



IDAHO WATER RESOURCE BOARD

MINUTES OF MEETING 10-10

C.L. "Butch" Otter
Governor

November 16, 2010
Boise, Idaho

Terry T. Uhling
Chairman
Boise
District 2

Chairman Uhling called the meeting to order at 8:30 a.m. and asked for roll call.

Agenda Item No. 1, Roll Call

Gary M. Chamberlain
Vice-Chairman
Challis
At Large

Board Members Present

Terry Uhling, Chairman	Vince Alberdi
Gary Chamberlain	Roger Chase
Chuck Cuddy	Bob Graham
Jerry Rigby	Leonard Beck

Bob Graham
Secretary
Bonners Ferry
At Large

Staff Members Present

Charles "Chuck" Cuddy
Orofino
District 1

Brian Patton, Bureau Chief	Helen Harrington, Section Manager
Jack Peterson, Federal Liaison	Rich Rigby, Fed Liaison
Dan Nelson, Hydrologist	Morgan Case, Biologist
Bill Quinn, Engineer	Cynthia Bridge Clark, Engineer
Neeley Miller, Senior Planner	Sandra Thiel, Planner
Monica Van Bussum, Water Rights Agent	Shelley Keen, Section Manager
Will Whelan, Nature Conservancy	Diana Ball, Administrative Assistant

Leonard Beck
Burley
District 3

Guests Present

Roger W. Chase
Pocatello
District 4

Peter Anderson, Trout Unlimited	Dylan Lawrence, Moffatt Thomas
Walt Poole, Idaho Dept. of Fish and Game	Kent Lauer, Idaho Farm Bureau
Norm Semanko, Idaho Water Users Association	Liz Paul, Idaho Rivers United
Joe McMahon, Collaborative Processes	Shelley Davis, Barker Rosholt
Daisy Patterson, University of Montana	

Vince Alberdi
Kimberly
At Large

Jerry R. Rigby
Rexburg
At Large

Agenda Item No. 2, Agenda and Approval of Minutes 9-10

Chairman Uhling called for any changes to Agenda. Mr. Patton stated in the absence of Interim Director Spackman, staff members will provide updates on several topics. Per the Board's request, Deputy Attorney General, John Homan, will provide information on the Water Supply Bank rules.

Mr. Chamberlain moved to approve Meeting 9-10 Minutes as submitted. Motion was seconded. Minutes for Meeting 9-10 were approved as submitted.

Agenda Item No. 3, Public Comment

Chairman Uhling asked for public comment regarding any items not included on the agenda.

Mr. Peter Anderson, Trout Unlimited, expressed his thanks to the Board.

Ms. Liz Paul, Idaho Rivers United, expressed her thanks and appreciation for the Board members. Ms. Paul discussed critical habitat designation for bull trout. She stated that Arrowrock Reservoir, Anderson Ranch Reservoir, and Upper Boise River Watershed are critical habitat for bull trout in the Boise River basin. Lucky Peak is not designated critical habitat although there are bull trout present via Arrowrock Dam.

Ms. Paul provided information about an Idaho Rivers United event to be held December 15, 2010, at 6:00 p.m. at the Boise public library located at Ustick and Cole. It will be an evening program with US Fish and Wildlife Service to help educate public about critical habitat and the status of bull trout in the Boise basin.

Chairman Uhling suggested scheduling a presentation by Idaho Fish and Game on bull trout critical habitat for a future Board meeting.

Agenda Item 4, IWRB Hydropower Status Report

Mr. Dan Nelson, staff Hydrologist, presented the Hydropower Status Report. He stated that the fiscal reports reflect the current fiscal year period ending November 1, 2010. Actual FY2011 to date numbers show Dworshak produced approximately \$110,755 in revenues over expenses with \$36,926 going into the Repair and Replacement Fund. Total Reserve funds total \$1,226,664. The Board's portion of the Pristine Springs revenues is \$19,472 and that total amount was placed in the Pristine Springs Repair and Replacement Fund. Mr. Nelson noted a correction to the last line of the table footnote showing "To Date" funds in the account totaling \$726,761; the correct amount is \$787,176.

