IDAHO WATER RESOURCE BOARD

MEETING MINUTES 11-13

Idaho Water Center
Conference Rooms 602 B, C, and D
322 East Front Street, PO Box 83720, Boise, Idaho 83720

C.L. "Butch" Otter
Governor

Roger W. Chase
Chairman
Pocatello
District 4

Peter Van Der Meulen
Vice-Chairman
Hailey
At Large

Bob Graham
Secretary
Bonners Ferry
District 1

Charles "Chuck" Cuddy
Orofino
At Large

Vince Alberdi
Kimberly
At Large

Jeff Raybould
St. Anthony
At Large

Albert Barker
Boise
District 2

John "Bert" Stevenson
Rupert
District 3

November 19, 2013
Work Session

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

During the Work Session the following items were discussed:

- Galloway Geotechnical Final Report and Operations Study Update by Jack Peterson, Cynthia Bridge Clark, Mark Mendenhall, Bill Harrison, and Jeremy Giovando
- ESPA Recharge Modeling by Michael McVay, Mathew Weaver, and Brian Patton
- Presentation by Great Feeder Canal Company
- Water Transactions by Morgan Case
- Albeni Falls Flexible Winter Operations by John J. Williams
- Snake River Basin Adjudication by Clive Strong
- Henrys Fork Basin Study by Cynthia Bridge Clark
- Update on Boise Feasibility Study by Cynthia Bridge Clark and Ellen Berggren
- Salmon and Steelhead Above the Hells Canyon Complex by Lance Hebdon
- Rathdrum Prairie Aquifer- Proposal for Technical Analysis by Helen Harrington and Dr. Dale Ralston
- Other Items for Discussion

No action was taken by the Board during the Work Session.

November 20, 2013
IWRB Meeting

Chairman Roger Chase called the meeting to order at approximately 8:00 am. Bert Stevenson was absent. All other Board members were present.

Agenda Item No. 1, Roll Call

Board Members Present

Roger Chase, Chairman
Peter Van Der Meulen, Vice Chairman
Bob Graham, Secretary
Jeff Raybould
Albert Barker
Vince Alberdi
Chuck Cuddy
Bert Stevenson

Staff Members Present

Gary Spackman, Director
Brian Patton, Planning Bureau Chief
Harriet Hensley, Deputy Attorney General
Garrick Baxter, Deputy Attorney General
Neeley Miller, Water Resource Planner
Mandi Pearson, Administrative Assistant
Mat Weaver, Deputy Director
Helen Harrington, Planning Section Manager
Clive Strong, Deputy Attorney General
Cynthia Bridge Clark, Engineer
Morgan Case, Staff Biologist
Jack Peterson, Senior Advisor Emeritus

Guests Present

Walt Poole, Idaho Fish and Game
David Miles, City of Meridian
Jon Bowling, Idaho Power
Jerry Rigby, Western States Water Council
John Simpson, Barker, Rosholt & Simpson
Marie Kellner, Idaho Conservation League
Shelly Davis, Barker, Rosholt & Simpson
Bruce Smith, Moore Smith Buxton & Turcke
Peter Anderson, Trout Unlimited
Brenda Tominaga, Idaho Ground Water Association
Bill Booth, Northwest Power & Conservation Council
Hal Anderson, Idaho Water Engineering
Ellen Berggren, US Army Corps of Engineers
Ryan Moss, Raft River Ground Water District
John J. Williams, Bonneville Power Administration

Agenda Item No. 2, Executive Session

At approximately 8:00 am the Board resolved into Executive Session by unanimous consent pursuant to Idaho Code Section 67-2345 subsection (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 9:15 am.

Agenda Item No. 3, Agenda and Approval of Minutes

There were no additions or deletions from the agenda.

Mr. Cuddy made a motion that the minutes for meeting 10-13 be approved as printed. Mr. Raybould seconded the motion. Voice Vote. All were in favor. Motion passed.

Agenda Item No. 4, Public Comment

Chairman Chase opened up the meeting for public comment. Mr. Ryan Moss from the Raft River Ground Water District (GWD) presented a proposal for a recharge project. They have applied for the water right and the application for permit has been protested by Idaho Power. As part of the resolution of the protest, the GWD agreed to present the project to the Board. Mr. Moss described the project. There was discussion among the parties regarding the location of the recharge project, awareness of the project in the basin, the Idaho Power protest, and the Board's review of recharge applications.

Agenda Item No. 5, Western States Water Council *(John Simpson, Jerry Rigby, WSWC)*

Mr. John Simpson provided an update to the Board on the natural flows and state primacy of water. There is a growing issue in the Missouri basin regarding how the US Army Corps of Engineers (Corps) is handling "surplus" water. Mr. Simpson discussed the position of the Western States Water Council (WSWC) on this issue.

