



IDAHO WATER RESOURCE BOARD

IDAHO WATER RESOURCE BOARD MINUTES OF MEETING NO. 10-02 December 13, 2002, 8:30 a.m.

Dirk Kempthorne
Governor

Joseph L. Jordan
Chairman
Fruitvale
At Large

Jerry R. Rigby
Vice Chairman
Rexburg
At Large

Dick Wyatt
Secretary
Lewiston
District 1

Leonard Beck
Burley
District 3

Terry T. Uhling
Boise
District 2

Bob Graham
Bonners Ferry
At Large

L. Claude Storer
Idaho Falls
District 4

Gary M. Chamberlain
Challis
At Large

Meeting No. 10-02 of the Idaho Department of Water Resource Board was called to order by Chairman Joe Jordan on Friday, December 13, 2002, 8:30 a.m. in the conference rooms at the Idaho Department of Water Resources, 1301 N. Orchard St., Boise, Idaho. (One recorded tape).

Agenda Item No. 1, Roll Call

Board Members Present

Joe Jordan, Chairman
Dick Wyatt, Secretary
Gary Chamberlain
Leonard Beck

Jerry Rigby, Vice Chairman
Bob Graham
Claude Storer

Absent

Terry Uhling

Department of Water Resources Staff Present

Karl Dreher, Director
Rita Fleck, Admin. Asst.
Brian Patton, Engineer

Hal Anderson, Administrator
Scott Short, Plan. Sec. Mgr.

Guests

Leas Stark, Bureau of Reclamation and Rick Skinner, Skinner Fawcett

Added Agenda Item

Chairman Jordan added an agenda item for the Malad River Minimum Streamflow Water Right filing.

Agenda Item No. 2, Approval of the Minutes for Meeting Nos. 07-02, 08-02 and 09-02

Motion: Dick Wyatt moved for approval of the three sets of minutes for meeting Nos. 07-, 08- and 09-02. Gary Chamberlain seconded the motion.

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

Agenda Item No. 3, Public Comment

No public comment.

Agenda Item No. 4, Dworshak Hydroelectric Project Update

Brian Patton presented the update for the Dworshak Hydroelectric Project. As of December 1, the project has produced approximately 49 million kilowatt hours of electricity. During the update period, the project had no down time.

Mr. Patton reviewed the project's current budget and cash flow spreadsheet.

Agenda Item No. 5, IWRB Financial Program

Mr. Patton presented the financial program items.

a) Status Report

Mr. Patton reviewed the financial program accounts, reviewed projected funding amounts available for future meetings, and briefed the Board regarding completed projects.

b) IWRB Annual Report

The report summarizes the seven grants and 23 funded projects for the fiscal year 2002. Approximately \$1.8 million were authorized for these projects.

Motion: Claude Storer moved the Board to approve the Idaho Water Resource Board's Water Resource Funding Program Fiscal Year 2002 Annual Report (Attachment 1). Jerry Rigby seconded the motion.

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

c) Malad Valley Irrigation District

The Malad Valley Irrigation District is requesting a grant and loan in the amount of \$16,040. During May, St. John's Dam developed a sinkhole and is not structurally sound. The district is evaluating options for replacing the storage capacity for St. John's Reservoir by enlarging other facilities and/or using groundwater in the area. The loan/grant would assist with evaluating these other options.

Motion: Gary Chamberlain moved the Board to adopt the resolution (Attachment 2) providing all funds as a loan in the amount of \$16,040 from the Revolving Development Account at 5.5 percent interest rate with a 10-year payback period to the Malad Valley Irrigation District. Claude Storer seconded the motion.

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

d) Twin Lakes – Rathdrum Creek Flood Control Dist. No. 17

During the October meeting, the Board toured the 96-year-old Twin Lakes Dam. The Board approved a loan for \$450,000 given that the residents of the Rathdrum Creek Flood Control District No. 17 approve an increase in property taxes to repay the loan. The approval fell short by several votes. The district is now asking the Board to maintain the funding commitment until May of 2003 after which another election will be held and the a tax increase reconsidered.

Motion: Jerry Rigby moved to adopt the resolution (Attachment 3) to maintain the funding until the May 2003 election at which time the Board will revisit the funding request from the Rathdrum Creek Flood Control District No. 17. Gary Chamberlain seconded the motion.

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

e) Riverside Independent Water District

The Riverside Independent Water District is requesting a loan amount of \$350,000 to assist with the cost of replacing the surface water treatment plant. The district provides municipal water to approximately 2000 people on the south bank of the Clearwater River near Orofino. The water source is the Clearwater River. The present treatment plant, constructed in 1964, has exceeded its useful life and does not meet current EPA or DEQ drinking water standards. The proposed solution is to construct a new \$1.8 million treatment plant. The district has \$500,000 in block grant funds and has issued a revenue bond in the amount of \$800,000.

Motion: Dick Wyatt moved the Board adopt the resolution (Attachment 4) approving a loan to the Riverside Independent Water District in the amount of \$350,000 with an interest rate of 6 percent for 15 years for construction of a surface water treatment plant. Bob Graham seconded the motion.

