



IDAHO WATER RESOURCE BOARD

MEETING MINUTES 11-14

C.L. "Butch" Otter
Governor

Idaho Water Center
Conference Rooms 602 B,C,D
322 East Front Street, Boise, Idaho 83702

Roger W. Chase
Chairman
Pocatello
District 4

November 4, 2014
Work Session

Peter Van Der Meulen
Vice-Chairman
Hailey
At Large

Bob Graham
Secretary
Bonners Ferry
District 1

**Charles "Chuck"
Cuddy**
Orofino
At Large

Vince Alberdi
Kimberly
At Large

Jeff Raybould
St. Anthony
At Large

Albert Barker
Boise
District 2

John "Bert" Stevenson
Rupert
District 3

Chairman Roger Chase called the meeting to order at approximately 8:00 am. All other Board members were present.

During the Work Session the following items were discussed:

- Financial Status Report by Brian Patton
- Project and Program Tracking and Reporting by Cynthia Bridge Clark
- UIC Rule Change by Brian Ragan
- Rathdrum Prairie Groundwater Pumping Study by Ken Neely, Dale Ralston, and Gary Johnson
- Rathdrum Prairie Future Demand Study by Neeley Miller
- Clearview Water Co. Loan by Brian Patton
- Storage Studies by Cynthia Bridge Clark and Tim Fleeger
- Water Transactions by Morgan Case and Sarah Lien
- Water Supply Bank by Remington Buyer
- Mountain Home Water Right Acquisition by Brian Patton and Jack Peterson
- Regional Conservation Partnership Program Update by Neeley Miller
- ESPA Recharge by Brian Patton
- Statewide Aquifer Stabilization Effort Prioritization by Neeley Miller

No action was taken by the Board during the Work Session.

November 5, 2014
IWRB Meeting

Chairman Roger Chase called the meeting to order at approximately 8:00 am. Mr. Albert Barker was absent. All other Board members were present. (Mr. Barker joined the meeting for a short time during the Executive Session.)

Agenda Item No. 1, Roll Call

Board Members Present

Roger Chase, Chairman
Bob Graham, Secretary
Vince Alberdi
Chuck Cuddy

Peter Van Der Meulen, Vice-Chairman
Jeff Raybould
Bert Stevenson
Albert Barker

Staff Members Present

Gary Spackman, IDWR Director
Brian Patton, Bureau Chief
Neeley Miller, Senior Planner
Mandi Pearson, Admin. Assistant
Brian Ragan, Hydrogeologist
Harriet Hensley, Deputy Attorney General
Garrick Baxter, Deputy Attorney General

Mat Weaver, Deputy Director
Cynthia Bridge Clark, Section Manager
Morgan Case, Biologist
Remington Buyer, Water Supply Bank Coordinator
Clive Strong, Deputy Attorney General
John Homan, Deputy Attorney General

Guests Present

Sarah Higer, Idaho Power
Richard Kindall, Clearview Water Co.
Ron Poches, Clearview Water Co.
Peter Anderson, Trout Unlimited
Liz Paul, Idaho Rivers United
Shelly Davis, Barker Rosholt & Simpson
Tim Fleeger, US Army Corps of Engineers

Walt Poole, Idaho Dept of Fish & Game
Julia Page, ID Org. of Resource Councils
Doug Paddock, ID Org. of Resource Councils
John J. Williams, Bonneville Power Admin.
Mary Sue Roach, Weiser River Resource Council
Bill Richey, Elmore County
Lynn Tominaga, Idaho Groundwater Appropriators

Agenda Item No. 2, Executive Session

At approximately 8:00 am the Board resolved into Executive Session by unanimous consent pursuant to Idaho Code Section 67-2345 (1) subsections (d) and (f), for the purposes of considering records that are exempt from disclosure under Idaho Code § 9-340D, and to communicate with legal counsel regarding legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Topics discussed were Owyhee Federal Reserved Water Right Claims and Basin 36 Conjunctive Management Litigation. No action was taken by the Board during the Executive Session. The Board resolved out of Executive Session and into Regular Session at approximately 9:15 am.

