



IDAHO WATER RESOURCE BOARD

MINUTES OF MEETING

MEETING NO. 09-04

Friday, August 27, 2004 8:30 a.m., MDT
Idaho Department of Water Resources
Conf. Rm. D, 1301 N Orchard St.,
Boise, Idaho

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

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Meeting No. 09-04 of the Idaho Water Resource Board was called to order telephonically by Chairman Jerry Rigby in Conference Room D at the IDWR Main Office, Boise, Idaho. (One Recording Tape)

Board Members

Jerry Rigby, Chairman	Dick Wyatt, Secretary
Joe Jordan	Bob Graham
Leonard Beck	

Department of Water Resources Staff Present

Karl Dreher, Director	Hal Anderson, Administrator
Bill Graham, Bureau Chief	Brian Patton, Staff Engineer
Crystal Calais, Adm. Asst.	Mike Keckler, Pub. Inf. Off.
Phil Rassier, Legal Srvcs.	

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. Four Board members were present. Mr. Beck joined the meeting a short time later. Mr. Chamberlain, Mr. Storer and Mr. Uhling were not present.

There was some question as to whether four members were enough for a quorum. It was decided that a majority of members (five) must be present only if there is business to transact.

Agenda Item No. 2, Public Comment

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

Agenda Item No. 3, Directors Report

Update on the co-chairs of the Interim Legislative Committee. The committee has been meeting more than monthly since April. The co-chairs along with Mr. Dreher and Clive have been trying to put together a framework for what might constitute a settlement between the Surface and Ground water users in the ESPA. Mr. Dreher made clear that he and Clive are not trying to change Prior Appropriation Laws or policies. He also clarified that any settlement agreement would have to be wholly consistent with prior appropriation doctrine and any mitigation that is developed has to be allocated among surface water users based upon potential injury to those surface water users by junior priority ground water users. If there is going to be any significant commitment by ground water right holders, the senior right holders will have to agree that it constitutes mitigation.

There is a 5 to 10 year time frame for implementation of the plan that Mr. Dreher and Clive have outlined. A suite of actions may need to be taken that could alter the water budget for the Eastern Snake Plain Aquifer by anywhere from 600,000 AF to 900,000 AF on an average annual basis. This is a very significant increase from previous projections. There are three options to make this kind of change.

The policy portion of the plan must be accompanied by an adaptive management plan and will also require a significant increase in monitoring and measurement efforts to make sure that we are addressing the problem.

Mr. Dreher went over a great deal of the history of drought in the west and explained why we need to continue re-evaluation, study and water model updates.

We can alter how we manage the supply and usage. We can reduce demand by using market-based solutions or through regulatory actions involving the enforcement of priority. We can alter how we use the available water supply, which would involve the State acquiring about 200,000 AF of existing supply and retiring the demand associated with that supply.

The current areas we're focusing on are acquisition of the Hi Lift Pump water associated with Bell Rapids, Grand Stone Butte and Sailor Creek projects. Other alternatives are being reviewed but are not ready for public disclosure at this time.

Because the Bureau of Reclamation's biologic opinion for a flow augmentation program is due in March and the biologic assessment is due 135 days before March, we have strongly encouraged the Rental Pool Committee to get back together and make a set of rental pool procedures that are going to work before September 16th. We will need to give the BOR updated information or they will be using old data for their model, which will not provide the protection that people in the Upper Snake were seeking in the first place.

Another component of the water supply picture is continued conversion of targeted acreage from ground water irrigation to surface water irrigation. This is part of what the acquisition of storage through exchange would support with the firming up of surface supply to be available for these conversions.

A further component would be to scale back the levels of recharge from what was proposed at the Eastern Snake Plain Working Group meeting by limiting quantity to what could be done using natural flow. Using natural flow brings the opposition by Idaho Power to the forefront. Modifying the rental pool procedures to include late season rentals in order to capture water that would be released as natural flow for flood control would strengthen our hand when dealing with Idaho Power.

We will want to do a more comprehensive feasibility study to make sure we haven't overlooked some water supply component that might be available. By combining all these actions we think we can affect the water budget by 350,000 AF to 500,000 AF annually.

