



IDAHO WATER RESOURCE BOARD

MINUTES OF TELEPHONIC BOARD MEETING NO. 3-09

C.L. "Butch" Otter
Governor

Terry T. Uhling
Chairman
Boise
District 2

Gary M. Chamberlain
Vice-Chairman
Challis
At Large

Bob Graham
Secretary
Bonners Ferry
At Large

Charles "Chuck" Cuddy
Orofino
District 1

Leonard Beck
Burley
District 3

L. Claude Storer
Idaho Falls
District 4

Lawrence "Vic" Armacost
New Meadows
At Large

Jerry R. Rigby
Rexburg
At Large

January 28, 2009
Idaho Water Center
Boise, Idaho

Chairman Uhling called meeting 3-09 to order at 9:00 a.m. and requested roll call.

Agenda Item No. 1, Roll Call

Board Members by Phone

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

Guests by Phone

Jonathan Bartsch, CDR Assoc.	Jon Boling, Idaho Power
Peter Anderson, Trout Unlimited	Nate Pompano, Times-News
Harriet Hensley, Deputy AG	Mike Webster, Governor's Office
Lynne Tominaga, IGWA	Jim Tucker, Idaho Power
Lyle Swank, Water District 01	

Guests in Person

Jim Wrigley, Wells Fargo	Greg Newberry, Home Federal Bank
Don Wemberly, BSU Radio	

Staff Members Attending

Hal Anderson, Administrator	Brian Patton, Bureau Chief
Bob McLaughlin, Public Info Off.	Patsy McGourty, Admin. Asst.
Helen Harrington, Section Manger	Phil Rassier, Deputy Attorney General

Agenda Item No. 2, Public Comment

There was no public comment.

Agenda Item No. 3, ESPA CAMP Plan

Mr. Anderson stated that at the last meeting on January 23, 2009 there were many edits to the draft plan. Staff has provided the new edited text to everyone for today's meeting. He asked Mr. Bartsch to lead the discussion.

Chairman Uhling asked if everyone had received their copy. Mr. Graham was having difficulties with receiving the pdf file. Mr. Chamberlain then joined the meeting by phone.

Mr. Bartsch addressed the Board.

Table of Contents – Mr. Bartsch pointed out 4.3 Legislative Reporting and Plan Review and the Appendices have been changed to add the Funding Recommendations.

Page 4 – A sentence had been added to the Executive Summary.

Ms. Hensley noted that there were more changes in the Table of Contents. She asked Ms. Harrington to note those changes. Ms. Harrington stated that section 3.3 would be retitled to Phase I Implementation Plan and sections 3.3.1 and 3.3.2 would be eliminated.

Mr. Bartsch proceeded.

Page 5 – minor changes.

Page 11 – The last sentence of the second paragraph was read aloud with changes.

Page 12 – Minor changes.

Page 13 – From comments during the last Board discussion changes were made. Mr. Bartsch read section 3.2 Phase I Hydrologic Targets. A sentence was added to the second paragraph.

Page 15 – Minor changes.

Page 17 – First bullet new language added regarding the Egin Bench Recharge Project.

Page 25 – 3.3 Phase I Implementation Plan. Mr. Bartsch read 3.3. new language from the first paragraph. He then read the next paragraph. Mr. Bartsch noted that there is a second proposal to replace the second paragraph. He then read the suggested change which was not on paper, but had been proposed. Mr. Graham asked if that was Mr. Uhling's proposal. Mr. Uhling stated it was with some edits.

Mr. Bartsch read the second paragraph again since Board members did not have that on their copy. Mr. Rigby stated the idea of the second paragraph was made to ensure that the outline of the stakeholders remained the same. Mr. Uhling stated that it was never his intention to eliminate the stakeholder language.

Mr. Beck stated he was not able to open his document and asked Mr. Bartsch to read the new paragraph again which he did. Mr. Beck asked if the second sentence listed the different options or possibilities. Chairman Uhling stated that in essence the first sentence was moved to the second sentence and added outline. The water user categories were added below with the Phase I Funding Participation Targets that were recommended by the Advisory Committee. Mr. Rigby stated that the categories are further defined in the Appendix. The second option is to insure that the Phase I Funding Participation Targets are in the body of the document.

Mr. Graham stated that it sounded like the language was back to the original draft. Chairman Uhling agreed. Mr. Bartsch stated this language reflects the discussion from last Friday, January 23. He suggested hearing from stakeholders now or coming back to that. Chairman Uhling asked him to finish reading the section and then get stakeholder comments.

