IDAHO WATER RESOURCE BOARD

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Orofino
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Leonard Beck
Burley
District 3

Roger W. Chase
Pocatello
District 4

Vince Alberdi
Kimberly
At Large

Jerry R. Rigby
Rexburg
At Large

MINUTES OF MEETING 10-09

September 25, 2009
Boise, Idaho

Chairman Uhling called the meeting to order at 8:30 a.m. and asked for roll call.

Agenda Item No. 1, Roll Call

Board Members Present

Terry Uhling, Chairman	Vince Alberdi
Gary Chamberlain	Roger Chase
Chuck Cuddy	Bob Graham
Jerry Rigby	Leonard Beck, Absent

Staff Members Present

Gary Spackman, Interim Director	Hal Anderson, Administrator
Helen Harrington, Section Manager	Brian Patton, Bureau Chief
Cynthia Bridge Clark, Engineer	Bob McLaughlin, Public Information Off.
Bill Quinn, Engineer	Patsy McGourty, Admin. Asst. II
Tim Luke, Section Manager	Morgan Case, Biologist
Jack Peterson, IDWR Fed. Liaison	Eric Rothwell, Hydrologist

Guests Present

Stephen Goodson, Governor's Office	Shelley Davis, Barker Rosholt
Lynn Tominaga, IWUA	John Chatburn, Governor's Office
Aaron Kraft, Trout Unlimited	Peter Anderson, Trout Unlimited
Steve West, Centra	John Williams, Bonneville Power
Kent Lauer, Idaho Farm Bureau	Walt Poole, Dept. of Fish & Game
Matt Howard, Bureau of Reclamation	Jonathan Bartsch, CDR Associates
Joan Kathol, CDR Associates	Candice McHugh, Attorney Rich
Rigby, Bureau of Reclamation	Joe McMahon, Collaborative Proc.
James Whitaker	Jim Blackburn, Cloverdale Ridge
Jim Erdman, Kullyspell Estates	Harriet Hensley, Deputy Attorney General

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Agenda Item No. 2, Agenda and Approval of Minutes

Mr. Anderson presented minutes from Meeting No. 9-09. Mr. Chamberlain moved that the minutes of Meeting No. 9-09 be approved as written. Mr. Graham noted an error on page 6. The spelling of Mr. McMahon's name was incorrect. With that correction, Mr. Rigby seconded the motion. The Chairman called for a voice vote. All were in favor.

Mr. Anderson requested that the Public Comment period be moved to 9:00 a.m. and that the Board consider 5c. Loan Program since several people were present to address the Board.

Agenda Item 5c. Loan Program

Mr. Patton informed the Board that they did have enough money in their accounts to accommodate the loan requests before them today.

Cloverdale Ridge

Mr. Patton presented the loan request from Cloverdale Ridge Water Corporation for $106,400 for the replacement of aluminum above ground irrigation mainline pipe with buried PVC mainline and replacement of their irrigation well. They have already obtained bank financing on a short-term note. This loan with the Board would repay that loan.

Mr. Patton stated that Cloverdale Ridge Water Corporation is located in Ada County and supplies irrigation water to 55 five-acre properties totaling 320 acres. The proposed project consists of two parts: 1) replacing the existing above-ground mainline with buried PVC mainline and risers; and 2) replacing the ground water well which has failed. Staff recommends this project. He introduced the representative from Cloverdale.

Mr. Jim Blackburn, president of the board of Cloverdale Ridge Water Corporation, stated the well was 50 years old. The mainline is aluminum above ground with several leaks and deterioration. The new line would improve efficiency to the homeowners. Mr. Blackburn stood for Board questions.

Mr. Chamberlain moved that the loan to Cloverdale Ridge Water Corporation be approved at 6% interest with a 10-year repayment plan. Mr. Rigby seconded. The Chairman requested a roll call vote:

Roll Call Vote:

Mr. Cuddy: aye; Mr.Alberdi: aye; Mr. Chase: Aye; Mr. Beck: absent; Mr. Chamberlain: aye; Mr. Graham: aye; Mr. Rigby: aye; Chairman Uhling: Aye. 7 ayes; 1 absent. Motion Passed.

