

**MINUTES OF MEETING NO. 05-02**

**Friday, August 9, 2002**

**at the**

**Oregon California Trail Center**

**Montpelier, Idaho**

## TABLE OF CONTENTS

1. Roll Call .....	1
2. Approval of Minutes No. 04-02 .....	1
Added Agenda Item .....	1
3. Public Comment.....	2
4. Dworshak Hydroelectric Project Update .....	2
5. IWRB Financial Program .....	2
6. Comprehensive State Water Planning Studies .....	4
7. Minimum Streamflow Applications .....	4
8. Revision to Water Bank Rule 35 – Redirecting Administrative Fees .....	5
9. Director’s Report .....	5
10. Other Items and Next Meetings .....	6
11. Executive Session.....	7
Board Actions .....	7
List of Attachments .....	7

## IDAHOWATER RESOURCE BOARD

### MINUTES OF MEETING NO. 05-02

Meeting No. 05-02 of the Idaho Water Resource Board was called to order by Chairman Joe Jordan on Friday, August 9, 2002, 8:30 a.m. at Oregon California Trail Center, Montpelier, Idaho. (Recording Tape No. 1)

#### **Agenda Item No. 1, Roll Call**

##### *Board Members Present*

Joe Jordan, Chairman  
Dick Wyatt, Secretary  
Gary Chamberlain  
Terry Uhling

Jerry Rigby, Vice Chairman  
Bob Graham  
Claude Storer

##### *Board Member Absent*

Leonard Beck

##### *Department of Water Resources Staff Present*

Hal Anderson, Administrator  
Rita Fleck, Administrative Assistant

Bill Graham, Planning Bureau Chief  
Helen Harrington, Staff Geologist

##### *Guests*

Marden Phelps; Roy Bunderson, City of Bloomington; Golden Keetch, Preston-Montpelier Irrigation Co.; Ronald Jensen, Love Bear Lake; Craig Thomas, Bear Lake Regional Commission; Eulalie Langford, Idaho State Representative; Claudia Conder, PacifiCorp; and Jody Williams, PacifiCorp

#### **Agenda Item No. 2, Minutes of Meeting No. 03-02**

**Motion:** Dick Wyatt moved to approve the minutes. Claude Storer seconded the motion.

**Voice Vote:** 7 Ayes, 0 Nays, 1 Absent. *Motion passed.*

#### **Agenda Item Added to Financial Program – 5d Bonnie Laura Water Corporation**

Chairman Jordan added this financial request to the agenda. The Bonnie Laura Water Corporation has asked for consideration under emergency conditions for a well repair project.

### **Agenda Item No. 3, Public Comment**

Conrad Michealson, Bear Lake County Commissioner and member of the Bear River Ground Water Management Advisory Committee, brought to the Board preliminary thoughts about building a dam at Rocky Point. As a committee member, he is looking for ways to develop sources of water for economic development. With a dam, unappropriated water can be captured and used for new supplies and reduce the use of Bear Lake as an irrigation reservoir.

Using a map, Mr. Michaelson illustrated the reservoir area caused by a structure at Doeley Point on the Bear River and provided copies of a fact sheet detailing the merits and liabilities of the project. In addition, Representative Eulalee Langford described the “win-win” of benefits an irrigation storage and flood control facility and as a mechanism of protection for the pristine water of Bear Lake. She indicated that the U.S. Corps of Engineers would be willing to conduct a study and if the project comes to construction the Board along with other state agencies may be approached as a source of funds. At this point, Representative Langford is asking for the Board’s “blessing” for the project.

Director Dreher commented that a single project was not broad enough. He indicated the entire basin should be looked at for “a project or group of projects that are the most cost effective and the most beneficial.” Both Director Dreher and Chairman Jordan spoke in favor of a more comprehensive study.

### **Agenda Item No. 4, Dworshak Hydroelectric Project Update**

Hal Anderson, reported on the status of the Board’s Dworshak Small Hydroelectric project. Energy production has been at 100 percent since November 2001 except for scheduled maintenance in May. The Dworshak Reservoir has filled and will provide a consistent supply of water through the project during the summer and fall seasons.

Brian Patton provided a 2003 budget and cash flow status spreadsheet. Power sales are anticipated to be better than last year, mostly due to an abundant water year.

### **Agenda Item No. 5, IWRB Financial Program**

#### *a. Financial Program Status Report*

Mr. Graham reviewed the status of the financial program accounts, projected amounts available for funding projects at future meetings, provided a briefing of the following requests, a briefing of completed projects and support documents.

With regard to the loan application form and the draft grant application form, the Board decided a single form that fits both scenarios is desired.

With regard to the proposed variable interest rate guidelines, a rate of 5.5 percent would be for agricultural projects and 6 percent would be for non-agriculture projects. However, the Board holds the discretion to change or adjust the rates or term of the loan on a case-by-case basis.

With regard to the financial program leveraging, the Board will seek an official Attorney General's Opinion and submit legislation to clarify the Board's authorities regarding use of revenue from loans made with money from the legislature to secure a board revenue bond..