The next items we've looked at are a suite of water management projects primarily in the Thousand Springs area involving pump back affluent from hatcheries to the head of the hatchery diversions, blending the pump back water with "clean" water and using that to enhance the supplies available to the hatcheries. This would also involve pipeline projects that would convey operational spills and other sources of lower quality surface water to irrigated lands in the Hagerman area to free up available spring discharge for higher quality needs.

A level of reduced demand must be made. By using some form of an enhanced CRP program we hope to reduce by 150,000 to 200,000 AF annually. A level of reduced demand could be made through subordination agreements with ground water users purchasing from hatcheries or perhaps retiring some of the hatcheries.

The initial cost estimate is approximately \$80 - \$100 million dollars. This includes, and has been reduced by, what may be available from Federal funds. The majority of cost is associated with the acquisition of water. To do that the Water board would need to issue revenue bonds for those acquisitions and would then hold those water rights on behalf of the State. The plan does not include annual O & M costs for operating recharge projects or water management projects. Since spending \$300,000 to create the ground water model and another \$3 million to update it, part of the plan needs to include funding for periodic updates to the ground water model for the Eastern Snake Plain model. We also need to expand this to other parts of the state to try to anticipate or head off these same problems in areas like Teton Valley, Big Lost, Portneuff, Bear River, Big Wood and others. We don't yet have models like what has been done for the Treasure Valley and the Eastern Snake Plain Aquifer.

We need to have more funding for projects like continuation of return flow measurements, periodic mass ground water level measurements, more gauging and measurements of springs including those on Indian Reservations. Also, we need to improve data collection of tributary underflow to include in future models.

We also want to continue the ESP Technical Committee. The consensus is that the model has been done correctly.

The watermaster system needs to be overhauled. There have been several issues with the elected watermaster's not wanting to follow statutes or law. Another issue such as District 36A, where they will not adopt a budget sufficient to have a fulltime watermaster or provide for independent measurement and reporting of what they're doing, so water use in that area is largely self-reported.

We are considering developing a funding framework to fund enhanced administration and measurement of natural flows. In the long term the Water Board would need to develop a longer-term aquifer management plan. We are in the process of preparing an RFP to be ready to

go when authorization is made. We've done a preliminary appraisal of what we may need to be paying for the water. The board made clear they want to be active participants of the acquisition of water.

Of further potential interest to the Board, one issue, which was not discussed in terms of the water supply component, was raising Minidoka Dam. The state has discussed paying for some of the incremental costs of raising the dam. A letter from Jerry Gregg, of the Bureau of Reclamation, was included in the last Board folder stating that they would like the State to pay \$400,000 for a "hard appraisal". It also stated that a full feasibility study would take congressional authorization. Right now it appears that we could acquire existing water rights for less money than it would cost to raise the dam. Mr. Dreher made clear he didn't support the proposal. The Governor's office still has some interest in pursuing this as related to the Nez Pierce Agreement. Congressman Simpson wants a permanent solution to the Jensen Pond problem. Congressman Otter would like to see the Bureau provide 'compensatory storage for flow augmentation'. If the State is going to get involved in the raising of the dam, a decision will need to be made within the next month or so.

Some potential problems were outlined. Included in the Board folders were some maps that show the new shoreline that would result from raising the dam by five feet. On Map #2 it shows that an enlarged reservoir might encroach upon I-84. The bridge near there may not have been constructed to withstand reservoir action.

The Congressional Delegation and the Governor did finally get Idaho included in the Pacific Coast Salmon Recovery Fund and the State will receive \$4,923,000 for Salmon Recovery Projects. Mr. Dreher, Jim Caswell, Steve Huffaker, and Jim Yost have been appointed to distribute these funds. They will be meeting the week of the 20th.