Kullyspell Estates Home Owners Association, Inc.

Mr. Patton stated that Kullyspell Estates Property Owners Association, Inc. has requested $500,000 to replace current, sub-standard water distribution lines. The Kullyspell Estates are located along Lake Pend Oreille. In 1997-98 the Board loaned Kullyspell Estates $219,510 to construct a system

to pump and treat water from Lake Pend Oreille to supplement their ground water well. All payments have been timely made and the balance remaining is about $20,000. Staff believe that repayment will be made and recommends approval of this loan. The resolution shows a phasing plan of loan money distribution with construction starting next spring. He introduced a representative from Kullyspell to address the Board.

Mr. Jim Erdman, the President of the Kullyspell Estates Property Owners Association, stated that the system is aging with serious delivery issues. Residents want irrigated lawns and to prepare for future needs. He stood for Board questions about the loan distribution schedule.

Mr. Graham moved that the Kullyspell Estates Property Owners Association resolution be approved as written with a 6% interest rate at 15-year repayment term. Mr. Cuddy seconded. The Chairman called for a roll call vote.

Roll Call Vote:

Mr. Cuddy: aye; Mr.Alberdi: aye; Mr. Chase: Aye; Mr. Beck: absent; Mr. Chamberlain: aye; Mr. Graham: aye; Mr. Rigby: aye; Chairman Uhling: Aye. 7 ayes; 1 absent. Motion Passed.

Evergreen Terrace

Mr. Patton stated that the Evergreen Terrace Water Association, Inc. has requested a loan for $15,000 to finance an engineering study for a community water system. There is a matching grant from the Division of Environmental Quality. Evergreen is located 1.5 miles southeast of St. Maries on Highway 30. Their system consists of four wells, a concrete reservoir, and a distribution system. The primary well has been determined to be out of compliance by DEQ for drinking water. Other parts of the system are at the end of their life cycle. A construction loan from DEQ is anticipated.

Mr. Patton stated that staff recommend this loan for the Board's approval. Chairman Uhling asked about the repayment of the loan. Mr. Patton responded that it depends on when the project will be approved by DEQ for the study to begin.

Mr. Cuddy moved that the loan to Evergreen Terrace for $15,000 at 6% interest with a 5-year repayment plan be approved. Mr. Chamberlain seconded. Chairman Uhling called for a roll call vote.

Roll Call Vote:

Mr. Cuddy: aye; Mr.Alberdi: aye; Mr. Chase: Aye; Mr. Beck: absent; Mr. Chamberlain: aye; Mr. Graham: aye; Mr. Rigby: aye; Chairman Uhling: Aye. 7 ayes; 1 absent. Motion Passed.

Agenda Item 4, IWRB Hydropower Status Report

Mr. Patton presented the hydropower status report. He stated that as of September 1 the Dworshak hydropower plant has produced nearly 180 million kWh; Pristine Springs #1 hydropower plant has produced 2,245,095 kWh; and Pristine Springs #2 hydropower plant has produced 1,644,000 kWh.

In the financial reports this fiscal year to date, Dworshak has accrued $46, 000 in revenue over expenses for deposit into the Revolving Development Account and $16,000 into the Repair and Replacement Account. Pristine Springs #1 and #3 combined have produced $2,133 over expenses. Generation problems have included high water in the Snake River which reduced the head so the plant could not operate. Also, pelicans have caused repeated trip-offs shutting the plant down. He also presented a graph of outputs at the plants. Chairman Uhling asked if there were any upcoming repairs anticipated. Mr. Patton replied that he did not think so. Mr. Graham asked if anything could be done about the high water problem which reduces Board income. Mr. Patton discussed the problem in detail and replied that the plant was designed as a low-head plant and at times cannot accommodate high water in the Snake River. There is an automatic relay to restart the system, but it was shorted out by pelicans. With less pelican problems, power production should improve.

Agenda Item 5, IWRB Financial Program

a. Status report

Mr. Patton stated that as of September 1 there is $12,660,052 million in funds committed but not disbursed. Total loan principal outstanding is $20,984,521; total uncommitted balance as of 9/1/09 is $341, 219. For the coming year the total estimated uncommitted funds are $3,013,219.

