



# IDAHO WATER RESOURCE BOARD

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Burley  
District 3

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

**Gary M.  
Chamberlain**  
Challis  
At Large

**Lawrence "Vic"  
Armacost**  
New Meadows  
At Large

## MINUTES OF MEETING NO. 10-07

**Idaho Department of Water Resources**  
Community Center, Stanley Idaho  
September 7, 2007

Vice-Chairman Uhling called meeting 10-07 to order at 8:30 a.m. and requested roll call.

### Agenda Item No. 1, Roll Call

#### *Board Members Attending*

Jerry Rigby, Chairman, absent  
Vic Armacost  
Claude Storer  
Bob Graham

Leonard Beck  
Gary Chamberlain  
Chuck Cuddy  
Terry Uhling

#### *Staff Members*

Hal Anderson, Administrator  
Brian Patton, Bureau Chief  
Patsy McGourty, Admin. Asst. II

Dave Tuthill, Interim Director  
Helen Harrington, Section Mgr.  
Morgan Case, Biologist

#### *Guests*

Peter Anderson, Trout Unlimited  
David Blew, Idaho Power  
Charles Rose, Meander Point  
Lawrence Schoen, Blain County  
Rob Struthers, WD 37-37M  
Cyndi McCowan, WD 37-37M

Jon Bowling, Idaho Power  
Mike Hodge, Meander Point  
Kevin Lewis, Idaho Rivers United  
Jon Marvel, Western Watersheds  
Carl Pendleton, Big Wood Canal Co.  
Kevin Lakey, Watermaster, WD 37-37M

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

There were no additions to the agenda. Mr. Armacost moved that the minutes from meeting 08-07 and 09-07 be approved as read. Mr. Chamberlain seconded. All were in favor.

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

Mr. Jon Marvel, Executive Director of the Western Watersheds Project, addressed the Board on water policy and water transactions. Mr. Marvel stated that he did not feel that the Board was addressing global climate change as a policy issue. He requested the Board be pro-active on this issue for the state.

In regard to water transactions, Mr. Marvel noted that in Hailey water is being metered and charged to domestic users. He felt that the Board should charge for all water users including agricultural as policy for the state. He insisted that domestic users should not be the only paying users for water. On the Board's water policy for minimum stream flows, there is no mention of Federal laws on the Board's website. He asked why the Board did not have a policy about complying with Federal law. This will be an issue for the future he stated.

Mr. Marvel said he thought the 2006 Monitoring and Evaluation Report for water transactions on the Board's website was lacking information and could be improved. In the 4<sup>th</sup> of July Creek report he noted there was no flow measurement below the lowest diversion to confirm the minimum flow. Mr. Marvel acknowledged that new water master, Nick Miller, had been very helpful to him in his quest to obtain information.

Mr. Marvel questioned how the water transaction projects were prioritized and why there was no explanation about the process as to why certain owners were chosen to participate in the program. He said this information was not on the website. He expressed that the public needs to know how and why this is being accomplished. Mr. Marvel wondered why there was no discussion of reconnections that have occurred without leasing water, i.e., Mahogany Creek. Mr. Marvel questioned why there was no policy about the rate of reconnection and the time frame. He stated there are 100 streams dewatered every year in his area.

Mr. Marvel wanted to know what the water transactions leases were costing the state and if they were cost effective. He stated that uneconomical agriculture was getting free water. He said more transparency was needed for the citizens of Idaho on all these programs and should be evident on the website pages for all to see.

Mr. Larry Schoen, Blaine County Commissioner, addressed the Board with his concerns regarding policy and administration. Mr. Schoen stated he was a farmer in the Belleview Triangle. In the SRBRA, he noted, some tributaries of the Big Wood River are managed under older decrees. He wanted to see this area become a water district. He questioned where abuses occur upstream how do downstream users address the issue without creating conflict between users. He stated that as additional speculative development occurs in the state the Board needs to be aware of land use impacts especially where water is taken from one area to another. The link needs to be made between

water use and land use policy makers. He used the example of weeds where one water right is used in a new area and the land left unwatered becomes over run with weeds.