There are several large financial project requests coming before the Board. Mr. Chamberlain suggested the Board combine these and prepare a pooled loan bond to keep the financial accounts fluid for smaller projects. In addition, the State of Idaho's Treasurer has the authority to create pooled loan bonds. Mr. Anderson will follow up on this matter.

Presently, the Board's pooled loan bond program has not been fully utilized due to not having enough staff resources to promote the program. Similar projects have not been identified. The Board has a brochure describing the program. The Board members suggest getting the word out about this program.

*b. Malad Valley Irrigation Company – Loan Request*

The Malad Valley Irrigation Company requested a loan in the amount of \$54,450 to repair St. John's Dam. During May, piping occurred causing a sinkhole to develop. The water level was lowered and the damage was found to be too extensive to store water. The company hoped to conduct a study, using Board funds, to determine what repairs can be made to resume storage in the reservoir.

Mr. Patton and Guy Paul, Dam Safety Section Manager, examined the entire dam and met with the Malad Valley Irrigation Board of Directors on August 1. They discussed the findings and subsequent recommendations. It is not cost-effective to repair the dam. Alternatives might be to increase the storage in Devil Creek Reservoir, construction of wells, managing storage and water movement in the system and system-wide efficiency improvements. Based on these and other possible options, the company will file a new application with a new scope of study.

No action was required or taken.

*c. Preston-Riverdale & Mink Creek Canal Co. – Loan Term Extension*

The Preston-Riverdale & Mink Creek Canal Co. has not submitted the necessary information to evaluate the request. No action was required or taken.

*d. Bonnie Laura Water Corporation – Loan Request (Added agenda item)*

The Bonnie Laura Water Corporation has approached the Board with an emergency request for assistance. The corporation is requesting a loan to repair the main well. The well

provides indoor and outdoor water to 26 homes near Emmett. The well has stopped producing water and the lower producing well was put on line. The community is limited to a rotation schedule and no outdoor use. The request is for \$20,000.

**Motion:** Terry Uhling moved to adopt the resolution (Attachment 1) approving a loan in the amount of \$20,000 with a 6 percent interest rate and providing one year to establish a reserve account to the Bonnie Laura Water Corporation to repair the corporation's well. Dick Wyatt seconded the motion.

**Roll Call Vote:** Beck, Absent; Chamberlain, Aye; Graham, Aye; Rigby, Aye; Storer, Aye; Uhling, Aye; Wyatt, Aye; and Jordan, Aye. 7 Ayes, 0 Nays, 1 Absent. *Motion passed.*

### **Agenda Item No. 6, Comprehensive Water Planning Studies**

Bill Graham presented an update of the water planning activities.

#### *a. Lower Boise River Basin*

Planning staff is working on developing goals, objectives and issues. As the issues analysis is completed, staff is developing actions and recommendations. Once developed, staff will schedule meetings with the Chairman Jordan and Mr. Uhling to review. The basin description and resource inventory are ready for management review. The screening of attributes for establishing protected river segments will continue. Staff sent a letter describing work and activities completed since January to the advisory and stakeholder groups. One goal is to have a completed draft plan by January 2003.

#### *b. South Fork Clearwater River Basin*

Planning staff is evaluating the basin and is preparing the basin overview and resource inventory. The Watershed Advisory Group (WAG) transition to the state water plan process occurred on July 17. An overview of the planning topics covered under the comprehensive state water plan was given. Staff and Mr. Wyatt attended a field trip in the river basin to evaluate resources. The next WAG meeting is scheduled for August 21 in Kooskia, Idaho.

Mr. Wyatt complimented Thomas Grant for his efforts organizing the field trip. He noticed the forested area is overrun with diseased timber. With so much timber affected, the watershed has to be better managed for multiple uses.

### **Agenda Item No.7, Minimum Streamflow Applications**

Bill Graham lead this discussion regarding the Billingsley Creek minimum streamflow applications. Vice chairman Rigby conducted the information meeting on June 27 in Hagerman for two applications numbered 36-08596 and 36-08793 to provide fish rearing and spawning, water fowl habitat, fish passage, and aesthetic and recreational values. Based on information

presented, the Board amended the applications to shift the flow periods to better fit the available flows. A public hearing is scheduled for September 17 at 3:00 p.m. and a general comment meeting at 7:00 pm.

### **Agenda Item No. 8, Revision to Water Supply Bank Rule No. 35 – Redirecting Administrative Fees**

Hal Anderson introduced this subject. With this temporary rule change, the department can recover costs for its efforts to verify and monitor lands placed in the Board's Water Bank and leased by the Bureau of Reclamation. Presently the department does not have spending authority to access to these funds. With the following addition to the Water Supply Bank Rule No. 35, the department can transfer required funds from federal agencies for administration of the Water Supply Bank to the department's federal account. The addition is: "or to the federal grant fund if the payment is received from a federal agency." This is a temporary rule change, which will preclude having to request modifications to the department's spending authority.

**Motion:** Terry Uhling moved to adopt the proposed change to the Water Supply Bank Rule No. 35. Dick Wyatt seconded the motion.

