



# IDAHO WATER RESOURCE BOARD

**Dirk Kempthorne**  
Governor

**Jerry R. Rigby**  
Chairman  
Rexburg  
At Large

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

**Dick Wyatt**  
Secretary  
Lewiston  
District 1

**Leonard Beck**  
Burley  
District 3

**Bob Graham**  
Bonners Ferry  
At Large

**L. Claude Storer**  
Idaho Falls  
District 4

**Gary M. Chamberlain**  
Challis  
At Large

**Joseph L. Jordan**  
Boise  
At Large

## MINUTES OF MEETING

MEETING NO. 08-04  
Tuesday, August 17, 2004 8:30 a.m., MDT  
Salmon City Hall  
200 Main Street,  
Salmon, Idaho

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Meeting No. 08-04 of the Idaho Water Resource Board was called to order by Chairman Jerry Rigby in the City Counsel Room at the Salmon City Hall, Salmon, Idaho. (One Recording Tape)

### *Board Members*

Jerry Rigby, Chairman	Dick Wyatt, Secretary
Terry Uhling, Vice Chairman	Joe Jordan
Bob Graham	Gary Chamberlain
Claude Storer	Leonard Beck
Dick Wyatt	

### *Department of Water Resources Staff Present*

Karl Dreher, Director	Hal Anderson, Administrator
Bill Graham, Bureau Chief	Brian Patton, Staff Engineer
Patsy McGourty, Adm. Asst.	Mike Keckler, Pub. Inf. Off.

### *Guests Present*

Steve Yundt, Steve Millemann, Keith Kutchins, Chad Colter, Bob Loucks, Jean Balridge, Harriet Hensley

### **Agenda Item No. 1, Roll Call**

Chairman Rigby called the meeting to order and requested a roll call. All Board members were present except Mr. Chamberlain who joined the meeting a short time later.

### **Agenda Item No. 2, Approval of Minutes for 07-04 Meeting**

**Motion:** Joe Jordan moved to approve the minutes for meeting No. 07-04 with one change on page 2, Agenda Item No. 4 that states, "\$218,000 in revenue." Mr. Jordan requested the correction, "\$218,000 in revenue over expenses." He said the revenue was more correctly one million dollars. The motion was seconded by Mr. Wyatt.

**Voice Vote:** 7 Ayes. *Motion passed.*

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

Chairman Rigby invited public comment from guests. There was no response.

### **Agenda Item No. 4, Dworshak Hydroelectric Project Status Report**

Brian Patton, staff engineer, gave the status report of the Board's Dworshak Hydroelectric Project. The project has produced approximately 84 million kilowatt hours of electricity that has been sold to Bonneville Power Administration. He noted that Dworshak Reservoir did fill this year. Mr. Patton pointed out the end of the year financial figures. Net revenue was \$215,000 that was deposited into the Revolving Development Account. There was discussion regarding the Wells Fargo Letter of Credit. Mr. Anderson described the reason for the letter and how the annual fee is calculated. Mr. Patton stated that he would be corresponding with FERC in the coming week regarding their invoice, which again shows a zero amount owed.

### **Agenda Item No. 5, Financial Report**

#### a. Status Report

Mr. Patton reviewed financial program accounts for the Board. He stated that a transfer from the Revolving Development Account might be needed to the Water Management Account based on grants that may be approved at this meeting. Chairman Rigby stated that the Board has established that transfers would be made on a case-by-case basis. Mr. Uhling pointed out that the estimated account balances did not include any grant funds for the Blackfoot Equalization Project. Mr. Wyatt requested that a notation be made on the Financial Report that it includes transactions back to when the account was established in 1969. Mr. Uhling suggested that the history be put in an annual report. There was discussion regarding how Board members use the

financial report. The consensus was that for now the report format would stay the same but further discussion on the financial report was needed.

Mr. Patton pointed out that the \$500,000 in loan funds to the Magic Valley and North Snake Ground Water Districts had been disbursed. He also noted that the Twin Lakes Canal Company had completely re-paid their loan five years early.

b. Cub River Acres Loan Request

Mr. Patton presented the request for a construction loan from this homeowners association of part-time residences for improvements to the water system. The association had requested the loan to replace their water storage tank, install a chlorination system and a telemetry system at an estimated cost of \$285,000.

**Motion:** Mr. Chamberlain moved that the Cub River Acres loan request be denied. Mr. Uhling seconded.

**Discussion:** Mr. Chamberlain felt that the request was not supported by adequate collateral. Mr. Uhling concurred with his comments. He suggested that the association create a water district. Mr. Jordan pointed out that the size of the project was estimated larger than the association would need.