Mr. Bartsch discussed the Water User Category table which had not changed. A new paragraph underneath was added restating the funding contributions. Another new paragraph had been added regarding fees and assessments collected. Chairman Uhling asked if any of the Board members had questions. Mr. Storer said he wondered what would happen if the state did not approve their \$3 million contribution. Chairman Uhling responded that the framework of developing an implementation plan will help define that and the timing of the funding. A number of funding mechanisms will take time to develop and complete to generate the contribution commitments from the water user categories.

Mr. Anderson agreed. In discussions with the Attorney General's Office, legislators and others all have agreed that it may take up to two years to complete all the mechanisms. Mr. Armacost asked about the viability of county assessors collecting fees. Mr. Anderson responded that he had attended a meeting with the Attorney General's office to discuss the mechanisms listed in Appendix B. There are some mechanisms for which the legislature can create laws to collect the fees. This would involve working with assessor's offices and the legislature to create necessary legislation. This would be a priority of the Implementation Committee. Ms. Hensley stated that a Deputy Attorney General from the Tax Commission would work closely on this issue. Chairman Uhling stated this gives an indication of the length of time that will be needed in the implementation phase. Mr. Anderson noted that it will take about 18 months to decide on the means of collecting.

Mr. Armacost stated that even though this would take a long time we could still move forward with the plan. Chairman Uhling agreed and said other actions could be implemented. Mr. Storer asked how we can move the plan forward without the funding. Chairman Uhling stated that the new modification of 3.3 was an attempt to address that reality. An implementation plan will be developed and during that time funding mechanisms would be developed. Mr. Graham stated that the legislative approval of the table is the most important not the collection which can be worked out later. Chairman Uhling added that the legislative approval of the table does not lessen the importance of achieving the funding mechanisms. For the participants the concern was the amount of time and

effort put into defining the water user's contributions. The Implementation Committee will have to develop the funding mechanisms.

Mr. Beck asked if any Advisory Committee members on the telephone would respond to the question, did they anticipate the funding mechanisms to take that much time. Chairman Uhling and Mr. Bartsch agreed it would be good to get their feedback.

Mr. Tucker from Idaho Power stated that it was always their sense that it would take some time to develop. He stated it has always been Idaho Power's view that the CAMP process would proceed even if all the funding was not in place. The process to get all the funding finalized and trying to do other projects is a good plan. This is the reality.

Chairman Uhling asked if Mr. Tucker was okay with the changes proposed and he responded yes. Mr. Tucker stated that the Board might want to send something to the Legislature to make it clear that they are looking for approval of the plan and then deal with the funding issues. There was no further comment.

Mr. Bartsch stated that if further comments are not forthcoming from Advisory Committee members, he would assume there is agreement.

Page 29 – Section 4.1. There was additional language added that the Board would appoint a liaison between the Implementation Committee and the Board and a small change on 4.2.

Page 30 – Section 4.3 Legislative Report and Plan Revision. A new sentence was added to include a review after 10 years with the Legislature and the Governor's Office.

Appendix B – Includes the Water User Categories and Phase I Contribution Targets.

Mr. Beck asked if 3.3, and he did not have it in front of him, was totally withdrawn from the actual document. Mr. Anderson responded that is what's proposed.

Mr. Bartsch stated that Section 3.3 Phase I Implementation Plan is proposed as discussed with modification to the second paragraph just before the Water User Categories and Phase I Contribution Targets.

Mr. Beck asked why 3.3.3 was totally withdrawn. Mr. Bartsch stated that the idea was to address the concerns of the plan getting approved and gaining the time necessary to develop funding mechanisms. The table with the Water User Categories and the Phase I Contribution Targets is still in there. The descriptions for these have been moved to Appendix B. To keep the Phase I Contribution Targets in the body of the document and the descriptions for those in Appendix B seems to meet everyone's needs.

Mr. Rigby stated that the bottom line intent here is to insure the fundamental funding mechanisms as contained in the chart intact in the body of the document. Further development of them is in the Phase I Implementation. Mr. Bartsch stated that balance is being maintained to address both issues. All of the interests that have been expressed have been met in this compromise.

Mr. Beck expressed appreciation for all the work done. He expressed frustration that more Advisory Committee members were not on the telephone conference today. He thanked Mr. Bartsch for maintaining the Advisory Committee language and intent.

