



IDAHO WATER RESOURCE BOARD

MINUTES OF MEETING

MEETING NO. 01-05

Tuesday, January 25, 2005 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. 01-05 of the Idaho Water Resource Board was called to order by Chairman Mr. Rigby
At the Idaho Water Center in Boise Idaho
(One Recording Tape)

Agenda Item No. 1, Roll Call

Board Members Attending

Jerry Rigby, Chairman
Joe Jordan
Leonard Beck
Bob Graham

Claude Storer
Terry Uhling – Vice Chairman
Gary Chamberlain
Dick Wyatt - Secretary

Department of Water Resources Staff Present

Hal Anderson, Administrator
Crystal Calais, Admin. Asst. II

Bill Graham, Bureau Chief
Brian Patton, Staff Engineer

Arriving later:

Karl Dreher, Director

Michael Keckler, PIO

Guests

Jennifer Berkey, Garden Valley Ranchettes

No modifications to the agenda.

Agenda Item No. 2, Approval of Minutes

Motion: Mr. Chamberlain moved to approve the minutes for meeting Nos. 12-04. Mr. Jordan seconded the motion.

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

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. Energy production since coming on-line totals over 92 million kWh for sale to Bonneville Power Administration. Project has produced \$93,000 in revenues over expenses for fiscal year 2005. \$46,677 has been deposited into the Repair & Replacement Fund during this fiscal year.

Mr. Jordan – When does the price of power go up?

Mr. Patton – The price of energy escalates 3% per year every January 1st. Recent escalations put the price at 4.51 cents/kWh

Mr. Rigby – Does that continue on through the duration of the contract and when is the contract terminated?

Mr. Patton – That increase continues through the life of the 30-year contract.

Mr. Wyatt asked for clarification of distribution amounts going in the Reserve Fund and the Repair & Replacement fund.

Mr. Patton clarified the procedures for distributing the funds.

Mr. Graham asked about any issues regarding licensing fees.

Mr. Patton stated that the FERC fees have been paid.

Agenda Item No. 5, IWRB Financial Report

5a. Status Report

Mr. Patton reviewed the financial program accounts. Available balances in the two accounts total \$266,268 as shown in report. There is adequate funding for requests in front of the Board at this time. Brief updates were given on the Cottonwood Point Well Project. Construction has begun and the well has been drilled.

Mr. Patton also reviewed the draft Fiscal Year 2004 Annual Report and is asking the Board to review and respond within two weeks before legislative submission.

Mr. Wyatt would like to see project times shown on the reports.

Mr. Patton said he would try to make the loan origins available on future reports.

Mr. Graham asked if the available account balance shows money that's been dispersed or just what is still available.

Mr. Patton responded that the available account balance shows the amount that has been dispersed as well as the amount that's been committed but not yet dispersed.

Mr. Jordan asked about the status of the lower Payette and where are they in the payment schedule?

Mr. Patton responded that the Board's loan of 430K was to match 600K federal appropriation funds through the NRCS, which delayed the project while the NRCS completed the Environmental Impact Statement. They just completed this and are looking to start construction next fall during the low water period.

Mr. Graham asked about outstanding balances that exceed amounts shown.

Mr. Patton referred to item 5a1 and explained the anticipated commitments and income statement.

Mr. Uhling expressed concerns with setting aside revenues in this particular area – Did we authorize 430K?

Mr. Patton explained that we agreed to commit \$430,000 but as a phased in schedule.

Mr. Uhling suggested we should show the whole amount rather than show the incremental amounts distributed.

Mr. Rigby responded that even though we've committed the funds, the balance sheet still shows that the funds are there to make the loans because the money will not be disbursed until a later date.

Mr. Wyatt clarified that the cash flow amounts are not going to change whereas the balance sheets should show the obligations.

Mr. Patton said he would work with accounting to make future reports reflect those numbers.

Mr. Chamberlain stated that if we're concerned about amounts/leverages and how the Legislature may view it not in our favor – then maybe we should think about a leverage of these funds to take care of the people's interest.

