



IDAHO WATER RESOURCE BOARD

L. "Butch" Otter
Governor

MINUTES OF MEETING NO. 10-08

Jerry R. Rigby
Chairman
Rexburg
At Large

Shiloh Inn, Coeur d'Alene
July 18, 2008

Terry T. Uhling
Vice Chairman
Boise
District 2

Chairman Rigby called meeting 10-08 to order at 8:30 a.m. and requested roll call.

Agenda Item No. 1, Roll Call

Bob Graham
Secretary
Bonners Ferry
At Large

Board Members

Jerry Rigby, Chairman	Vic Armacost
Gary Chamberlain	Claude Storer
Chuck Cuddy, absent	Bob Graham
Terry Uhling	Leonard Beck

**Charles "Chuck"
Cuddy**
Orofino
District 1

Staff Members and Guests Attending

Patsy McGourty, Admin. Asst.	Brian Patton, Bureau Chief
Hal Anderson, Administrator	Helen Harrington, Section Manager
Dave Tuthill, Director	

Leonard Beck
Burley
District 3

Guests

L. Claude Storer
Idaho Falls
District 4

John Chatburn, Governor's Office	Gary Duspiva, IGWA
Lynn Tominaga, IGWA	Jeff Keck, Sourdough Point HOA
Ken Meyers, Sourdough Point HOA	Barry Rosenberg, Kootenai Env. Alliance
Herman B. Collins, Cocolalla Lake	John Williams, Bonneville Power Assn.
Norm Semanko, Idaho Water Users Assn.	

**Gary M.
Chamberlain**
Challis
At Large

Agenda Item No. 2, Agenda and Approval of Minutes

**Lawrence "Vic"
Armacost**
New Meadows
At Large

Chairman Rigby asked for any changes to the agenda. Mr. Anderson noted that Item 8a. Lime Point would not be addressed today and that item was deleted. Agenda item 7. Upper Salmon contains an addition of 7c. Patterson/Big Springs Water Transaction on the Pahsimeroi River.

Chairman Rigby asked for a motion on the minutes. Mr. Armacost noted that on the minutes for May 9th, page 2, under Agenda Item No. 3, the Idaho Water Users Association meeting was listed as July 16-17 and should be June. Mr. Armacost moved that with that change the minutes of meetings 06, 07, 08 and 09-08 be approved as corrected. Mr. Chamberlain seconded. All were in favor.

Agenda Item No. 3, Public Comment

Chairman Rigby asked if there were any public comments.

Mr. Barry Rosenberg, Executive Director of the Kootenai Environmental Alliance, addressed the Board. He requested that the alliance be considered for a seat on the state advisory committee. He discussed some of the issues in North Idaho and the positions his group had taken. His group is concerned about the Rathdrum groundwater plan and the laws and guidelines for the state. Chairman Rigby asked about their involvement with the State Water Plan. Mr. Chamberlain encouraged his participation in the sub-committee meetings including today at 12:30 p.m. Chairman Rigby asked if he was interested in the aquifer plan or the State Water Plan. It was the State Water Plan that he was interested in.

Mr. Anderson thought there was some confusion. Several planning efforts are ongoing right now. The Board is also starting comprehensive aquifer plans for the Rathdrum area and he thought Mr. Rosenberg wanted to be on that advisory committee. Mr. Rosenberg agreed that the alliance would like to be represented on the Rathdrum Advisory Committee. Chairman Rigby stated that when that committee is formed, Mr. Rosenberg would be contacted. He asked Mr. Anderson to update the group on the Rathdrum planning process.

Mr. Anderson said funding was available July 1 with the Rathdrum Prairie and the Treasure Valley Aquifers and the process will begin this year. New staff positions are being filled and office space is being made available. Staff are not yet ready to brief the board on specifics. Both the Rathdrum and the Treasure Valley Aquifer studies are four-year efforts. The next year's efforts will be on technical studies involving the university to bring a strategy before the Board. An advisory committee will be formed for the planning portion and perhaps for the technical studies. Mr. Anderson answered Board member's questions. A group of people had worked on the modeling study for the Rathdrum Prairie Aquifer and may be available for the new technical advisory committee. Ms. Harrington stated that the Rathdrum Prairie Aquifer study also involved people from the public sector. Chairman Rigby told Mr. Rosenberg it may be awhile before the new committee is formed.

