



IDAHO WATER RESOURCE BOARD

MINUTES OF MEETING

MEETING NO. 11-04

Tuesday, November 9, 2004 8:30 a.m., MDT
Idaho Water Center, 322 E Front Street, Boise, ID
6th Floor Conference Rooms

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
Boise
At Large

Meeting No. 11-04 of the Idaho Water Resource Board was called to order by Chairman Jerry Rigby in the conference room at the Idaho Water Center in Boise Idaho
(One Recording Tape)

Agenda Item No. 1, Roll Call

Board Members Present

Jerry Rigby, Chairman	Claude Storer
Joe Jordan	Terry Uhling
Leonard Beck	Gary Chamberlain

Absent

Bob Graham	Dick Wyatt - Secretary
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Department of Water Resources Staff Present

Hal Anderson, Administrator	Bill Graham, Bureau Chief
Crystal Calais, Admin. Asst. II	Brian Patton, Staff Engineer
Karl Dreher, Director	Michael Keckler, PIO

Guests

Jim Wrigley, Wells Fargo Bank

There were no agenda modifications

Agenda Item No. 2, Approval of Minutes

Motion: Joe Jordan moved to approve the minutes for meeting Nos. 09-04 and 10-04. Gary Chamberlain seconded the motion.

Voice Vote: 6 Ayes, 0 Nays, 2 Absent. *Motion passed.*

Agenda Item No. 3, Public Comment

There was no public comment made

Agenda Item No. 4, Dworshak Hydroelectric Project Status Report

Brain Patton, staff engineer; gave the status report of the Board's Dworshak Hydroelectric Project. Since the project came online it has produced nearly 90 million kWh of electricity which was sold to the Bonneville Power Administration. There have been no shut downs since the last report. It has operated at an average availability factor of 98 percent. Dworshak reservoir was drafted during August & September and is currently 80 feet below fill. On January 1st the power sales rate escalates 3% to 4.51¢ per kWh as a provision of the power sales agreement. This will increase the gross revenues by about by about \$28,000. He reviewed the budget and expenses worksheet.

Mr. Rigby asked about the basis of the level of increase. Mr. Patton responded it was based on Corp of Engineers study.

Mr. Uhling asked about FERC expenditures of \$13,200.00 in fees against a budget item of \$22,000.00 – Is that it for the year? Mr. Patton answered in the affirmative. Mr. Rigby asked if this is this the final bill? Mr. Patton believes this is the Annual bill. The bill did not include any fees for past years that were not billed by FERC. This is the first response and billing we've received.

Mr. Beck asked if we would continue to respond back to them based on a no response? Mr. Patton's answer was that his guess is that future invoices will reflect correct amounts. Mr. Jordan commented on appreciation to staff for the operation of the program.

Mr. Patton concluded his report.

Agenda Item No. 5, IWRB Financial Report

5a. 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. Mr. Patton referred to workbook inserts and explained that money is adequate to meet current grant requests.

Lava hot springs is on schedule.

Live-More Lake well has been completed and is on-line

Mr. Uhling questioned the lack of bidding response regarding the City of Spirit Lake project. Mr. Patton responded that there was no response – The contractors needed more time. Mr. Uhling asked about the status of Boise City Canal Company phase 2 construction. Mr. Patton stated that they are in the final design and permitting phase right and are coordinating with ACHD. He expected them to start in January or February.

Mr. Patton concluded his report on the financial program status.

5b. Preston/Whitney Irrigation Company

Preston Whitney is requesting grant money in the amount of \$7,500.00 to conduct a feasibility study for the conversion of their open Fairview Lateral Canal to a closed gravity pressure pipeline – Referred to workbook reports showing suitability and recommendation for the \$7,500 grant funds to assist with that study.

Motion: Mr. Jordan moved to approve the resolution to grant the funds to Preston / Whitney Irrigation Company for \$7,500.00 to conduct the study. Mr. Storer seconded the motion.