**Roll Call Vote:** Beck, Absent; Chamberlain, Aye; Graham, Aye; Rigby, Aye; Storer, Aye; Uhling, Aye; Wyatt, Aye; and Jordan, Aye. 7 Ayes, 0 Nays, 1 Absent. *Motion passed.*

### **Agenda Item No. 9, Director's Report**

Director Dreher addressed three issues:

*Strategic Plan* – During the tenure of the Director, the Department of Water Resources has only submitted one strategic plan, even though it is suppose to be a yearly filing. He indicated that "in terms of practical usefulness, it has limited value." This year, the department hired Lisa Stewart to help develop a useful, goal-driven plan. Chairman Jordan and Vice Chairman Rigby participated in compiling this plan as representatives of the Board. The plan is almost complete.

*Legislative Proposals* – These are concepts for proposed legislation submitted to the Division of Financial Management and the Governor's Legislative Services for approval as draft legislation submitted for consideration in the next legislative session.

- **Water Master Duties.** Proposed legislation to clarify duties and responsibilities of water masters and provide for dividing water districts into sub-districts.
- **Mitigation.** Proposed legislation will include a definition, authority to adopt rules and approve mitigation plans, and a general provision that allows any right holder to file a petition anytime he feels his water right has been injured by these mitigation plans.

- Enforcement Provisions. Cleanup the notice of violation civil penalty provisions in Sections §§ 42-351, 42-1701b, and 42-1701b6. This will broaden the scope of §42-1701b. Section 42-351 allows a penalty for up to \$300 per acre against an illegal irrigation use. This section will be clarified as to when this penalty applies. Under §42-1701b, the statute will be clarified to indicate the director does have the authority to issue a cease and desist order for the illegal diversion and use of water.
- Protest Fee to Addresses Frivolous Protests. Presently, anyone can file a protest for \$25. The protest fee will be raised to \$100 or maybe \$500 with a less formal process for people to be heard without filing a formal protest.
- Clarification of the Board's authority to issue revenue bonds. The proposed amendment will address ambiguity in the present wording of §§ 42-1734 and 42-1742, Idaho Code, which could be construed to prohibit the use of certain loan repayment revenues available to the Board in order to secure issuance of revenue bonds.
- Hearings. Propose an amendment that would correct the ambiguity in present wording of § 42-1710a(3), Idaho Code, to provide opportunity to petition the director for a hearing only in instances where a person is aggrieved by an action of the director taken on permit, license, certificate or other form of permission.

Legislation potentially proposed by others: *Local Public Interest Criteria*. Under the local public interest criteria, the statute is the authority for applying this criteria. The director suspects that someone will introduce legislation to narrow the scope of local public interest.

### **Agenda Item No. 10, Other Items and Next Meetings**

Chairman Jordan suggested the next meetings be scheduled in Coeur d'Alene on October 17 and 18. The following meeting is tentatively scheduled for Friday, December 13 as a conference call. The October meeting was subsequently changed to October 23 and 24, Wednesday and Thursday.

Hal Anderson discussed the high lift pumpers. The Bureau of Reclamation is seeking water for flow augmentation to meet their ESA obligation of 427,000 acre-feet per annum. The bureau was contacted by a number of water users in the mid-Snake River area known as the high lift pumpers. These irrigators were willing to lease their water to help the bureau to meet this obligation. This would dry up their lands for the 2002 irrigation season. The department has agreed to monitor and verify that the acreages from which water is leased have been dried up.

This effort takes a great deal of staff time and expense. Satellite imagery and field visits verify this effort. No funding has been provided for these expenses and staff time.

### **Agenda Item No. 11, Executive Session**

Guest Clive Strong, Deputy Attorney General, Office of the Idaho Attorney General addressed the Board.

**Motion:** Dick Wyatt moved the Board to enter into Executive Session with Clive Strong, Deputy Attorney General, to discuss federal reserved water rights, possible litigation and other legal matters, pursuant to § 67-2345, Idaho Code. Claude Storer seconded the motion.

**Voice Vote:** Motion passed by voice vote; 7 Ayes, 0 Nay, 1 Absent.

*No action was taken on these matters.*

**Motion:** Bob Graham moved the Board to exit out of Executive Session. Dick Wyatt seconded the motion.

**Voice Vote:** Motion passed by voice vote; 7 Ayes, 0 Nay, 1 Absent.

Meeting adjourned at 12:30 p.m.

Dated this 24th day of October, 2002.

---

D. Richard Wyatt, Secretary

---

Rita I. Fleck, Administrative Assistant

.....  
**Board Action**

Moved to adopt the resolution (Attachment 1) approving a loan to the Bonnie Laura Water Corporation to repair the corporation's well in the amount of \$20,000 with a 6 percent interest rate with one year to establish a reserve account. *Motion passed.*

Moved to adopt the proposed change to the Water Supply Bank Rule No. 35.

**Attachment**

Resolution approving a loan to the Bonnie Laura Water Corporation to repair the corporation's well in the amount of \$20,000 with a 6 percent interest rate with one year to establish a reserve account.