Agenda Item No. 4, IWRB Hydropower Status Report

Mr. Anderson stated the new report includes the Pristine Springs hydropower projects. Mr. Patton presented the report and asked Board members for any changes or additions. Since Dworshak came on line 158 million kWh of power have been generated and sold to Bonneville Power. Since Pristine Springs were acquired by the Board 148, 407 kWh at No. 1 and 221, 400 kWh at No. 2 have

been generated and sold to Idaho power. He presented energy sales rates for Dworshak at \$.049 per kWh; and noted that each hydropower plant at Pristine Springs has a separate energy sales contract with Idaho Power. Both rates and terms are identical. The rate for July was \$.064 kWh.

Mr. Patton answered Board member's questions about selling power to different companies. He acknowledged that the Board has the authority to sell power, but not at retail.

Mr. Uhling thanked Mr. Patton for the report on Pristine. He asked if a reserve fund would be set up for Pristine. Mr. Patton noted that \$35,000 had been set up for the entire Pristine Springs facility. No goals have been established and Mr. Patton asked the Board at what level they would like to have the repair and replacement fund. Other goals such as expenditure of hydropower revenues could be determined. Mr. Uhling asked that staff make some recommendations when the time is appropriate. Mr. Uhling asked the age of the facilities. Mr. Patton stated that the larger power plant was built in about 2003. The power plant on the artesian well was constructed in 1992 and the turbines need to be rebuilt every five years. The facilities are very reliable except for the line bumps from the pelican population. Idaho Power has records of the power generation. Mr. Patton noted rental payments and hydro power payments along with interest accumulation will be put in the repair and replacement fund. Mr. Anderson added that it is a sizeable facility and the Board is responsible for upkeep and maintenance. There was further discussion on funds coming in and future plans.

Mr. Patton noted that the City of Twin Falls is still securing financing for their part. Mr. Armacost underscored the need for a future management plan. Mr. Storer asked who was doing the maintenance. Mr. Patton answered that as part of the Lease Agreement with SeaPac, they are doing the operation and maintenance.

Mr. Patton presented budgets and cash flow statements from June 1 for Dworshak that have produced \$160,000 for revenues over expenses. About \$1 million is in the repair and replacement account. June was an above average month in terms of generation. The two Pristine Springs budgets and cash flow statements were presented along with one year projections of power generation. Under the current Lease Agreements, the Board will receive \$64,000 annually. Mr. Uhling asked about the bouncing around at Dworshak and Mr. Patton noted that variations in power production were due to the fish hatcheries and the repairs that were needed.

Agenda Item No. 5, IWRB Financial Program

a. Status Report

Mr. Patton gave June 30th numbers including \$435,000 available in the Revolving Development Account. Funds committed but not disbursed totaled \$13,104, 173. The \$10 million for the Pristine Springs project is shown as loan principal outstanding and as soon as the contract is executed with the ground water districts, it will be shown as outstanding loan funds. Mr. Anderson noted that the Magic Valley and North Snake Ground Water Districts have received judicial confirmation to make assessments.

Mr. Patton stated that there is only one loan request today from the Sourdough Point Owners Association for \$350,000 which can be met with existing funds. Mr. Uhling asked if there was a policy or guideline about increasing loans. Mr. Patton stated the Board's guideline was to leave \$100,000 in the account for emergencies. This loan request would leave the Board with less than that. Further discussion of this loan request would be later in the agenda.