Roll Call Vote: Beck, Aye; Chamberlain, Aye; Graham, Absent; Jordan, Aye; Storer, Aye, Uhling, Aye; Wyatt, Absent; and Rigby, Aye. **6 Ayes, 0 Nays, 2 Absent. Motion passed.**

5c. City of Richfield – Grant Request

The City of Richfield, located along the Little Wood River in Lincoln County, currently supplies 213 homes, 6 businesses and one industrial plant with water. The City is requesting \$7,500 to undertake a study of its water system and its ability to meet future demands. Noted that the IWRB had previously decided to stop providing grants for municipal water studies and replace with no-or-low interest loans. There was some discussion at the work session that this might be an exception to that decision.

Mr. Chamberlain made a motion for approval. Mr. Jordan seconded.

Chairman Rigby asked for discussion on the matter.

Mr. Chamberlain stated, in support, the city has a hard time raising those funds.

Mr. Rigby asked if we had dealt with subdivisions or developments that otherwise qualify under this policy that are equal to or larger than the City of Richfield?

Mr. Patton responded that we have dealt with certain subdivisions with more available funds.

Mr. Beck asked if the city water rates were too high? Could they stand a rate increase on their own?

Mr. Patton responded that their current rate structure is probably on the low end of average and any improvements would probably require a rate increase anyway.

Mr. Uhling stated that it appears we reviewed this policy of not granting to municipalities in Salmon and it is unclear what has changed since then?

Mr. Jordan reiterated that we were questioning whether the people of Richfield were able to pay.

Mr. Beck asked Mr. Chamberlain if he would consider a low interest loan instead of a grant?

Mr. Chamberlain stated that he would rather give them the grant. We want to help them prepare for the future expected growth. Reminded the Board that the City would still need to come up with matching funds.

Motion: Mr. Chamberlain made a motion for approval of the grant. Mr. Jordan seconded.

Roll Call Vote: Mr. Beck, Nay; Mr. Chamberlain, Aye; Mr. Graham, Absent; Mr. Jordan, Aye; Mr. Storer, Aye; Mr. Uhling, Nay; Mr. Wyatt, Absent; Chairman Rigby, Nay. **3 Ayes, 3 Nays, 2 Absent. Motion Denied.**

Motion: Mr. Chamberlain moved for a motion of a low-interest loan at 4 %. Mr. Jordan seconded.

Roll Call Vote: Mr. Beck, Aye; Mr. Chamberlain, Aye; Mr. Graham, Absent; Mr. Jordan, Aye; Mr. Storer, Aye, Mr. Uhling, Aye; Mr. Wyatt, Absent; and Chairman Rigby, Aye. **6 Ayes, 0 Nays, 2 Absent. Motion passed.**

There was some discussion about loans and grants going to other communities and staying with set policies.

It was agreed that there should be more discussion on the policy, at a time when Mr. Graham and Mr. Wyatt could be present.

Mr. Rigby asked that we address this at the next available time and review the policy of lending or granting funds.

Mr. Anderson stated that he and Mr. Patton would put together some information and add this to the next work session agenda.

Mr. Uhling asked when we needed to transfer funds from the Water Management Account to the Revolving Development Account?

Mr. Chamberlain moved to authorize the transfer of funds of \$7,500.00 – Mr. Uhling seconded the motion.

5d. Dworshak Advanced Refunding

Mr. Wrigley addressed the board. He stated that Wells Fargo is making some progress and working on new processes to sell bonds to treasurer. The refunding was negotiated, accepted and prepared but because of an old statute that was found which limits funding specifically to IWRB to 7 days we cannot proceed. The Treasurer assured us he was unaware of the statute and he will support changing it during the next legislative session.

Mr. Wrigley presented handouts reflecting current bonds and their interest rates. The numbers shown give examples of fixed interest rates with no letter of credit and a reserve account being self-funded and held by the board.

There was some discussion about whether it would be worthwhile to wait until 2008 to refund. If the Treasurer will commit in writing, then it would be in the board's interest to wait and work on changing this statute with the commitment of the Secretary of State and State Legislature.

Mr. Uhling wanted some background on the basis for the statute before asking to repeal it.

5e. Arrowrock Power Plant Inducement Resolution

IDWR Staff has not yet received any feasibility studies and does not have enough technical information to recommend approval of the resolution.

