IDAHO WATER RESOURCE BOARD

MINUTES OF MEETING NO. 03-06
March 17, 2006, 8:37 a.m.
Idaho Department of Water Resources at the Idaho Water Center – 6th Floor
Conference Room D, 322 East Front Street, Boise, Idaho

Dirk Kempthorne
Governor

Jerry R. Rigby
Chairman
Rexburg
At Large

Terry T. Uhling
Vice Chairman
Boise
District 2

Dick Wyatt
Secretary
Lewiston
District 1

Leonard Beck
Burley
District 3

Bob Graham
Bonners Ferry
At Large

L. Claude Storer
Idaho Falls
District 4

Gary M. Chamberlain
Challis
At Large

Lawrence 'Vic' Armacost
New Meadows
At Large

Meeting No. 06-03 of the Idaho Water Resource Board was called to order by Chairman Rigby
At the Idaho Water Center in Boise Idaho
(One Recording Tape)

Agenda Item No. 1, Roll Call

Board Members Attending

Jerry Rigby, Chairman	Claude Storer
Terry Uhling	Leonard Beck
Dick Wyatt – Secretary	Bob Graham
Vic Armacost	Gary Chamberlain

Department of Water Resources Staff

Hal Anderson	Bill Graham
Patsy McGourty	Brian Patton

Guests

Mike Overton

Mr. Anderson introduced Patsy McGourty, the new Administrative Assistant II, and welcomed her to the division. Chairman Rigby and other members welcomed her.

Agenda Item No. 2, Minutes

Mr. Anderson directed the Board's attention to the minutes from meetings 01-06 and 08-05. Mr. Chamberlain moved that the minutes be approved. Mr. Wyatt seconded and all were in favor.

Agenda Item No. 3, Public Comment

There was no public comment.

Agenda Item No. 4, Dworshak Status Report

Mr. Anderson introduced Brian Patton who presented the financial reports for Dworshak.

As of March 1, 2006, the power plant has produced a total of 117,000,000 kilowatt hours for sale through the Bonneville Power Administration. On January 1st, the power sales rate increased 3% per our contract with Bonneville Power, to 4.64 cents per kilowatt-hour. This fiscal year the power plant has produced in returns above expenses $169,000 that has been deposited into the Revolving Development Account. In addition, another $64,000 has been deposited into the Repair Replacement Account. He noted a new item that shows graphically the generation by month and year since the power plant has come on line. There were some questions from Board members.

Chairman Rigby proposed an addition to the agenda. He stated that Mr. Steve Allred, the mediator in the Surface Water Coalition matter, would speak to the Board in Executive Session around 10:00 a.m. Mr. Chamberlain moved to amend the agenda; Mr. Wyatt seconded. All were in favor.

Agenda Item No. 5, IWRB Financial Program

Mr. Anderson presented Brian Patton, who presented the status report on Board programs. As of March 1, 2006, the Board's available balances were as follows: Revolving Development Account Fund, main account - $778,468.00 available; in the Eastern Snake Plain sub-account - $1,215,278.00 available; in the Water Management Account - $25,739.00 for a total of $2,019,485.00. Since March 1 the Board has received $220,608.00 from Water District 1 that is the Board surcharge from water rentals in the Upper Snake Rental Pool Operations in 2005. He presented the Water District 65 for the Payette Rental Pool Operations that total $61,339.00 for 2005. The North Snake Ground Water District has repaid the Board in full for the $250,000.00 loan to the district that was authorized and funded by House Bill 843 of the 2004 Legislature although it was not due to be paid until 2015. He noted that the Mores Creek Rim Ranches Water District's arsenic removal project has begun with the primary contractor is Culligan Water Services with CH2M Hill providing engineering services. Completion date is set for the end of the month. He asked for questions from Board members.

