



SCANNED

11" 26 2010

# IDAHO WATER RESOURCE BOARD

## MINUTES OF MEETING 7-10

**C.L. "Butch" Otter**  
Governor

June 24, 2010  
Boise, Idaho

**Terry T. Uhling**  
Chairman  
Boise  
District 2

Chairman Chamberlain called the meeting to order at 1:00 p.m. and asked for roll call.

**Gary M. Chamberlain**  
Vice-Chairman  
Challis  
At Large

### Agenda Item No. 1, Roll Call

#### *Board Members Present*

**Bob Graham**  
Secretary  
Bonners Ferry  
At Large

Terry Uhling, Chairman, absent  
Gary Chamberlain  
Chuck Cuddy  
Jerry Rigby

Vince Alberdi  
Roger Chase  
Bob Graham  
Leonard Beck

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

#### *Staff Members Present*

Gary Spackman, Interim Director      Helen Harrington, Section Manager  
Brian Patton, Bureau Chief              Cynthia Bridge Clark, Engineer  
Jack Peterson, Federal Liaison          Patsy McGourty, Admin. Asst. II  
Aaron Marshall, Water Rights Agent

**Leonard Beck**  
Burley  
District 3

#### *Guests Present*

**Roger W. Chase**  
Pocatello  
District 4

Shelley Davis, Barker Rosholt          Peter Anderson, Trout Unlimited  
Gary and Linda Lemmon, Thousand Springs Water Users  
Jon Bowling, Idaho Power Company      Matt Howard, Bureau of Reclamation  
Shelby Kerns, Division of Financial Management  
Lynn Tominaga, Idaho Groundwater Appropriators  
Garrick Baxter, Deputy Attorney General  
Roxanne Brown, SPF Engineering  
Kerry Ellen Elliott, Idaho Association of Counties

**Vince Alberdi**  
Kimberly  
At Large

**Jerry R. Rigby**  
Rexburg  
At Large

## **Agenda Item No. 2, Agenda and Approval of Minutes 6-10**

Mr. Patton stated that there were no changes to the agenda. Mr. Rigby moved to approve the minutes and Mr. Cuddy seconded. Chairman Chamberlain stated that he had a few changes. Ms. Davis is listed twice as a guest he said. On page 5 under Liberty South Ditch Company in the second line he requested the word "with" to replace "and." In the next paragraph the second sentence replace "for" with "to replace." On page 7 he asked for a change in the ESPA CAMP section in the second paragraph. Change the sentence beginning with "Questions were raised" deleting "about the overall process" and continuing with "in regard to funding." On page 12 he had a question about the chairman making a motion which the chairman had made at the last meeting. Mr. Rigby amended his motion with these changes and Mr. Cuddy seconded. All were in favor and the Minutes 6-10 were approved.

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

There were no public comments.

## **Agenda Item 4, Planning Activities**

### **a. State Water Plan Update**

Ms. Harrington stated that the State Water Plan Subcommittee has had 27 meetings. Ms. Harrington continues to work with the Harriet Hensley, Deputy Attorney General, on policies. The Snake River Policies continue to be drafted by the staff. The policies for the first two Snake River reaches, Above Milner Dam and Milner Dam to the Murphy Gage, will be reviewed at the July 14<sup>th</sup> subcommittee meeting. Six public meetings will be held around the state when a complete draft of the State Water Plan is completed. Draft copies of policies will be sent out for review before the public meetings. The six public meetings will be held in Coeur d'Alene, Lewiston, Boise, Twin Falls, Idaho Falls and Preston.

### **b. Rathdrum Prairie CAMP**

Ms. Harrington stated that the Rathdrum Prairie CAMP Advisory Committee is comprised of 19 members and has met six times. A copy of the membership list was included in the Board book. A draft plan should be completed by the end of 2010. Public meetings will be held on the draft document. Ms. Harrington stated that the Interim Director Gary Spackman and Clive Strong, Deputy Attorney General, have both addressed the group. Final reports of the future water demand study should be completed in July. She discussed the Climate Change study which will also be completed in July.

### **c. Treasure Valley CAMP**

Ms. Harrington stated that the Treasure Valley CAMP Advisory Committee includes 40 members. One additional nomination has been received – Megan Rush to represent Ada County. Ms. Rush addressed the Board stating her credentials are an environmental science degree and a Masters in city and regional planning along with experience in the private sector. The Chairman welcomed her.

Ms. Harrington added that studies similar to the Rathdrum Prairie are ongoing in the Treasure Valley CAMP including estimating future water demand and climate changes. She discussed other studies and how they might provide information to the Treasure Valley CAMP, including coordinating with the Lower Boise Storage Feasibility Study. There has been a good turnout at these meetings she said. There was discussion about the progress that the new group is making. Ms. Harrington noted that meetings will be held in different locations in the valley.

Mr. Chase moved that Ms. Megan Rush be appointed to the Treasure Valley CAMP Advisory Committee to represent Ada County. Mr. Alberdi seconded. The Chairman called for a voice vote and all were in favor.