Mr. Schoen noted that he offers his county resources to water masters and they still need more training and more resources. He encourages Blaine County staff to work with the water masters about land and water use. Mr. Schoen answered Board members' questions.

Another concern Mr. Schoen had was the change in water practices like irrigation. He discussed water usage for non-consumptive uses like ponds for landscaping. Mr. Cuddy asked Mr. Schoen to support the Board's funding with his legislators. Mr. Schoen responded that he attended all Idaho Association of Counties meetings requesting the organization to support that priority.

Mr. Chamberlain noted that costs to most farmers today are spiraling and in the Eastern United States tax incentives are made to keep farmers in business. He suggested that county commissioners could offer tax exemptions to keep land in farming instead of development.

Mr. Uhling stated that the Board was very interested in keeping contact with local officials and thanked him for his remarks.

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

Brian Patton outlined the status of the Dworshak project which has produced 144, 479,553 kWh for sale to the Bonneville Power Administration since coming on line. He noted yearly and month-by-month breakdown charts of financial figures provided to the Board. Mr. Graham asked if the Board had set a cap on the reserve fund and Mr. Patton responded that had not been done and this year the million dollars will be reached and a cap should be set.

Mr. Anderson noted that a new debt service for 2008 had been established on revenue funds deposited with the trustee. A 25% fund has been established for debt service reserve. A larger percentage of income will be realized in 2008.

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

##### a. Status Report

Mr. Patton noted the figures presented were as of August 29, 2007. Total available dollars as of September 1<sup>st</sup> for the program are \$2,227,315. Total dollars committed are \$16,128,516. Total loan principal outstanding is \$9,960,355. Other balance sheets were provided in Board materials.

##### b. W-Canal Update

Mr. Patton noted that Brown and Caldwell Engineers have completed tasks 1-4 characterization of surface soils and bedrock as well as a summary. The summary

confirms staff expectations that the soils at the site are not conducive to infiltration and therefore, injection wells will be needed. This would be true for most sites on the Snake River Plain because of lava rock. Task 5 is pre-design and design activities. Staff are working on a contract for this step. Mr. Armacost asked what the cost estimate was and Mr. Patton guessed \$30-40,000. There will be aquifer testing and a pilot test of sand filtration. This may be done by October. Mr. Graham asked if staff originally thought injection wells would be needed and Mr. Patton answered yes. Mr. Patton noted that this is a test of what any recharge project on the Snake River Plain with injection wells would need. Mr. Graham stated that water quality then becomes an increased cost and questioned if the site was the right one. Mr. Uhling questioned at what point on this project the alternatives would need more analysis. At some point, the Board needs to consider whether they want to spend more money on this site. Mr. Patton agreed. Mr. Uhling asked when the future costs estimates would be available to the Board. Mr. Patton said the Board had previously committed \$700,000 and the project would be scaled to that figure.

Mr. Graham expressed concern that all options should be explored. Mr. Patton said for this particular site all options have been explored and there was no ready access to other sites that are on federal land and would require NEPA compliance. Mr. Armacost felt it was very important to pursue this recharge project. There was further discussion about NEPA issues and other sites. Mr. Anderson also noted that ESA issues would be involved on federal land.

Mr. Uhling requested that staff prepare a report for the November meeting about future recharge projects including geological conditions and costs at other sites. Mr. Chamberlain encouraged continued progress on the W-Canal Project. There was further discussion about the costs of injection wells and other elements for the projects. Sand filters are the unknown factor. The proposed pilot project will answer those questions. In addition there are maintenance costs on any of these projects.

c. Meander Point Subdivision Loan Request

Mr. Patton presented the loan request for \$330,000 to construct a community irrigation system for 47 homes several miles outside of Twin Falls near the canyon rim. During the summer combined irrigation and domestic needs have drained their water system. They have purchased shares from the Twin Falls Canal Company to alleviate shortages. Mr. Uhling noted that staff had recommended a 5.5% interest rate and he suggested 6%.