Mr. Rigby - Where are we on requests? If requests are coming in equal to what we pay out then there's no need. If we're turning away normal funded programs then we need to address it.

Mr. Patton - That's the reason we started doing the phase in process to begin with.

Mr. Chamberlain suggested that we stay ahead by keeping up on the funding rather than waiting for the demand to increase.

Mr. Uhling not entirely for more funding being issued

Mr. Anderson commented that it's been a while since we consulted with a financial advisor. The pooled bonding program hasn't generated a great deal of interest. After meeting with the Treasury's office it's clear that it's not a priority for them. He could meet with Mr. Wrigley and discuss changes and possibly provide some information as soon as the next meeting.

Mr. Jordan commented that one solution is to get borrowers to pool their requests for funding and let them know it's an option.

Mr. Chamberlain supports pooled funding since most requests are for less than 50K; Small entities can't always come together at the same time. He believes it might be a matter for a discussion group.

Mr. Rigby talked about some Rural Power Cooperatives whose statewide organization is pushing a bill to create a new funding board to issue bonds and provide funding for hydro projects. Mr. Rigby suggested IWRB handle this rather than create a new one. The only reason for their hesitation in going through the Board is because of perceived conflicts with the Department of Water Resources. If there's no opposition, then we should start encouraging them to use IWRB as an already established board with bonding authority.

Mr. Graham stated that if we wanted to be aggressive we would get some of the projects seeking funding. We have low interest rates and less red tape.

Mr. Uhling said he's not sure he wants to become a financial arm for loan disbursement and would be more inclined to broaden the focus toward more and / or other projects. Has some questions as to whether the State would back us and if so would come through with more or alternate funding.

Mr. Rigby stated that money we loan is our involvement directly. Bonding is different, in that there is no guarantee required of the Board. Our fee for bonding for United Water was almost was almost half a million dollars. That seems to be a win-win situation.

Mr. Chamberlain agreed that it's a very good way of using the funds we receive as a result of our authority to bond.

Mr. Rigby stated that even though he alleviated the group's concerns about the association with the Department, they are still going ahead with plans because a new bonding agency would make the money on issuing bond that would help fund the new organization.

Mr. Chamberlain expressed concerns with not leveraging the existing Board loan portfolio funds.

Mr. Jordan, regarding Rural Power Co-Ops, who used to get federal money – Are we sure they're not still a federal entity and is it Ok to lend to them?

Mr. Rigby replied that they are not a government agency and that's why they want this entitlement so they can have the authorization to bond and thereby get the income from issuance costs that are produced. He thinks it's wise to let IWRB handle bond issuance for these hydro companies.

Mr. Chamberlain stated that Co-Ops were created out of necessity for outlying users. Idaho Power doesn't want to serve those users because there just isn't enough income to make it profitable.

Mr. Graham stated his concern is how much of a burden it might put on the board. We should decide as a board how much interest we really have in it.

5b. Garden Valley Ranchettes Requesting Loan

Mr. Patton went over details of the loan request by the Garden Valley Ranchettes Homeowners Association. Requesting \$10,900 to match an anticipated grant of the same amount from Department of Environmental Quality to undertake a planning study for water system improvement project. The Association provides water from two wells to approximately 60 people (22 homes) in Garden Valley. This would be the second loan to the Association, the first for \$50,000 to construct a second well back in 1998. Funds were fully repaid approximately six years ahead of schedule. They have contracted SPF Water Engineering to conduct the study. Staff recommends that the loan be authorized.

Jennifer Berkey, of SPF Water Engineering representing Garden Valley Ranchettes, stated that the project was very beneficial to Garden Valley and would be available to answer any question.

Motion: Mr. Uhling made the motion to approve the loan to Garden Valley Ranchettes Homeowners Association in the amount of \$10,900 for the period of 10 years at an interest rate of 6%. Mr. Chamberlain seconded

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

Agenda Item No. 6, Planning Status Report

Mr. Bill Graham went over status of current planning efforts, detailed in the Board Folders. Draft legislation ratifying the Comprehensive State Water Plan for the South Fork Clearwater Basin has been submitted to the State House and Senate and their respective Resource Committee Chairs. The draft legislation amending the Comprehensive State Water Plan for the Priest River Basin was also submitted.

