IDAHO WATER RESOURCE BOARD

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MEETING MINUTES 9-12

Idaho Water Center
Conference Room 602 B,C,D
322 East Front St, Boise ID 83720

November 27, 2012
Work Session

Chairman Terry Uhling called the meeting to order at approximately 8:00 am. Mr. Beck was absent during roll call, but joined the meeting at a later time. All other Board members were present.

Executive Session

At 8:00 am the Board resolved into Executive Session by unanimous consent pursuant to Idaho Code Section 67-2345(1)(f), for the purpose of communicating with legal counsel regarding legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. No action was taken by the Board during the Executive Session. The Board resolved out of Executive Session and into Regular Session at approximately 10:00 am.

Work Session

During the Work Session the following items were discussed: ESPAM Recharge Modeling by Mike McVay, the Idaho State Water Plan by Helen Harrington, Treasure Valley CAMP by Neeley Miller, Water Right Accounting Update by Mathew Weaver, Big Wood Basin Model Development by Sean Vincent, Underground Injection Control Rules Revision by Tom Neace, Sustainability Policy Discussion by Brian Patton, Water Transactions Program by Helen Harrington, and Canyon County Drainage District No. 2 Loan by Stuart VanGreuningen. No action was taken by the Board during the Work Session.

November 28, 2012
IWRB Meeting

Chairman Terry Uhling called the meeting to order at approximately 8:00 am. All Board members were present.

Agenda Item No. 1, Roll Call

Board Members Present

Terry Uhling, Chairman
Bob Graham, Secretary
Jeff Raybould
Leonard Beck
Roger Chase, Vice-Chairman
Vince Alberdi
Peter Van Der Meulen
Chuck Cuddy

Staff Members Present

Brian Patton, Planning Bureau Chief
Cynthia Bridge Clark, Engineer
Mandi Pearson, Administrative Assistant
Neal Farmer, Projects Coordinator
Tom Neace, Ground Water Protection Section Manager
Helen Harrington, Planning Section Manager
Mat Weaver, Engineer Tech II
Gary Spackman, Director
Neeley Miller, Water Resource Planner

Guests Present

Peter Anderson, Trout Unlimited
Amanda Buchanan
Walt Poole, IDFG
Janelle Faroque, BNY Mellon
Jo Anne Smith, Canyon County Drainage Dist No 2
Alan Kelsch, Committee of Nine
Sarah Rupp, Friends of the Teton River
Ray Houston, Legislative Services Office
Gary Chamberlain, Challis Irrigation Company
Shelley Davis, Barker, Rosholt & Simpson
Rob Wood
Heather Smith, Western Organization of Resource Councils
Tony Edmonson
John J. Williams, Bonneville Power Administration
Justin Hayes, Idaho Conservation League
Michael Jones, BNY Mellon
William (Bill) Ford, Canyon County Drainage Dist No 2
Renee Fisher
Jon Bowling, Idaho Power
Lynn Tominaga, Idaho Ground Water Association
Teresa Molitor, Great Feeder Canal Co
Jerry Rigby, Western States Water Council

Agenda Item No. 2, Agenda and Approval of Minutes

Mr. Patton stated that there are no minutes to be approved at this time. He requested that Agenda Item No. 7, Blackfoot Equitable Adjustment, be removed from the agenda. No other changes were made.

Agenda Item No. 3, Public Comment

Mr. Peter Anderson from Trout Unlimited (TU) addressed the Board. He discussed TU's position regarding forfeiture of water rights. They completed a study that was published in Idaho Law Review, titled "Why does Idaho's Water Law Regime Provide Forfeiture of Water Rights?" Mr. Anderson discussed the findings of the study with the Board.

Mr. Gary Chamberlain conveyed his interest in the Twin Lakes Canal Project, which entails building a storage site on the Bear River, and his disappointment that the Department of Water Resources denied their application. Mr. Chamberlain discussed the importance of storage in Idaho. He also discussed his frustration regarding Warm Springs Creek water right applications.