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

Agenda Item No. 6, Comprehensive State Water Plan – Update

Scott Short, Planning Section Manager, presented the state water plan updates.

a) Lower Boise River Basin

The Lower Boise River Basin Plan will be prepared in draft form in January. Mr. Short asked for the Board to present comments soon. Staff will start scheduling public information meetings with stakeholders for input. Staff recommendations include delaying designating any segment as a protected river at this time.

The Governor's Office was responsible for selecting project proposals to recommend for funding consideration by EPA. The proposed watershed initiative project for the Lower Boise was not

selected by the Governor's Office. Even so, Mr. Short was impressed with the cooperative nature of all participating agencies. He predicts a team approach for implementing the Lower Boise Basin plan.

b) South Fork Clearwater River Basin

The next meetings with the South Fork Clearwater River Basin Watershed Advisory Group are scheduled for next year- - January, February and March. In April, work begins on the resource screening.

c) Basin Planning Schedule

Board members had no objection to the schedule.

Discussion: Chairman Jordan commented that Terry Uhling, Board member who was assigned to assist with this Lower Boise Basin plan, is concerned that the basin plan receives the support of the irrigators. Approximately 300,000 acres are irrigated in this basin and irrigator support should be strong. Chairman Jordan would like board comments before the next meeting in February.

Mr. Short commented that a recreation designation on the Lower Boise would imply to the irrigators that more recreation use is encouraged and irrigators are concerned about liability issues of additional recreational use. Other concerns are uses that would impact current water rights and attributes of a river, such as water quality. Population growth in the valley is evident. Irrigators are concerned about the affect this growth will have on their future livelihood.

Mr. Bob Graham suggested the Board dedicate some time in the future to defining "recreation designation." If a "... good background, guideline or base for being able to define, even through we are stuck with the term recreation, what we mean by putting that emphasizes on that segment, it might be more palatable ..."

Director Dreher commented he was troubled by the perception that the Board was responding to pressure from one particular interest. He doesn't believe that is the case; the issue is whether designation would impair someone's exercise of his water right. He suggested proceeding with the plan and scheduling in a year or so, a re-evaluation of the need for some designation. Over that time, a resolution of the perception of such a designation potentially impacting someone's water right could be worked on.

This item will be scheduled for further discussion.

Agenda Item No. 7, Bear River Area

Mr. Anderson covered the following three items:

a) Bear Lake Regional Commission – Rocky Point Dam

On October 30, the Board received a letter from the Bear Lake Regional Commission, which is a grassroots organization promoting environmental studies and coordination of environmental efforts in the Bear Lake area. At the last Board meeting, several commission members presented the Board with information promoting Rocky Point Reservoir site. The commission wrote a letter requesting the

Board support a study to construct a dam and water storage facilities at the Rocky Point reservoir site. The Board has prepared a response letter that supports an evaluation of potential sites and identification of water supply needs so study emphasis could be placed on the most promising sites. Current Board funding levels preclude financial support for a study.

b) Governors' Watershed Initiative Proposal – Bear River Basin

A copy of the Nomination of the 'Tri-State Bear River Watershed' for Inclusion in the EPA's Watershed Initiative Narrative Description has been provided in the folder for information purposes. The document proposes coordination between the states with most of the effort focuses on water quality issues. The governors of Utah, Idaho and Wyoming supported it.

c) Caribou Project – Request for Extension of Time

The Board holds a permit for appropriation of water for the Caribou Dam and reservoir site. A draft request for extension of time is before the Board to authorize the Chairman to execute the request that would allow for another five-year extension of time in which to develop the project.

Motion: Gary Chamberlain moved the Board to authorize Chairman Jordan to execute and submit to the Department of Water Resources a request for extension of time to develop the dam and reservoir at the Caribou Site. Claude Storer seconded the motion.

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

Agenda Item No. 8, Minimum Streamflow

Hal Anderson introduced the updates to this program. Earlier, the Board agenda was modified to include the Malad River.

a) Billingsley Creek Minimum Streamflow Filings

Earlier this year, the hearing was held and a preliminary order and permits were issued for Billingsley Creek establishing two water rights (Nos. 36-08596 and 36-0893) for minimum streamflow. In response to the Board's request, the amounts and periods of use were changed to more closely correspond to the documented flows.

b) Malad River Minimum Streamflow Filings

The Idaho Water Resource Board holds licensed water right No. 37-7920, which establishes a minimum instream flow for a portion of the Malad River. While reviewing the right for inclusion in the Director's Report for Basin 37 in the Snake River Basin Adjudication (SRBA), it was noted that a discrepancy exists with the legal description of the point of beginning. In addition, one of the conditions, Condition No. 6, is unacceptable to the SRBA special master because it is contrary to action the court would take. Mr. Norm Young, Water Management Division Administrator, submitted a letter proposing an amending the license and preliminary order to correct the error. The Board is being given an opportunity to review these changes. In response, the Board supported the proposed amendments by the Department with a motion.