Mr. Anderson spoke regarding Senator Schroeder from Moscow who seems to be very punctual and coordinated with Hal. They have scheduled next Friday for introduction of these bills.

Mr. Graham was optimistic that if everything moves forward with the Term Sheet than we could return to the review of the State Water Plan.

Agenda Item No. 7, ESPA Settlement Agreement was postponed until after the break.

Agenda Item No. 8, Nez Perce Agreement, Minimum Streamflows – Work Session Summary

Mr. Bill Graham gave update on the status and activities of the Nez Perce Term Sheet and Minimum Stream flow activities – Referred to status memo included in Board folders.

Draft work plans have been put together for all of the List B streams, which address not only instream flows but other habitat issues as well. As soon as they are closer to completion, copies will be distributed to the board for their review. We have not yet set recommendations for flows for tributaries in the Lapwai Watershed

Talked briefly about the conference call yesterday stating that we were able to get some recommendations from the tribe as well as some feedback from the Irrigation District Manager and L.O.I.D, (a Bureau of Reclamation Project)

Now that we have minimum streamflow values we are ready for another round of public meetings. Tentatively, February 1st will be the first meeting, and we may look into a conference call to encourage participation.

One commitment that we had to make in order to get the Lapwai tributaries resolved was that the tribe required a Section 6 Conservation Plan, completed for the Pahsimeroi Basin in the five years after the agreement is signed. If that doesn't happen then we will need to establish a quantification point with a minimum streamflow for that middle reach of the Pahsimeroi.

Mr. Rigby asked what other direction do you need from the Board?

Mr. Bill Graham stated that meetings are planned for Feb 3rd and 4th up north – Riggins on the 3rd and Lewiston on the 4th – L.O.I.D. will meet in the morning on the 4th and will have a public meeting in the afternoon.

Mr. Jordan had prior commitments.

Mr. Anderson suggested that they might be able to switch meeting times and hold the public meeting in the morning.

Bill concluded his report

Ten minute break

Agenda Item No. 7, ESPA Settlement Agreement

Mr. Dreher – Combining the Director's report and giving an update on the ESPA Settlement agreement.

Mr. Dreher drafted an order in response to the delivery calls made by the 7 canal companies and irrigation districts near Milner. Specifically relating to a letter written by one attorney alleging that the director and some employees should be removed from participating in the call. Karl will let the order speak for itself.

Negotiations are stalled because of several things – The gap between what the Surface water users expect to get and what the Ground water users feel like they should provide is very wide, add to that the delivery calls that have recently been filed, and that has led to a breakdown in negotiations. Another facet to the issue is that the State is trying to complete it's own economic analysis. Differing studies have provided conflicting financial impacts and flow predictions.

The State Commission has retained 3 different economists to look at these studies. Don Snyder from Utah State University, Roger Capel from the University of Wyoming and John Church from Idaho. The reason for using out of state economists is that we are hoping to get an unbiased view. They were asked, in essence, what is the cost of curtailing junior priority ground water users? What are the benefits of curtailment and what will the costs to the State be for implementing the Strawman proposal? The first two questions have been answered to a degree except for the Hydropower analysis.

Mr. Dreher continued - A draft report has been prepared and is being reviewed by the Attorney General's Office, the Director and his staff, as well as being peer reviewed by Bob Young at Howard State University and another economist who was a former student of Bob Young. Because of time constraints, we were confined to using an input/ output model rather than a benefit / cost model to complete these studies. The economists are asking for a different kind of model in order to get a more accurate result. The legislature could choose to go with those results or commission another study.

Mr. Uhling asked for an estimate on the release date of that report?

Mr. Dreher responded that it would be approximately two weeks.