Mr. Hal Anderson of Idaho Water Engineering addressed the Board on behalf of Recharge Alliance Inc. He gave a brief history of Recharge Alliance Inc and provided an update on the private recharge effort. He expressed the organizations desire to partner with the Board in recharge efforts. There was discussion among the parties regarding.

Mr. John Williams of Bonneville Power Administration (BPA) addressed the Board. He provided an update on current proceedings of BPA, including a lawsuit regarding erosion at Albany Falls, management protocol regarding oversupply of generation, a power rate increase, and the Columbian River Treaty. Mr. Graham asked Mr. Williams if the lawsuit regarding erosion is specific to Albany Falls. Mr. Williams confirmed this and provided further detail on the topic.

Mr. Tony Edmonson, a resident of Weiser, addressed the Board regarding his concerns of the Underground Injection Control (UIC) Rules revision, especially regarding the Director's discretionary authority and water quality issues. Chairman Uhling reminded the public that the public comment period for the UIC Rules Revision is closed.

Ms. Amanda Buchanan, also a resident of Weiser, addressed the Board with concerns regarding the UIC Rules Revision, especially regarding baseline testing and monitoring and the Director's discretionary authority.

Ms. Liz Paul of Idaho Rivers United thanked the Chairman for his service on the Board, and also expressed appreciation for the staff's diligence on the Treasure Valley Comprehensive Aquifer Management Plan. Ms. Paul also expressed appreciation for the Department's attention to water quality issues.

Ms. Renee Fisher, a resident of New Plymouth, addressed the Board with concerns regarding the UIC Rules Revision, especially regarding water quality issues.

Mr. David Fisher, a resident of New Plymouth, also addressed the Board with concerns regarding the UIC Rules Revision, especially regarding baseline monitoring and testing of the injection wells.

Agenda Item No. 4, Director's Report *(Gary Spackman, IDWR Director)*

Director Spackman discussed the denial of the Twin Lakes Canal Co application for storage water rights. Director Spackman discussed upcoming legislation. IDWR is not sponsoring legislation regarding municipal water rights this year. There is some legislation regarding the licensing of water rights for power projects. He mentioned pending legislation related to the Board's authorities with respect to managed recharge. The pending legislation would vest the Board with exclusive authority to hold water rights for managed recharge. There is an upcoming IWUA legislative committee meeting during which many of these topics will be discussed. Director Spackman will be speaking on licensing of water rights at the IWUA convention this week. He discussed the efforts by Department staff to address the backlog of water rights that need to be licensed. The Chairman and the Director further discussed the licensing backlog. Director Spackman also noted that there has been some discussion about the use of the Water Supply Bank for authorizing irrigation that may not be represented by a water right.

Agenda Item No. 5, IWRB Committee and Other Reports

a. Water Resource Planning Committee *(Helen Harrington, Staff)*

Ms. Harrington provided an update on the Water Resource Planning Committee. The committee has met four times over the last few months, and has been reviewing the State Water Plan as well as the Treasure Valley Comprehensive Management Plan. Ms. Harrington expressed her appreciation of the Board members who serve on the committee. There was some discussion among the parties regarding the Big Wood update that was presented at the Work Session.

b. Streamflow Enhancement and Minimum Streamflow Committee *(Helen Harrington, Staff)*

Ms. Harrington also provided an update on the Streamflow Committee. The committee met most recently on October 4th to review a number of proposed projects and transactions. These transactions, recommended by the committee, will be discussed individually later in the meeting.

c. Upper Snake Operations Forum *(Matt Weaver, Staff)*

Mr. Weaver provided an update on the Upper Snake Operations Forum. During the most recent meeting, Mike Beus discussed water supply conditions and Lyle Swank reported on flows in the system. Conditions are comparable to 2008. Jon Bowling gave a briefing on Idaho Power Operations which included discussion on weather modifications. Liz Cresto gave a presentation on reach gains in the Upper Snake. Reach gains are currently low but are up from previous years, which may be due in part to recharge and largely due to a good water year in 2011. Mr. Weaver discussed late season recharge and the need to develop more off-site capacity.