Sempra Energy, a subsidiary of San Diego Gas and Electric, has been in twice to meet with Mr. Dreher trying to figure out how they can secure water for a proposed coal-fired power plant they would like to construct near Glenn's Ferry. Referred to the enclosures in the Board folders, which show the proposed location. This site was picked because of its accessibility to rail and transmission lines. The plant is proposed to be 750 megawatts. It's clear that the power will be exported to Washington and California. The 9500 AF per year referred to on page 1 of the handout is consumptive use as evaporative. They are represented by Chris Meyers of Givens Pursley and have also retained a water broker from Colorado to obtain an option for water from one of the hi-lift pumpers.

Mr. Graham asked if the purchase of easements for lower crop production to get through a dry spell been an issue. Mr. Dreher responded that it was incorporated in the aspect of reduced demand through dry land leases for dry land grain crops. As part of incentive for the ground water users in the Thousand Springs area ---- Last week a large number of Congressional Staffers and the Federal Dept. of Agriculture representatives were looking at the situation to consider establishing a CRP program in Idaho which would mean the State would be required to contribute approximately 20%.

Agenda Item No. 4, Dworshak Revenue Bond Advanced Refunding

Mr. Anderson referred to the Inducement Resolution passed in December 2001, which authorized staff and the Board's Financial Advisor to move ahead with looking at opportunities to do an advanced refunding on the revenue bonds issued by the Board to finance the construction of the Dworshak Hydroelectric Project.

Mr. Jim Wrigley, who has been working with the State Treasurer's Office to purchase the Bonds, thinks that we have an opportunity that would be beneficial for the Board. Chairman Rigby referred to the documents faxed to each member before the meeting.

On July 27th a Private Placement Memorandum was completed and released to the State Treasurer. It essentially explains everything about Dworshak with as much complete disclosure as we could make concerning the existing debt, the project, the revenues and revenue potential. The Memo was sent to see if there was any interest in investing in Board-issued Refunding Bonds. The Treasurer maintains that he can invest in something for no longer than 5 years.

Chairman Rigby summarized the twelve-page fax sent to each board member. The only difference between the two options is that the Sources and Uses of the Planned Issuer Equity contribution is \$1,116,000 for Option 1 and \$425,000 for Option 2. Option 1 is the \$691,000 that the Board has now in the Repair & Replacement fund that has been getting 10% of the gross revenues every year. Option 2 is the funds in reserves that are held by the trustees to cover the required 125% of the existing debt service. Option 1 would use all the cash associated with Dworshak and put that into the escrow. We would then issue \$4,670,000 in refunding bonds. We would do that because there is a 2008 call date on the bonds, so we're putting the board's money with whatever we're going to get from a new revenue bond issue in an escrow account to pay off the 1999 bonds. The Treasurer would buy the refunding bonds at an interest rate that would be set on variable LIBOR (London Interbank Exchange Rate) rate set on September 1st of each year from 2004 through 2009. We would then have a 5-year interest rate exchange contract from Wells Fargo or another provider rated at least AA by Moody's in order to receive a fixed rate in exchange for the variable LIBOR rate on the Bonds. We would continue to make the same payments but with the new interest rate our gross savings is almost \$3,500,000 coming after 2014 by paying off the bond about five years earlier. Chairman Rigby questioned what would happen if the money were needed before then. Mr. Anderson explained some options with either using only the funds in reserve or using a line of credit for the short term. If we use the Board's \$691,000 in the R&R fund we save about \$3.5 million. If we don't use that money the savings is only \$2.3 million. Mr. Wyatt commented that we were not using the money and if we need it for repairs the bank will extend us the line of credit at that time. So there's really "No harm no foul" by moving that over and just using that as collateral. Mr. Anderson replied that the money would be tied up in that escrow account which is where the line of credit came in. The R & R money is for catastrophic situations only and we would still be putting the 10% in every year. Chairman Rigby clarified that the Board had already given permission to use this fund. Chairman Rigby clarified that today's topic was to inform the Board about the projected savings and status of the interest rates being calculated or sought from several financial institutions. He will be contacting the State Treasurer and get the Bond Purchase Agreement done and back to the committee or group that will be approving it.

Agenda Item No. 5, Cove Power Plant Project

Fish passage study including decommission, fish-friendly and project interconnection alternatives.