Motion: Jerry Rigby moved the Board to support the amended license and preliminary order that corrects the legal description for the License No. 37-7920 and deletes Condition No. 6 from the conditions of approval. Dick Wyatt seconded the motion.

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

Agenda Item No. 9. United Water – Revenue Bond

United Water Idaho, Inc. has submitted a request to the Idaho Water Resource Board to obtain tax exempt financing for capital improvements including a new surface water treatment plant for the Boise facilities. The corporation is requesting bonds in the amount of up to \$35.6 million. Rick Skinner and Gregory Wyatt appeared before the Board at the previous day's work session to outline the project and answer questions regarding the project. Rick Skinner is presenting the Inducement Resolution for the Board's consideration.

Motion: Gary Chamberlain moved the Board to approve the Inducement Resolution (Attachment 5) for United Water Idaho. The resolution establishes the intent of the Board and United Water Idaho to issue revenue bonds for construction of new facilities and other necessary distribution system improvements. Jerry Rigby seconded the motion.

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

Agenda Item No. 10, Director's Report

Director Dreher commented on the following topics:

- State agencies are requested to continue to reduce general fund budgets for the next fiscal year beginning July 1. The projected reductions are from 3 to 7%.
- The forecasts for precipitation over the winter throughout the state is below normal with above normal temperatures. This is an El Nino effect and will leave the state with drought conditions.
- Regarding the Water Center, the Board of Education will meet next week to consider authorization for the Water Center. This may cause delay in pricing and issuing the bonds for construction.
- Regarding Billingsley Creek, the Department has been working with Clive Strong, Deputy Attorney General to facilitate some basis for a longer term stipulated agreement with the water users on the Eastern Snake Plain and holders of senior priority surface water rights.
- The decision, *Idaho Watersheds Projects and Committee for Idaho's High Desert vs. Verl Jones, Tuddies Jones*, identified a threatened impact to a listed species as described by the expert testimony as a "may impact, could affect". The decision interpreted the meaning to be reasonably certain and imminent based upon expert testimony and professional opinion, not specific citings. The result was a permanent injunction against the Jones's, preventing them from exercising their water right until or unless they constructed a headgate that was capable of maintaining adequate flows below the diversion.

- Director Dreher conveyed to the Governor the Chairman's request to have the four Board member appointments made before the first of the year.
- On August 12, 2001, the Director designated a ground water management area in the Bear River Basin and appointed an advisory committee to work with the Department in developing a ground water management plan. The management plan has been submitted to the Department and is being reviewed.

Agenda Item No. 11, Other Items and Next Meetings

The Board has scheduled the next meetings for February 27 & 28 and April 10 & 11 in Boise. The Board has modifications to make to the Priest Lake Plan. This would include a hearing. The Board will meet on June 19 & 20 in Priest River or Sandpoint or Coolin.

The Board, all around, presented greetings for a happy Holiday Season.

Meeting adjourned at 11:10 a.m.

Dated this ____ day of February, 2003.

Secretary

Rita I. Fleck, Administrative Assistant

Board Actions

1. Approved the three sets of minutes for meeting Nos. 07, 08, and 09-02. *Motion passed.*
2. Approved the Idaho Water Resource Board's Water Resource Funding Program Fiscal Year 2002 Annual Report. *Motion passed.*
3. Adopted a resolution providing all funds as a loan in the amount of \$16,040 from the Revolving Development Account at 5.5 percent interest rate for a 10-year payback period to the Malad Valley Irrigation District. *Motion passed.*
4. Adopted the resolution to approve maintaining the funding commitment for replacement of Twin Lakes Dams until the May 2003 election at which time the Board will revisit the funding request from the Twin Lakes - Rathdrum Creek Flood Control Dist. No. 17. *Motion passed.*
5. Adopted the resolution approving a loan to the Riverside Independent Water District in the amount of \$350,000 with an interest rate of 6 percent for 15 years for construction of a surface water treatment plant. *Motion passed.*

6. Moved the Board to authorize Chairman Jordan to execute and submit to the Department of Water Resources a water permit extension request for extension of time to develop the dam and reservoir at the Caribou Site. *Motion passed.*

7. Moved the Board to approve the Inducement Resolution for United Water Idaho. The resolution establishes the intent of the Board and United Water Idaho to issue revenue bonds for construction of new facilities and other necessary distribution system improvements. *Motion passed.*

Attachments

1. Idaho Water Resource Board's Water Resource Funding Program Fiscal Year 2002 Annual Report.
2. Resolution providing all funds as a loan in the amount of \$16,040 from the Revolving Development Account at 5.5 percent interest rate for a 10-year payback period to the Malad Valley Irrigation Dist.
3. Resolution maintaining the funding until the May 2003 election at which time the Board will revisit the funding request from the Twin Lakes - Rathdrum Creek Flood Control District No. 17.
4. Resolution approving a loan to the Riverside Independent Water District in the amount of \$350,000 with an interest rate of 6 percent for 15 years for construction of a surface water treatment plant.
5. Inducement Resolution Approving an Application of a Water Project Sponsor and Evidencing an Intent to Proceed with Issuance of Water Resource Development Revenue Bonds.