**d. ESPA CAMP – AWEP Status Report**

Ms. Clark reported to the Board on the AWEP program for 2009 and 2010. She gave a brief overview of the process. In 2009 a steering committee was formed from the ESPA CAMP, Department of Environmental Quality, Department of Water Resources and others. She discussed the tables showing the projects from 2009 that were approved including Thousand Springs irrigation improvements and groundwater to surface water conversions. She discussed the progress made on these projects. A total amount of \$2,610,297 was the federal portion at 75% of the cost. The budget was \$3.2 million.

Ms. Clark stated the budget in 2010 was \$1.9 million. She discussed the funding of the AWEP program nationally. Idaho requested \$5.6 million; \$3.2 million was appropriated. For this year, the NRCS opened the application period from April 30 and ending May 30. The review and funding is due by July 2. This is a tight timeline she stated. There are six programs: conversion projects, water saving projects, re-regulating ponds, crop mix modification, conversion to dry land farming and aquifer demand reduction. She discussed the response. Only three programs received responses – aquifer demand reduction, conversion from groundwater to surface water and water saving. The total Federal cost is \$909,621.00 at 75%. Staff continues to work with NRCS on the reviewing stage of this process.

Mr. Patton stated that the Board's natural flow water right for recharge in the ESPA on the Snake River came into priority again for a short time. Recharge operations were began for a two-week period and the Board will be updated in July.

**Agenda Item No. 5, Water Storage Studies**

Ms. Clark discussed the Lower Boise Interim Feasibility Study progress. Twelve sites which were identified in earlier US Bureau of Reclamation work have been reduced to six. Those six were reduced to three and those are currently being ranked. Public meetings will be held the last week of June and early July in Caldwell, Eagle, Idaho City and Boise to review the screening criteria and the process to date. Staff will report on the outcome of these meetings at the meeting in July. Mr. Graham requested for a map showing the potential storage areas in northern Idaho for the next meeting in July.

Ms. Clark summarized the water supply study on the Henrys Fork of the Snake River to evaluate the potential for new on-stream and off-stream storage in the Henrys Fork and the Teton Basin and to address future water supply needs in the Upper Snake River Basin. The Henry's Fork Watershed Council

has been involved. The Bureau of Reclamation has submitted an application for funding through the Secure Water Act-Water SMART Basin Study Program to support the study. This study should be completed within two years. Mr. Rigby stated that this process has everyone in the area talking.

Ms. Clark stated that the Weiser Galloway Gap Analysis, Economic Evaluation and Risk-Based Cost Analysis Project agreement has been finalized and staff is moving forward.

Ms. Clark stated that the results of the Minidoka Raise study showed that it is feasible and cost estimates were provided. She asked for guidance from the Board about moving forward. Mr. Beck responded that with the economy the way it is this project has become a low priority unfortunately.

### **Agenda Item No. 6, Water Supply Bank Subcommittee Report**

Mr. Aaron Marshall, Water Rights Agent, stated that he manages the water supply bank. In the last few years a backlog has been created and has slowed down economic opportunities. The only fees result from the rental of water. In accordance with the rules, IDWR keeps 10% but the cost of processing exceeds this revenue. It has been determined that two full time employees are needed to keep up with the work load. Staff is looking at options of raising rental fee percentages and creating lease application filing fees to offset the cost of two full time employees. The rules would need to be amended and legislation would be required he stated. If the Board favors these changes, staff needs to act quickly to present legislation to the next Legislature.

Mr. Beck, Chairman of the Water Supply Bank Subcommittee, discussed the meetings about the backlog and solutions to the problems. It was determined that raising the fees was needed he said. Mr. Marshall submitted many options. Mr. Beck stated that raising the rental fee percentage to 25% and creating a \$250 lease application filing fee was the best option according to the subcommittee. Full Board approval is needed.

Chairman Chamberlain stated that this is a substantial increase. The Legislature is not going to provide general fund monies for this need. Mr. Beck added that numerous people attended the subcommittee meeting and expressed no opposition to the increases to get rid of the backlog. Mr. Rigby stated that people are willing to pay more to have a smoother operating system. He asked the Director what his opinion was.

Interim Director Spackman stated that he thought a fee to keep water in the bank was reasonable. He thought 25% was steep. Mr. Chase added that it will take a long time to get this done and in the meantime the backlog gets bigger. Mr. Beck stated that discussions were held about how soon the backlog could be caught up. If the fees fund two full time employees and the backlog is caught up, would they still need two full time employees? Mr. Alberdi asked how long a typical water right is parked in the bank. Mr. Marshall answered that this varies quite a lot. The majority are offered for an indefinite period of time to protect from forfeiture. Some offer the rental so they can rent it back out themselves. There is some time involved in maintaining the leases and the records. A lease term could be limited to five years with an additional filing fee to continue he said. Mr. Alberdi asked how much work was needed on each water right to keep it in the bank. Mr. Marshall responded that it varies with the situation. Mr. Alberdi stated that he liked the proposal, but how would an annual fee be funded to

keep it in the bank. There was discussion about the funding proposal and the future economy of the state. The Chairman stated that it would be next February before this is approved. Mr. Rigby stated that the increases would support two employees.

