



# IDAHO WATER RESOURCE BOARD

MINUTES

SCANNED  
DEC 7 1 2009

MEETING NO. 08-03

December 5, 2003, 8:30 a.m.

Idaho Department of Water Resources  
Conference Rooms, 1301 N. Orchard St.,  
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

**Joseph L. Jordan**  
Fruitvale  
At Large

Meeting No. 08-03 of the Idaho of Water Resource Board was called to order by Chairman Jerry Rigby on Friday, December 5, 2003, 8:30 a.m. in the conference room at the office of the Idaho Department of Water Resources, Boise, Idaho. (One recorded tape).

## Agenda Item No. 1, Roll Call

### *Board Members Present*

Jerry Rigby, Chairman	Terry Uhling, Vice Chairman
Dick Wyatt, Secretary	Claude Storer
Joe Jordan	Gary Chamberlain
Bob Graham	Leonard Beck

### *Department of Water Resources Staff Present*

Hal Anderson, Administrator	Bill Graham, Bureau Chief
Rita Fleck, Admin. Asst.	Thomas Grant, Planner
Brian Patton, Engineer	

### *Guests*

Phil Rassier, Deputy Attorney General; James Mullen, Kellor Associates; Dave Tuck, Sunset Heights Water District

## Agenda Item No. 2, Approval of the Minutes of Meeting Nos. 07-03

The Board member, Joe Jordan, suggested some clarifications/edits to the minutes during the work session. These were incorporated into the minutes considered at this time.

**Motion:** Joe Jordan moved approval of the minutes for meeting No. 07-03 with amendments described the previous day. Claude Storer seconded the motion.

**Voice Vote:** 8 Ayes, 0 Nays, 0 Absent. *Motion passed.*

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

No one presented public comment.

### **Agenda Item No. 4, Dworshak Hydroelectric Project Status Report**

Brian Patton, staff engineer, reviewed the operation status of the Board's hydropower project. To date, the power plant has produced 70 million kilowatt hours of energy. There have been no shutdowns since the last meeting. Energy production is slightly ahead of historical averages for the last three years.

According to the power sales agreement, the power sales rate will increase 3% on January 1<sup>st</sup> making it \$.0438 per kilowatt-hour. Mr. Patton explained the budget and cash flow status sheet and asked for questions.

Mr. Anderson asked Mr. Patton about the status of the FERC fee. Mr. Patton indicated that FERC's invoice indicates that no fees are due. However, Mr. Patton's review of the contract indicates that a fee of \$22,000.00 is due based on the license agreement. He has set this amount aside into a payment fund. He stated, "They have never invoiced us what we believe we owe according to the terms of the FERC license." Also, they have not responded to numerous requests to re-evaluate the amount owed.

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

#### *a. Status Report*

Mr. Patton reviewed the financial program accounts, reviewed projected funding requests and income sources, and briefed the Board on pending expenses and completed projects. Account balances are sufficient to meet the requests submitted.

A letter describing the projects funded by the Board over the last five years within the legislative districts was sent to each of the legislators. This letter was crafted to inform the legislators of the efforts and types of projects the Board has financed in each legislative district. ~~area~~. Over \$2 million was spend under the Board guidance.

#### *b. Sunset Heights Water District – Loan Request*

Mr. Patton continued by narrating the request from the Sunset Heights Water District for a loan. Suneset Heights Water District is located eight miles south of Salmon and serves 50 homes. The district applied for \$60,000 to replace a spring collection box and water supply pipeline that was destroyed by a forest fire in August. David Tuck, President of the district and Jim Mullen from Keller Associates attended the meeting. Mr. Mullen, engineer for the project, presented a design of the project and project timeline. He indicated that the loan request has been reduced to \$50,000, the actual cost of construction.

**Motion:** Gary Chamberlain moved to accept the resolution for a funding commitment of \$50,000 at 6 percent interest with a 10-year repayment term (Attachment 1) to the Sunset Heights Water District for construction of a collection box and pipeline. Dick Wyatt seconded the motion.