Mr. Patton stated that the Bell Rapids Water Rights payment was received in the amount of \$2,117,706 and a payment was made to the U.S. Bank. The City of Nezperce has repaid their loan in full in the amount of \$326,000. The Bonneville Power Administration and the National Fish and Wildlife Foundation have approved the Board's request to provide their funds upfront for existing long-term contracts under the Columbia Basin Water Transactions Program. This will require a new CBWTP Sub-Account and \$1,457,323 is expected to be received in October for this purpose. Interest income above the 2.5% discount rate will be used by the Board for monitoring, measurement and reporting in support of the program. Board members agreed this was good news.

b. Leveraging Existing Loan Portfolio

Mr. Anderson noted that yesterday at the work session the Board had discussed financial strategies about financing that would provide the Board with additional avenues to make loans. Mr. Jim Wrigley of Wells Fargo Bank will meet with staff and discuss financing some of the Board's loan portfolio through the State Treasurer. Mr. Anderson will report back to the Board at the next meeting.

c. Loan Requests – Sourdough Point Owner's Association

Mr. Patton presented the Sourdough Point Owner's Association request to increase their current loan from \$400,000 to \$750,000 due to increased costs and engineering changes to the system design required by Division of Environmental Quality and the Bottle Bay Sewer District. Mr. Patton expressed some cautions but felt the collateral and value of the homes on Lake Pend Oreille would support this loan increase. Representatives from Sourdough were present to answer questions.

Mr. Jeff Keck addressed the Board. He stated that he represents the association and has worked with staff on this loan increase request. Mr. Graham stated this is a 1960's subdivision and the 105 lots are all sold. Residents have been there quite awhile and the resale value of the lots is quite high. Chairman Rigby asked why full development hadn't taken place. Mr. Keck stated that there is quite a variety of sized lots and over the past 40 years varying sizes of houses have been built. Initially, it was for recreation; however, there are about 38 of the 58 parcels that have full time residents. This community has depended on wells that are now failing and full time use has increased creating a need for a revamp of the entire system. Stringent water conservation methods have been initiated for the summer season. The project is started and needs to be finished.

Mr. Uhling asked about the sewer system. Mr. Keck responded that there are some septic and some residences are connected to Bottle Bay Sewer including the water front lots. The sewer system is sound and there are no concerns about that. Mr. Uhling asked about assessed value for lots. Mr. Keck responded that the smallest might be \$100,000 to \$150,000 and a number are much more including houses for sale at one million dollars. Mr. Keck answered Board member's questions. He

noted that homeowners have already been assessed for the project. There was further discussion on financing of the project.

Mr. Uhling moved that the loan increase of \$350,000 at 6% interest over 10 years to Sourdough Owners Association be approved. Mr. Anderson noted a correction on the resolution from water right application to permit. Mr. Graham seconded. Chairman Rigby called for a roll call vote.

Roll Call Vote:

Mr. Cuddy: Absent; Mr. Armacost: Aye; Mr. Storer: Aye; Mr. Beck: Aye; Mr. Chamberlain: Aye; Mr. Graham: Aye; Mr. Uhling: Aye; Chairman Rigby: Aye. 7 Ayes; 1 absent. Motion Passed.

a. CREP Update

Mr. Patton presented the CREP report. He noted that IDWR has approved just under 32,000 acres although there are less than 20,000 acres enrolled in the program. 3,388 acres have been withdrawn from the program. The Farm Bill has expired and a new bill has been passed extending the program. Mr. Uhling stated that it doesn't look good. Mr. Patton acknowledged that unless the farm economy makes a big change, the 20,000 may be the final total, far less than the 100,000 hoped for. The Legislature did appropriate \$3 million for the state to support this program. About \$2.4 million remains, but it is not known if this money can be used for something else. Mr. Beck asked what it could be used for. Mr. Patton replied that this money was intended to affect a water budget change on the Eastern Snake Plain Aquifer. Perhaps it could be used for other projects with the same goal. There was discussion about this issue.

Mr. Tominaga asked to address the Board. He noted that the ground water users are working with the Soil Conservation Commission on a value for carbon trading. This could be an incentive to get more farmers into the CREP program. He is also trying to organize a group to target federal monies for Idaho by way of a request for proposal and add this to the CREP program. There has been a change in the CREP rules and farmers who have left the program may now be able to get back in again.