Agenda Item No. 6, Underground Injection Control Rules Revision *(Tom Neace, Staff)*

Mr. Neace discussed the current Underground Injection Control (UIC) Rules Revision including modification of the existing Class V rules and new rules for the Class II program for oil and gas injection wells. Five negotiated rule-making meetings have been held and were well attended. Staff also had a public hearing and a public comment period. Mr. Neace stated that the Department is requesting that the Board approve the pending injection well rules and authorize the Department to submit them to the Office of Administrative Rules in preparation of the 2013 legislature. There was discussion among the parties regarding water quality issues concerning the oil and gas injection wells.

Mr. Raybould made a motion to approve the resolution adopting the UIC Rules Revision. Mr. Cuddy seconded the motion. Voice Vote. All were in favor. Motion carried.

Agenda Item No. 7, Blackfoot Equitable Adjustment

This item was struck from the agenda.

Agenda Item No. 8, IWRB Financial Program

a. Status Report *(Brian Patton, Staff)*

As of September 1, the Board has approximately $17.5 million in funds committed but not yet disbursed, approximately $16.2 million in loan principle outstanding, and a total uncommitted balance of approximately $4.2 million. The Board will be considering a loan application from Canyon County Drainage District No. 2. This is challenging because there is no clear path in statute that allows a drainage district to incur debt except for original construction. They have petitioned the court for permission to incur debt, which was granted. This has provided a path forward for other drainage districts who may wish to incur debt. There was further discussion among the parties regarding this issue as well as regarding funding for Pristine Springs in comparison to Dworshak.

b. Bond Trustee *(Jim Wrigley, Staff; Michael Jones & Jannelle Farooque, BNY Mellon)*

Mr. Wrigley proposed an appointment of the successor trustee for several bond issues that the Board has put in place over the last couple of years. He recommended BNY Mellon, whom the Board has worked with previously with great success. He introduced Mr. Jones and Ms. Farooque as representatives of BNY Mellon. There was some discussion among the parties regarding the process of changing trustees.

Mr. Jones expressed his appreciation for this opportunity. He provided history and information regarding BNY Mellon. Ms. Farooque described the systems they have in place in order to provide the best services, as well as the role of BNY Mellon as the trustee and the timeline of the transition. There was discussion among the parties regarding the transition process.

Mr. Graham made a motion to approve the resolution to appoint BNY Mellon as the new trustee. Mr. Chase seconded the motion. Voice Vote. All were in favor. Motion carried.

c. Other Revenue Bond Updates *(Jim Wrigley, Staff)*

Mr. Wrigley provided an update on the Bear River bonds. He has been communicating with them frequently regarding the debt service and believes that issues are being settled. There was discussion among the parties regarding the issues surrounding the Bear River bonds and how to proceed in the future with fewer problems.

d. Canyon County Drainage District No. 2 Loan *(Stuart VanGreuningen, Staff)*

Mr. VanGreuningen introduced the loan application from Canyon County Drainage District No. 2 for a Drainage Tile project. The loan would be for $35,000 at 5% interest with a 10 year repayment term.

Mr. Raybould made a motion to approve the resolution to make a funding commitment in the matter of Canyon County Drainage District No. 2. Mr. Alberdi seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Chase: Aye; Mr. Beck: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Chairman Uhling: Aye. Motion carried.

Mr. Bill Ford and Ms. Joanne Smith thanked the Board for their approval of the loan and the parties further discussed the judicial proceedings as well as the project details.

Agenda Item No. 9, Water Transactions Program *(Helen Harrington, Staff)*

a. Pole Creek

Ms. Harrington discussed a contract extension in the matter of the Pole Creek/Salmon Falls Land & Livestock Company annual agreements. Project partners have been moving forward with construction of the monitoring and test well. Staff recommends extending the existing Pole Creek minimum flow agreement to maintain 6 cfs instream through the 2013 irrigation season. Funds are available from the Columbia Basin Water Transactions Program to cover the maximum payment of $50,000.