Mr. Patton pointed out that he anticipates many loan applications from the Bear River area. Water District 11 has received a grant commitment of just under $4 million dollars from the Water 2025 grant process with the Federal government to improve measuring on the Bear River system as well as to make canal system improvements. Loan applications are starting to come in for matching funds. So far applications total about $700,000. Mr. Patton stated he did not think this would happen quickly. Mr. Patton stood for Board questions. He stated that staff just received the three applications last week and don't have more information. Board members suggested that perhaps this should be a bond financing. There was further discussion about this issue. Mr. Graham asked if Federal agencies could notify the state when they receive large funds. Mr. Patton responded that Planning staff work closely with Federal agencies and keep up on future needs.

b. Aquifer Recharge Program Update – Late Season Recharge Proposal

Mr. Anderson introduced Mr. Bill Quinn to present the Aquifer Recharge Program Update.

Mr. Quinn stated that in July the Board approved a late season recharge. The plan includes three canal companies plus six Great Feeder system canals that may participate in the recharge of approximately 67,000 acre-feet over 60 days beginning in mid-October. The plan recognizes the ESPA CAMP objective of equal recharge distribution above and below American Falls. The plan is also consistent with the findings of the ESPA Ground Water Model indicating that waters recharged in canals below American Falls have a longer retention time in the aquifer. Mr. Quinn noted that the base cost of the program is approximately $200,000 to cover conveyance fees paid to the canal companies. Additional cost could be incurred if the Great Feeder canals in the Rigby area recharge with leased storage water. He asked for the Board's direction to proceed.

Mr. Alberdi asked which water right would be used. Mr. Quinn stated that the 1980 priority Snake River right owned by the Board would be used. Above American Falls, only storage water is available. Mr. Alberdi wanted to make sure that recharge was not being done with storable water. The canal companies involved are the Milner-Gooding, North Side, Great Feeder and Fremont-Madison. Chairman Uhling stated that the Board is fine with the $3.00/a-f cost and the estimated volume of water to be recharged. Mr. Chamberlain stated the Board is not interested in paying for any leased water.

Mr. Anderson stated that the tentative plan is doable and with the Board's direction staff will proceed. Chairman Uhling stated this is a tremendous accomplishment. The program will begin mid-October or early November.

c. Loan Program – was addressed earlier.

Mr. Anderson suggested that agenda item number three be taken up next.

Agenda Item No. 3, Public Comment

Mr. Anderson introduced Harriet Hensley, Deputy Attorney General. Ms. Hensley addressed the Board providing background information for Mr. James Whitaker's presentation. She stated the Board has entered into a number of agreements for conservation measures in the Lemhi Basin including agreements in the Snake River Basin Adjudication. Some of these agreements concern long-term conservation agreements. Negotiations are ongoing. One of the primary components is with reconnecting tributaries of the Lemhi River. Mr. Whitaker has protested the Board's water supply rental agreement for .53 cfs for a period of ten years. The purpose of this rental is to reconnect Eighteen Mile Creek with the main stem Lemhi and provide additional water in the Lemhi River. This water was leased to the bank by Mr. Carl Ellsworth. Because of Mr. Whitaker's protest the matter is before a department hearing officer in a contested case proceeding. A stipulation was reached with Mr. Whitaker to go forward for one year until a final settlement decision is reached. As part of the stipulation Mr. Whitaker wanted to advise the Board about his concerns about the conservation projects in the Lemhi Basin. Nothing can be discussed about the details of the contested case. Other water users involved in the agreements may present their views in the future.

Mr. James Whitaker addressed the Board. He provided handouts to the Board members. He thanked the Board and Ms. Hensley for the opportunity to speak. Mr. Whitaker discussed Lemhi County stating it was 92% federally owned. He stated that citizens need to make the best use of natural resources. He stated that the mining industry was nearly gone. The forest industry is gone. The Endangered Species Act virtually eliminated the sheep industry according to Mr. Whitaker. Wolves have been reintroduced. There are confirmed kills for cattle ranchers. Their losses are up to 3-4% with branding and shipping. Businesses can't tolerate such high losses he said. The elk population is down.