Chairman Uhling asked about creating a Reserve Fund as depicted for Dworshak for Pristine Springs. Mr. Patton responded that Pristine Springs has been treated differently because there are facilities at Pristine Springs other than the hydropower plant, and a Repair and Replacement Fund has not been created specifically for the hydropower plant. The fund is for the entire facility, including fish production, canals, and the pipelines. Mr. Patton stated that the answer to that question depends on what is ultimately decided for the future of the Pristine Spring's facility. There has been discussion about selling the facility and keeping the hydropower facilities under Board ownership or selling the entire facility, including the hydropower facilities, or retaining them in the long term, which will then impact how finances are handled.

Chairman Uhling asked that the Dworshak Reserve Funds visual presentation be added to Pristine Springs. Mr. Patton will have the spreadsheet modified to clarify the numbers.

Mr. Graham asked why the expenses for Dworshak show up as a variance in the budget. Mr. Patton clarified that \$6,000 less than budgeted was spent to this point in the fiscal year. Mr. Graham asked if the FERC fees are once a year. Mr. Patton stated that they are however invoices have not been received to date.

Agenda Item No. 5, IWRB Financial Program

a. Status Report

Mr. Brian Patton provided the Financial Program Status Report. As of November 1, 2010, approximately \$13.77 million is committed for various loans and projects but not disbursed. There is a total loan principal outstanding of approximately \$19.5 million. The current total uncommitted balance is approximately \$1.5 million.

The Status Report is divided into the various categories of committed funds. Mr. Patton informed the Board that they would be taking action on an application from the Woodland Heights Water Association.

Mr. Patton informed the Board that the North Snake and Magic Valley Ground Water Districts have made their scheduled loan payment for the Pristine Springs project. The first two annual payments totaling approximately \$2.4 million dollars have been received and have been committed to the Eastern Snake Plain Aquifer (ESPA) CAMP Projects.

Mr. Patton directed the Board's attention to a list of the Board's Conduit Debt through revenue bonds. He stated this will be an ongoing part of the status report. Mr. Patton also stated there are several projects that will be brought up at the next Board meeting.

Mr. Alberdi asked whether all bonds shown are nonrecourse. Mr. Patton responded that they are. He also stated there is one recourse bond, recourse to the project for the Dworshak bonds but not recourse to the Board's other funds. Pending revenue bond projects are expected to materialize and revenue bonds issued. He stated the Southwest Irrigation Co. pipeline revenue bond is back on schedule. He stated Bear River Bond Pool is under construction, which will be a take-out bond at end of construction in approximately March-April 2011.

Mr. Alberdi asked for an update on the Big Wood-American Falls siphon project. Mr. Patton responded that the project will likely be financed through private funding rather than through the Board. He stated that a similar project was taken up for Glenns Ferry siphon; the loan agreements have been completed, and the project is under construction. Chairman Uhling asked Mr. Patton to thank those entities who have made their payments on time in relation to the ground water loan.

b. Financial Items – Woodland Heights Loan

Mr. Dan Nelson presented a loan request for the Woodland Heights Subdivision #2 water system upgrade project loan in the amount of \$13,500. The improvement project would include replacing well piping and valves, abandoning the old pressure tank, installing a flow meter, and replacing the vault cap and well cap based on a recommendation made by IDEQ during a Sanitary Survey conducted October 2006. Work has been completed on the requirements of the IDEQ Sanitary Survey, and they have begun work set out in the Survey. An emergency well pump replacement depleted homeowners' reserve funds, which were to be used to perform the IDEQ recommendations. Staff recommends a loan in the amount of \$13,500 at 6.0% interest with the conditions as specified in the attached resolution. Due to the small amount of the loan, requiring a Local Improvement District (LID) is not warranted since it would cost more to form the LID than the loan itself.