Agenda Item No. 3, Agenda and Approval of Minutes

Mr. Raybould made a motion that the minutes for meeting 10-14 be approved as printed. Mr. Stevenson seconded the motion. Voice Vote. All were in favor. Motion passed. Mr. Patton noted that Representative Moyle and Speaker Bedke would be addressing the Board at some point during the meeting, so Public Comment may be re-opened later during the meeting if needed.

Agenda Item No. 4, Public Comment

Chairman Chase opened up the meeting for public comment. Ms. Julia Page of the Idaho Organization of Resource Councils expressed opposition to building a high dam on the Weiser River. Mr. John J. Williams of the Bonneville Power Administration (BPA) provided an update to the Board. He discussed management/personnel changes, the Columbia River Treaty, BPA's fiscal status,

BPA's rates, the Albany Falls lake level, the biological opinion, and an agreement with Oregon regarding a spill test. There was discussion among the parties regarding Lake Pend Oreille lake levels.

Ms. Liz Paul of Idaho Rivers United discussed soil health as an option for water efficiency, and encouraged the Board to be more proactive in regards to water conservation and water quality. There was discussion among the parties regarding evapotranspiration and drought-resistant plants.

Ms. Mary Sue Roach of the Weiser River Resource Council expressed concerns regarding the Galloway Dam project, specifically in regards to sediment loss and dam safety.

Mr. Lynn Tominaga of Idaho Groundwater Appropriators thanked the Board for its participation in the Weiser-Galloway studies and expressed interest in being a potential space holder within the Galloway project. He discussed Galloway as a potential tool to relieve water delivery calls that occur in the Eastern Snake Plain. There was discussion among the parties regarding water efficiency in irrigated agriculture.

Agenda Item No. 5, Update on Negotiated Rule Making Process for Rule 50

Mr. Garrick Baxter briefed the Board on the Negotiated Rule Making Process for Rule 50. He provided a map of the Eastern Snake Plain Aquifer (ESPA). Rule 50 relates to the area of common ground water. The Director proposed to repeal Rule 50 and allow such decisions on the area of common ground water to be cited on a case by case basis in future delivery calls. He discussed the effect of this possible rule change to existing delivery calls. There was discussion among the parties regarding the area of impact determined by the Director for future calls.

Agenda Item No. 6, UIC Rule Change

Mr. Brian Ragan discussed a pending rule change to the Underground Injection Control rules of IDAPA 37.03.03. This Pending Rule change is being proposed in order to make the reinforcing regulation match the statute adopted in 2014 to avoid any conflict between the statute and the rule. The proposed revision will replace the term "drilled" with the term "used."

Mr. Raybould moved to adopt the resolution adopting the pending UIC rule change. Mr. Cuddy seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Absent; Chairman Chase: Aye. Motion passed.

Agenda Item No. 7, Clearview Water Co. Loan

Clearview Water Company, Inc. is requesting a residential irrigation project construction loan in the amount of \$50,000 to replace the existing mainline, hookups and pump. The water delivery system for the irrigation water was originally built in the 1950's and has since deteriorated and in need of replacement. The project will also help relieve the municipal water system of the burden of providing high-quality treated water for irrigation uses for these homes. Staff recommends a loan for \$50,000 for the Clearview Water Company Inc. for a term of 10 years at 3.5% interest. Mr. Richard Kindle of the Clearview Water Company discussed the value of the system to the homeowners in the subdivision. There was discussion among the parties regarding a reserve account.

Mr. Alberdi moved to adopt the resolution in the matter of a funding commitment to Clearview Water Company. Mr. Van Der Meulen seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Absent; Chairman Chase: Aye. Motion passed.

Agenda Item No. 8, Water Transactions

Ms. Morgan Case discussed the Beaver Creek Lease Renewal water transaction. This is a 20-year renewal. The Board has leased and rented these water rights for the past 10 years and the owners

have expressed interest in renewing the transaction. Staff proposes using the same price of \$20 per acre for the 2015-2034 rental. The total transaction costs would be \$140,039 to be received at a discounted rate from the Columbia Basin Water Transaction Program (CBWTP) and held in the Water Transaction subaccount of the Board's Revolving Development Account for annual payment to the water right owner through the Water Supply Bank (WSB). The Streamflow Committee reviewed this transaction and has recommended that it be approved by the full Board. There was discussion among the parties regarding funding for the transaction.