Mr. Chase made a motion to approve the contract extension with Salmon Falls Land & Livestock Company. Mr. Raybould seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Chase: Aye; Mr. Beck: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Chairman Uhling: Aye. Motion carried.

b. Kenney Creek

Ms. Harrington discussed a water transaction with the Andrews Family regarding Kenney Creek. In September 2012, the Board approved a resolution regarding this transaction based on cost estimates of $9,919.79. Power bills incurred by the Andrews revealed that the actual costs were almost 3 times the estimate. Staff proposes to resubmit the transaction with the updated figures. If the Board concurs, the funding resolution would be for $28,106.06. There was discussion among the parties regarding the cost estimates in comparison with actual costs and the reason for the difference.

Mr. Raybould made a motion to approve the resolution to make a funding commitment in the matter of the Kenney Creek transaction. Mr. Chase seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Chase: Aye; Mr. Beck: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Chairman Uhling: Aye. Motion carried.

c. 2013 Lemhi Annual

Ms. Harrington discussed the Lower Lemhi 2013 Annual Water Transaction and Minimum Flow Administration contracts. The purpose of this transaction is to cover the gap between the permanent flows that have been protected and unmet flow target at L6. These agreements have been administered according to a contract between the Board and Water District 74. The agreements not to divert will cost no more than $82,343.65, and the administrative costs will not exceed $12,800.

Mr. Alberdi made a motion to approve the resolution to make a funding commitment in the matter of the Lower Lemhi Transaction. Mr. Chase seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Chase: Aye; Mr. Beck: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Chairman Uhling: Aye. Motion carried.

d. Spring Creek

Ms. Harrington introduced Ms. Sarah Rupp of Friends of the Teton River. Ms. Rupp provided information regarding Spring Creek, including the fish and wildlife habitat and low flow conditions which prevent out-migration to the Teton River in the early fall. Ms. Rupp has worked with four water right owners who are committed to working through Idaho's water transactions program for a term of five years. Two of the owners (the City of Tetonia and Mitchell Smaelie) propose donating their rights to the IWRB to put into the Water Supply Bank for a term of five years. If approved, the IWRB can then rent the water rights out for delivery to the Teton River minimum stream flow right. A proposal to fund these donations has been submitted to the Columbia Basin Water Transactions program in the amount of $3,480.63. The other two water right owners (Richard LaVere Beard and Richard & Ella Beard) propose leasing their rights into the Water Supply Bank for a term of five years. If approved, the IWRB can then rent the water rights out for delivery to the Teton River minimum stream flow right. A proposal to fund these transactions has been submitted to the Columbia Basin Water Transaction Program in the amount of $7,463.31. The Streamflow Enhancement and Minimum Stream Flow Committee reviewed these water transactions and recommended these transactions for approval. There was discussion among the parties regarding the transaction.

Mr. Chase made a motion to approve the resolution to make a funding commitment in the matter of the Spring Creek Rental Water Transaction Agreement. Mr. VanDerMeulen seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Chase: Aye; Mr. Beck: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Chairman Uhling: Aye. Motion carried.

Mr. Raybould made a motion to approve the resolution to make a funding commitment in the matter of the Spring Creek Water Donation Transactions. Mr. Alberdi seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Chase: Aye; Mr. Beck: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Chairman Uhling: Aye. Motion carried.

Ms. Harrington recognized Ms. Rupp for the amount of dedication she put towards moving these transactions forward.

Agenda Item No. 10, Idaho State Water Plan (*Helen Harrington, Staff*)

Ms. Harrington discussed the proposed revisions to the Idaho State Water Plan. She provided a brief history of the committee work, public hearings and public comment period relating to the proposed revisions. The current amendments to the State Water Plan address issues surrounding the Nez Perce Agreement, Snake River Basin Adjudication, and the Swan Falls Reaffirmation Agreement. There was discussion among the parties regarding recent textual changes.

Mr. Beck made a motion to approve the resolution to adopt the Idaho State Water Plan. Mr. Cuddy seconded the motion. Voice Vote. All were in favor. Motion carried.