5b. Producers Irrigation Company

Mr. Patton presented a water project loan request of $185,000. Producers Irrigation Company operates in the vicinity of Monteview near Mud Lake. Water is supplied from nine wells delivered by open canal. Recently, they constructed two new wells within the service area. This system was original built in the 1950's when the water levels were shallower and over the last several years, the water level has dropped. New and deeper wells need to be drilled and the water piped to the pivots to minimize conveyance losses. The project request consists of 1) drill and equip two new wells at the lower end of the canal to be piped directly to the pivots; 2) construct a delivery pipeline from an existing non-company irrigation well into the company system and they have an agreement with the well owner to do this; 3) refinance the remaining short-term debt that was incurred by the company to finance the two new wells that were built in 2004. The total project estimate would be about $225,000.00 with refinancing existing debt. Staff believes in the company's ability to repay. He noted that this company is supplied by ground water pumping from the Eastern Snake Plain Aquifer and is located within the soon to be created Water District 110. There could be conjunctive

administrative issues although their water rights have a good priority date. Staff recommends approval of $185,000 loan. He introduced Mr. Mike Overton, the chairman of the company.

Mr. Overton addressed the Board and described the project. He noted current expenses and gave some details. The Board had a few questions.

Mr. Chamberlain moved that the resolution be approved for a loan to the Producers Irrigation Company in the amount of $185,000 at 5.5%. Mr. Graham seconded.

Roll Call Vote: Mr. Graham, Aye; Mr. Storer, Aye; Mr. Armacost, Aye; Mr. Wyatt, Aye; Mr. Rigby, Aye, Mr. Uhling, Aye; Mr. Chamberlain, Aye; Mr. Beck, Aye. 8 in favor. **Motion passed.**

5c. Lower Payette Ditch Company

Mr. Patton stated that based on discussions yesterday in the work session with Board members and a follow-up phone call to the ditch company, the loan request is held until the next regularly scheduled Board meeting. He said that the company understood the reasoning and that they felt that NRCS might not be able to fund the entire loan, but could come up with part of it. This would reduce the loan amount requested.

5d. Riverside Independent Water District

Mr. Anderson asked Mr. Patton to present this request. Mr. Patton stated that in 2003 the Board provided $350,000 in loan funds along with grants funds to construct a new drinking water treatment plant for the Riverside Independent Water District. This system supplies municipal water to the Orofino area on the South side of the Clearwater River. The district is making additional improvements. They will receive Federal funds from the USDA Rural Development Administration as a grant-loan combination totaling $3.95 million. The grant fund would be one-third to one-half with the Board loan being the remainder. The contract that Riverside currently has with the Board states that they cannot enter into additional debt without the permission of the Board. Improvements are necessary and will benefit the district and its members. Staff recommends that the district be allowed to acquire the additional Federal loan debt.

Mr. Chamberlain moved that the resolution be approved with a junior priority established. Mr. Wyatt seconded.

Roll Call Vote: Mr. Graham, Aye; Mr. Storer, Aye; Mr. Armacost, Aye; Mr. Wyatt, Aye; Mr. Rigby, Aye, Mr. Uhling, Aye; Mr. Chamberlain, Aye; Mr. Beck, Aye. 8 in favor. **Motion passed.**

Chairman Rigby asked Board members their thoughts on the current interest rate on Board loans and the plans for the future. He asked that staff prepare information, contact Mr. Wrigley and prepare to discuss this at the next meeting.

Mr. Anderson told the Board Mr. Wrigley did get the rating from Moody's for the Dworshak Revenue Bonds. He complimented Mr. Patton on the excellent job he did working with representatives from Moody's explaining the project and the conservative loaning philosophy of the Board. This resulted in an A2 rating for the bonds that is excellent. Chairman Rigby said this is a big step forward for the Board. Discussion followed regarding the bond rating.

Mr. Chamberlain noted for the Board that loans that were made in the past impact decisions today and the philosophy of loans that will be made in the future will impact circumstances that are

not known at this time. Mr. Uhling added that it is also important for the staff to measure other circumstances such as where the water rights sit in relation to mitigation or other issues. These issues will become more critical in the future.

Agenda Item #6, 2006 Natural Flow Rental Rate

Mr. Anderson gave the background for this item. In 2005 the Director had requested the Board evaluate the natural flow rental rate in the Board's water supply bank. Idaho Code § 43-1761 establishes the water bank. The Board in 1980 adopted rules associated with the operation of that water bank including a provision that the Board may determine a rental price. The Board also has rental pools that are locally operated for storage water in the water districts. These pools establish procedures including rental rates and submit them to the Board for approval the rate; however, in the natural flow component of the water supply bank, the Board establishes the rate. Last year a rental rate was used to be consistent with Water District 1 for storage water rental. The Board's sub-committee has been working on a number of these water bank issues. The sub-committee requested staff to formulate a resolution that is before the Board today that adopts a natural flow rental rate that suggests a base rate of $14.00 per acre-feet for 2006. The base rate includes the IDWR and water district administrative fees.