Mr. Nelson provided additional research on the loan proposal per the Board's request. Mr. Rigby made a motion to accept the resolution as presented in the matter of Woodland Heights Subdivision No. 2 Water Association, Inc. The motion was seconded. Mr. Rigby clarified that the repayment term would be 5 years. Chairman called for a roll call vote.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Chase: Nay; Mr. Beck: Aye; Mr. Chamberlain: Aye; Mr. Graham: Aye; Mr. Rigby: Aye; Chairman Uhling: Aye. Motion Passed: 7 Ayes; 1 Nay. Motion carried.

c. Eastern Snake Plain Aquifer (ESPA) Recharge Program Update

Mr. Bill Quinn, staff Engineer, presented an update on the ESPA Recharge Program. He stated the late season recharge program suffered a significant setback with American Falls Reservoir District #2 (AFRD2) opting out of recharge in order to conduct needed maintenance, however the Department recognizes that maintenance needs to be completed at regular intervals. Southwest Irrigation District and the Big Wood Canal Company are the only participants in the fall recharge program. Southwest Irrigation District recharged a total of 2,143 acre-feet through five injection wells supplied by the West Cassia Pipeline. Their recharge ended on October 28, 2010. Big

Wood Canal Company is currently recharging through one injection well with Little Wood River Water at approximately 1.4 cfs. He stated this is more of a test project than a complete recharge program, but it does have the potential to develop into a larger program. Staff welcomes BWCC willingness to experiment with injection wells. To date, Big Wood Canal Company has recharged approximately 100 acre-feet. The total fall recharge through today is a little over 2,200 acre-feet at a cost not expected to exceed \$7,000.

Total recharge to date is approximately 61,384 acre-feet at a cost of \$184,152. Approximately \$200,000 remains in the recharge account, and this amount is expected to be carried over for 2011 recharge. Staff is currently preparing contract amendments to extend the recharge conveyance contracts through 2011, and expects to renew contracts for 2011 with the same canal companies and irrigation districts as 2010.

There was discussion about the \$200,000 balance and what income source would be available when those funds are depleted. Mr. Patton stated that the Board will have to make a decision on whether more funds are made available for the recharge program. Mr. Patton stated there may be approximately \$350,000 that could be reallocated back into conveyance fees. This topic was suggested as a discussion item for the January Board meeting. Chairman Uhling stated that the Board's goal is to disburse funds across the state and fund numerous projects.

Mr. Chamberlain recommended a Board discussion to discuss policy for future recharge needs. There was a discussion regarding long-term funding for the ESPA CAMP. Time will be scheduled at the January work session for a recharge discussion, including the ESPA CAMP.

d. Bell Rapids Water Rights Acquisition Update

Mr. Patton provided the update and stated that the Bell Rapids Water Rights, which was a \$24,375,000 project, has been paid in full. He provided a brief history of the project. He stated all required payments to the Bell Rapids Mutual Irrigation Company and U.S. Bank have been paid in full, and 60,000 of the 74,000 acre-feet is under lease to the BOR through 2035 to satisfy one of the provisions of the Nez Perce water rights agreements. The remaining 14,000 acre-feet is currently unallocated but has been left in-stream to provide a buffer against the Swan Falls minimum flows. There is approximately \$177,000, generally associated with interest derived on funds in that subaccount, remaining in the Bell Rapids subaccount. Staff suggests leaving the funds in place for the next several months to take care of any residual bond trustee fees or other expenses. Once all fees are resolved, the Board can decide on appropriate use of those funds.

Chairman Uhling asked if there is a five-year rolling average by area in the state available for where Board funds have been committed. Mr. Patton responded that there is something in place, and it can be updated and presented to the Board at the next meeting.

There was a short break in the meeting.

Agenda Item No. 6, Planning Activities

a. State Water Plan Update

Ms. Helen Harrington, Section Manager, provided an update on the State Water Plan revision and stated that recent meetings focused on the Snake River Basin section of the plan. She stated that the process requires extra time at this point to consider public comments. The revision process is expected to be finished and brought to the Board in early 2011. There will be approximately five public hearings across the state.

Chairman Uhling asked when a schedule would be available for public hearings related to the SWP revision. Ms. Harrington stated the schedule may be complete by March 2011, and Mr. Patton stated that it should be available to present to the Board for the March Board meeting. Public hearings may be scheduled in conjunction with Board meetings in other areas of the state to coincide with public comment on the SWP revision.