Mr. Jerry Rigby described the importance of states' rights. He reported on the rulemaking of the Clean Water Act. The WSWC has drafted two letters to the federal legislature stating that this issue

needs state involvement. There was discussion among the parties regarding WSWC's involvement in this issue, as well as the Corps' position on what they are calling "surplus water." Mr. Rigby also discussed the WSWC's position on a possible federal water policy. The WSWC is supporting a program called WADE that allows states to put their own water data onto a centralized computer system.

Agenda Item No. 6, Committee Reports

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

Ms. Harrington discussed the activities of the Water Resource Planning Committee. The Committee met on October 17th and again on November 18th. During the November 18th meeting, the Board listened to several presentations on sustainability. The Committee is also planning to further the discussion and develop a strategy and framework to work on revisions to the Idaho State Water Plan. Several items were discussed at the Committee meeting regarding the Rathdrum Prairie CAMP, including Advisory Committee membership and implementation funding.

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

The Streamflow Committee met on November 18th. The Committee discussed and made recommendations on several transactions. Additionally, the Committee heard a summary of the Water Transactions program for the 2013 activities in the Upper Salmon basin and the Teton basin. Ms. Harrington discussed the Committee's recommendations regarding the transactions in the Upper Salmon basin and the Teton basin, specifically the direction to Friends of the Teton River to demonstrate local, community, and water user support for the transaction.

c. **Upper Snake Advisory** *(Mathew Weaver, Staff)*

Mr. Weaver provided a report on the Upper Snake Advisory Committee. The Committee last met on October 10th. They heard reports from the Bureau of Reclamation on water supply in the system and from the Watermaster on the water supply from his perspective, the low reservoir content and the rental pool. Jon Bowling from Idaho Power gave a state of the operations from Idaho Power's perspective. The Committee also heard from Chuck Brockway, Jr. regarding a Snake River natural flow forecasting tool. Liz Cresto gave a presentation on reach gains in the Blackfoot to Milner area.

Agenda Item No. 7, Columbia River Treaty *(Jim Yost, Northwest Power & Conservation Council)*

Mr. Jim Yost, on behalf of the Governor and the State, provided a status report on the negotiations on preparing a recommendation regarding the Columbia River Treaty. The sovereign review team has developed a recommendation for modification of the treaty. It contains three elements: Canadian entitlement, flood control, and ecosystem function. Mr. Yost discussed these elements in further detail. There was discussion among the parties regarding power exchange money and flood control provisions.

Agenda Item No. 8, Albeni Falls Flexible Winter Operations- Idaho's Position *(Bill Booth, Northwest Power & Conservation Council)*

Mr. Bill Booth discussed Idaho's position on the Albeni Falls Flexible Winter Operations. Idaho has a letter agreement with Bonneville Power in which the State determined to give the Flexible Winter Operations a five-year trial run. He discussed some of the concerns the State has regarding the issue. There is controversy regarding shoreline erosion impacts, and a study will be done to evaluate the impacts. BPA will provide $3 million to initiate an extensive river delta erosion mitigation project. During the five-year trail period, Idaho will not make any legal challenges to current operations at the Dam. The parties involved committed to work together cooperatively and to work closely with other parties in the region.

Agenda Item No. 9, Proposed Legislation *(Garrick Baxter, Staff)*

Mr. Garrick Baxter discussed several pieces of proposed legislation by IDWR for the 2014 Legislative Session. Five pieces of legislation have been submitted to the Governor's office. Mr. Baxter discussed four of the five pieces of legislation; Director Spackman would discuss the fifth later in the meeting. Mr. Baxter discussed the proposed remediation legislation. This legislation clarifies that an operator of a remediation project does not need to go through the water right application process with IDWR if the sole purpose of the diversion of water is to remove a hazardous substance or petroleum in response to state or federal regulatory requirements. There was discussion among the parties regarding notice of remediation projects to the Director, injection rules, and feedback from other entities.

Mr. Baxter discussed proposed legislation that deals with the definition of injection wells. It clarifies the definition of an injection well by replacing the term "drilled" with "used." Mr. Baxter discussed proposed legislation relating to moratorium areas. It provides the Director of IDWR with the authority to return pending applications to appropriate water to the applicants when the applications seek to divert water in an area where a moratorium order has been issued. There was discussion among the parties regarding the applicants' right to challenge the order.