Agenda Item No. 11, Treasure Valley CAMP (*Neeley Miller, Staff*)

Mr. Miller provided an update on the Treasure Valley Comprehensive Aquifer Management Plan (TV CAMP). The Water Resource Planning Committee has reviewed the plan and recommended suggested revisions. The Board scheduled a 60-day public comment period from August 1, 2012 through September 30, 2012 and public hearings were held on September 10th and 11th. Testimony and comments were considered by the Board's Water Resource Planning Committee meetings on October 25th, November 3rd, and November 12th. The committee recommended several revisions to the proposed Plan prior to the adoption by the Board. A final version of the plan was available for the Board members to review, as well as a resolution to adopt the Treasure Valley CAMP. There was discussion among the parties regarding issues discussed in the advisory committee and issues causing dissension in the local community. There was further discussion among the parties regarding changes that may need to be made to the plan and the time needed in order to make those changes.

Mr. Beck made a motion that the Water Resource Planning Committee should take time not to exceed 30 days and resubmit a recommendation to the Board. Mr. Cuddy seconded the motion. Voice Vote. All in favor. Motion carried.

Agenda Item No. 12, ESPA Management Update (*Neal Farmer, Staff; Mat Weaver, Staff*)

Mr. Farmer first provided the Board with a document regarding oil and gas wells drilled in the state. He did this in response to a question asked by a Board member during the discussion regarding the UIC Rules Revision. There was discussion among the parties regarding the information on the document.

Mr. Farmer provided an update on Late Season Recharge. North Side Canal Company and Big Wood Canal Company recharged a total of 17,293 total acre feet this fall. The year to date total is 124,664 acre feet, for a total cost of $294,842 so far this year. North Side Canal Company is delivering some recharge water to an off canal pilot test recharge site northwest of Wendell referred to as the "W40" site. Another pilot test site is the Neilson site. Mr. Farmer also provided an update on the Mile Post 31 Recharge Site.

Mr. Weaver provided an update on ESPA related activities. He discussed pending water right applications for recharge. Staff members are still analyzing the best locations for recharge, as well as considerations regarding water supply and availability. He discussed legal and scientific considerations that define or limit the scope of recharge in the Snake River above Milner Dam, and practical considerations that influence recharge decisions. There was discussion among the parties regarding the 2100 cfs water right held by the US Bureau of Reclamation. Mr. Weaver also discussed current AWEP projects including conversion projects and the end gun removal project. He also provided an update on weather modification activities.

Agenda Item No. 13, Water Storage Studies Update (*Cynthia Bridge-Clark, Staff*)

Weiser-Galloway Project

Ms. Bridge Clark provided an update on the Weiser-Galloway Project. The US Bureau of Reclamation (BOR) has completed drilling and is in the process of demobilizing and clearing equipment form the site. Strength and materials testing is being performed by the BOR on selected core samples and the US Army Corps of Engineers (Corps) plans to test potential embankment materials identified near the project area. A final report on the geologic analysis is expected in the spring of 2013. The Operational Analysis is underway. The Corps is also coordinating with the Idaho Power Company and the BOR to identify study priorities, get consensus on baseline conditions, and coordinate data sets and modeling assumptions. Completion is scheduled for the spring of 2014.

Lower Boise River Interim Feasibility Study

Ms. Bridge Clark also updated the Board on the Lower Boise River Interim Feasibility Study. A planning charette is required to revise the study scope and to update the feasibility study agreement between the IWRB and the Corps. The charette is scheduled for December 3-7, 2012 at the Corps Walla Walla District office and will include a technical team from the Corps and IDWR to detail the alternatives to be studied.

Henrys Fork Basin Study

The IWRB and the US Bureau of Reclamation (BOR) are conducting a study of water resources in the Henrys Fork River basin to develop alternatives to improve water supply conditions in the Eastern Snake Plain aquifer and Upper Snake River basin. In August 2012, BOR staff presented results of the technical analyses to the IWRB Storage committee. BOR is finalizing an interim report which documents the process of identifying and screening water management alternatives. IDWR and BOR provided a progress report to the Natural Resources Interim Legislative Committee in September. BOR will report back to the IWRB as the Appraisal analysis progresses. Completion is scheduled for October 2013.