**Roll Call Vote:** Beck, Aye; Chamberlain, Aye; Graham, Aye; Jordan, Aye; Storer, Aye; Uhling, Aye; Wyatt, Aye; and Rigby, Aye; 8 Ayes, 0 Nays, 0 Absent. *Motion passed.*

*c. Winder Lateral Association – Grant Request (on the agenda as “Reservoir Group”)*

The Winder Lateral Association, located near Preston, receives water from Winder Reservoir during the irrigation season. The water is delivered to 14 water users for irrigation of 1,671 acres. The association has hired Mark Bennett, P.E. to conduct a feasibility study to convert the open canal water delivery system to a gravity pressure pipeline system. The estimate for this study is \$14,000. The association is requesting a grant of \$8,000.

**Motion:** Dick Wyatt moved to accept the resolution for a grant of \$7,000 (Attachment 2) to the Winder Lateral Association for a feasibility study. Terry Uhling seconded the motion.

**Roll Call Vote:** Beck, Aye; Chamberlain, Aye; Graham, Aye; Jordan, Aye; Storer, Aye; Uhling, Aye; Wyatt, Aye; and Rigby, Aye; 8 Ayes, 0 Nays, 0 Absent. *Motion passed.*

Bob Graham expressed his concern about legislative funding. For several years now, the Board has avoided approaching the Governor for funding due to the poor economic status of the state. Mr. Graham stated, “I wonder if we’re harming ourselves by not occasionally throwing in a request for legislative allotment.” Chairman Rigby reminded Mr. Graham that the Board has asked those who have received loans to inform their legislators. He suggests the members lobby legislators. Mr. Graham indicated that it was probably too late to request funding this year, but when budget preparations start in 2004, the Board be active in pursuing legislative funds.

**Agenda Item No. 6, IWRB Comprehensive State Water Planning**

Bill Graham, Bureau Chief, gave a status report.

*a. Lower Boise River Basin*

The Lower Boise River Basin is circulated as an interim plan to staff and committee members, Joe Jordan and Terry Uhling. On December 19, an internal workshop is scheduled to discuss the plan issues, recommendations and possible implementation strategies in an effort to move forward. Litigation in the Boise Valley and the Snake River Basin Adjudication is the reason the plan has not been presented for finalization.

*b. South Fork of the Clearwater River Basin*

Chairman Rigby, as an executive decision, extended the comment period for 30 days until December 17. The initial request was for 60 days. Even with the extension, if significant changes

are not needed, the plan can still be ready for upcoming legislative consideration. The comments will be summarized and presented to the Board.

Board members, Terry Uhling and Dick Wyatt, cautioned about taking action on this plan in haste. Mr. Graham agreed that the plan is not ready in its present form. He noted minimum streamflows, natural and recreational rivers designations as items for revision. The Board indicated a workshop is needed with the planning team to accomplish a satisfactory plan.

Chairman Rigby assigned the Board's committee meet with the planning team to work out changes and bring a version to the next meeting. Bob Graham asked what the members thought about the natural and recreational river designation in the U.S. Forest Service boundaries. Further discussion occurred. Chairman Rigby left the matter in the hands of the committee and the planning team. Once the comment period is over and all things are considered, further work on the plan will occur.

*c. State Water Plan*

The State Water Plan was last updated in 1996. Mr. Graham recommends the Board review the plan for policy or statutory changes. Chairman Rigby directed the planning team to implement a policy review. Planning team will develop a strategy for plan review and public outreach.

Joe Jordan asked if a board committee would be helpful when reviewing this plan. Chairman Rigby asked for volunteers. Both Leonard Beck and Gary Chamberlain volunteered and appointed Mr. Jordan as chairman of this committee before he could object.

Terry Uhling commented that the State Water Plan, “. . . should be our mission statement on which flow the other plans that we do in the basins . . . We hope to take that document and make it into a real live document rather than just a process.” He suggested reviewing completed plans and indicating how the policies are being implemented in those basins. Specifically, he asked for an annual update of the completed plans, what items were recommended, and what has and has not been accomplished.

Mr. Jordan suggested that in the meantime, the committee review the plan and bring items for discussion to the next meeting.

*d. Water Transaction Program (Out of sequence, Planning Schedule given first)*

Bill Graham presented information on Idaho's Water Transaction Program. The program has successfully completed water transactions for fiscal year 2003, submitted the final report and financial statement to the National Fish and Wildlife Foundation.

At the end of October, Bill and Hal met with the Foundation and Bonneville Power Administration to review the accomplishments of the prior year and set goals and objectives for the next year. The program will be funded for fiscal year 2004. Planning staff is working for projects in the upcoming year.