Mr. Baxter discussed proposed legislation regarding recharge. This legislation addresses three main topics: 1) authorization of the Board to promulgate rules governing managed ground water recharge, 2) clarification that a new application for permit based on managed ground water recharge or aquifer credits must show reasonable certainty that the recharge or credits will provide a sufficient supply of water to sustain the new water use into the future, and 3) authorization of the Board to create an aquifer credit program. There was discussion among the parties regarding recent changes made to the legislation.

Mr. Raybould made a motion that Idaho Water Resource Board supports the proposed recharge legislation. Mr. Van Der Meulen seconded the motion.

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

Agenda Item No. 10, Financial Program

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

As of September 1, the Board had approximately $19 million in funds committed but not yet disbursed, about $15 million in loan principle outstanding, and a total uncommitted balance of about $5 million. There was discussion among the parties regarding a sources and uses statement and future projects. The PPRT Lateral Association loan has been paid in full. There was discussion among the parties regarding potential loans, interest rates, and the Pristine Springs sub-account.

b. **Water Transactions Program** *(Morgan Case, Staff)*

Ms. Morgan Case discussed a funding resolution of $180,610 for a set of two-year subordination agreements to maintain flows of 25-35 cfs in the Lower Lemhi River to provide passage for Chinook salmon, steelhead, and bull trout. Funding is available through the BPA Idaho Fish Accord. Mr. Raybould moved for adoption of the resolution to make a funding commitment for the Lower Lemhi River 2014-2015 water right subordination agreements. Mr. Alberdi seconded the motion.

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

Ms. Case discussed a funding resolution for $60,000 to enter into a one-year minimum flow agreement to maintain 6 cfs in Pole Creek, tributary to the Salmon River. Funds will come through the Columbia Basin Water Transactions Program. Mr. Van Der Meulen moved for adoption of the

resolution to make a funding commitment for the Pole Creek Water Transaction. Mr. Stevenson seconded the motion.

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

Agenda Item No. 11, Planning Programs

a. **RP CAMP** *(Helen Harrington, Staff)*

Ms. Harrington introduced the newest member of the Planning Bureau, Remington Buyer. He is the Water Supply Bank Coordinator.

Ms. Harrington discussed the current work of the RP CAMP Advisory Committee. They are preparing a Request for Proposal (RFP) and association materials which will be used to solicit proposals. Staff is preparing the draft RFP, a cover sheet announcing the issuance, evaluation criteria and a process flow chart, which will be presented to the Water Resource Planning Committee and IWRB in January 2014. Ms. Harrington also discussed a presentation to the Advisory Committee by Mr. Mat Weaver regarding Reasonably Anticipated Future Needs (RAFN).

Ms. Harrington discussed the membership of the Advisory Committee. The Board received a request for a replacement of a member of the Committee, Mr. Hal Keever, who represented the timber industry. One of the existing members, Mr. Kermit Kiebert, was presented as an adequate representative of the timber industry. Mr. Raybould moved to accept the resignation of Mr. Keever and acknowledge that Mr. Kiebert will represent timber interests on the Advisory Committee. Mr. Graham seconded the motion. Voice Vote. All were in favor. Motion passed.

Ms. Harrington brought forward the request for funding for a project. Ralston Hydrologic Services, Inc. has proposed to undertake a technical study to evaluate feasibility of mitigating the extreme low flows and requested financial support in the amount of $70,000. There was discussion regarding the timeline of the project. Mr. Graham moved to accept the resolution to allocate funds to Ralston Hydrologic Services. Mr. Cuddy seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Abstain; Chairman Chase: Aye. Motion carried.

Agenda Item No. 12, Pristine Springs *(Brian Patton, Staff)*

Mr. Patton provided an update on Pristine Springs. He discussed the Blue Lakes Pipeline construction progress. Completion of the project is expected by the end of the year. The parties also discussed negotiations with the College of Southern Idaho.

Agenda Item No. 13, Water District 02 WaterSMART Grant Update *(Neeley Miller, Staff)*

Mr. Neeley Miller gave a status report on the WaterSMART Grant. The Grant was obtained to assist with the installation of measuring devices for the newly created Water District 02 (WD02). The Financial Assistance Agreement with the US Bureau of Reclamation (BOR) was finalized in early September. Cost-reimbursement contracts are now in place with 14 of the 15 non-federal entities participating in phase-one of the project. Purchasing and installation of measurement devices and telemetry equipment will begin in November 2013 and staff anticipates completion by spring/summer 2014. Staff is planning to work with WD02 and BOR to submit an additional grant application for another group of water users to help get the measurement devices in place. There was discussion among the parties regarding the percentage of installations covered by this grant.