Mike Hodge, President of Meander Point Homeowners, addressed the Board and stated that if the Board supports their request, he would present it to his association for approval. Mr. Uhling stated that the Board was considering approval at 6% for 10 years. Mr. Patton suggested the Board vote on the resolution today. Mr. Hodge answered questions about the project. Mr. Chamberlain moved that a loan in the amount of \$330,000 at 6% with a 10-year repayment schedule be approved. Mr. Beck seconded. Mr. Uhling called for a roll call vote.

**Roll Call Vote:**

**Cuddy, aye; Armacost, aye; Storer, aye; Beck, aye; Chamberlain, aye; Graham, aye; Uhling, aye; Rigby, Absent. Seven Ayes. Motion passed.**

- d. East Lizard Butte Water Corporation Grant Request
- e. Elm-Crest Water Users Association Grant Report
- f. Hampton Homes Homeowner Association Grant Request

Mr. Anderson stated that there were three similar grant requests before the Board for arsenic removal studies. Mr. Patton said each request was for \$7500.

Mr. Graham moved that the Board disapprove the East Lizard, Elm-Crest and Hampton Homes because the Board has discontinued the grant program. Mr. Chamberlain seconded noting that each group could request a loan. Mr. Uhling called for a roll call vote.

**Roll Call Vote:**

**Cuddy, aye; Armacost, aye; Storer, aye; Beck, aye; Chamberlain, aye; Graham, aye; Uhling, aye; Rigby, Absent. Seven ayes, one absent. Motion passed.**

**Agenda Item No. 6, Planning Status Report**

- a. ESPA Comprehensive Aquifer Management Plan

Mr. Anderson presented an update on the ESPA Comprehensive Aquifer Management Plan from CDR Associates. He noted accomplishments from July and August and the most recent Advisory Committee meeting in Aberdeen. A lot of education is taking place in hydrology and water right areas for committee members. The overall committee is becoming more cohesive and CDR Associates is doing a good job of facilitating. The next meeting is set for September 27<sup>th</sup> in Rexburg. A sub-committee has been formed to establish quantitative goals for the Comprehensive Aquifer Management Plan. Mr. Anderson is a technical advisor representing the Board along with eight other members. The goal is how to balance the water budget for supply and demand. Mr. Clive Strong presented the Strawman Proposal at a meeting of the group. The sub-committee has decided that this is still a good starting point and has requested additional information. Staff are doing additional work along with the modeling committee. A set of tools has been developed to quantify various issues.

The sub-committee has also determined that an adaptive solution like the Strawman Proposal is more desirable. The modeling committee will meet September 11<sup>th</sup> and will

discuss quantitative goals. CDR Associates will be at the November Board meeting in Boise.

Mr. Armacost asked if there was a CREP update and Mr. Patton said there was no change; however, October 1 is the deadline and there will be much work done on CREP applications in the next few weeks with a report in November. Mr. Patton noted he had met with Senator Crapo to answer questions about the status of the program and proposed changes. Everyone thought changes would be beneficial and would increase CREP enrollment.

b. Long Term Basin Planning Schedule

Mr. Anderson stated that after the telephonic Board meeting in August, some revisions were made to the Long Term Basin Planning Schedule that was in the Board book today. Mr. Anderson asked if there were any questions or discussion about the schedule and there were none.

**Agenda Item No. 7, Wood River Legacy Project**

Mr. Patton discussed the report from Neeley Miller outlining Board actions required to implement the Wood River Legacy Project. The first action is for the Board to appoint a local committee to facilitate donations of eligible water rights and shall be comprised of the members of the Water District 37/37M Advisory committee along with other individuals appointed by the Board upon recommendation of the Committee. A resolution was presented to the Board in the folder appointing the Advisory Committee along with a Certificate of Appointment.