**Roll Call Vote:** Beck, Aye; Chamberlain, Aye; Graham, Aye; Jordan, Aye; Storer, Aye; Uhling, Aye, Wyatt, Aye, and Rigby, Aye. *Motion passed.*

c. Cottonwood Point Water Association Loan Request

Mr. Patton outlined the request for \$72,500 to construct a new well for water delivery to 46 homes along the St. Joe River. The financial analysis indicated an average ability to repay and the staff recommended approval with a ten-year term.

**Motion:** Mr. Wyatt moved that the Board approve the loan to Cottonwood Point Water Association in the amount of \$72,500. Mr. Chamberlain seconded.

**Discussion:** Mr. Uhling noted that the financial condition was closer to weak rather than average and he was concerned about sufficient security. Board Member Graham pointed out that the residences were year round and the water right was the collateral. Mr. Patton stated that their cash on hand would cover three years of payments on the loan.

**Roll Call Vote:** Beck, Aye; Chamberlain, Aye; Graham, Aye; Jordan, Aye; Storer, Aye; Uhling, Aye, Wyatt, Aye, and Rigby, Aye. *Motion passed.*

d. Live-More Lake Community, Loan Increase Request

Mr. Patton presented the request for additional funds that would increase the original loan request from \$35,000 to \$50,000 due to increased construction costs. Live-More was also

requesting that the repayment term be increased from 10 to 15 years in order to make the payments more manageable. The community water is delivered to 13 homes 10 miles outside of Sandpoint. The new well had to be drilled much deeper than planned and presently is not connected to the system. Security provided is all the assets of the community that largely consists of 15 acres of timberland, water rights and distribution system. Staff recommended the loan be increased.

Mr. Uhling questioned the value of the 15 acres offered for collateral. There was discussion regarding how much timber was on the land. Mr. Wyatt suggested that in the future staff could call a Board member and request them to visit the project to provide the Board with more information. Mr. Rigby confirmed that there is already a deed of trust on the property. Discussion ensued regarding the financial statement and the fees that would be required of homeowners to repay the loan. Mr. Patton pointed out that homeowners were also trying to get personal bank financing simultaneous to the Board loan request because they are desperate for water for their homes.

**Motion:** Mr. Chamberlain moved that the Live-More Lake Community request for an additional \$15,000 be denied. Mr. Uhling seconded.

**Discussion:** No further discussion.

**Roll Call Vote:** Beck, Nay; Chamberlain, Aye; Graham, Nay; Jordan, Aye; Storer, Nay; Uhling, Aye; Wyatt, Aye; and Rigby, Aye. *Motion passed.*

**Discussion:** Mr. Graham stated that this is a desperate situation for these people and if Mr. Patton could get further information, possibly the Board could address this request again in a telephone conference. Mr. Chamberlain asked that there be personal guarantees. The Board agreed that this would be the best resolution and Mr. Patton agreed to obtain further information.

e. City of Kimberly Grant Request

Mr. Patton reviewed the grant request for \$7,500 for a master plan water study for anticipated growth for the City of Kimberly.

**Motion:** Mr. Uhling moved to adopt the resolution as stated. Mr. Jordan seconded the motion.

**Discussion:** There was no further discussion.

**Roll Call Vote:** Beck, Nay; Chamberlain, Nay; Graham, Nay; Jordan, Aye; Storer, Nay; Uhling, Aye; Wyatt, Nay; and Rigby, Aye. *Motion failed.*

**Discussion:** Mr. Graham stated that with the current lack of funds the Board did not have the luxury of approving this project. Mr. Jordan stated that it was a good principle to have foresight in future planning. Mr. Rigby added that future applications would be subject to changes in Board policy for grants.

f. Meander Point Homeowners Association Grant Request

Mr. Patton reviewed the projected requesting a \$7,500 grant to undertake a water study for 140 residences whose water exceeds the EPA nitrate and arsenic limits. This grant would pay for one-half of the study costs.

**Motion:** Mr. Beck moved that we deny this application for a grant to the Meander Point Homeowners Association for \$7,500. The motion was not seconded.

**Motion:** Mr. Wyatt moved that the Board approve the request for \$7,500 grant from the Meander Point Homeowners Association. Mr. Graham seconded the motion.

**Discussion:** Mr. Wyatt noted that the EPA was placing restrictions on this association for water quality issues and this request more nearly fits the Board's requirement for immediate need. Mr. Beck stated that the financial statement showed that the budget offered did not meet the expenses listed. Mr. Rigby also noted that new grant application forms would be clearer.