Mr. Rigby commented that if the project has the financial backing that's been promised then we have a duty to understand it completely before giving our approval. If needed, we will have a special conference to make a decision on the resolution. The Board does not want to be a cause for delay but needs more detailed information.

5f. ESPA Water Right Purchase

Mr. Anderson reviewed materials in the folder and items discussed at the work session. Deferred to Director Dreher for his perspective.

Mr. Dreher stated that we are trying to secure water under existing rights such as water above Milner and with priorities prior to Swan Falls minimum stream flows. What is in the books is just a draft Strawman and still requires extensive modifications. Referred to pg. 2 and some improper wording that needs to be fixed.

Mr. Dreher went over some of the issues of what the State's role should be with current owners and the high power costs for high lift pumps on the Snake River as well. He also talked about some other options and some of the consequences. The purpose of the water right sales proposals and Federal Conservation Reserve Enhanced Program (CREP) was discussed. Karl reminded the Board that when we solicit offers to sell we'd have a better perspective about how many are willing to sell. We want information on what rights may be available and how much money they are asking for. Mr. Dreher talked about his meeting with Governor Kempthorne to make sure he was OK with it, and he was. We do intend to finalize the plan this week and perhaps get it issued as early as next week.

The Governor wants it clear that the state will participate in the CREP program. He also wants to make sure everyone knows that this is not the only option and the State is prepared to make other water budget adjustments.

Mr. Dreher discussed the Eastern Snake Plain Aquifer (ESPA) Straw Man Proposal. The proposal was not Karl's – It was the product of Natural Resource Interim Legislative Committee

Co-Chairs asking Clive Strong and Karl to help them put something together to show various options that may be available.

Mr. Dreher explained why and where this agreement is necessary and how it will benefit the majority of water users and restated prior comments on the necessity of reduction in use.

Mr. Dreher also commented on the State's accountability in issuing too many water rights and permits when actually the State issued what was appropriate at the time of issuance when water was available for appropriation... He clarified that several media articles stating that the State is seeking to buy back junior rights is untrue. Karl continued to explain the details of the ESPA Strawman proposal and the background, and went on to say we have to have the ESPA lined out as well as having the RFP process and the CREP process lined out by December to go forward.

Karl talked about cover crops being used in the CREP program. 15 years being the normal time lands would be out of production. Most would not put the land back into production either because they've found a different use or have left the Ag industry.

Mr. Beck asked what is a ballpark range of money involved in acquiring the desired water rights? Mr. Dreher responded that at this time we don't know and would not go into speculating amounts so as not to affect the RFP process. This RFP is not a commitment to purchase; it is the intention to purchase when an agreement to sell can be reached. We would still need to have appraisals and decide if the rights are a good value and then we may still choose to take an option to lease the water for one year. If the State gets a proposal to purchase a water right from a high lift pumper and is sure he's serious and an appraisal shows it is a good value, we might move quickly to make an offer if the funding mechanism is in place.

Mr. Storer asked what's going on in the Lost River? Mr. Dreher responded that the previous Director made procedures regarding required mitigation for senior water holders that we have to review because of the issues in that area. We are reviewing next year's solutions and working on plans for upcoming years.

Mr. Uhling had questions about the RFP in relation to important funding considerations such as benefits from the Nez Perce Settlement. He would like to know more about the financial parameters and thought it would be prudent to wait until we knew more details before giving the Board's approval.

Mr. Dreher stated that it's difficult to present actual figures in a public setting. There are several scenarios we have laid out that we do not want in the public record at this time. We have not ruled out access to the general funds as well as taxes or fees from the public.

Mr. Uhling expressed concerns with some of the wording in the draft.

Mr. Rigby stated that the Board would want to ensure that our own wording does not project anything that is not in the public interest.

Mr. Dreher affirmed that he would address Mr. Uhling's financial and wording concerns and will provide a copy to Mr. Skinner, the Board's bond counselor, for his revision prior to releasing it.

Mr. Anderson added that we have assembled a financing team, which is working on the issues associated with the financing of the RFP, from both tax and credit standpoints.

Agenda Item No. 6, Planning Status Report

Bill Graham referred to memos included in the board folders -

Lower Boise River basin is undertaking a study of water use. We have developed a contract with the Bureau of Reclamation. The department made the study presentation during the work session and the next step would be to present it to the users with the Board's approval. One element we're studying is irrigation and related water use efficiencies in subdivisions.