Agenda Item No. 14, Western States Water Council Update *(Jerry Rigby, Western States Water Council)*

Mr. Rigby presented an update to the Board regarding the Western States Water Council (WSWC). He discussed the important role that WSWC plays as a representative of the Western states in federal issues and national water policy. Mr. Rigby discussed activities that WSWC is engaged in, including climate adaptation research and modeling, national water assessment, stream gauging, and NASA infrared sensoring. He discussed other states' aggressive attitude towards recharge. He also discussed the reports that WSWC generates with data received from western states, as well as agriculture to urban uses of water. There was discussion among the Board regarding the availability of the reports coming from WSWC, the Board's relationship with the Council, other states' recharge activities, and the possibility of new storage.

Agenda Item No. 15, Other Items IWRB Members May Wish to Present

Mr. Cuddy thanked Mr. Beck for his work on two issues. Mr. Beck stated that he appreciated the subcommittee members and staff members involved in these issues. Mr. Patton discussed the Bell Rapids water rights and recent water rights activities in that area with the Board members. He also discussed the creation of Water District 02 and issues surrounding the cost of the measurement devices.

Agenda Item No. 16, Next Meeting and Adjourn

The next regular IWRB Meeting is scheduled for January 24-25 in Boise, Idaho. There was discussion about the potential for a teleconference or short meeting in early January. The Board members decided to schedule a meeting on January 3, 2013 at 10 am.

The IWRB Meeting 9-12 adjourned at approximately 2:00 pm.

Respectfully submitted this 22nd day of March, 2013.

Bob Graham, Secretary

Mandi Pearson, Administrative Assistant II

Board Actions:

1. Mr. Jeff Raybould made a motion to approve the resolution adopting the UIC Rules Revision. Mr. Chuck Cuddy seconded the motion. Voice Vote. All were in favor. Motion carried.

2. Mr. Bob Graham made a motion to approve the resolution to appoint BNY Mellon as the new trustee. Mr. Chase seconded the motion. Voice Vote. All were in favor. Motion carried.

3. Mr. Jeff Raybould made a motion to approve the resolution to make a funding commitment in the matter of Canyon County Drainage District No. 2. Mr. Vince Alberdi seconded the motion. Roll Call Vote. Motion carried.

4. Mr. Roger Chase made a motion to approve the contract extension with Salmon Falls Land & Livestock Company. Mr. Jeff Raybould seconded the motion. Roll Call Vote. Motion carried.

5. Mr. Jeff Raybould made a motion to approve the resolution to make a funding commitment in the matter of the Kenney Creek transaction. Mr. Roger Chase seconded the motion. Roll Call Vote. Motion carried.

6. Mr. Vince Alberdi made a motion to approve the resolution to make a funding commitment in the matter of the Lower Lemhi Transaction. Mr. Chuck Cuddy seconded the motion. Roll Call Vote. Motion carried.

7. Mr. Roger Chase made a motion to approve the resolution to make a funding commitment in the matter of the Spring Creek Rental Water Transaction Agreement. Mr. Peter VanDerMeulen seconded the motion. Roll Call Vote. Motion carried.

8. Mr. Jeff Raybould made a motion to approve the resolution to make a funding commitment in the matter of the Spring Creek Water Donation Transactions. Mr. Vince Alberdi seconded the motion. Roll Call Vote. Motion carried.

9. Mr. Leonard Beck made a motion to approve the resolution to adopt the Idaho State Water Plan. Mr. Chuck Cuddy seconded the motion. Voice Vote. All were in favor. Motion carried.

10. Mr. Leonard Beck made a motion that the Water Resource Committee should take time not to exceed 30 days and resubmit a recommendation to the Board. Mr. Chuck Cuddy seconded the motion. Voice Vote. All in favor. Motion carried.