*e. Planning Schedule (Given prior to the Water Transaction Program Report)*

The Board members were presented with a planning schedule. The Upper and Lower Clearwater River basins will be consolidated as a single plan. The basin priority map will be updated and presented for consideration at the next meeting.

At this point, Chairman Rigby gave recognition to Brent Bell, a former Board member. He passed away suddenly. He will be missed as a contributor to the community and state.

**Agenda Item No. 7, Director's Report**

Phillip Rassier, Deputy Attorney General summarized the items for the Director's Report. He reviewed the nine pieces of legislation the Department has submitted for consideration for this upcoming legislative session and recent litigation involving spring flows and conjunctive management issues.

Here is a listing of the legislation:

1. An act relating to dam safety design review fees; amending section 42-1713, Idaho Code, to provide for a minimum fee in addition to the amount set forth in the fee schedule based on reservoir storage capacity.
2. An act relating to water right transfers; amending section 42-222, Idaho Code, to provide that notice of an application for transfer of a water right shall be made in a manner similar to that provided for applications under section 42-203A, Idaho Code, and to provide discretion to the Director of the Department of Water Resources in giving notice of proposed changes to water rights that do not impact the hydrologic system.
3. An act relating to stockwater rights; amending section 42-201, Idaho Code, to provide that a de minimus amount of water lawfully diverted for irrigation purposes may be used for the incidental watering of livestock without obtaining a separate water right for that purpose.
4. An act relating to ground water recharge districts, amending section 42-4202, Idaho Code, to provide that a petition for the formation of an aquifer recharge district may be presented to the Department of Water Resources if signed by all county commissioners of each county having lands included within the proposed boundaries of the district. *(Held)*
5. An act relating to ground water recharge districts, amending section 42-4202, Idaho Code, to remove certain exclusions relating to location, quantity, or basis of right from the definition of "water users" who are subject to inclusion within a ground water recharge district; and amending section 42-4215, Idaho Code, to increase the maximum amount of the annual assessment that may be charged each water right holder within a ground water recharge district. *(Held)*
6. An act relating to water storage and mine tailings dams; amending section 42-1717, Idaho Code, to change the maximum length of time between inspections to conform with current

standard practice and to include regulated dams for which no inspection frequency is currently specified.

7. Relating to forfeiture of water rights; amending section 42-223, Idaho Code, to provide that a water right shall not be lost or forfeited for nonuse if the nonuse results from the right being used for mitigation purposes approved by the director of the department of water resources.

8. An act relating to geothermal resources; amending section 42-4005, Idaho Code, to require users of geothermal resource water to obtain a water right permit if the use of geothermal resource water will decrease the amount of water available for beneficial use in any aquifer or other ground water source.

9. An act relating to water rights administration; amending section 42-605, Idaho Code, to authorize a watermaster to collect payments or assessments for the operation of any approved mitigation plan approved by the director of the department of water resources and to disburse the moneys collected; and amending section 42-606, Idaho Code, to require reporting by the watermaster of mitigation plan administration.

#### **Agenda Item No. 8, Items Board Members May Wish to Present and Next Meeting**

Board members identified a year's worth of meeting dates. They are February 5 and 6, April 1 and 2, both in Boise; June 3 and 4, August 5 and 6, October 7 and 8, location to be determined; and December 2 and 3 in Boise.

Meeting adjourned at 10:16 a.m.

Dated this 6<sup>th</sup> day of February, 2004.



---

D. Richard Wyatt, Secretary



---

Rita I. Fleck, Administrative Assistant

#### **Board Actions**

1. Joe Jordan moved approval of the minutes for meeting No. 07-03 with amendments described the previous day. (*Motion passed*).
2. Gary Chamberlain moved to accept the resolution for a funding commitment of \$50,000 at 6 percent interest for a 10-year repayment term to the Sunset Heights Water District for construction of a collection box and pipeline. (*Motion passed*).
3. Dick Wyatt moved to accept the resolution for a grant of \$7,000 to the Winder Lateral Association for a feasibility study. (*Motion passed*).

## **Attachments**

1. Minutes for meeting No. 07-03 with amendments described the previous day.
2. A resolution for a funding commitment of \$50,000 at 6 percent interest for a 10-year repayment term to the Sunset Heights Water District for construction of a collection box and pipeline.
3. A resolution for a grant of \$7,000 to the Winder Lateral Association for a feasibility study.