Mr. Graham asked if these would be formal hearings or open house venues. Ms. Harrington confirmed that formal hearings are required by statute.

b. Rathdrum Prairie CAMP

Ms. Sandy Thiel, Planner, provided an update on the Rathdrum Prairie CAMP and stated the process was progressing successfully. The Advisory Committee is hosting an open house as part of their regular meeting in November to be held at the public library in Coeur d'Alene. Public comment on the Draft Plan will be solicited.

The Advisory Committee will reconvene at their regular meeting in December to review comments and continue refining the Draft Plan to submit to the Board in January 2011. The CAMP has stated a clear vision: To provide sustainable source of high quality ground water for current and future economic, social, and environmental benefits and preserve exceptional quality and reliability of the Rathdrum Prairie aquifer.

They have set three clear objectives: 1) meet future demand for water, 2) prevent and resolve water conflicts, and 3) protect the aquifer. Within each objective, action items are designed to ensure that as much as possible they are measurable and achievable rather than having a document that sets out policies that can't be measured.

There was discussion on expectations of funding for and implementation of the Rathdrum Prairie Plan. Suggestions were made for several changes to the Draft Plan. Ms. Harrington stated that the document is posted for public review and cannot be changed at this point. She stated that this is a Draft Plan that will be refined.

c. Treasure Valley CAMP

Ms. Helen Harrington, Section Manager, provided an update on the Treasure Valley CAMP. She stated that the Advisory Committee was appointed in April and there are currently 41 members. There is one resignation and a new appointment for the Board to take action on.

Ms. Harrington stated that the committee is highly motivated and very committed to moving forward on a timely basis. They are currently working towards having a Draft Plan for the Board by March 2011. A copy of the work plan was provided. One key study, *Future Water Study* (WRIME) provides an estimate over the next 50 years. The study indicates an additional demand of 83,000 acre-feet at the low end, which is in line with previous work done. There was an additional study completed on enhancing existing cloud seeding program. She stated the Boise Project Board of Control sponsors an existing program. Results of that study estimate an increase in average stream flow of 33,000 and 99,000 acre-feet.

Ms. Harrington stated that Mr. Rob Frazier, Idaho Wildlife Federation, has submitted his resignation from the TV CAMP on October 13, 2010. Mr. Frazier has not attended any committee meetings. Mr. Frazier recommended Mr. Kevin Decker, IWF, who has attended three of the committee meetings and has been very active in the process. Chairman Uhling asked about a recommendation. Ms. Harrington stated that Mr. Decker is highly motivated and committed to participating in the process and would likely be a productive member and represent an area that would be useful to the process.

Mr. Chamberlain moved to accept Mr. Kevin Decker as a member of the TV Advisory Committee as substitute for Mr. Rob Frazier who has formally resigned. Motion was seconded. Voice vote: 8 Ayes. Motion carried.

d. Eastern Snake Plain Aquifer CAMP

Mr. Rich Rigby, Bureau of Reclamation, provided an update on the ESPA CAMP. He submitted a proposed letter from the Board to be sent to the proposed Hydrology Committee. Chairman Uhling approved and

signed the letter. The last ESPA CAMP meeting was held on October 14, 2010. At that meeting the Funding Committee discussed the options for regional aquifer management districts. The three management options being considered are: 1) aquifer wide with one aquifer management district, 2) a subset that leaves out the two areas of the Committee of Nine who expressed serious oppositions, and 3) a regional approach. There is an Implementation Committee scheduled for Monday, November 22, 2010, in Burley, to discuss these options and make a decision. There was discussion about how the activities will be coordinated.

Agenda Item No. 7, Upper Salmon Water Transactions – Nature Conservancy Water Right Donation

Ms. Morgan Case, Staff Biologist, presented the Board with a new brochure about the Idaho Water Transaction Program recently published by the Board.

Ms. Case provided an update on the recent Nature Conservancy water right donation transaction. She stated that the Department has been working with The Nature Conservancy to permanently protect flows in the Lemhi River. The Nature Conservancy purchased a ranch with specific plans for retiring two water rights in the Upper Lemhi and has donated those water rights to the Board. The Department has completed the Board's ownership change on those water rights. Ms. Case stated that this transaction demonstrates that there is a way to permanently protect water and the partnership approach with The Nature Conservancy and water district is working well.