Speaking for the citizens of Idaho, Mr. Whitaker addressed water right ownership. He felt that the Federal government is usurping the state's rights. He stated that in his handouts there was discussion about diverting early and late from tributaries which was approved in the Snake River Basin Adjudication. Mr. Whitaker stated that he had recently learned about the effect of water losses on crops

at the Water Users meeting. He stated that if tributaries on the Lemhi have reconnects for fish, it will harm the ranchers.

For real estate, Mr. Whitaker discussed the rising costs of property in the Lemhi Basin. He noted that grazing ground is becoming extremely expensive and is prohibitive for cattle ranching. He discussed the costs of cattle ranching over time. The Nature Conservancy is purchasing a lot of this property. These ranches in the past have supported families who contributed to the state's economy. He discussed how much the land could produce in cattle ranching and hay production. But with higher costs it's virtually impossible for family ranches to stay in ranching and farming. He questioned the rising cost of the water in the state and what is being done with it.

Ms. Hensley asked Mr. Whitaker not to refer to the documents directly since they are under a confidentiality order. Mr. Whitaker discussed the needs for a watermaster in the Lemhi Basin to regulate the water. He questioned the need for a watermaster because there is a short growing season. Mr. Whitaker went on to say that the tributary stakeholders that have been separated in the adjudication feel they have never had any input into the conservation easements. He stated that they needed to have their say.

Mr. Whitaker discussed a photograph showing the Lemhi Basin mouth with 2 to 3 miles of ditch. The water temps are too high; the flow is too low for anadromous fish. A case is being made that if the flow is increased the project would work. Mr. Whitaker discussed money being spent in the Lemhi for roads that aren't used very much. He discussed Stone Reservoir and suggested that it could be rebuilt. Mr. Whitaker stated that historically the department says that tributaries were over appropriated. However, he felt that they were all appropriated. The only water available is a two to three week period during high runoff. He stood for questions from the Board.

Chairman Uhling stated that Board members needed to be cautious about asking questions due to ongoing litigation. He stated that the Board was glad to hear his views and thanked him for coming. Chairman Uhling stated that the Board understands the issue and heard his concerns about state sovereignty, stakeholders wanting to be heard and issues about land management which are outside the authority of the Board, but are important throughout the state.

Mr. Whitaker pointed out a sheet in the back of the handout that listed key points. He discussed the conservation issues and the details of the reconnection including subordinating part of the water right for fish on Big Timber Creek. He discussed the terms of the Wild and Scenic Agreement. He did not feel that agreement was being followed by the department. Mr. Whitaker again thanked the Board for their time. Chairman Uhling thanked Mr. Whitaker for taking the time to speak to the Board. Chairman Uhling asked that all confidential handouts be returned to Ms. Hensley.

Mr. John Williams from the Bonneville Power Administration addressed the Board. He updated the Board on 1) the Washington Fish Accord; 2) the Biological Opinion (BiOP) update and 3) breaching the four lower Snake River Dams. Mr. Williams stated that the Secretary of Energy has requested BPA to look at pumped storage. BPA is investigating pumped storage for the four states. Pumped storage, he explained, is water that is pumped back up stream or off stream when power rates are low and run through generators when rates are higher. This is considered a renewable resource and could be used alongside and to help integrate wind power. He suggested that Mark Jones from BPA could speak at a

future Board meeting to discuss the topic. There was discussion about this issue. Mr. Williams answered questions.

Mr. Graham asked if Mr. Williams thought the re-regulating of dams would occur again. For instance, a dam was supposed to be built below the Libby Dam to create another power producing possibility. Mr. Williams again suggested that question be asked of Mark Jones because he deals with hydro development.

Mr. Williams discussed the BiOP proposal for ongoing litigation. Judge Redden wrote a letter to several parties telling them that they could write a response by October 2, 2009.

Mr. Williams stated that several fish accords have been signed with Montana, Washington and Idaho and several Indian Tribes. BPA has not been able to sign with Oregon or their tribes due to the BiOP lawsuit. Between $40-50 million has been allocated. About $100 million over ten years will be reflected in the BPA budget for salmon and steelhead recovery efforts.

