement with respect to measuring devices. Certain exceptions may be allowed. Where exceptions may be allowed, diversions still need to be measured periodically by the watermaster or deputy watermaster using portable measuring

devices, or perhaps some other acceptable method of measurement. Tim suggested that the Committee needs to work on identifying what those general exceptions should be, and that the exceptions be realistic, reasonable, and acceptable to the parties involved as well as IDWR. The minimum interval for measurement of most diversions usually is once per week, but there is some flexibility depending on the water source and/or other circumstances.

Some committee members said if there is no measuring device on which to assess fairly, the water right holder should be assessed on the full right. One member asked if there isn't a way to measure small rights without installing a device. Could the water master come once or twice a year and take a flow measurement? Jack Challis said in Challis Creek they use locking headgates, even when there are just 16 inches of water.

Tim stated that there is often a perception by some organizations and people that there are illegal, or excessive diversion occurring throughout the Upper Salmon basin. Installation of measuring devices, ability to control diversions when necessary, and some acceptable method of regular measuring and reporting is needed to verify that there are not many excessive, unauthorized, or out of priority diversions.

The issue of assessments in time of drought was raised. If full allotments are not available, how are assessments made? The existing water districts increase the rate per cfs during drought so they are able to cover their budgets.

Tim asked Bob Loucks to present or review the document he and several other committee members from Basins 74 and 75 compiled to clarify and comment on IDWR's presentation of information about the Upper Salmon Water District. Tim tried to clarify some confusion about layering of watermasters that was described in Bob's document and generated from his presentation at the last meeting. Bob Loucks said that he had gotten an e-mail response from Tim on this issue and circulated it to others. Bob said the comments from his document regarding watermaster layering could be disregarded.

Bob Loucks offered that one of the recommendations in the document was that each sub-district continues to pay for its own watermaster, and the state should pay for the head watermaster. The state made the agreement, saying the people of Idaho benefited from the agreement. So, all the people of Idaho, or the State, should pay for the head watermaster.

Bob also mentioned that enforcement of violations is a problem in the basin. Whether there is a response from IDWR depends largely on whether the violation is in the Eastern or Southern region. It is difficult to get a response from the Eastern region. The head watermaster should be in charge of enforcement and should be able to issue notices of violation.

A question was raised by one of the committee members about the benefit of a head watermaster to individuals in water district 74 or tributary districts in Basin 74? How does each sub-district or individual user in each sub-district benefit? Several committee members pointed out that he Wild and Scenic Agreement requires compliance, and that the head watermaster would provide some level of accountability and oversight. There are many parties to the agreement, not just the State of Idaho and the USFS.

Bob Loucks continued with points from the Basin 74-75 users' document and raised a question about the definition of a lockable headgate? Does it mean the gate can be locked or adjusted? Is a tag sufficient that says the head gate was set by the water master and should not be adjusted? Bob indicated that very few gates in Water District 74 are locked by the watermaster, that posting notice is usually sufficient and users will rarely adjust a gate once it is posted.

What are the specifications for water measurement devices? Maintenance of measuring devices is a bigger problem than installation. Tim said the department has minimum guidelines for measuring devices that can be found on the Department's web site.

Another recommendation from the Basin 74-75 users' document is that the head watermaster be responsible for ensuring consistency in reporting and operation among sub-districts. There was also a recommendation that the method of naming or numbering diversions be consistent throughout the basin.

A question from a committee member was raised about ground water users in the basin? Do they need to measure water use? Can they use power bills? Tim said ground water diversions and rights are included in the water district and ground water use does generally need to be measured, especially new diversions as specified in the Wild and Scenic agreement. Some irrigators may be able to use power records for estimating annual volume of water use. When using the power method, the watermaster will need to make periodic discharge measurements of wells to derive the power consumption coefficient used in the annual volume estimates. Tim said that IDWR already gets annual power consumption records from most utilities in Southern Idaho. Commercial water rights generally cannot use power records because there usually is not a separate power meter for the well, rather the meter measures the well and all other electrical loads used at the facility.

The discussion shifted to resolutions to be presented at an annual meeting. Treasurers were discussed at length. Some committee members wanted to know if each sub-district needs a treasurer. According to existing water district statutes, a treasurer is needed if the budget is more than $3,000 per year. Tim said that when the Upper Salmon water district begins collecting assessments, a treasurer will need to be elected and appointed, but this position does not have to be compensated (compensation, if any, can be determined by resolution at the annual meeting). The time commitment should be minimal, limited to signing a few checks or vouchers once per month, and periodic review of bank statements, and either preparing or overseeing preparation of an annual financial statement in coordination with the watermaster. The treasurer would need to have his or her name added to the bank account along with the watermaster. Tim indicated that only one treasurer is needed for the Upper Salmon Water District, although sub-districts would need to continue to have their own treasurers if they are collecting their own assessments, and if their budgets exceed $3,000.

Members of sub-districts raised a number of problems with billing and keeping water rights data current. There was general consensus that it would be easier for each sub-district to continue billing its water rights holders and add a surcharge for the head watermaster.

Jack Challis handed out draft bylaws and resolutions for the Upper Salmon Water District and asked people to read them and comment to him by the next meeting.

Jim and Tina Hawkins said they have had requests from water users with diversions on the Salmon River to be placed in the Morgan Creek Water District. They have sent a letter to IDWR asking how these users can be included in the Morgan Creek Water District. Tim said the department is in receipt of the letter. He advised the Hawkins to present testimony about this request at the November 9th hearing and include a copy of the letter with their testimony so that it can be added to the hearing record.

The next committee meeting will be Monday, Nov. 14, in Challis.

Minutes prepared by:

Mary McGown, IDWR
October 14, 2005