Mr. Uhling restated that the Board is required by the Legislature to appoint the Advisory Committee from Water District 37/37M and once they are appointed they will make recommendations of other ex-officio members.

Rich McIntyre, addressed the Board stating that he was not a member of the 37/37M Water District. He discussed the inception of the project and the legislation passage. He thanked Gary Chamberlain for his comments as a rancher to a group who met to discuss the Wood River Legacy Project.

He noted that at the June 37/37M Water District quarterly meeting Wood River Legacy Project members offered their assistance to continue progress. After some discussion they were asked to leave the meeting. Subsequently, the Water District members changed the name of the project according to Mr. McIntyre. He stated that his group was disappointed about the name change because they wanted to preserve the legacy of the project. He hoped that the water district and the Board would change the name back. He also hoped that two of the steering committee members of the Wood River Legacy Project would be nominated by the Water District to assist them in the successful continuation of the project. He thanked the Board for aiding in the process.

Mr. Uhling complimented Mr. McIntyre and his group on the passage of the legislation and all of their hard work. Mr. McIntyre thanked the Idaho Water Users and Idaho Rivers United for their assistance and support.

Rob Struthers, Chairman of Water District 37/37M, addressed the Board. He noted that the district established a name of the Wood River Basin Enhancement Water Supply Bank for their use when the water comes under their administration. Their Board was unanimous in this decision. Mr. Struthers noted that a meeting would be held in October for their Water District. Nominations for ex-officio members to serve on the Advisory Committee are on the agenda for October. Mr. Uhling said the Board would support the project to meet its goals and objectives.

Mr. Chamberlain moved that the resolution appointing the Water District 37/37M advisory committee as the local committee to facilitate donations of eligible water rights and to adopt local procedures for the Wood River Legacy Project be approved. Mr. Armacost seconded. Mr. Uhling called for a roll call vote.

**Roll Call Vote:**

**Cuddy, aye; Armacost, aye; Storer, aye; Beck, aye; Chamberlain, aye; Graham, aye; Uhling, aye; Rigby, Absent. Seven Ayes. Motion passed.**

**Agenda Item No. 8, Water Transactions Program – P-9 Ditch Project**

Morgan Case reviewed the P-9 Ditch Project proposal which would eliminate a cross ditch that intercepts a spring, increasing water temperature and sediment going into the Pahsimeroi River. Eliminating the P-9 Ditch would take a large portion of that water and divert it to four users down stream. The goal is to increase flow in the Patterson Big Springs Creek in the main stem and tributaries and as a partner with owners to convert from gravity flood irrigation to pumping from ditches requiring water below the P-7 and P-8 diversions.

A resolution for a funding commitment for 2 of 4 projects was before the Board today. The Charlton Project irrigates 6.6 acres at 23 acre-feet per year. It is the costliest because they are at the end of the ditch. The cost over twenty years is \$38 per acre-foot with an increased cost of 5% for power factored in per year. The River Valley Ranch irrigates 181 acres for 634 acre-feet per year that will remain in stream down to the P-7 diversion. The ranch has 3.41 cfs irrigation rights. The River Valley Ranch Project will cost \$21 per acre-foot over 20 years for a total of \$439,611.86. The Charlton Project will cost \$29,098.04 and both projects are contingent upon funds from the Bonneville Power Administration as stated in the resolution before the Board today.

Mr. Chamberlain moved that the resolution authorizing a funding commitment for the P-9 ditch project be approved. Mr. Cuddy seconded. Mr. Uhling called for a roll call vote.

## **Roll Call Vote:**

**Cuddy, aye; Armacost, abstain; Storer, aye; Beck, aye; Chamberlain, aye; Graham, absent; Uhling, aye; Rigby, Absent. Five ayes; one abstain; two absent. Motion passed.**

Mr. Armacost asked if the staff could provide a summary report of the water transactions projects that includes the costs and benefits of each project. Ms. Case replied that this information is already available on the department's website.