Mr. Williams discussed the four dams on the Lower Snake River. A conservation group discusses breaching those dams on their website. These dams produce revenue for BPA. In 1997 a senator from Idaho wrote about the value of these dams. In today's dollars it would cost $450 million to $500 million to replace them. These dams help bring power from Montana to the west side of the region to meet major electrical load requirements. Since the 1980 Power Act when BPA started investing in conservation it took twenty-seven years to reach the annual output of those four dams at a cost of $2.3 billion. Mr. Rigby asked if there had ever been an analysis of how many brownouts would have occurred if the dams were not there. Mr. Williams offered to get that information. He discussed issues with the four lower Snake River dams. Mr. Graham stated that the issue of breaching the dams is a big topic in North Idaho also. Chairman Uhling asked Mr. Williams to provide information for this issue to all Board members. Mr. Williams suggested that the Board take a look at the fact sheet on the website. This will be provided to Board members by staff.

The meeting took a short break.

5c. Water Transactions – Lemhi River City of Salmon/Thomas Donation

Ms. Morgan Case discussed a project that the Lemhi Soil Conservation District entered into in 2007. This project was a conversion of the golf course and additional property into groundwater from a Lemhi river diversion. This was a brand new groundwater right with 2006 priority date. The only way they could use the right was to leave the water in the stream. Part of the property was being purchased by the City of Salmon. Mr. Chamberlain noted that it was illegal for a city to buy property on a contract without going out on bond. The Thomas' accused the city of performing an illegal act which brought the project to a halt.

The project funders including BPA put a lot of money into sprinkler irrigation and now the property is going back to the Thomas'. Because the Thomas' are concerned about using ground water on the golf course and there isn't irrigation over the entire property, they along with other parties are interested in protecting the 1.3 cfs towards the minimum stream flow. The Thomas' are willing to

donate, under an agreement not to divert, the water when the minimum stream flows are not met. The resolution before the Board outlines the conditions of the agreement.

Mr. Rigby asked if these conservation easements are published to the public. Ms. Case responded that since they are private contracts between the Board and the water right owners, they are not published. Mr. Rigby expressed concern that parties could claim to be impaired later and assert that they were not noticed. Ms. Case responded that these agreements have been created for the last five years and there have been no complaints. Mr. Chamberlain stated that he had concerns about this project so he spoke with the City Manager, the Thomas' and Mr. Bob Loucks. He stated that he felt comfortable with the terms of this agreement.

Mr. Chamberlain moved that the resolution regarding the Lower Lemhi 2010 City of Salmon/Thomas donation be approved. Mr. Rigby seconded. The Chairman called for a voice vote. All were in favor.

Mr. Anderson stated that Agenda Item **5d. ESPACAMP Funding** was discussed yesterday at the work session and needed no further discussion.

Agenda Item No. 6, Planning Activities

a. ESPA CAMP Status Report

Mr. Jonathan Bartsch from CDR Associates discussed the progress of the Implementation Committee. Working groups for conversions, demand reductions, recharge, weather modification and funding have been formed and are actively working. A mandatory fee has been proposed to be collected through water districts or county assessors. A positive response has been received from the counties.

Mr. Bartsch went on to say that the future of the Implementation Committee is being discussed. Terms on the committee have been discussed. The Implementation Committee needs an ongoing role for the first ten years. Mr. Bartsch will be discussing issues and concerns with the Implementation Committee. He provided a progress report for the Board. He stood for Board questions. There was discussion about where the funding would be needed. This issue has not been decided; it is still in development. The allocation of the resources will come to the Board in the form of a proposal. Mr. Bartsch stated the Implementation Committee is looking at all the individual costs.

b. Progress Report on Treasure Valley and Rathdrum Prairie Camp

Ms. Harrington stated that the facilitators are just beginning the interviewing process for the Treasure Valley Camp. Letters just went out this week to perspective interviewees. Mr. McMahon, the facilitator from Collaborative Processes, has started holding interviews. Ongoing technical studies include a monitoring network of groundwater levels, geophysical work, and a modeling evaluation that will be concluded by the end of the year. A weather modification study is going on now and will be complete by the end of October. A future water demand study is ongoing to be completed next spring. A climate variability impact study contract is being developed for both basins. Ms. Harrington introduced Mr. Joe McMahon.