Mr. Cuddy stated that the first sentence in 3.3 implies that we need more legislation than what we're asking for and I think it's good to get rid of it. Then he stated that he meant to say 3.3.3 on page 28. He thought the deletion was a good idea. Chairman Uhling asked him if he was okay with proposed changes. Mr. Cuddy was in agreement.

Mr. Chamberlain stated he was uncomfortable since it was very difficult for him to get the Adobe pdf document. He could not keep up with the discussion and follow along. He was very reluctant to move forward without looking at the final draft. Mr. Graham added that he had been able to see the document during the discussion and he was able to keep up.

Chairman Uhling stated that Mr. Chamberlain raised a serious issue. He wanted every Board member to feel comfortable with the final draft. He suggested that another copy could be sent to Board members to review or to move forward now whichever he was uncomfortable with. He asked Board members if another telephonic conference was needed to study the final draft.

Mr. Armacost said he could do either. He had been able to review the whole document. He was prepared to proceed.

Mr. Beck asked for another phone conference later to give him an opportunity to read the final draft. Chairman Uhling asked to schedule another teleconference. There was discussion about Board member's availability. Mr. Chamberlain moved to accept the resolution to approve the ESPA CAMP Plan. There was no second. Mr. Beck stated that he would vote against this motion. Chairman Uhling asked Mr. Chamberlain if he would withdraw the motion and set a teleconference for 8:00 a.m. on January 29, 2009. Mr. Chamberlain agreed with that. Mr. Armacost asked if this would provide enough notice to the public. Mr. Anderson stated there is no requirement to post with the press as reconvening would simply be a continuation of this meeting. Chairman Uhling stated that a single issue continued Board meeting would be tomorrow morning January 29, 2009 at 8:00 a.m.

Chairman Uhling stated that if there were going to be any significant changes, an additional meeting would be set up. This continuation is to give Board members additional time to review the draft. There was discussion about the next step in the process. Chairman Uhling stated this discussion will be continued until tomorrow morning January 29, 2009 at 8:00 a.m. Mr. Anderson wanted to make sure that everyone had the documents they needed. Board members requested a Word document be sent to them. Chairman Uhling requested that both Adobe and Word versions be sent in the future as a standard procedure.

Mr. Bartsch stated he could not attend tomorrow morning and asked the group where they were with the comments. Mr. Bartsch added that CDR had summarized the comments from the December meetings along with the written comments. The key comments were around funding and the collection mechanisms to create fairness. Monitoring, evaluation and stakeholder involvement were emphasized. The draft plan has addressed the issue of subverting the Prior Appropriation Doctrine. It deals with funding issues and the implementation plan. The document goes a long way

to address all the public comments. The question remains about specific responses to the public comments from the Board. Chairman Uhling asked for comments from Board members.

Mr. Anderson stated that all comments are posted on the ESPA website and if the Board agreed, the summary of the comments could also be posted. The Board agreed with this action.

Chairman Uhling thanked Mr. Bartsch.

Agenda Item No. 4, Groundwater District Loan Offer

Mr. Anderson stated that an offer letter from Home Federal Bank was delivered by Mr. Wrigley regarding the loan made to the groundwater districts.

Chairman Uhling commented that there was no action required by the Board at this time. It was simply an offer for discussion. Mr. Anderson responded that it was. Mr. Anderson asked Mr. Wrigley to discuss the offer.

Mr. Wrigley discussed the offer letter. He stated that the offer is a participation arrangement for the \$10 million loan with the water districts. The purchase price would be discounted and he discussed the various rates to be considered. He also discussed the interest rate. One issue, the non-recourse action, was revised stating that one quarter of a payment must be kept in the Home Federal Bank. Mr. Wrigley stated that in discussions with Home Federal they wanted some debt service coverage placed with the water districts. He outlined situations in the water districts that could happen and the bank would like to have that covered.

He covered the right of first refusal that is provided for in the offer. Mr. Newberry had revised that wording for the Board's consideration was eliminating the appraisal requirement. Prepayment fees were proposed at a lock rate with conditions. He stated the offer letter is composed of general terms. A comprehensive term sheet would be prepared for Board approval at a later time.

Mr. Newberry addressed the Board. He stated the offer is made for final approval from the Board for a loan participation agreement. This process is critical now and in the future for participating with the Board. He wanted to discuss the terms mentioned in the letter. He asked for Board input.