**Roll Call Vote:** Beck, Nay; Chamberlain, Aye; Graham, Aye; Jordan, Aye; Storer, Aye; Uhling, Aye; Wyatt, Aye; and Rigby, Aye. *Motion passed.*

**Discussion:** Mr. Rigby stated that if this project qualifies under the new grant policy being considered by the Board, the association could reapply. Mr. Uhling noted that even if they qualify under the new policy, they needed to qualify financially.

g. Water District 1 Grant Request

Mr. Patton presented this request and Chairman Rigby excused himself due to a conflict of interest turning the meeting over to Vice-Chairman Uhling. The request was for \$35,000 for the Blackfoot Equalizing Reservoir Automation Project. The request resulted from the department's agreement with Water District 1 regarding the Water Resource Board's ten percent surcharge on the 2003 Upper Snake Rental Pool.

Mr. Patton stated that based on previous discussions there was disagreement on the amount of surcharge that Water District 1 should be paying the Water Board under the rental pool operations. The issue was whether it should be \$.25 per acre-foot or the actual 10% which is included in the Board's rules. The Board's surcharge was an issue with some in WD-01, so Director Dreher committed to either using department funds or working out a solution with the Board. The commitment by the Director allowed the Global Rental Pool concept to be implemented for the 2004 water year. The proposed solution was for Water District 1 to request a grant in the amount of the difference between \$.25 per acre-foot and the 10% surcharge rate from the Board, for a project and they selected the Blackfoot Equalizing Reservoir Automation Project. Mr. Patton concluded that this would be a good project to carry out the terms of the agreement.

**Discussion:** Mr. Chamberlain suggested that the resolution include the amount of \$35,000 with the following conditions: Item No. 3 Funds not to be advanced until completion of project. Mr. Uhling also suggested a change to the resolution to correct the name of the project.

**Motion:** Mr. Chamberlain moved the \$35,000 loan request from Water District 1 for the Blackfoot Equalizing Reservoir Automation Project be approved provided that the funds are not advanced until the completion of the project and editorial changes suggested by Mr. Uhling. Mr. Uhling seconded.

**Roll Call Vote:** Beck, Aye; Chamberlain, Aye; Graham, Aye; Jordan, Aye; Storer, Aye; Uhling, Aye; Wyatt, Aye; and Rigby, Abstained. *Motion passed.*

**Discussion:** Mr. Graham pointed out that the Board needed to move some money between accounts for the grants approved at the meeting. Mr. Patton stated that the Board had approved grants totaling \$42,500.

**Motion:** Mr. Uhling moved that \$42,500 be moved from the Revolving Development Account to the Water Management Account for grants approved at this meeting. Mr. Chamberlain seconded.

**Voice Vote:** Eight ayes. *Motion passed.*

h. Tamarack Resort, Revenue Bond Inducement Resolution Change

Mr. Anderson introduced Mr. Steve Millimann representing the Tamarack Resort project who was requesting the Board to modify the Inducement Resolution to increase the revenue bond amount from \$4.5 million to \$9 million to move ahead with development of Phase II of the project.

Mr. Millimann made his presentation to the Board. He stated that a year ago when the Board approved the Inducement Resolution, Tamarack was requested to address some concerns primarily that the sponsor be a public entity. The second issue was collateral and whether an LID could be established as a means of security. Mr. Millimann outlined the progress of the Tamarack development in the last year including the positive benefit to Valley County. He stated that third party debt had been eliminated during the last year for the resort project. The request to the Board has been modified because of the creation of a LID by the North Lake Recreational Water and Sewer District to purchase the potable water system from Tamarack. North Lake will now own and operate both the water and sewer system for the resort.

Board members questioned Mr. Millimann about the Tamarack project. He stated that approximately \$6.5 million had been spent on water system construction already with Tamarack funds. The budget being presented to the Board is entirely for the North Lake district to purchase the water system. Further discussion ensued on future anticipated sales of resort properties. The Board requested that an additional exhibit be added to the resolution as Exhibit B to document the new \$9 million project cost since Exhibit A shows the project at \$4.5 million. Mr. Millimann offered a page from the financial statement he distributed at the meeting as this

Exhibit B. Mr. Uhling reiterated that the correct name of the district was the North Lake Recreational Sewer and Water District for purposes of the resolution. Appropriate changes were made to the resolution.