Agenda Item No. 14, ESPA Update *(Mat Weaver, Neal Farmer, Staff)*

Mr. Weaver provided an update on ESPA activity. He discussed the Lake Walcott Recharge Project. A topographic survey, a bathometric survey, and boundary survey work have been completed

by W&H Pacific. They will prepare a legal description of the right-a-way easement needed to cross the wildlife refuge ground. Mr. Weaver discussed the status of the CH2M Hill Scope of Work tasks. Two of the tasks have been completed, two of the tasks are in progress, and three of the tasks are not yet started. He discussed in further detail the Task 3 Conveyance System Alternatives Economic Analysis and the Task 4 Concept Layout and Stakeholder Coordination. Mr. Weaver introduced Perrin Robinson of CH2MHill to help answer questions about the project. There was discussion among the parties regarding project details, winter recharge, ongoing cost, monitoring of groundwater quality, and building size.

Mr. Neal Farmer discussed the hydrogeologic investigation work of the Lake Walcott Recharge Project. He described the test wells that were drilled to perform hydraulic testing on the unsaturated zone above the water table and the results of the investigation. Testing will continue. There was discussion among the parties regarding the test wells. Mr. Farmer also discussed recharge activities by Southwest Irrigation District and at the Mile Post 31 recharge site.

Mr. Weaver provided an update on AWEP projects. The A&B Irrigation District conversion project is the largest of the outstanding AWEP projects. A&B successfully passed a $7 million bond issue receiving 80% voter approval. $3.8 million of the bond is dedicated to the AWEP conversion project. Currently the environmental assessment and the preliminary design of the project are underway. Construction is scheduled to be initiated in the fall/winter of 2014, partially completed by the start of the 2015 irrigation season, and fully operational by the start of the 2016 irrigation season.

Agenda Item No. 14, IDWR Director's Report *(Gary Spackman, Director)*

Director Spackman discussed the proposed legislation addressing the qualifications for the Director of IDWR. He drafted language by looking at a profile of the professions that are employed in the Department, including engineering, geology, hydrology, and hydrogeology. The proposed legislation also includes language regarding interpreting and applying water law and familiarity in water use practices in Idaho. There was discussion among the parties regarding the proposed qualifications for the Director. There was also some discussion among the parties regarding issues surrounding the Mountain Home Air Force Base and the Bear River basin.

Agenda Item No. 15, Other Non-Action Items for Discussion

Chairman Chase requested that staff get the proposed financial numbers for the legislature to all the Board members and also requested that the Board members get a list of the proposed legislation. Mr. Patton pointed out some materials that were included in the Board Meeting binders, including the ten-year report for the Columbia Basin Water Transactions Program, photo pages, and proposed dates for 2014 Board meetings. There was discussion among the parties regarding the 2014 dates. The proposed dates were tentatively approved.

Agenda Item No. 16, Next Meeting and Adjourn

The next regularly scheduled meeting is set for January 23-24, 2014 in Boise. This meeting is scheduled to coordinate with the Idaho Water Users Association seminar. Mr. Raybould made a motion to Adjourn, and Mr. Barker seconded the motion. Voice Vote. All were in favor. Motion Carried.

The IWRB Meeting 11-13 adjourned at approximately 1:00 pm.

Respectfully submitted this 24th day of January, 2014.

Bob Graham, Secretary

Mandi Pearson, Administrative Assistant II

Board Actions:

1. Mr. Cuddy made a motion that the minutes for meetings 10-13 be approved. Mr. Raybould seconded the motion. Voice Vote. All were in favor. Motion carried.
2. Mr. Raybould made a motion that Idaho Water Resource Board supports the proposed recharge legislation. Mr. Van Der Meulen seconded the motion. Roll Call Vote. All were in favor. Motion carried.
3. Mr. Raybould moved for adoption of the resolution to make a funding commitment for the Lower Lemhi 2014-2015 water right subordination agreements. Mr. Alberdi seconded the motion. Roll Call Vote. All were in favor. Motion carried.
4. Mr. Van Der Meulen moved for adoption of the resolution to make a funding commitment for the Pole Creek Water Transaction. Mr. Stevenson seconded the motion.
5. Mr. Raybould moved to accept the resignation of Mr. Keever and acknowledge that Mr. Kiebert will represent timber interests on the Advisory Committee. Mr. Graham seconded the motion. Voice Vote. All were in favor. Motion passed.
6. Mr. Graham moved to accept the resolution to allocate funds to Ralston Hydrologic Services. Mr. Cuddy seconded the motion. Roll Call Vote. Mr. Graham abstained from voting. All others were in favor. Motion carried.