Mr. Beck noted that wells are not being deepened and he wanted to know if the aquifer has leveled off and if the ground water users track when the farmers need to deepen the well or put the acres into CREP. Mr. Tominaga responded that some farmers make money at 600 feet and others with wells at 300 feet are having trouble. The economic questions are different for each situation. Mr. Uhling stated that based on commodity prices and costs of operation there are profits per acre. Right now the playing field is changing.

Mr. Tominaga stated that with the doubling of fuel prices and the power companies saying that electrical prices will be doubled soon, unless costs come down dramatically, CREP will come into play eventually.

b. W-Canal Recharge Project Update

Mr. Patton presented a short update on the W-Canal project. He noted that the Board had seen a slide show yesterday at the work session. At the present time, the delivery canal and the two holding ponds are complete. This week the monitoring wells will begin and the permit will be issued soon for the injection wells. The project should be running at the end of September on a pilot scale. Mr. Uhling asked if ground water quality is being protected. Mr. Patton assured him that staff has worked with IDWR injection well staff to cover that issue. Mr. Armacost requested that staff put together a report on this whole project when it is completed. Mr. Patton responded that staff will do that once it is done. Mr. Patton discussed the amount of water they hope to inject.

Chairman Rigby called for a short break.

Agenda Item No. 6, Planning Activities

a. ESPA Comprehensive Aquifer Management Plan Update

Mr. Anderson presented the ESPA Comprehensive Aquifer Management Plan summary report from Jonathan Bartsch of CDR Associates. He stated that the direction has moved from collecting technical data to analyzing different options for water budget changes. Three different adjustments are being considered that provide a menu of management options including recharge, ground water pumping, conversions, etc. Two different focuses have emerged: 1) recharge; and 2) demand reduction. Two sub-committees have been established – economic and environmental. The Economic Sub-committee is looking at incremental cost analysis. As capacity is added to the water budget, storage capacity is greater and costs go up. The estimated budget for 900,000 acre-foot change in the water budget is \$1.7 billion.

The Environmental Sub-committee is looking at how the water budget changes would affect fish, recreation, wildlife, and hydropower. One of the big questions is how the changes and the timing of the changes might affect the reach gains. Idaho Power technical staff are working with IDWR technical modeling staff. They are studying the last 27 years and applying the water budget changes to obtain data for a theoretical conclusion about the future. Mr. Anderson answered Board member's questions.

Mr. Anderson stated a draft plan needs to be completed by October and out to the public. Chairman Rigby encouraged Board members to attend the ESPA CAMP meetings. Some Board members have attended. He asked if there was anything the Board could do to aid staff. Mr. Anderson asked the Board for flexibility in approving the draft plan. Special Board teleconferences will be needed. Mr. Graham asked if the Advisory Committee members were still interested. Mr. Anderson responded that attendance runs high for the meetings. Mr. Bartsch is doing a fine job. January 1, 2009 is the deadline to distribute the final plan to the legislature. Mr. Anderson answered further questions from Board members.

Mr. Beck asked about drought-resistant crops being part of the demand-reduction process. Mr. Uhling noted the world-wide demand for these kinds of crops. He offered to set up speakers for

the ESPA CAMP process to learn more about innovative farming crops. As the Board sets policy, this could be part of that. Mr. Anderson agrees that the Board needs to address this issue. The Advisory Committee has diversified interests and does not always take a global view. Water conservation through low water demand crops saves big amounts of water. The ESPA CAMP plan may not get to that level, but the implementation of the plan will certainly be involved in conservation as a smaller component.

Mr. Uhling discussed the importance of a doable reality in this plan. Mr. Anderson responded that the Advisory Committee has discussed this often. They are working hard to find options that are the least expensive and the most achievable. Reasonable limitations are the goals even though they may be optimistic. It is a difficult process because there are a variety of opinions and perspectives. The Board may have some difficult decisions to make.

b. State Water Plan Sub-Committee Update

Ms. Harrington provided the Board an update on the progress of the State Water Plan Sub-Committee. The committee has met 12 times and has reviewed all the policies once. The policies are being reviewed again in a new format that includes methods to implement, milestones to measure effectiveness and recommendations. The Optimum Use section will be reviewed at the meeting later today. Staff are conferring with other groups to update specific policies. The Attorney General's Office is compiling input on Eastern Snake Plain Aquifer policies. Department Water Administration staff are providing input. Beginning this fall, the sub-committee will go back to more frequent meetings. All the agendas and meeting notes are available on the Board's website.