Mr. Van Der Meulen moved to approve the resolution in the matter of the Beaver Creek Rental for the Water Transaction Agreement. Mr. Raybould seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Absent; Chairman Chase: Aye. Motion passed.

Ms. Case discussed the Carmen Creek Reconnect water transaction. This is a set of two 20-year agreements not to divert on Carmen Creek. This transaction proposes moving 4 cfs of water rights from the Carmen Creek 3 diversion downstream, restoring flow in a dewatered reach throughout the irrigation season. Funding is available for this transaction through the CBWTP for a total cost of \$148,605, split between the two ranchers.

Mr. Graham moved to approve the resolution in the matter of the Carmen Creek Water Transactions. Mr. Stevenson seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Absent; Chairman Chase: Aye. Motion passed.

Ms. Case discussed the South Leigh Creek Water Use Agreement. In 2014, the Board approved a one year lease of 0.74 cfs from South Leigh Creek. Streamflow was maintained down to the Desert Canal diversion throughout the entire irrigation season. Friends of the Teton River (FOTR) is proposing a one-year renewal of the lease at a cost of \$87.65 per acre, to be funded by the CBWTP. The total cost would be \$4,019 including lease and rental fees and a \$250 charge to Water District 01.

Mr. Cuddy moved to approve the resolution in the matter of the South Leigh Creek Water Use Agreement. Mr. Raybould seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Absent; Chairman Chase: Aye. Motion passed.

Ms. Case discussed the Badger Creek water transactions. Badger Creek is a tributary to the Teton River located in the upper Teton Valley. The natural stream hydrology and geology of the Badger Creek drainage results in the annual dewatering of the stream, a problem that is exacerbated by irrigation withdraws, endangering Yellowstone cutthroat trout populations. In order to address the situation, FOTR has negotiated a five-year lease with water users on the Badger Splitter. They are proposing 1.91 cfs be leased into the WSB and rented by four water users on the Ricks Ditch in order to call the leased water down to the Ricks Ditch and aid in the upstream fish migration. Rental payments to the water right holder will be made by the Board at \$75 per acre plus the applicable lease and rental fees. The Ricks Ditch users will enter into a bypass agreement to spill that 1.91 cfs through a fish ladder downstream of the Ricks Diversion when flows in Badger Creek drop down to that amount. In return they are requesting a \$750 payment.

Mr. Raybould moved to approve the resolution in the matter of the Badger Creek Water Transaction. Mr. Alberdi seconded the motion. There was discussion among the parties clarifying the total amount of the transaction.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Absent; Chairman Chase: Aye. Motion passed.

Ms. Case discussed the Badger Creek Water Rights Appraisal. FOTR has also negotiated a potential water right purchase to aid in flow restoration in Badger Creek. Kolene Later is interested in selling three stacked water rights authorizing the diversion of 0.48 cfs from Badger Creek and 0.16 cfs from groundwater for irrigation of 10.8 acres. A purchase price of \$3,000 per acre has been proposed by the water right holder. This would make for a total purchase price of \$32,400. The next step in advancing this transaction proposal is to have the water rights appraised. Mr. Henri LeMoyne of LeMoyne Realty and Appraisals, Inc. has been contacted to conduct the appraisal. It is estimated that the appraisal will cost \$7,000. CBWTP funds may be used to cover the cost of the appraisal. There was discussion among the parties regarding the value of the appraisal.

Mr. Stevenson moved to approve the resolution in the matter of the Badger Creek Water Rights Appraisal. Mr. Van Der Meulen seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Absent; Chairman Chase: Aye. Motion passed.

There was discussion among the parties regarding a standard progress report that may be developed showing how the water transactions contribute to Board goals and objectives.

Agenda Item No. 9, Water Supply Bank

Mr. Remington Buyer discussed a proposed resolution authorizing an expenditure of funds in support of development of computer infrastructure for the Water Supply Bank.

Mr. Alberdi moved to adopt the resolution in the matter of computer infrastructure for the Water Supply Bank. Mr. Raybould seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Absent; Chairman Chase: Aye. Motion passed.