The Water Transaction Program was presented to Clearwater Watershed Focus Group. Based on feedback we don't expect to see a lot of use of the program there. We have signed the 2005 contract, which provides for the same level of support that we've had for the last two years.

Agenda Item No. 7, Minimum Streamflows

7a – Cocolalla Minimum Lake Level

Bill Graham stated that we are setting up public meetings where we will be including public and major water users in the Valley Creek, Lemhi and Pashimeroi as well as the Office of Species Conservation. We are putting together lists of major water users on the Pashimeroi for Mr. Chamberlain and will do the same for Mr. Jordan for the Little Salmon River.

7 b - Nez Perce Sheet Term negotiation

Bill Graham referred to a map showing the Nez Perce Settlement Agreement streams being moved from the B list to the A list.

Nez Perce Sheet Term negotiations. He discussed the timeline included in Board folders and we are still negotiating what streams will go from the B list to the A list. He will provide copies of the power point presentation and update the map showing A and B lists as well.

Mr. Anderson stated that we are setting up a place on our website where anyone will be able to see this information at anytime in a map-based format.

Bill Graham added an item that was not on the agenda and discussed the Elk Creek Minimum Stream Flow License, which was issued after the Board Folders had been mailed.

Mr. Rigby asked Mr. Anderson to address the issue of the Big Lost. Mr. Anderson handed out an email from Gary Spackman explaining what information is available on the Water Rights that may be available to put in to the Water Supply Bank to supply mitigation requirements for some of the Ground Water Users.

Agenda Item No. 8, Director's Report

Mr. Dreher stated that most of his report was discussed earlier during the ESPA discussions. He referred to news articles about IDWR continuing to process applications up north on the Rathdrum Prairie. Some groups in Washington want us to issue a moratorium on use in that area however; we still have a constitutional responsibility to appropriate un-appropriated water. Bear River is another example of attempting to manage water in cooperation with other states and other water agencies...

Mr. Dreher also spoke briefly about the New Water Center features.

Agenda Item No. 9, Other items

Mr. Jordan asked to review the Cove Project information that was discussed in the work session. In the past the Board has intervened in projects and there was some concern that the board might object to the decommissioning of the Cove project. It was agreed that the board has no objections.

Mr. Uhling set a telephonic meeting date for December 17th at 8:00 am.

Mr. Rigby asked to have someone in attend the Farm Bureau Annual Meeting in Moscow – Mr. Chamberlain and Mr. Uhling agreed to attend.

Bannock County Commissioners were hopefully going to reverse their opposition to the term sheet.

Mr. Uhling stated that he is unable to attend on behalf of the Board but he can address the Farm Bureau as part of the interested parties.

Mr. Anderson was asked to call and make sure that the Board was on the agenda.

Mr. Dreher said there would be a similar meeting with the Idaho Council on Industries and Environment on Nov. 23rd in Boise with the focus being the Pros and Cons of the Nez Perce Settlement. Mr. Uhling will be attending if there are no conflicts to the schedule.

Mr. Rigby asked Mr. Jordan to attend on Nov 23rd to represent the Board and support the term sheet.

Mr. Rigby asked that we schedule next Board meeting for January 24 & 25, 2005 to coincide with the IWUA meeting.

Mr. Storer – Motion to adjourn
Mr. Beck - Seconded

Meeting adjourned at 12:30 p.m.

Dated this 9th day of November 2004.

D. Richard Wyatt, Secretary

Crystal Calais, Administrative Assistant II

Board Actions

1. Mr. Jordan moved to approve the resolution to grant the funds to Preston / Whitney Irrigation Company for \$7,500.00 to conduct the study. Mr. Storer seconded the motion. *Motion Passed.*
2. Mr. Chamberlain made a motion for approval of a grant to the City of Richfield in the amount of &7,500.00. Mr. Jordan seconded. *Motion Denied*
3. Mr. Chamberlain moved for a motion of a low-interest loan at 4 % to the City of Richfield in the amount of \$7,500.00. Mr. Jordan seconded. *Motion Passed.*