## **Agenda Item No. 9, Director's Report**

Director Dave Tuthill presented several items to the Board. First he displayed a graph of the reach gains from Blackfoot to Milner Dam for the Twin Falls Canal Company over the years. He discussed the special challenge of the Twin Falls Canal Company in getting their water. The shortfall will be closer to about 27,000 acre-feet for this year. The Director stated that sufficient water has been provided by IGUA for this year. Mr. Beck expressed concern about accepting IGUA's mitigation plan guaranteeing Twin Falls water when it is unknown whether water will be available. How can an unknown be accepted as a mitigation plan? The Director responded that the IGUA plan was challenged and a hearing held. The Director's final assessment was that IGUA had sufficient water for the plan.

Mr. Beck also expressed concern about the lack of water in storage reservoirs for carry over. He wondered if the department considered this for future mitigation plans. The Director discussed bank storage theories. He stated it is difficult to discern the many reasons for bank storage phenomena. The Director said that Vince Alberdi first suggested the bank storage phenomena to him. He added that it is difficult to determine reach gains and many questions are unanswered. Mr. Beck asked if there was any way to install measurement devices on banks of ditches. Director Tuthill stated that additional measurements upstream from American Falls would be added to the model in the future. The tribes would also be providing more information and are meeting with the department in October. Better information on spring flows will be forthcoming.

The Director stated that Justice Gerald Schroeder had been appointed hearing officer in the Surface Water Coalition Call and he has the experience and expertise to conduct this process. A status conference is set for September 24<sup>th</sup> to review the disposition of the rental pool water to the Twin Falls Canal Company with a department review of how the process will proceed. November 28<sup>th</sup> is the date set for the hearing in the Thousand Springs Call. Attorneys on both sides are deadlocked.

Director Tuthill explained that the A and B Irrigation District filed an action in 1994, considered a call under the rules; however, a stay was imposed and modified this year. For the calls Thousand Springs is the first priority, SWC is the second and A and B Irrigation is the third priority. This year A and B Irrigation District filed a mandamus action with the court and a status conference is set for September 25<sup>th</sup> with Judge Butler to determine the next actions by the department. The Director expressed great hope in the ESPA CAMP process to aid in solving these issues.

The Director discussed the amount of water going down the Snake River this year and how none was used for recharge. The Twin Falls Canal Company's 1977 water right is senior to the Board's recharge water right. A subordination clause was not added until 1987. This particular right is not subordinated to rights for recharge. The Director has just signed a Notice of Intent to Approve this right. The department's action on this right is important to the CAMP process. The Director has the authority to add conditions at the time of permit or license. This could be a contested action.

Mr. Beck asked how the process happens for a permit and a water right. The Director explained that an application for permit is the first step. It is advertised and the permit approved or denied. The permit is then subject to placing for beneficial use. Applicants can request an extension of time to complete this process. When proof is submitted, it is still a permit and is subject to licensing which is another process.

The Director noted that the North Idaho Adjudication has had a serious pushback even though it was authorized and funded by the Legislature in the last session. Public meetings were requested and held in Plummer and Sandpoint. Informational meetings were held in August with SRBA Court and department representatives present to explain the Phase I process. County Commissioners are leading the significant pushback. Director Tuthill expressed appreciation for Mr. Graham's input in this process. More informational sessions are scheduled with realtors in September. A meeting of the Idaho Association of Counties will be held and Director Tuthill will be there along with Mr. Graham. Two additional meetings will be held with legislators the end of September and early October. He discussed news coverage in North Idaho and the concerns about costs, tribal issues, etc.

Director Tuthill discussed the basin plans, priorities and time frames that the Board reviewed at the telephonic meeting in August. A meeting was held later with the Governor's Office, the Division of Financial Management, and Natural Resource Committee members regarding the budget funding for the Board's planning effort. They discussed the commitment of a 20 million dollar one-time money appropriation by the Legislature to support these planning efforts.