Mr. McMahon, the facilitator for Collaborative Processes, stated that letters went out and people were interviewed. A draft assessment of their responses was developed. He stated that enthusiasm was very high. There were many areas of agreement including the quality of life and water along with the future of the area with increased population. Mr. McMahon stated that the goal now is to create an advisory committee. Categories of interest have been identified. With the Board's permission, Mr. McMahon is ready to ask each group to name representatives. He outlined each group and how many representatives were proposed for each. Board members provided feedback to Mr. McMahon. Mr. Cuddy requested that when the entire advisory committee is proposed that it be brought before the subcommittee for approval. There was discussion about lessons learned in the ESPA CAMP that could be applied to other basins. There was discussion about including domestic well users. Mr. McMahon pointed out that water quality was critically important to the interviewees. Chairman Uhling requested communication with state legislators about the CAMP process. Ms. Harrington stated that materials would be sent to each of them.

Mr. McMahon stated he had completed 11 interviews. A final report should be completed about developing an advisory committee for the Treasure Valley in October.

6c. State Water Plan

Ms. Harrington discussed the progress of the State Water Plan Subcommittee. In July the Board reviewed a preliminary draft and it has been reviewed by Harriet Hensley, Deputy Attorney General. Each section will be brought back to a work session for the Board to approve. Hopefully, by next July the draft will be finalized. Then the approved final draft will go out to public meetings. Ms. Hensley stated that she will be attending the subcommittee discussions to ensure transparency. Mr. Chamberlain stated that all input will be accepted from the public.

6d. Minimum Stream Flow Subcommittee Status Report

Ms. Harrington stated that on September 10 the South-Central Minimum Stream Flow Subcommittee met. In July the Board protested five applications for transfer which could impact the minimum stream flow water rights owned by the Board. The applicants and their legal representatives appeared at the September 10 meeting to provide presentations and comments to the subcommittee. A lot of technical information was provided. No final decisions were made; however, staff were asked to develop policy alternatives to bring to the Board for their consideration. Another subcommittee meeting will be held in October. A Deputy Attorney General is assigned to work with the subcommittee on new policy. Chairman Alberdi stated that the subcommittee is looking at solutions.

Agenda Item No. 7, Storage Projects Update

Ms. Cynthia Bridge Clark presented the report. She began with the Lower Boise Interim Feasibility Study being undertaken with the U.S. Army Corps of Engineers as a part of the Treasure Valley Comprehensive Aquifer Management Plan. The study will address water storage potential in the Boise River drainage for the purposes of future water supply and flood protection. The current study will build off of the Bureau of Reclamation's *2006 Boise/Payette Water Storage Assessment* to provide

preliminary level designs, cost estimates, schedules and a summary of social and environmental constraints for a short list of storage options.

Ms. Clark noted that the Corps recently submitted their first quarterly report for the period of June 1 to August 1. The Corps is performing a literature review and they have awarded a contract to perform hydraulic flood plain modeling and to update flood plain maps on the Boise River to provide current information for flood damage estimates. In early October Corp technical staff will visit each potential storage site listed in the 2006 assessment. Also, the Corps is organizing meetings with Federal and State agencies and local governments. A determination will be made about combining this effort with the Treasure Valley CAMP process.

Ms. Clark stated that the total cost of the study is $1,740,000 of which $870,000 is the federal contribution. To date spending totals just over $13,000. The Board will not make any cash payments until the Corps matches the $500,000 of credit for previous work in the Boise River drainage.

Ms. Clark summarized the Teton Dam Study. The Memorandum of Agreement with the Board and the U.S. Bureau of Reclamation was executed in June, 2009. Total costs are estimated to be $800,000. The study is expected to be completed within two years of initiation. The Bureau of Reclamation is in the process of evaluating contracting opportunities. Ms. Clark answered questions for Board members.