Chairman Rigby asked for questions for Mr. Beck on the resolution.

Mr. Beck moved that the resolution be adopted setting the natural flow rental rate for 2006 at $14.00 per acre-feet. Mr. Armacost seconded.

Roll Call Vote: Mr. Graham, Aye; Mr. Storer, Aye; Mr. Armacost, Aye; Mr. Wyatt, Aye; Mr. Rigby, Aye, Mr. Uhling, Aye; Mr. Chamberlain, Aye; Mr. Beck, Aye. 8 in favor. **Motion passed.**

Mr. Armacost requested to add an agenda item relating to strategic planning. Mr. Anderson said it could be addressed under other items.

Agenda Item #7, Planning Status Report

Mr. Anderson introduced Bill Graham to provide the status report for planning. Staff continues to work in Boise Basin. Zena Cook is working in conjunction with the University of Idaho to develop an analytical model that addresses economic and hydrologic aspect of water use in Boise Valley. Staff is also conducting an analysis of suburban irrigation systems that are part of a dual system for suburbs where the irrigation water comes from canals. The big question is how much is actually utilized. Other on-going Boise valley studies include Lidar a type of radar that can be used to measure. A water storage study in the Payette and Boise Valleys has been drafted. An ecologically study by the Bureau of Reclamation on the Boise Basin is the planning stages. The Corps of Engineers are doing flood management studies. Currently there is a Water Resource Development Act request before Congress and if it passes, there may be monies coming to several projects in Idaho.

Mr. Graham noted that in the Upper Salmon Basin Mary McGowan is working on administration of water rights. As soon as there is finalization of the Nez Perce Term Agreement, there will be some additional minimum stream flow work. Staff are currently providing support for the Lemhi Basin Section 6 Agreement. In the Rathdrum Prairie Stacie Baczkowski was preparing a conservation plan guidance document that would serve as a template for water right applicants. She was also tracking hydrology studies. Unfortunately, she has resigned and her position will be filled as soon as possible.

The Wood River Basin has formed a local advisory group to study water resource issues including ways to connect the Big Wood River from Bellevue down to Magic Reservoir. There is also a USGS study on the horizon for a hydrologic study of the Upper Wood River and the Silver Creek area that includes matching local funding.

Mr. Graham said at the next Board meeting he would have a detailed breakout of planning activities and staff that are assigned to them. Also the Planning Section Supervisor position has been vacant due to Scott Short's absence in Afghanistan. By the end of April, this position may be able to be filled. Mr. Uhling brought up the point that planning isn't getting to areas fast enough before major development is happening. He urged staff to target areas that are developing rapidly.

Chairman Rigby called for a short break.

After the break, Chairman Rigby called for the Board to go into executive session. Director Dreher recused himself from the executive session. He stated that Phil Rassier, Deputy Attorney General, would sit in for him and Mr. Allred would meet with him privately.

Mr. Wyatt moved for the Board to go into executive session. It was seconded and all were in favor. (The tape was turned off.)

Agenda Item #8, Minimum Stream flows – Legislative Status
Agenda Item #9, Director's Report

After the executive session, Director Dreher presented legislation involving minimum stream flows. House Concurrent Resolution 36 affirms that the Legislature concurs with the establishment of minimum stream flow on Niagara Springs Creek. He briefly explained the history.

House Concurrent Resolution 37 deals with a minimum stream flow that was left out of the Nez Perce Agreement last year. It was inadvertently not included. When Tribe realized that two were left out on Clearwater, one above and one below Dworshak, they asked State to bring Nez Perce Agreement back to Legislature to get approval. The state proposed that the Water Board would file an application for minimum stream flows through the normal process.

House Bill 636 is a minimum stream flow below Dworshak that did not meet the requirement of the statute. This minimum stream flow is subordinated to the operation of Dworshak. It has passed the House and the Senate and is on the way to the Governor.

House Bill 434 refers to investment of Idaho monies by the State Treasurer to make it possible for them to purchase and hold Board revenue bonds. It has passed the house and the senate.