Chairman Uhling asked for questions. Mr. Graham stated that what Home Federal is looking for today is agreement from the Board on the terms listed in the letter. Mr. Newberry agreed. He discussed the reserve issue. He noted that if the Board held an account with Home Federal, it would appear as a guaranty. He suggested that if this was held by the water districts, that would be more appropriate. There was discussion.

Mr. Anderson stated having the ground water districts create a reserve would require changing existing contracts with the water districts. Chairman Uhling commented that any move at this time might require changes to the terms and conditions under the existing note with the water districts. The Board needs to know what those conditions are going to be. The third party would have to agree.

That needs to be taken care of first he said. Secondly, he agreed that it would be helpful to have an outline of the types of terms and conditions that Home Federal would require.

Mr. Newberry agreed to create a list of terms and conditions from the bank. The one-to-one payment is a big issue for the bank he said. Home Federal wants to make the loan; however, this water right is at its highest and best use. As an appraisal comes in on the water right it will not fully cover the amount of the note. He discussed the one-to-one payment issue and asked Mr. Wrigley if his bank functioned the same. Mr. Wrigley agreed.

Mr. Wrigley stated that discussions would need to take place with the water districts to create a reserve account to satisfy the bank. He wanted to take the time to have these discussions.

Mr. Anderson asked Mr. Newberry if the Board could have a dedicated sub-account in the Revolving Development Account for the reserve to provide the funds required. Mr. Wrigley stated that would take care of it. The Board could create such an account for that purpose.

Mr. Graham asked if the 25% could be negotiated. Mr. Newberry stated a definite maybe. The Board could suggest a smaller portion; however, there does need to be a reserve. Mr. Graham stated if the Board uses their own funds; a lower interest rate would be good. Mr. Wrigley stated the standard for a number of years has been 125 coverage. He discussed the range of the market place. He added that right now is the worst financial market in 25 years. Mr. Graham stated perhaps 10-15% would be a lot better. Mr. Newberry stated that might be achievable.

Chairman Uhling asked about a recourse element. He discussed ways to address this issue. Mr. Anderson stated this would be put in a legal document. Chairman Uhling stated a limited recourse element would be added to the contract with Home Federal. Mr. Wrigley stated that discussions would still need to be held with the ground water districts. Chairman Uhling stated that as the Board goes forward creating a standard process would be helpful.

Mr. Rassier stated he was concerned about the Board extending credit for the water districts without an agreement. Chairman Uhling agreed and stated that the Board would have a potential contingent discount. He discussed various discounts if a default occurred. Mr. Rassier agreed with this characterization. Mr. Wrigley stated that the discount could be put up front and the reserve would be an asset of the Board.

Mr. Armacost asked if the Board was prepared to take a \$60,000 haircut on the loan participation. Chairman Uhling stated that a decision hadn't been reached, but there have been discussions on this issue. Mr. Anderson stated that the purpose of this purchase of the loan was to get funds back for new loans. Chairman Uhling stated that the Board had not decided. Their desire was to get more funding for loans. Mr. Graham stated that no commitment has been made although the Board had encouraged Mr. Wrigley to proceed with this approach.

Mr. Newberry discussed the current interest rate environment. He said now is a good time to discount a note because of the low rates. Locking this in on a ten year agreement would acquire funding for the Board's loan program.

Chairman Uhling suggested that the Board move forward and staff could continue discussions on terms. Mr. Rigby suggested staff move forward as quickly as possible.

Mr. Newberry asked if the Board could ask the water districts to put up a reserve fund. Mr. Anderson agreed that staff could ask the water districts. Mr. Graham stated if this is done in the future, the Board can cover the reserve until they could create their own. Mr. Anderson stated the Board has been liberal in their reserve requirements in the past. Mr. Wrigley stated a simple letter could cover it. Chairman Uhling agreed.

Chairman Uhling called for further discussion. There was none. He thanked Mr. Wrigley and Mr. Newberry.

Agenda Item No. 5, Other Items Board Members May Wish to Present

Mr. Cuddy expressed thanks from the New Hope Water Company for their loan.

Mr. Armacost moved for recess until tomorrow morning; Mr. Graham seconded. All were in favor.

BOARD MEETING NO. 3-09 CONTINUED

January 29, 2009
Idaho Water Center
Boise, Idaho

Vice-Chairman Chamberlain reconvened meeting 3-09 to order at 8:00 a.m. and requested roll call.