Ms. Clark discussed the Galloway Dam Feasibility Study. Staff have been meeting and negotiating funding for the feasibility study with Aqua Caliente, LLC, a private geothermal development company. The objective has been to expand the scope of work to include integration of future geothermal developments in the area. There are concerns for both parties about the funding not incurring liability or committing the State to future indebtedness beyond the year of appropriation.

Ms. Clark stated recently a meeting was held with the attendees from the Bureau of Land Management, the Attorney General, the Governor's Office, Aqua Caliente, Department of Water Resources and the Office of Energy Resources to discuss concerns about integrating geothermal projects in the future. Aqua Caliente is interested in pursuing an agreement with the state and the meeting helped to clarify legal constraints on the state's commitment. Negotiations will continue to identify how the projects can co-exist.

Ms. Clark presented the Minidoka Dam Raise Special Study. She stated that the Board and Reclamation entered into the agreement to raise the dam five feet. The engineering, hydrologic and property impacts studies are ongoing. On August 26, 2009, staff met with the Governor's Office, the department, the Burley Irrigation District along with the Bureau of Reclamation. Discussions concerned whether the scope of the study is sufficient for the State to evaluate whether the dam is cost effective and whether the deadline for the final report will provide time for the State to coordinate with Reclamation's spillway repair requirements. A determination was made that staff need to coordinate with the Department of Transportation to identify whether impacts to the interstate adjacent to Lake Walcott would render the five foot rise cost prohibitive. An evaluation of a rise less than five feet should be considered based on the outcome of the meeting with the Department of Transportation. In addition, Reclamation stated that after the spillway construction is complete the dam could still be raised. Direction was given to proceed with the remaining study tasks including those related to environmental

impacts. A task order has been drafted for staff review. Staff have been coordinating with ITD about Interstate 84 impacts. A meeting may occur the first week of October to determine highway impacts from the overall project.

Ms. Clark also stated that ITD identified the same sites that were areas of concern. The costs of replacing two overpasses would be about $1.8 million. There were concerns about other sites. Staff from IDWR and Reclamation are providing all the information so ITD can give a complete estimate of the costs which could total $5 million.

At this time, Chairman Uhling left the meeting.

Mr. Anderson clarified that it is not a rerouting issue but rather an overpass issues. The costs would be to raise the overpasses. Mr. Rich Rigby stated that there are many concerns right now. He did not think that a freeway issue would make or break the project, but it would add to the cost.

Mr. Chase asked that with the department's budget issues, could any of these projects be delayed to help the department. Could any of this project money be used for the department? Mr. Anderson said discussions have occurred about this. Staff for board projects are department employees since the Board cannot have its own staff. Some funds have already been made available to the department. Legislative action would be needed to make Board Funds available to IDWR.

Agenda Item No. 8, Interim Director's Report

Interim Director Gary Spackman addressed the Board. He stated that this morning the Governor announced by Executive Order additional budget holdbacks for this fiscal year. The Department's holdback is 7.5% which translates to about $930,000. The Department has left positions open in the past to provide holdback funds. The current holdback if taken out of personnel cost would lay off an additional 15 positions. He expressed the Board's consideration of using some of their funds to aid the department in this difficult situation. Interim Director Spackman will be working with the budget analyst to solve this current shortfall. Vice-Chairman Chamberlain thanked Mr. Spackman and offered continued support from the Board. Interim Director Spackman stood for questions from the Board. He stated that circumstances require him to act as soon as possible on the budget shortfall.

Interim Director Spackman updated the Board on the curtailment order. There are ongoing legal proceedings. The Groundwater Users sought a temporary stay which was eventually authorized by the Court. Department staff proceeded with the curtailment order working with people in an amicable way. Eight staff were sent to do inventories and reduce impact. The Department felt that in the first part of the season mitigation was not provided. A calculation was made on water delivered and there was a significant shortfall. This week a letter was sent out about this. There are other requests being made of the North Side Canal Company. No decisions have been made while awaiting another judge's ruling.