House Bill 546 deals with loans made by the water board under the Revolving Development Fund. This bill eliminates the $500,000 cap on loans the Board can make. More and more communities are turning to the Board for drinking water loans because it is the only option.

HouseBill 637 deals with the Department of Administration having oversight over public projects. The Board's small hydro project at Dworshak was a public project under the oversight of the Department of Administration. However, the Department of Administration doesn't know anything about these kinds of projects. Other departments are exempt from administration's oversight so this legislation adds IDWR to the list of exempted agencies.

House Bill 800 he noted was being debated today on the floor of the House. This bill addressed recharge water rights being subordinate to hydropower water rights. IDWR has no involvement in this legislation. It is clear from an Attorney General's Opinion and the Swan Falls Agreement that Idaho Power's rights above the Swan Falls Dam were subordinated to any future beneficial use authorized by the state. Limitation on recharge was not in the Swan Falls Agreement. In 1984 recharge was a recognized beneficial use under Idaho Law. IPCO is incorrect in their argument that it was not. The Swan Falls agreement was implemented in statute 42-203b providing as a specific requirement or limitation of water above Milner Dam was not to be distributed below Milner. He further explained legal issues involving this legislation.

House Bill 792 will be held in committee. It provides for water right transfer approval for coal fired power plants.

The Director went on to discuss the new water districts being formed. The most recent one is the Upper Salmon River Basin Water District 170 created by Order on March 6, 2006 as an umbrella with sub-districts of existing water districts. The Director stated he was working on an order for Water District 110 in the Mud Lake area.

An order is being drafted for Water District 140 in the Oakley area and an expansion of Water District 130 to move boundaries further north of American Falls. The Department has held onto some of the money paid for mitigation and will issue an order on. Another order he is working on involves a long-standing dispute between the City of Eagle and a dairy seeking alternative points of diversion. Both sides challenged the department's preliminary order. Both sides are seeking attorney's costs and this order will be setting precedence.

Mr. Uhling brought up the aquifer protection district bill that referenced the code that contained the limit of $500,000 in the Revolving Development Fund for Board loans. There was discussion about whether or not that needed to be changed.

Agenda Item #10, Other items Board Members May Wish to Present

Mr. Armacost asked if the Board should join the Department for strategic plan development and Board members agreed that we should. Chairman Rigby appointed Mr. Armacost as the Board representative to work with the Department on strategic planning.

Agenda Item #11, Next Meeting

Chairman Rigby stated that the Board might need another telephonic meeting before May to discuss current issues. He suggested that a location for the May meeting be postponed.

Mr. Chamberlain moved to adjourn the meeting. Mr. Wyatt seconded. All were in favor.

Meeting adjourned.

Dated this 19th day of May 2006.

D. Richard Wyatt, Secretary

Patsy McGourty, Administrative Assistant II

Board Actions

1. Mr. Chamberlain moved that the resolution be approved for a loan To the Producers Irrigation Company in the amount of $185,000 at 5.5%. Mr. Graham seconded.

Roll Call Vote: Mr. Graham, Aye; Mr. Storer, Aye; Mr. Armacost, Aye; Mr. Wyatt, Aye; Mr. Rigby, Aye, Mr. Uhling, Aye; Mr. Chamberlain, Aye; Mr. Beck, Aye. 8 in favor. **Motion passed.**

2. Mr. Chamberlain moved that the resolution be approved with a junior priority established. Mr. Wyatt seconded.

Roll Call Vote: Mr. Graham, Aye; Mr. Storer, Aye; Mr. Armacost, Aye; Mr. Wyatt, Aye; Mr. Rigby, Aye, Mr. Uhling, Aye; Mr. Chamberlain, Aye; Mr. Beck, Aye. 8 in favor. **Motion passed.**

3. Mr. Beck moved that the resolution be adopted setting the natural flow rental rate for 2006 at $14.00 per acre-feet. Mr. Armacost seconded.

Roll Call Vote: Mr. Graham, Aye; Mr. Storer, Aye; Mr. Armacost, Aye; Mr. Wyatt, Aye; Mr. Rigby, Aye, Mr. Uhling, Aye; Mr. Chamberlain, Aye; Mr. Beck, Aye. 8 in favor. **Motion passed.**