Mr. Will Whelan, The Nature Conservancy, thanked the Board for the opportunity to acknowledge progress and thank those who make it possible. He stated that the donated water rights total 1.23 cfs and will contribute to the Lemhi River flows. The Conservancy's role in these transactions is to facilitate and negotiate the agreements with ranchers, real estate transactions, and securing private match dollars. Mr. Whelan expressed praise for Ms. Case's role and her expertise in helping facilitate this transaction, and for Rick Sager, water master in the Lemhi area, and his hard work. Chairman Uhling expressed his appreciation for the role of the Nature Conservancy and stated that their partnership is valued by the Board.

There was discussion about water right applications on the upper Snake River. Ms. Case stated that members of the Northwest Power and Conservation Council will meet with Department staff to discuss that issue. She stated that Idaho Dept. of Fish and Game is asked to comment on the public interest aspect of new water rights in the Salmon basin. Department staff will continue to work on a process that will approve applications that are in the public interest as related to ESA issues. Mr. Chamberlain asked about permanent donations of U.S. Forest Service water rights in the Upper Salmon basin. Ms. Case commented that those water rights are currently leased to the Water Supply Bank indefinitely. Chairman Uhling thanked Ms. Case for her hard work on this project.

Agenda Item No. 8, Water Storage Studies

Ms. Helen Harrington presented the update on storage studies currently underway. She presented an update on the Lower Boise River Interim Feasibility Study. She stated the U.S. Corps of Engineers was authorized to conduct an investigation of the Lower Basin River. They entered into an agreement with the Board in May 2009 to initiate the Interim Phase of the two-phase feasibility study. The surface water storage component was included in the first phase to provide technical information for the Treasure Valley CAMP process. The second phase will focus on alternatives other than surface water storage.

The Interim Feasibility Study examined the Bureau of Reclamation's 12 locations as identified in their 2006 Boise Payette Water Storage Assessment study and evaluated them to establish a short list of storage options. Public comments were received as a result of the public hearings held in June and July 2010 and considered prior to finalizing the report. The top three ranked sites to be evaluated are: 1) Arrowrock, new dam slightly downstream of the existing dam with potential volume of 317,000 acre-feet; 2) Alexander Flats with potential volume of 68,000 acre-feet; and 3) Twin Springs with potential volume of 300,000 acre-feet.

The results of the screening analysis were presented at the last Board meeting. Based on the results of the analysis, the Board recommended the top three dams be evaluated for engineering design, cost estimate, and hydrologic analysis when additional federal funding is available. The project is currently on hold pending federal funds.

Ms. Harrington provided an update on the Henrys Fork special study. HJM8 (2008) directed the Board to investigate potential new surface water projects across the state, including the Teton Dam replacement. SB1511(2008) appropriated \$1.8 million to the Board for the Minidoka Dam enlargement study, which identified \$1.4 million, and the Henrys Fork Teton Dam replacement study for \$400,000.

The Board entered into an agreement with the Bureau of Reclamation in June 2009 to study options for replacing the benefits of the original Teton Dam storage with other areas in the basin. The study scope was expanded to identify development of water supplies – aboveground, on stream and off stream storage, in the Henrys Fork contributory basins. Study costs are projected to be approximately \$800,000, with Bureau of Reclamation and IDWR each contributing \$400,000. The agreement is currently being amended to reflect the modified scope. The study is expected to be completed around September 2012.

At the last Henrys Fork Watershed Council meeting on October 19, 2010, Bureau of Reclamation discussed the formation of a core stakeholder workgroup comprised of members from all key constituencies to ensure representatives from each group are aware of how all background decisions and recommendations are made. The Henrys Fork Watershed Council has taken the lead on this project.

Mr. Graham asked for clarification on the \$400,000 committed in 2008. Mr. Patton confirmed that it was.