**Motion:** Mr. Jordan moved that the Revenue Bond Inducement Resolution for the Tamarack Resort be amended from \$4.5 million to \$9 million, correcting the name of the district and adding Exhibit B. Mr. Uhling seconded.

**Roll Call Vote:** Beck, Aye; Chamberlain, Aye; Graham, Aye; Jordan, Aye; Storer, Aye; Uhling, Aye; Wyatt, Aye; and Rigby, Aye. *Motion passed.*

The Board recessed for a short time. After the recess Chairman Rigby stated that agenda item 4b Dworshak Revenue Bond, Advanced Refunding, had been missed because Mr. Wrigley was not present with an update. Staff was directed to have Mr. Wrigley continue negotiations with the State Treasurers office to gather options, and come back to the Board possibly at a special meeting.

### **Agenda Item No. 6, Comprehensive State Water Planning Status Report**

Hal Anderson introduced Mr. Bill Graham who presented the status report.

A Water Use Study proposal for the Boise River has been completed and submitted to the US Bureau of Reclamation for funding. The BOR had requested a formal project proposal request because of the need for open competitive bidding. Staff will soon begin drafting legislation for 2005 to ratify the previously accepted South Fork Clearwater Basin plan. All policy issues are being reviewed for the Statewide Water Policy Plan. Any policy issues from the Interim Natural Resources Legislative Committee will be included. In regard to the Water Transaction Program, National Fish and Wildlife approved a two-year lease for 4<sup>th</sup> of July Creek, an annual lease for 37 acres on Big Hat Creek, and an annual lease for 240.9 acres on Beaver Creek. In the future some channel rehabilitation work will be done in the Upper Salmon Basin at Kenney Creek that was toured yesterday. An annual lease for 85 acres on Otter Creek was accomplished last year.

In addition, staff collaborated with the Office of Species Conservation in Water District 74 to develop a water transaction proposal to fund seven agreements not to divert Lemhi River water for the L6 diversion. This project was funded in June. Mr. Graham explained to the Board that the benefits of these projects were largely to pay for farmers taking land out of production to increase water flow for fisheries restoration. He also explained that the National Fish and Wildlife Foundation serves as regional coordinator of the Water Transaction Program for the Bonneville Power Administration that is actually funding the projects.

### **Agenda Item No. 7, Minimum Stream Flows**

Mr. Anderson suggested that the order be changed to move the Nez Perce item to last to set up a presentation.

a. Niagara Springs

Mr. Graham stated that a hearing had been held on the minimum stream flow application for Niagara Springs. The hearing officer is preparing a decision and order for the director.

b. Cocolalla Lake, Minimum Lake Level Request

Mr. Graham said that a request to establish a minimum lake level to protect fish and wildlife habitat, recreation and water quality from future development on Cocolalla Lake had been received. This lake is located between Coeur d'Alene and Sandpoint. The Board members discussed the details of this request. Mr. Graham asked for staff direction on whether or not to file the application. Board member Bob Graham said he had spoken to one of the requesting parties concerning new development demands on lake water. There was discussion on preparing an application for minimum lake level. Staff was directed to acquire the technical data and prepare the application for Board consideration. Chairman Rigby suggested that the Board member in the area should participate in meetings and hearings on the minimum lake level issues.

c. Nez Perce Agreement

Mr. Anderson stated that the department had been working with Mr. Clive Strong from the Attorney General's office. The Board's responsibility in this agreement for minimum stream flows is being defined. Mr. Anderson explained that largely the Board's responsibilities were connected to the Salmon-Clearwater component. There are three components to the agreement: the Upper Snake Component; the Tribal component and the Salmon-Clearwater component. The in-stream flows will be established for inclusion in the Snake River Basin Adjudication. March 31, 2005 is the deadline specified in the term sheet to complete the Minimum Stream Flow Process. Mr. Anderson defined the List A streams as mainly in Federal management, US Forest Service and wilderness; however, some did have mixed ownership. He further described the streams listed on the List A. There was discussion regarding the differences between in-stream flow and the Board's Minimum Stream Flow Program. Chairman Rigby also stated that this agreement and any established minimum stream flows would be legislated.

Mr. Anderson continued describing List A streams and he outlined how the List A flows were calculated. He told the Board that the department is developing a GIS application that covers all the streams in a graphic form that will be on the website for public access.