Agenda Item No. 7, Upper Salmon

a. Lemhi River Long-Term Agreements

Ms. Harrington addressed the Board on Pacific Coast Salmon funding issues. The Board entered into a \$2.1 million contract with the Office of Species Conservation for the Lower Lemhi River. This is to ensure flow at the L-6 diversion. There are three parts to this plan: 1) Agreement for the landowner to purchase a conservation easement; 2) Conservation Easement held by the Board; and 3) Agreement to Administer Conservation Easements for the Water District 74 watermaster.

The funding is provided by the Office of Species Conservation and Pacific Coast Salmon Recovery in the amount of \$1.9 million for water acquisition and \$200,000 administration contracted to the water district. Additional funds from the Columbia Basin Water Transactions Program and the Bonneville Power Administration in the amount of \$525,000 are available for water acquisition. The total funding for this program is \$2,625 million. Ms. Harrington responded to Board member's questions.

Mr. Uhling moved to adopt the resolution for the Lower Lemhi Permanent Conservation Easements Water Transaction program. Mr. Chamberlain seconded. Chairman Rigby called for a roll call vote.

Roll Call Vote:

Mr. Cuddy: Absent; Mr. Armacost: Aye; Mr. Storer: Aye; Mr. Beck: Aye; Mr. Chamberlain: Aye; Mr. Graham: Aye; Mr. Uhling: Aye; Chairman Rigby: Aye. 7 Ayes; 1 absent. Motion Passed.

b. Morgan Creek Transaction

Ms. Harrington stated that this matter has been approved by the Board in the past; however the land ownership has changed and a new resolution is required naming the new owner.

Mr. Graham moved that the Morgan Creek Water Transaction Contract be approved. Mr. Uhling Seconded. Chairman Rigby called for a roll call vote.
Roll Call Vote:

Mr. Cuddy: Absent; Mr. Armacost: Aye; Mr. Storer: Aye; Mr. Beck: Aye; Mr. Chamberlain: Aye; Mr. Graham: Aye; Mr. Uhling: Aye; Chairman Rigby: Aye. 7 Ayes; 1 absent. Motion Passed.

c. Patterson/Big Springs Water Transaction

Ms. Harrington informed the Board about the Patterson/Big Springs Creek Water Transaction Project in the Pahsimeroi River Basin. This spring is important for spawning, migration and rearing of summer Chinook salmon, summer steelhead, westslope cutthroat and bull trout. This land has changed ownership and is now owned by Beartooth Capital, an investment group of Bozeman, Montana. One of their restoration goals is to increase the flow in Patterson/Big Springs Creek. They would like to donate 6cfs to the Board for the 2008 irrigation season. The land has little production value. Staff time would be required to process the donation to the water bank and rental of the water back to the Board, costing \$1454.32 as a water transaction fee. Mr. Uhling asked if the fee could be waived.

Mr. Chamberlain wanted to know how this right was recommended for adjudication since it has not been irrigated in recent times and is not now being irrigated. Ms. Harrington stated that the water rights have been recommended in the adjudication. She also noted that water has been diverted for cattle. Mr. Chamberlain noted that the area is an alkali flat and only high water from Patterson Creek could be diverted to this land. He had spoken to the watermaster and said that to his knowledge it had never been irrigated. He questioned the motives of Beartooth Capital to donate it to the bank when water doesn't exist.

Director Tuthill stated that in the adjudication process, the time period considered is five years prior to the date of the application. For this water right the time period considered is 1984 to 2008. Field exams and photographs were used to make the determination of the validity of this water right. The fact that there is less water now than then is not the determining factor. If once in ten years, water is available that is enough to maintain the water right. Many of the rights in the SRBA are high water rights, but owners can still file claims.