Ms. Harrington provided a brief update on the Weiser Galloway project. A cost share agreement between the Board and the Corps of Engineers was executed on June 3, 2010, to initiate the Weiser Galloway Gap Analysis, Economic Evaluation, and Risk Based Cost Analysis project. The project will reexamine specific components of the previous identified Galloway Dam and Reservoir site based on current conditions and is intended to be used by decision makers to determine whether to move forward with a full feasibility study. Estimated costs are projected to be \$200,000 to be shared equally between the Board and the Corp. The Board has committed up to \$100,000 from the Revolving Development Account with an option to provide in-kind work to offset the Board's cash contribution. The study is expected to be completed by March 2011.

Chairman Uhling suggested the storage subcommittee meet around March 10 or 11 around the scheduled Board meeting, which would allow an opportunity for other members of the storage committee to tour the Weiser Galloway facility.

Agenda Item No. 9, Minimum Stream Flow Program – Northern Idaho Adjudication

Mr. Patton provided an update on the Board's filing fee claims for the minimum stream flow water rights in the Northern Idaho Adjudication. A budget request was made for the first phase of the claim fees, which is approximately \$464,000 (the Board's entire claim fees are estimated at \$1.7 million). Research for claim fees showed that the Governor of Idaho holds minimum lake level water rights for the three large lakes in north Idaho resulting from 1937 legislation and is faced with the same issue as the Board regarding claim fees in the adjudication. The Governor's claim fees total about \$581,000. There was discussion about how to cover the Board's claim fees and the Governor's claim fees. It was suggested that there may be a phased payout over a 5-year period and discussions are ongoing towards that direction. Chairman Uhling asked if the payout was expected through the budget process to cover the claim fees. Mr. Patton confirmed that it was and would be budgeted over a 4- to 5-year period.

Agenda Item No. 10, Director's Report

In Interim Director Gary Spackman's absence, staff provided presentations on several issues that the Director wanted to present.

Jennifer Cuhacian, Hydrologist, presented a water supply presentation on the 2011 water supply outlook. There was review and discussion on Ms. Cuhacian's slide presentation. She stated that above average weather conditions are expected based on a climate prediction for La Nina conditions. She stated that a favorable water supply is estimated going into 2011.

Mr. John Homan, Deputy Attorney General, presented information on the Priest Lake outlet structure. Bonner County's main interest is to ensure that the outlet structure be managed in the same manner that it has been historically. Statutory requirements mandate that it be operated at certain lake levels to maintain the lake during certain recreation periods. Avista's contract is set to terminate on March 1, 2011, and they have not communicated their intent to date.

Mr. Carl Duncan, the contract operator for Avista, has expressed interest in staying on after Avista's contract ends on March 1, 2011. Mr. Graham noted that there is a serious concern over the safety of the operator when he is performing maintenance. It was suggested that OSHA requirements be reviewed and a harness be designed or procured for the operator. Chairman Uhling confirmed that the operator's safety issues need to be addressed and recommended looking into fall protection.

Mr. Homan provided a brief update on the extra office space available after the Office of Energy Resources vacated the Water Center in June 2010. The Department may have a plan in place to lease out approximately 9,000 sq ft of the available 10,000 sq ft, which should bring some relief to the budget.

Mr. Homan provided a brief update on the Water Supply Bank rule and stacked water rights. Mr. Shelley Keen, Section Manager, presented a memo to the Board regarding this issue. The proposed \$250 per water right fee was originally based on total lease applications; each water right requires a separate application. Potentially reducing application fees for stacked water rights will bring in substantially less than the proposed application fees, which would affect operating the Water Supply Bank program at the level anticipated. There was discussion on how much time it takes to review multiple (stacked) water right applications.

Mr. Homan stated that the current deadline to make changes to the existing rule is Friday, November 19. Legal counsel recommended that the Water Supply Bank Subcommittee should meet separately and vote on the rule change and then bring their decision before the entire Board for consideration. The Water Supply Bank Subcommittee will hold a telephonic meeting prior to Friday, November 19, to discuss limiting the application fee on stacked, or multiple overlapping, water rights.

Mr. Rigby moved that the Water Supply Bank Subcommittee hold a special meeting to discuss reevaluating the existing rule on application fees and then submit it to the Board for final approval. Motion was seconded. Chairman called for a voice vote: 8 Ayes Motion carried.