Agenda Item No. 10, Fall River Fishery Enhancement Project

Ms. Harriet Hensley discussed the Fall River Fishery Enhancement Project, which is a proposal for a private fisheries enhancement project on a protected reach of the Fall River. It is designated by law and in the Henrys Fork Basin Plan as a recreational reach. There had been some confusion about whether or not the Board could approve a project like this. There is nothing in Idaho Code or the Plan or the legislative designations of the reach that would authorize the Board to approve stream channel alteration for the purpose of private fishery enhancement. In order to authorize private fishery enhancement projects, the Board would need to follow the formal procedures set out for amending the State Water Plan and the Basin Plan. In addition, private fishery enhancement projects on protected reaches would represent a significant shift in fish management policy, goals, and programs adopted by the Fish and Game Commission. There was discussion among the parties regarding private versus public entities involved in fishery enhancement projects.

Agenda Item No. 11, Hells Canyon Relicensing Update

Ms. Hensley provided an update on fishery issues related to the relicensing at the Hells Canyon complex. A group was formed to take a look at some of the parties' interest in expanding Idaho Power's license responsibilities in three areas: the reintroduction of fall Chinook above the Hells Canyon Complex, the introduction and development of self-sustaining populations of unlisted fish within the Complex, and providing surplus fish to support some put-and-take fisheries for some of the tribes that

aren't currently part of the program. Fish and Game participated in these discussions, but made it clear that State policy opposes the first two goals, and withdrew from the discussions as things progressed. A meeting was held to discuss the settlement outline, and the State's position on these issues was clarified.

Agenda Item No. 12, Aqua Life Update

Ms. Patton provided an update on the Aqua Life facility. The process of acquiring the facility has been completed. The proposed tenant has expressed desire in the land surrounding the facility, and discussions are ongoing regarding this issue.

Agenda Item No. 13, Boise River Feasibility Study

Ms. Cynthia Bridge Clark invited Mr. Bill Richey, a liaison with Mountain Home Air Force Base (AFB), to provide comments to the Board regarding water supply issues in Elmore County and the Board's project to acquire water rights for the AFB. Mr. Richey stated that the Air Force is moving forward in regards to water supply issues at the AFB. He discussed the water issues in Elmore County and stated that Elmore County officials would like to see benefit from the Boise River Feasibility Study. There was discussion among the parties regarding the associated watershed, additional water that may be captured for water users in Elmore County, and staff communication with the County commissioners. There was further discussion regarding previous studies related to this issue, and future opportunities to obtain water for Elmore County. The Board directed staff to consider the interests of Elmore County and the city of Mountain Home as the study continues.

Ms. Clark discussed the resolution authorizing execution of necessary agreements with the US Army Corps of Engineers to carry out the Boise River Feasibility Study, as well as authorizing the expenditure of up to \$1.5 million for completion of the Boise River Feasibility Study.

Mr. Raybould moved to adopt the resolution in the matter of the Lower Boise River Feasibility Study. Mr. Graham seconded the motion.

Roll Call Vote: Mr. Cuddy: Aye; Mr. Alberdi: Aye; Mr. Stevenson: Aye; Mr. Raybould: Aye; Mr. Van Der Meulen: Aye; Mr. Graham: Aye; Mr. Barker: Absent; Chairman Chase: Aye. Motion passed.

Agenda Item No. 14, IDWR Director's Report

Director Spackman discussed issues surrounding the Bear River Basin. He has been in communication with local legislators and leaders about commencing an adjudication of water rights in the basin. Public meetings are scheduled in Malad, Preston, Soda Springs and Montpelier to gauge support for legislation that would initiate the adjudication. Director Spackman discussed the proposed legislation and budget for the adjudication, and discussed future adjudications in the Northern Idaho basins.

Director Spackman discussed ongoing negotiations in the Snake River Basin regarding the fill/refill issue. He is expecting a settlement of that dispute in the Upper Snake. There are ongoing contested cases in the Boise River. A public meeting will be held in Star regarding this issue.

Director Spackman discussed delivery calls and curtailments. He is expecting the next few months to be tumultuous due to court decisions, ongoing litigation, and mitigation deadlines.