Mr. Chamberlain stated the Board would be spending money for nothing to process this request because there is no water. Mr. Uhling noted Beartooth Capital can put it in the water bank and the Board can decide later what they would like to do with this water.

Director Tuthill stated that he would like to discuss fee waivers later this morning. Mr. Anderson noted that this fee would be necessary to process into the water bank. Beartooth Capital is donating the water and Columbia Basin Water Transaction Program will pay the processing fee. Director Tuthill stated that the face value is very different from the actual value of the water. Mr. Chamberlain's point is well taken he noted. Ms. Harrington stated that the resolution is to accept the donation and pay the processing fee. Chairman Rigby asked what the Board would use it for. Mr. Chamberlain said in two weeks the water won't be there. He thought that Beartooth Capitol would be transferring this water to a pivot higher up on their land. It has little use for fish spawning according to Mr. Chamberlain.

Ms. Harrington stated the irrigation season is nearly over. Chairman Rigby stated then this is a forfeiture issue for them. Ms. Harrington stated that they wanted it shown in the water bank for this year. There was discussion about the status of the resolution. Mr. Anderson said the Board would have to refuse the donation. Ms. Harrington stated that if the Board accepts the donation and the water is available, it could be used for something. Mr. Uhling stated that Beartooth Capitol can put it into the bank and the Board would need more information to decide at a later date if they wished to accept the donation. There is no designated use at this time. Mr. Graham asked if they did come back in the future to donate, would it be appropriate to ask what their plans are for this water. Chairman Rigby stated yes.

Director Tuthill stated that if Beartooth Capitol wanted to move the water to a center pivot, the department would have to advertise the transfer and there might be protests. Several factors would be considered in approving this transfer to determine that there was not an enlargement of the water right. Mr. Uhling stated that a donation at the end of the irrigation season is not very useful and if it were made again, the Board would have more time to consider it. Ms. Harrington stated that the owners had purchased the property late in the Spring and that is why the donation is coming in late in the season.

Mr. Chamberlain asked staff to have larger maps in the future for the Board to look at. Mr. Uhling asked if GIS could be utilized for decisions such as this. Staff responded that meetings in Boise could accommodate GIS maps. The board agreed to take no action on the resolution. Ms. Harrington stated that staff would draft a letter to Beartooth Capital for the Chairman's signature.

Agenda Item No. 8, Minimum Stream Flows

a. Lime Point (item was deleted from the agenda)

b. **Cocolalla Lake Minimum Lake Level**

Mr. Uhling moved to approve filing the application for a minimum lake level at Cocolalla Lake. Mr. Chamberlain seconded the motion. Chairman Rigby asked for a voice vote. All were in favor.

c. **Redundant Minimum Stream Flows**

Mr. Anderson stated that this issue was brought before the Board at the last meeting. Ms. Harrington stated that the Board had filed minimum stream flow applications for minimum stream flow rights that were legislated under the Nez Perce Settlement Agreement. The minimum flows decreed by the Nez Perce Settlement Agreement and the requested applications by the Board are generally similar and have been reviewed by the Deputy Attorney General. The differences in some of these rates was determined by modeling called “synthetic hydrology.”

The Deputy Attorney General said it is a policy decision for the Board to withdraw their applications since they are similar to the decreed rights. There was discussion on the various streams and flows listed in the memo. Chairman Rigby stated that the Nez Perce Settlement Agreement is a defining document and if there is no advantage to contesting this, he did not want to create an issue. Mr. Uhling wanted to know what Clive Strong would think about this. If Mr. Strong was in agreement with withdrawing these, then the Board could do that. Mr. Uhling requested that the applications be withdrawn pending an opinion from Clive Strong.

Mr. Armacost moved that the minimum stream flow applications be withdrawn pending the review and approval of Clive Strong authorizing the Chairman to sign for the Board. Mr. Uhling seconded. Chairman Rigby asked for a voice vote. All were in favor.