Mr. Anderson reviewed for the Board the conference call he had with Harriet Hensley of the AG's office and representatives from Fish & Game and Parks & Recreation concerning a feasibility study on the potential decommissioning of the Cove Power Plant.

Ms. Hensley presented some background on the re-licensing of the hydro projects on the Bear River. PacifiCorp is considering whether to retire the Cove Power Plant or to rebuild the plant and flume. FERC is requiring PacifiCorp to take some action to either rebuild the flume or make an alternative plan. In light of this, the agreement PacifiCorp made with the Environmental Coordination Committee (ECC) required a Fish Passage Feasibility Study at

Cove and that study included a decommissioning option. The study was submitted to FERC and the ECC. If the ECC recommends decommissioning and PacifiCorp agrees, Habitat Restoration Funds for the re-licensing agreement can be used for that purpose. If PacifiCorp decides to retire the project, they will file an application to surrender the license and then FERC, after conducting environmental assessments and allowing for public comment, will make a decision based on whether it's in the public interest. Fish & Game and DEQ would be in favor of removing the dam and using some of the habitat restoration funds to do that. The initial proposal by PacifiCorp was that the ECC use the Habitat Restoration Fund to pay for the entire decommissioning of the project. The agencies do not think it's a good use of the funds. The ECC requires Fish & Game and DEQ approval or no decision may be made on aquatic issues.

Mr. Jordan commented that several years ago the board decided to be interveners anytime there was a proposal to re-license and questioned what authority the Board may have to act in this situation or be involved here. Ms. Hensley responded by saying the Board did intervene in this situation. It was the understanding of the ECC that IDWR and the Board had given the go ahead.

Mr. Anderson clarified that IDWR was looking at the situation from a policy perspective rather than any direct intervention. He felt there was some question as to what decommissioning actually meant.

Mr. Jordan reiterated the Board's position of intervening not as negative, but as policy, intervenes to have the opportunity to review.

Ms. Hensley requested that if PacifiCorp and the ECC decide that decommissioning makes sense, they would like assurances from the Board that it would not take an opposing position.

Chairman Rigby asked if any of the members would have any objections. There was no response.

Bill Graham reminded Chairman Rigby that Dan Tomich attended one of the ECC meetings on behalf of the Board. Mr. Tomich indicated that the Decommissioning of the Cove Hydro Project had not yet been discussed with the Board. Bill Graham stated the he would like to see PacifiCorp demonstrate that it's not feasible to refurbish the project because we haven't seen the numbers to indicate this one way or another.

Chairman Rigby stated that he is not saying the Board is withdrawing any objection right now.

Mr. Anderson asked if it would be OK to put language to that effect into our response to the ECC?

Ms. Hensley summarized that there are two issues – We have PacifiCorp and all of the other signatories to the agreement understanding that the State was signing off on the settlement agreement which contemplates decommissioning. There will be a new proceeding if PacifiCorp decides to make an application to surrender their license. At that time we would most likely intervene again. The Board is not a member of the ECC nor is IDWR. The other issue is that the other agencies are not focused on the plan's feasibility as much as whether they should use Habitat Restoration Funds.

Chairman Rigby stated that the Board does not have any agenda, but at this time would like to reserve any objections until the final outcome of the study is available.

Bill Graham clarified that we are lacking some information and before the Board formally signs off on this we need to have the actual numbers.

Ms. Hensley said she would communicate to the ECC and PacifiCorp that we need to get more information before we will be able to find out if the State Agencies are on the same page.

Chairman Rigby asked if there were any comments from the Board.

There was no response indicating no further comments on the issue.

Agenda Item No. 6, Other Items Board Members May Wish to Present

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

Motion: Chairman Rigby asked for a motion to adjourn. Mr. Wyatt made the motion and Mr. Beck seconded.

Voice Vote: 6 ayes.

Meeting adjourned at 11: 00 a.m.

Dated this 22 day of September 2004.

D. Richard Wyatt, Secretary

Crystal Calais, Administrative Assistant II

There were no Board actions taken today

Attachments

1. Dworshak Refunding Bond Information.