Interim Director Spackman noted that a statute, I.C. Section 42-228, has language about recovery of groundwater and the opportunity for drilling and construction of wells which states that the drilling and construction of wells "are excepted from this act." This issue has come up several times over the years. Someone sent in a drilling permit under this statute to discontinue the surface water irrigation

because of a problem with the rail road. They wanted to drill a well without getting a water right. The request was denied because the department didn't consider this to be a recapture. The question is whether this statute was effective as a filing for a new water right or a transfer. As a matter of policy the department has a responsibility to look at what CAMP is doing and not allow people to discontinue the use of surface water.

Agenda Item No. 9, Non-action Items Board Members May Wish to Present

Mr. Alberdi expressed concern on recharge and whether water quality is being maintained. He asked Mr. Anderson to undertake some assurances on water quality. Mr. Anderson stated that staff have been working with the Division of Environmental Quality on water quality issues. DEQ recently sent a letter identifying issues of water quality for recharge. They stated that no additional monitoring is required for running water in established canals. Spill sites would still operate under normal operating criteria as long as there was a 7-day continuous spill. If it is a constructed facility, there would be a monitoring requirement associated with that. The other issue on water quality is the degree of liability to the canal companies if contamination or pollution occurred. An initial Attorney General's opinion was that running water through their canals is probably not a problem; however, staff have asked for a specific underwriter's opinion on that. Staff will continue to work on this issue.

Mr. Graham stated that the department cutbacks are unfortunate and economic times are difficult for all people in the State of Idaho.

Agenda Item No. 10, Next Meeting and Adjourn

Mr. Anderson requested scheduling the March 2010 meeting. January is already set. The March meeting was set for the 25th and 26th. Additional meetings were tentatively set for May 27 and 28, July 22 and 23, Sept. 23 and 24th, and Nov. 15th and 16th. The Idaho Water Users meeting is Nov. 17-19th.

The meeting was adjourned.

Respectfully submitted this 4th day of November, 2009.

Bob Graham, Secretary

Patsy McGourty, Administrative Assistant II

Board Actions:

1. Mr. Chamberlain moved that the minutes of Meeting No. 9-09 be approved as written. Mr. Graham noted an error on page 6. The spelling of Mr. McMahon's name was incorrect. With that correction, Mr. Rigby seconded the motion. The Chairman called for a voice vote. All were in favor.

2. Mr. Chamberlain moved that the loan to Cloverdale Ridge Water Corporation be approved at 6% interest with a 10-year payment plan. Mr. Rigby seconded. The Chairman requested a roll call vote:

   Roll Call Vote:

   Mr. Cuddy: aye; Mr.Alberdi: aye; Mr. Chase: Aye; Mr. Beck: absent; Mr. Chamberlain: aye; Mr. Graham: aye; Mr. Rigby: aye; Chairman Uhling: Aye. 7 ayes; 1 absent. Motion Passed.

3. Mr. Graham moved that the Kullyspell Estates Property Owners Association resolution be approved as written with a 6% interest rate at 15-year repayment term. Mr. Cuddy seconded. The Chairman called for a roll call vote.

   Roll Call Vote:

   Mr. Cuddy: aye; Mr.Alberdi: aye; Mr. Chase: Aye; Mr. Beck: absent; Mr. Chamberlain: aye; Mr. Graham: aye; Mr. Rigby: aye; Chairman Uhling: Aye. 7 ayes; 1 absent. Motion Passed.

4. Mr. Cuddy moved that the loan to Evergreen Terrace for $15,000 at 6% interest with a 5-year repayment plan be approved. Mr. Chamberlain seconded. Chairman Uhling called for a roll call vote.

   Roll Call Vote:

   Mr. Cuddy: aye; Mr.Alberdi: aye; Mr. Chase: Aye; Mr. Beck: absent; Mr. Chamberlain: aye; Mr. Graham: aye; Mr. Rigby: aye; Chairman Uhling: Aye. 7 ayes; 1 absent. Motion Passed.

5. Mr. Chamberlain moved that the resolution regarding the Lower Lemhi 2010 City of Salmon/Thomas Donation be approved. Mr. Rigby seconded. The Chairman called for a voice vote. All were in favor.