Agenda Item No. 9, Water District 01 Rental Pool Committee Reappointment

Mr. Anderson stated that Board rules require that the local rental pool committee be reappointed every five years. Water District 01 has appointed the new Committee of Nine as the local committee.

Mr. Chamberlain moved that the resolution appointing the Committee of Nine for the Snake River, Water District No. 01, Local Rental Pool be approved. Mr. Beck seconded.

Chairman Rigby asked if it was Water District 01 appointing the Committee of Nine or vice versa. Recently this came up as an issue at a water district meeting. For an application to modify a procedure, the Committee of Nine can make that modification subject to the approval of the Board with the Director’s input. Over the years, the Committee of Nine has put the rental pool procedures at the Water District 01’s annual meeting. Chairman Rigby Questioned can the procedures be modified in between. Chairman Rigby said the Board could be requested to modify procedures in the interim. This resolution appoints the Committee of Nine not the Water District 01. Mr. Anderson said the resolution is consistent with previous appointments. Director Tuthill stated that he agreed with the Chairman’s assessment.

Chairman Rigby called for a voice vote. All were in favor.

Agenda Item No. 10, Well Construction Rules

Mr. Anderson stated that there was a lot of discussion and public testimony regarding the well construction rules yesterday at the work session. The resolution before the Board accepts the changes proposed by the Board.

Mr. Gary Dispiva, Parma, Idaho, acknowledged that Norm Semanko had been at the meeting earlier. He thanked the Board for the time allowed for testimony and stated the ground water users were in favor of the rules. Director Tuthill read a note left by Mr. Semanko acknowledging that the Idaho Water Users Association supports the proposed well construction rules.

Mr. Chamberlain moved that the resolution approving the well construction rules be approved. Mr. Uhling seconded. Chairman Rigby called for a voice vote. All were in favor.

Agenda Item No. 11, Director's Report

Director Tuthill acknowledged the signing of the Memorandum of Agreement between the Shoshone-Bannock Tribes and the Department of Water Resources for the Purpose of Water Measurement and Data Collection within the Fort Hall Reservation. He congratulated Rick Raymondi and Sean Vincent for their hard work on this issue.

The Director updated the Board on the Surface Water Coalition call. The Director has to provide a final Order. The A & B Irrigation District call was taken to the District Court for a review of the Hearing Officer's Decision which was not appropriate. It is now before the department again with a December hearing date. The Snake River Farm mitigation plan has been submitted. The overall decision on Thousand Springs encompasses the 2005 Order and was issued last Friday and is subject to appeal to the District Court.

Regarding the flow over Swan Falls, the Director said the minimum flow level will not be violated this year but it is very close. In the future, these flows may not be assured without storage water. Trust water involves about 40,000 acres. The Thousand Springs calls need to be mitigated and also the Swan Falls minimum stream level. There are concerns about both above Milner and below Milner. The issue is whether the trust water lands are above Milner.

The Director discussed the Northern Idaho Adjudication. The stipulation was signed on July 3 by the United States and the Attorney General. The Petition was filed July 8 by the Attorney General. It has been advertised and public meetings are set for July 21-24. A hearing is set by the court for August 28 to decide whether to commence the adjudication. A big issue is where to draw the line regarding Pend Oreille Lake. Once drawn and the process commenced claims will be taken starting in October. Bob Haynes will file the first claim on his own well.

The Director stated that at the Interim Legislative Committee meeting issues of storage were discussed. Another agenda item was called, "Concerns Regarding the Idaho Department of Water Resources." Randy MacMillan spoke about the calls that involve contested orders which the Director said was very inappropriate in this legislative meeting. The Director there may be further press on this event. Two other speakers addressed other issues and all the time was used up preventing the Director from responding. The Director is preparing a letter to the committee that the department will have no response since these issues involve contested cases in the court system.

Regarding recharge, there will be about 2 million acre-feet likely held in storage at the end of the season in the Upper Snake Basin. This could be an opportunity for late season recharge. How that will happen is unknown. The Eastern Idaho Water Rights Coalition is sponsoring a pilot project this fall for recharge. This water would have to go through the water bank and the Director said he may be willing to waive fees for ground water recharge. The North Side Canal Company is not available for recharge this fall. The American Falls Reservoir District #2 now owns those facilities and the Milner-Gooding canal could potentially be used for this effort.