Mr. Dreher - Regarding the previously mentioned order issued this morning, all departmental employees are disqualified from presiding over the delivery call proceedings but Karl will not be disqualifying himself. All communications to the department regarding the delivery calls must be in writing.

Mr. Beck referred to the letter received from the attorney, and asked if he was following an appropriate line of action to question those removals or is it an aggressive type of response? Is the letter available to the public?

Mr. Dreher answered that it was aggressive but declined comment on its appropriateness. The letter will be posted along with the order on our website.

Agenda Item No. 9, Director's Report

Mr. Dreher continued on with the Director's Report. Reported to the Board that the budget the Governor's recommending is very good. The Department anticipates having almost all requested budget items granted including the full amount to cover increased lease purchase costs, continuation of the SRBA, formation of new water districts. It will also re-establish a Hydrology Section Manager that was reclassified as water modeling position to help with the Eastern Snake Model. The Department received the full spending authority to proceed developing new well construction standards and also to fund a hydrographer position in the Bear River basin to support establishment of a water bank.

Mr. Dreher stated that the Department was also given one-time money for adjudication to convert back to the general fund. This sets the stage for discussion about what we do next as the Snake River Basin Adjudication winds down.

We may submit the last director's report at the end of 2005. In 2006 or 2007 we will have completed the largest general stream adjudication ever attempted in the United States. There is a large one pending in Montana, but the SRBA will be the largest ever completed. We've gotten the SRBA Court established and staff trained. Now would be a good time to do another adjudication, it would be most efficient. Commencing adjudications in the Rathdrum Prairie and the Bear River Basin. Both areas have been recommended for adjudication by Groundwater Management Communities.

If we were to proceed, using what we've learned, we'd leave the courthouse and staff in place in Twin Falls and equip other areas, public buildings and courts with audio visual equipment to minimize travel. Discussion needs to start this year to come up with a decision being made by the next fiscal year. If we don't start adjudication for other areas, Mr. Dreher would like to move all staff positions except attorneys into water management in order to administer the newly decreed rights.

Mr. Dreher concluded his report.

Mr. Rigby called for any questions.

Mr. Graham asked what or who would trigger another adjudication process?

Mr. Dreher responded generally it is a lawsuit or petition water users in the basins.

Mr. Wyatt asked who starts the adjudication process?

Mr. Dreher responded that the North Idaho Working Group of the Expanded Natural Resource Interim Legislative Committee has already recommended adjudication. The next step would need to be an agreement between the Governor and Legislative leadership and an expression of intent to commence with a joint resolution from the Legislature.

Mr. Dreher mentioned recently drafted legislation relating to the changing of a statute provision which limited the Treasurer purchasing bonds issued by public corporations including the Water Resource Board. We are attempting to find the reason behind the original legislation relating to the Board and the Treasurer's ability to purchase bonds but only hold those investments for seven days.

Mr. Rigby responded that it would save the Board money to use the Treasurer's option, however, the Board has not yet decided to use that plan. Submitting the legislation would at least allow the Board the opportunity in the future to consider this financing option.

Mr. Graham asked if Mr. Dreher was aware of any new Board appointments?

Mr. Dreher was not aware of any appointments.

Agenda Item No. 10, Other Items

Mr. Wyatt asked for an updated organization chart.

Ms. Calais agreed to show members where to access the documents on our website and would send a copy via email or fax to anyone needing a hard copy.

Agenda Item No. 11, Next Meeting

Mr. Beck made a Motion to adjourn

Mr. Wyatt seconded.

Meeting adjourned at 11:45 a.m.

Dated this 25th day of January 2005.

D. Richard Wyatt, Secretary

Crystal Calais, Administrative Assistant II

Board Actions

1. Mr. Chamberlain moved to approve the minutes for meeting Nos. 12-04. Mr. Jordan seconded the motion. *Motion passed.*
2. Mr. Uhling made the motion to approve the loan to Garden Valley Ranchettes Homeowners Association in the amount of \$10,900 for the period of 10 years at an interest rate of 6%. Mr. Chamberlain seconded. *Motion passed.*