Mr. Chris Bromley, Deputy Attorney General, provided an update on the current status of conjunctive administration delivery calls, including mitigation plans. The three active actions are: 1) Thousand Springs, 2) Surface Water Coalition, and 3) A&B Irrigation District.

The Thousand Springs 2005 delivery call filed by spring users is set for argument before the Idaho Supreme Court on December 3, 2010, in Jerome, Idaho. Mr. Bromley stated that he expects a decision by late spring.

A 2005 delivery call was initiated by a surface water coalition group of surface water providers. Director Dreher found material injury. There was a remand issue on Director Tuthill's decision not to issue what is now

referred to as the methodology for determining material injury. Interim Director Spackman in addition to other staff produced what is now known as the methodology order. The methodology order is now on a separate litigation track, as well as its offspring this irrigation season. The remand issued was finalized and is now an appealable decision. Notices of Appeal have been filed by IDWR, ground water users, City of Pocatello, and the Surface Water Coalition. Two main issues on appeal to the Supreme Court are: 1) what standard of evidentiary review does the Director apply to information presented to him on a delivery call, and 2) can the Director use a baseline irrigation volume for purpose of forecasting material injury. He stated that the fundamental issue is where does the Director start with a material injury investigation.

According to Mr. Bromley, logical outgrowth of these is that for junior ground water right users to continue to divert and pump water they need to have a mitigation plan in place. A hearing was held this spring on the mitigation plan submitted by ground water users. Ground water users would have to demonstrate proof that they had secured that volume of storage water in order to turn on for the season. That mitigation plan was approved by the Director and appealed by the Surface Water Coalition. It is scheduled for argument on December 13, 2010. A resolution is expected before the start of the irrigation season.

A&B Irrigation District, Unit B, is a ground water provider for a Bureau of Reclamation project. This was a 2007 delivery call. The Director held a hearing and found no material injury to A&B. Judicial review agreed with the Director's finding however the evidentiary method applied was never stated so it was remanded back to the Director and is in the appeal period.

Agenda Item No. 11, Other Items Board Members May Wish to Present

Each Board members offered expressions of thanks and gratitude for Mr. Rigby's service and commitment to the Board. Mr. Rigby shared his words of appreciation for the Board and the opportunity he had to help make a difference as a member of the Board for the past 16 years.

Mr. Garrick Baxter, Deputy Attorney General, and Mr. Homan addressed the Board regarding the statutes as to the Board's ability to make a final decision on a revision to the Water Supply Bank rule. They stated that a special meeting can be held with at least 24-hour notice.

Agenda Item No. 12, Next Meeting and Adjourn

Meeting was Adjourned at approximately 11:45 a.m. Next Board meeting is scheduled for January 20 and 21, 2011, in Boise, Idaho.

Respectfully submitted this ____ day of _____, 2010.

Bob Graham, Secretary

Diana Ball, Administrative Assistant II

Board Actions:

1. Mr. Chamberlain moved to approve the minutes. Motion was seconded. All were in favor and the Minutes for Meeting 9-10 were approved. The Chairman asked for a voice vote and all were in favor.
2. Mr. Rigby moved to approve the Woodland Heights Project Revolving Development Account Loan in the amount of \$13,500 at a rate of 5.0% with the conditions as specified in the attached resolution.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Chase: Nay; Mr. Beck: Aye; Mr. Chamberlain: Aye; Mr. Graham: Aye; Mr. Rigby: Aye; Chairman Uhling: Aye. Motion Passed: 7 Ayes; 1 Nay. Motion carried.

3. Mr. Chamberlain made a motion to move to accept Mr. Kevin Decker as a member of the Treasure Valley Advisory Committee as substitute for Mr. Rob Frazier who has formally resigned. Motion was seconded. The Chairman asked for a voice vote and all were in favor. Motion carried.
4. Mr. Rigby moved that the Water Supply Bank Subcommittee meet to discuss reevaluating the existing rule on application fees and then submit it to the Board for final approval. Motion was seconded. The Chairman asked for a voice vote and all were in favor. Motion carried.