According to the Director, the water users and the Board will be making a risk assessment for fall recharge. Also, what will be the compensation for the efforts. The Director stood for Board members' questions.

Agenda Item No. 12, Old Business

Mr. Anderson advised that there was a memorandum from Aaron Marshall regarding the Blue Lakes Country Club Water Right Application. Chairman Rigby stated the Board had held this up until the Attorney General provided an opinion which resolved the issue. It is now up to the Director to allow an extension of five years.

Mr. Armacost asked for a letter from the Chairman to SPF Engineering about the decision on Lime Point awaiting feedback from the Attorney General.

Agenda Item No. 13, Other Items Board Members May Wish to Present

Mr. Chamberlain invited everyone to the State Water Plan meeting.

Agenda Item No. 14, Next Meeting and Adjourn

Mr. Anderson noted the next meeting is in Burley on September 11 and 12th. He also noted that the ESPA CAMP meeting may be held at the same time in the Pocatello or Idaho Falls area. Mr. Chamberlain moved to adjourn. Mr. Beck seconded. All were in favor. The meeting was adjourned.

Dated this _____ day of _____, 2008.

Secretary

Patsy McGourty, Administrative Assistant II

Board Actions:

1. Mr. Armacost moved that the **minutes of meetings 06, 07, 08 and 09-08** be approved as corrected. Mr. Chamberlain seconded. All were in favor.
2. Mr. Uhling moved that the loan increase of \$350,000 at 6% interest over 10 years to **Sourdough Owners Association** be approved. Mr. Graham seconded. Chairman Rigby called for a roll call vote.

Roll Call Vote:

Mr. Cuddy: Absent; Mr. Armacost: Aye; Mr. Storer: Aye; Mr. Beck: Aye; Mr. Chamberlain: Aye; Mr. Graham: Aye; Mr. Uhling: Aye; Chairman Rigby: Aye. 7 Ayes; 1 absent. Motion Passed.

3. Mr. Uhling moved to adopt the resolution for the **Lower Lemhi Permanent Conservation Easements Water Transaction program**. Mr. Chamberlain seconded. Chairman Rigby called for a roll call vote.

Roll Call Vote:

Mr. Cuddy: Absent; Mr. Armacost: Aye; Mr. Storer: Aye; Mr. Beck: Aye; Mr. Chamberlain: Aye; Mr. Graham: Aye; Mr. Uhling: Aye; Chairman Rigby: Aye. 7 Ayes; 1 absent. Motion Passed.

4. Mr. Graham moved that the **Morgan Creek Water Transaction** Resolution be approved. Mr. Uhling Seconded. Chairman Rigby called for a roll call vote.

Roll Call Vote:

Mr. Cuddy: Absent; Mr. Armacost: Aye; Mr. Storer: Aye; Mr. Beck: Aye; Mr. Chamberlain: Aye; Mr. Graham: Aye; Mr. Uhling: Aye; Chairman Rigby: Aye. 7 Ayes; 1 absent. Motion Passed.

5. Mr. Uhling moved to approve filing the application for a minimum lake level at **Cocolalla Lake**. Mr. Chamberlain seconded the motion. Chairman Rigby asked for a voice vote. All were in favor.
6. Mr. Armacost moved that the **minimum stream flow applications** be withdrawn pending the review and approval of Clive Strong authorizing the Chairman to sign for the Board. Mr. Uhling seconded. Chairman Rigby asked for a voice vote. All were in favor.
7. Mr. Chamberlain moved that the resolution appointing the **Committee of Nine** for the Snake River, **Water District No. 01, Local Rental Pool** be approved. Mr. Beck seconded. Chairman Rigby called for a voice vote. All were in favor.
8. Mr. Chamberlain moved that the resolution approving the well construction rules be approved. Mr. Uhling seconded. Chairman Rigby called for a voice vote. All were in favor.