Mr. Anderson pointed out that the List B streams are more highly developed with potential flow and or fish and wildlife habitat concerns. All of the specific issues with those streams are not clear at this point. The goal is to move forward and identify issues and the process to solve them. Meetings have been held with the Attorney General's office, the Governor's office and the tribes. Currently, the Clearwater Basin will be subdivided into three or four sub-basins: the upper Salmon, the North Fork Salmon, the lower Clearwater and the



Little Salmon. Sub-basins will have technical teams to identify issues on each stream, i.e., habitat, etc. A meeting for the upper Salmon was set for the afternoon to identify technical team members. Technical teams for the Little Salmon and Clearwater are still to be determined. If there are additional flow requirements on the List B streams, they will be supplied by a willing buyer and a willing seller. Mr. Jordan requested a copy of Mr. Anderson's presentation for the Board.

Ms. Jean Baldrige introduced herself to the Board as a Fisheries Biologist and consultant to the Nez Perce tribes on the settlement agreement. She stressed that there was not consent from all the parties at this time. There are a number of agreements being used. Settling the water right claims in the SRBA for the tribes is the main goal. Another part of the process is to find the funding to implement the agreements including for the List B streams.

She noted that the Salmon-Clearwater component is a goal to also provide some ESA protection through the habitat management and restoration initiative for water diversions on state and private lands. The Habitat Trust Fund that is attached to this component is funded at \$38 million. Ms. Baldrige outlined how these programs would function within the agreement. The ultimate goal would be to outline new legislation with the Board holding the minimum stream flow water rights for the tribe. A lot of work remains to be done. There was discussion as to what roles the Board members might play in this process. Ms. Baldrige stated that draft measures would be presented to the Board. Discussion followed on how habitat problems would be handled with landowners.

### **Agenda Item No. 8, Director's Report**

Karl Dreher requested that, due to the nearness of the lunch hour, the director's report be postponed to another time in order to meet flight connections after lunch. The Board agreed. Chairman Rigby asked if the Director's Report could be given at the upcoming teleconference.

### **Agenda Item No. 9, Other Items and Meeting Dates**

Chairman Rigby said that the next meeting was set for October 14 and 15<sup>th</sup> in the new Idaho Water Center. A meeting was set for December 16 and 17<sup>th</sup> also in Boise.

**Motion:** Mr. Wyatt made a motion to adjourn and Mr. Chamberlain seconded.

**Voice Vote:** 8 ayes.

Meeting adjourned at 12:00 a.m.

Dated this \_\_\_\_\_ day of August, 2004.

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D. Richard Wyatt, Secretary

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Patsy McGourty, Administrative Assistant

### **Board Actions**

1. Mr. Chamberlain moved that the Cub River Acres loan request be denied. Mr. Uhling seconded *Motion passed.*
2. Mr. Wyatt moved that the Board approve the loan to Cottonwood Point Water Association in the amount of \$72,500. Mr. Chamberlain seconded. *Motion passed.*
3. Mr. Chamberlain moved that the Live-More Lake Community request for an additional \$15,000 be disapproved. Mr. Uhling seconded. *Motion passed.*
4. Mr. Uhling moved to grant the City of Kimberly \$7,500 for a water study. Mr. Jordan seconded the motion. *Motion failed.*
5. Mr. Wyatt moved that the Board approve the request for \$7,500 grant from the Meander Point Homeowners Association. Mr. Graham seconded the motion. *Motion passed.*
6. Mr. Chamberlain moved the \$35,000 loan request from Water District 1 for the Blackfoot Equalizing Reservoir Automation Project provided that the funds are not advanced until the completion of the project. Mr. Uhling seconded. *Motion passed.*
7. Mr. Uhling moved that \$42,500 be moved from the Revolving Development Account to the Water Management Account to cover grants approved at this meeting. Mr. Chamberlain seconded. *Motion passed.*
8. Mr. Jordan moved that the Revenue Bond Inducement Resolution for the Tamarack Resort be amended from \$4.5 million to \$9 million to correct the name of the North Lake Recreational Water and Sewer District and adding a new Exhibit B. Mr. Uhling seconded. *Motion passed.*

### **Attachments**

1. Resolution authorizing a loan to Cottonwood Point Water Association in the amount of \$72,500 to construct a replacement well.

2. Resolution authorizing a \$7,500 grant to the Meander Point Homeowners Association near Twin Falls to begin a study of its drinking water supply to meet EPA arsenic and nitrate levels.
3. Resolution authorizing a \$35,000 loan request to Water District 1 to fund the Blackfoot Equalizing Reservoir Automation Project.
4. Resolution amending the Revenue Bond Inducement Resolution for the Tamarack Resort from \$4.5 million to \$9 million, correcting the District name and adding Exhibit B.