Director Tuthill discussed storage water opportunities and presented a graph of storage capacity on the Missouri River and compared it to storage on the Upper Snake River in Idaho. There is a four-year storage supply in the upper Missouri River and Idaho has less than one year. He suggested that perhaps Idaho should have more storage looking ahead to the future. The Director is coordinating strategic planning with the department and the Board. Mr. Graham suggested that global warming issues should be added to all planning.

Mr. Beck asked if there was any discussion about raising the height of Minidoka Dam. The Director responded that it is one of many projects being considered. Mr. Beck noted that Montana has state money for small projects like that.

Mr. Schoen stated that how water is being used should be part of the planning efforts for economic development. He questioned how much storage would be needed and for what purpose. Mr. Schoen thought that this discussion should not just be just internal to the department but with all elements of the community in a unified effort. He wanted to reemphasize that discussions needed to be broader to consider storage. Director Tuthill agreed with Mr. Schoen.

Mr. Schoen noted that urban planners weren't familiar with water issues, but they are doing the planning for new neighborhoods, industry and municipalities. Mr. Uhling acknowledged the complexity of these issues and thanked Mr. Schoen for his input. Mr. Schoen asked for further guidance from the Board about interfacing with state efforts. Director Tuthill noted that he would be at the next meeting in North Idaho of the Idaho Association of Counties and looked forward to working with Mr. Schoen at that meeting.

Mr. Schoen asked to what extent state water laws are derived from the State Water Plan. Mr. Uhling urged him to attend the State Water Plan sub-committee meeting being held directly after the Board meeting to get more information.

**Agenda Item No. 10, Other Items Board Members May Wish to Present**

Mr. Chamberlain thanked Mr. Schoen for coming and participating at the meeting.

**Agenda Item No. 11, Next Meeting and Adjourn**

Mr. Chamberlain moved that the meeting be adjourned. Mr. Graham seconded. All were in favor.

Dated this 28<sup>th</sup> day of Nov., 2007.



Secretary

  
Patsy McGourty, Administrative Assistant II

**Board Actions:**

1. Mr. Armacost moved that the minutes from meeting 08-07 and 09-07 be approved as read. Mr. Chamberlain seconded. All were in favor.
2. Mr. Chamberlain moved that a loan in the amount of \$330,000 at 6% with a 10-year repayment schedule be approved. Mr. Beck seconded. Mr. Uhling called for a roll call vote.

**Roll Call Vote:**

**Cuddy, aye; Armacost, aye; Storer, aye; Beck, aye; Chamberlain, aye; Graham, aye; Uhling, aye; Rigby, Absent. Seven ayes, one absent. Motion passed.**

3. Mr. Graham moved that the Board disapprove the East Lizard, Elm-Crest and Hampton Homes grant requests because the Board has discontinued the grant program. Mr. Chamberlain seconded noting that each group could request a loan. Mr. Uhling called for a roll call vote.

**Roll Call Vote:**

**Cuddy, aye; Armacost, aye; Storer, aye; Beck, aye; Chamberlain, aye; Graham, aye; Uhling, aye; Rigby, Absent. Seven ayes, one absent. Motion passed.**

4. Mr. Chamberlain moved that the resolution appointing the Water District 37/37M advisory committee as the local committee to facilitate donations of eligible water rights and to adopt local procedures for the Wood River Legacy Project be approved. Mr. Armacost seconded. Mr. Uhling called for a roll call vote.

**Roll Call Vote:**

**Cuddy, aye; Armacost, aye; Storer, aye; Beck, aye; Chamberlain, aye; Graham, aye; Uhling, aye; Rigby, Absent. Seven ayes, one absent. Motion passed.**

5. Mr. Chamberlain moved that the resolution authorizing a funding commitment for the P-9 ditch project be approved. Mr. Cuddy seconded. Mr. Uhling called for a roll call vote.

**Roll Call Vote:**

**Cuddy, aye; Armacost, abstain; Storer, aye; Beck, aye; Chamberlain, aye; Graham, absent; Uhling, aye; Rigby, Absent. Five ayes; one abstain; two absent. Motion passed.**