Mr. Patton stated that it would take a rules change plus possible legislation. The Board might want to direct staff to look at the steps to implement this proposal. Further Board approval could take place in July he said.

Mr. Garrick Baxter, Deputy Attorney General, stated that a form needs to be sent to the Governor's Office to the Division of Financial Management as a first step. He stated that deadlines for the rules would be the end of August. Mr. Baxter stated that he had been researching whether the Board could make both changes through the rules process. The Chairman asked staff and Mr. Baxter to proceed.

The Interim Director asked to report on the water supply bank. He expressed concern about the backlog particularly on the rental side. He had received complaints from entities who could not rent out of the water supply bank. Staff has been reassigned to work on water bank rentals including Cynthia Bridge Clark. She will be reviewing rental applications 25-50% of her time. Two additional staff members have also been reassigned part of their time to the water supply bank. Director Spackman stated that in the priorities of the department this is above some of the others. Other activities may be displaced.

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

Director Spackman addressed the Board discussing correspondence from Jonathan Bartsch which was a farewell letter to the Implementation Committee. The Director did not think the letter should come from Mr. Bartsch but rather the Board. Also, Mr. Rich Rigby's assignment had not been finalized. Chairman Uhling had agreed in correspondence with Director Spackman that he would be willing to sign a letter to the Implementation Committee.

With respect to Mr. Rigby's assignment, the Director stated that a letter had been received from the Governor addressed to the Department of the Interior to reassign Mr. Rigby as a federal liaison to the department. Director Spackman stated that this will shortly come to pass. The letter to the Implementation Committee should be signed by Mr. Bartsch and Mr. Patton on behalf of the Board. Mr. Jerry Rigby stated that staff could put this together. Mr. Graham added that it would be appropriate for all the Board members to send a thank you letter to show their appreciation to Mr. Bartsch. The Chairman asked Mr. Patton to take care of that. Director Spackman stated that everyone needed to be sensitive to Mr. Rich Rigby in this process and keep him in the loop.

Director Spackman stated that he had issued a Second Amended Methodology Order to determine material injury to senior surface water rights. The decision is important to set a standard for material injury until direction is received from the court. The second order applies the principles and procedures that are set out in the methodology order to the specific year. These orders could be subject to appeal. He discussed the contents of the orders and how the determinations were forecasted. Predictions are difficult to make and probably won't be accurate he said.

**Agenda Item No. 8, Non-action Items Board Members May Wish to Present**

Mr. Jerry Rigby stated that he was excited that Mr. Rich Rigby was going to be a federal coordinator on the ESPA CAMP process. He expressed support for the Implementation Committee and all those who had participated. Sincere thanks are appropriate for the Colorado contractors he said.

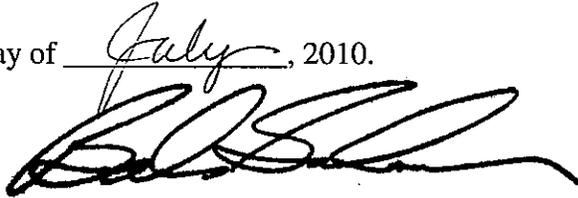
The Chairman welcomed Mr. Rich Rigby who stated to the Board that he also supported the ESPA CAMP process to date. He stated his objectives: 1) to find his fit with the state and to work in harmony; 2) to be loyal as an employee with the state and paid by the Federal government; and 3) to manage expectations and achieve reasonable goals of communication, transparency and certainty. He thanked the Board.

Mr. Chase asked about Palisades and the change that is happening with using Palisades for flood control. He asked for an explanation of that and the positive and negative effects on water users and the ESPA CAMP. Mr. Patton stated that he would ask someone from Water District 1 to come and address the Board about water accounting in the Upper Snake and how that works with Palisades storage.

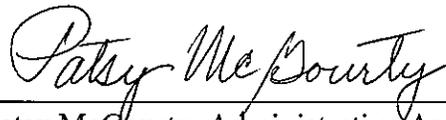
**Agenda Item No. 9, Next Meeting and Adjourn**

The next meeting is July 22 and 23.

Respectfully submitted this 17<sup>th</sup> day of July, 2010.



Bob Graham, Secretary



Patsy McGourty, Administrative Assistant II

Board Actions:

1. Mr. Rigby amended his motion with these changes to approve the minutes and Mr. Cuddy seconded. All were in favor and Minutes 6-10 were approved.
2. Mr. Chase moved that Ms. Megan Rush be appointed to the Treasure Valley CAMP Advisory Committee to represent Ada County. Mr. Alberdi seconded. The Chairman called for a voice vote and all were in favor.