Public Comment

Chairman Chase reopened the meeting to Public Comment. Speaker Scott Bedke and Representative Mike Moyle addressed the Board. Speaker Bedke discussed the State Legislature's funding to address statewide water issues during the last session. Discussions are ongoing in the Hagerman Valley regarding a term sheet. The goal is to create long-term solutions and address all of the water supply issues, which takes everyone's best efforts to stabilize the aquifer in the Eastern Snake Plain. Speaker Bedke stated that it is important that the Legislature sees success not only in the Magic Valley, but around the state.

Representative Moyle discussed water shortages around the state. He encouraged the Board to

continue looking at other areas around the State with water issues. Speaker Bedke noted that it will take major investments to accomplish aquifer stabilization goals, and that some success in resolving water issues will be needed in order to procure additional funding.

Chairman Chase thanked Speaker Bedke and Representative Moyle for their comments. There was discussion among the parties regarding funding, partnerships, the North Ada County aquifer, aquifer recharge and statewide water issues. Speaker Bedke and Representative Moyle emphasized the need for proactive measures to address water issues statewide.

Agenda Item No. 12, Other Non-Action Items for Discussion


Mr. Graham discussed the Albany Falls issue. Much of the private property around the lake is high value. Residents want higher lake levels through September, and may come to the Board to set a minimum lake level. Mr. Graham also stated that this meeting would be his last meeting. He expressed appreciation for the Board and reminded them that they have an important role to play in statewide water issues. Chairman Chase and the Board expressed appreciation for Mr. Graham.

Agenda Item No. 13, Next Meetings and Adjourn

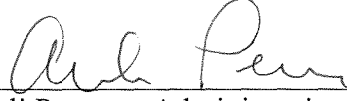
The next Board meeting is currently scheduled for January 22 - 23, 2015 in coordination with the IWUA convention on January 20-22, 2015. Mr. Raybould made a motion to Adjourn, and Mr. Cuddy seconded the motion. Voice Vote. All were in favor. Motion Carried.

The IWRB Meeting 11-14 adjourned at approximately 12:00 am.

Respectfully submitted this 23rd day of January, 2015.



Vince Alberdi, Secretary



Mandi Pearson, Administrative Assistant II

Board Actions:

1. Mr. Raybould made a motion that the minutes for meeting 10-14 be approved as printed. Mr. Stevenson seconded the motion. Voice Vote. All were in favor. Motion passed.
2. Mr. Raybould moved to adopt the resolution adopting the pending UIC rule change. Mr. Cuddy seconded the motion. Roll Call Vote. 7 Ayes, 1 Absent. Motion passed.
3. Mr. Alberdi moved to adopt the resolution in the matter of a funding commitment to Clearview Water Company. Mr. Van Der Meulen seconded the motion. Roll Call Vote. 7 Ayes, 1 Absent. Motion passed.
4. Mr. Van Der Meulen moved to approve the resolution in the matter of the Beaver Creek Rental for the Water Transaction Agreement. Mr. Raybould seconded the motion. Roll Call Vote. 7 Ayes, 1 Absent. Motion passed.
5. Mr. Graham moved to approve the resolution in the matter of the Carmen Creek Water Transactions. Mr. Stevenson seconded the motion. Roll Call Vote. 7 Ayes, 1 Absent. Motion passed.
6. Mr. Cuddy moved to approve the resolution in the matter of the South Leigh Creek Water Use Agreement. Mr. Raybould seconded the motion. Roll Call Vote. 7 Ayes, 1 Absent. Motion passed.
7. Mr. Raybould moved to approve the resolution in the matter of the Badger Creek Water Transaction. Mr. Alberdi seconded the motion. There was discussion among the parties clarifying the total amount of the transaction. Roll Call Vote. 7 Ayes, 1 Absent. Motion passed.
8. Mr. Stevenson moved to approve the resolution in the matter of the Badger Creek Water Rights Appraisal. Mr. Van Der Meulen seconded the motion. Roll Call Vote. 7 Ayes, 1 Absent. Motion passed.
9. Mr. Alberdi moved to adopt the resolution in the matter of computer infrastructure for the Water Supply Bank. Mr. Raybould seconded the motion. Roll Call Vote. 7 Ayes, 1 Absent. Motion passed.
10. Mr. Raybould moved to adopt the resolution in the matter of the Lower Boise River Feasibility Study. Mr. Graham seconded the motion. Roll Call Vote. 7 Ayes, 1 Absent. Motion passed.