Agenda Item No. 1, Roll Call

Board Members by Phone

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

Staff Present

Hal Anderson, Administrator	Brian Patton, Bureau Chief
Bob McLaughlin, PIO	Patsy McGourty, Administrative Asst.
Helen Harrington, Section Mgr.	

Guests Present in Person

Don Wemberly, BSU Radio

Guests Present by Phone

Harriet Hensley, Deputy AG

Peter Anderson, Trout Unlimited

Mike Webster, Governor's Office

Lynn Tominaga, IGWA

John Chatburn, Governor's Office

Agenda Item No. 2, Public Comment

There was no public comment.

Agenda Item No. 3, ESPA CAMP Plan

Vice-Chairman Chamberlain asked if Board members had any questions about the draft plan.

Mr. Beck stated that under 3.3 where it starts to list the water user categories he did not like the word contribution. He asked that under the Phase I Targets the word participant be substituted for contribution and also in other parts of the document.

Ms. Harrington asked if Mr. Beck had questions about Section 4.1, the second paragraph, second section in the sentence stating that the Board would appoint one of its members to serve as a liaison between the Committee and the Board. Mr. Beck wondered if there should be an alternate. The Vice-Chairman suggested making the changes in the form of a motion.

Ms. Hensley interrupted stating she was unclear about the substitution of participation for contribution. She wanted to know exactly where the substitution would be made. Vice-Chairman Chamberlain stated it would be in the chart for Phase I funding targets. Ms. Harrington stated that it was in the text above the table and she read from the passage. Ms. Hensley stated it was below the table in the second sentence on page 26. Mr. Anderson thought contribute was the right word on page 27. Mr. Beck suggested some additional wording. He was okay with the language on page 27.

Ms. Harrington stated that in Appendix B in the introductory paragraph on page 36, the word contribution was there. It was decided to change it to participation. Mr. Rigby weighed in and expressed concern about changing the word contribution. He asked if the Advisory Committee would have a problem with that. Mr. Anderson did not think so. He thought the word contribution had been changed, but did not make it into the appendix. Everyone agreed it should be participation.

Ms. Hensley restated that the substitution of participation for contribution would be substituted throughout the document with the exception of the paragraph on the bottom of page 26.

Vice-Chairman Chamberlain asked if everyone was satisfied with the document. Mr. Anderson asked if everyone had seen it. Everyone agreed they had seen it and were fine with it. The Vice-Chairman called for a motion. Mr. Graham moved that the draft ESPA CAMP Plan be approved. Mr. Beck seconded.

Mr. Armacost asked if the date on the resolution should be changed from the 28th to the 29th. Mr. Patton stated our new resolution says the 29th. Vice-Chairman Chamberlain called for a roll call vote.

Roll Call Vote:

Cuddy: Absent; Armacost: Aye; Storer: Aye; Beck: Aye; Chamberlain: Aye; Graham: Aye; Rigby: Aye; Chairman Uhling: Absent. 6 Ayes, 2 Absent. Motion passes.

Mr. Anderson stated that the final edits would be made and the plan would be redone in a professional layout format. Mr. Anderson stated he would write a letter to both chairmen of the legislative committees and hand deliver the plans to them on Monday, February 2, 2009.

Mr. Graham stated that Mr. Bartsch would like to hear about the passage of the plan. Mr. Anderson stated he would notify him.

Agenda Item No. 4, Other Items Board Members May Wish to Present

Mr. Beck stated that he would encourage the legislators to enact legislation about funding through the county assessors offices. Vice-Chairman Chamberlain agreed with him. Mr. Beck stated that in conversations with his county commissioners, they stated that they are already taxing irrigators for other irrigation projects.

Mr. Rigby moved to adjourn. Mr. Graham seconded and all were in favor.

Dated this 16th day of February, 2009.



Secretary



Patsy McGourty, Administrative Assistant II

Board Actions:

1. The Vice-Chairman called for a motion. Mr. Graham moved that the draft ESPA CAMP Plan be approved. Mr. Beck seconded. Vice-Chairman Chamberlain called for a roll call vote.

Roll Call Vote:

Cuddy: Absent; Armacost: Aye; Storer: Aye; Beck: Aye; Chamberlain: Aye; Graham: Aye; Rigby: Aye; Chairman Uhling: Absent. 6 Ayes, 2 Absent. Motion passed.