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WATER RESOURCES

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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA	)	Subcase No. 63-03618
	)	
Case No. 39576	)	SECOND AFFIDAVIT OF DAVID A. JARVIS
_____	)	

STATE OF COLORADO	)
	)ss.
City and County of Denver	)

AFFIDAVIT

I, DAVID A. JARVIS, being of lawful age and having been first duly sworn, state the following:

1. I make the following statements based upon personal knowledge and am competent to testify thereto.
2. I am a paralegal with Labat-Anderson, Inc., a government contractor which provides paralegal services to the U.S. Department of Justice.
3. I provide paralegal support to Environment and Natural Resources Division

attorneys who represent the interests for the United States in the Snake River Basin Adjudication. I have performed this role for approximately seven (7) years. As part of my duties, I act as the custodian of SRBA files for the Denver Field Office, and am familiar with the court filings served upon the United States and the documents filed by the United States in the SRBA.

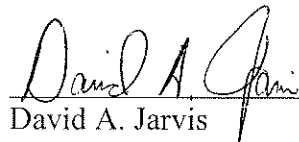
4. I attest that attached Exhibit KK are true and correct copies of excerpted pages from U.S. Army Corps of Engineers, WATER CONTROL MANUAL FOR BOISE RIVER RESERVOIRS, April 1985.

5. I attest that attached as Exhibit LL is a true and correct copy of Idaho Legislature Resources and Conservation Committee Minutes, January 17, 1978.

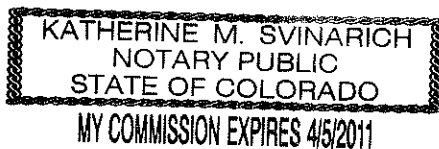
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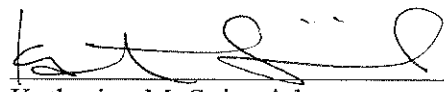
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DATED this 14th day of November, 2007.


David A. Jarvis

SUBSCRIBED AND SWORN to before me this 14th day of November, 2007




Katherine M. Svinarich
Notary Public for Colorado
Residing at: Denver, Co
My Commission Expires: 4/5/2011



US Army Corps
of Engineers
Walla Walla District

Water Control Manual for Boise River Reservoirs

Boise River, Idaho

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VII - WATER CONTROL PLAN

7-01. General Objectives. It is the objective of this Water Control Plan to define reservoir regulation procedures and practices for joint use of the storage spaces in Anderson Ranch, Arrowrock, and Lucky Peak Reservoirs. Storage in Lake Lowell is affected by this Water Control Plan through regulation of the upstream reservoir projects, but Lake Lowell is an off-stream irrigation project regulated by the Boise Project Board of Control through an operation and maintenance contract between the Board and the Bureau of Reclamation. Thus, this Water Control Plan contains no direct regulation criteria for Lake Lowell.

7-02. Authorized Reservoir Uses. Authorized reservoir uses were discussed in Section III - HISTORY OF PROJECTS, and the Memorandum of Agreement (paragraph 3-07) outlined reservoir uses since 1953. This Water Control Plan basically retains the same uses and priorities as defined in the 1953 Memorandum of Agreement. This Plan also recognizes 50,000 acre-feet of Lucky Peak storage space to provide flows for downstream fish and wildlife as required by the current Lucky Peak storage permit. The Bureau of Reclamation is in the process of amending and finalizing the Lucky Peak Lake storage permit by designating 102,300 acre-feet of noncontracted space for streamflow maintenance and municipal and industrial uses.

As a system, Anderson Ranch, Arrowrock, and Lucky Peak Reservoirs normally add water to storage from the end of the irrigation season (in October) each year until the annual flood control season is over (normally ranging between 15 April to 1 July).

From the end of the irrigation season until April, Idaho Department of Fish and Game and noncontracted space water is released from Lucky Peak Lake to maintain minimum flows in the downstream river.

The normal end of irrigation season storage of Lake Lowell is 120,000 to 140,000 acre-feet. If storage is below this amount, diversion from the Boise River is usually begun in February or March. Lake Lowell is then normally filled as soon after 1 April as possible and in most years is full by 1 May. Boise River natural flows have always been sufficient to credit Lake Lowell with having filled under its water right (see paragraph 7-06.e.). However, part of this water is usually temporarily stored in upstream reservoirs to avoid canal operation problems in winter, then transferred to Lake Lowell in the spring.

The amount of water stored in the system and precisely when it is stored is dependent on water rights, the amount of water available as runoff, the timing of the runoff, and the required flood control regulation. Flood control regulation during this period (1 November through the spring high water period) endeavors to maintain adequate flood control spaces within the reservoirs and yet refill the reservoirs without exceeding 6,500 cfs as measured at the Glenwood Bridge gaging station. In the low runoff years, flood control regulation during the spring snowmelt period is normally limited or not necessary, and water conservation and reservoir refill are the primary objectives. Runoff years near normal require delicate balances between flood control and refill regulation, with runoff timing and volume forecasts as the key factors for the balances. In large runoff years, maintaining adequate flood control space within the reservoirs and passing excess water through the system without unduly jeopardizing system refill, are the primary objectives.

After the annual spring flood season is over and until the end of the irrigation season, the reservoirs are drafted to maintain irrigation flows. Arrowrock Reservoir is drafted first to maintain the power head at Anderson Ranch Reservoir and also a desirable recreation level at Lucky Peak Reservoir. If the storage in Arrowrock has been used before the end of August, both Anderson Ranch and Lucky Peak Reservoirs are drafted without exceeding powerplant capacity at Anderson Ranch. After the end of August, irrigation demands are met primarily from storage in Lucky Peak Reservoir. Normal project inspections and maintenance then generally occur just after the irrigation season each year.

7-03. Use Priorities. Flood control and irrigation are the primary uses for Anderson Ranch, Arrowrock, and Lucky Peak storage spaces. Idaho Fish and Game's 50,000 acre-feet for streamflow maintenance and the noncontracted space on 102,300 acre-feet for streamflow maintenance and municipal and industrial uses at Lucky Peak are also primary uses. Secondary uses for the storage spaces include power generation at Anderson Ranch and recreation at Lucky Peak. Incidental uses include recreation (at Anderson, Arrowrock, and Boise River below Lucky Peak Dam), downstream water quality, and sedimentation pools within the reservoirs.

7-04. Use Conflicts. Because the Boise River reservoirs are managed as a multiple-purpose system, it is not possible to optimize regulation for each of the separate uses. Thus, this Water Control Plan represents compromises between the various uses as established within the priorities listed. Flood control use directly conflicts with all of the other system

uses to some degree. Optimum flood control protection possible with the system would require that the reservoirs be maintained empty and available to control floodwaters. Even with this type of regulation, past studies have shown that the existing system (with the limited downstream channel capacity) would not be adequate to control large spring snowmelt flood volumes (events of approximately 50-year magnitude or larger) to desirable levels of downstream flooding.

Optimum irrigation use would require that the system be maintained as full as possible to provide carryover storage water for the drought years, and even this operation would not necessarily assure adequate water supplies for a series of drought years. Full refill of the system for irrigation does not conflict with recreation until the reservoirs have to be drawn down to meet irrigation requirements in the summer and fall. During the winter, refill for irrigation directly conflicts with the maintenance of minimum fish and wildlife and water quality flows.

Some of the use conflicts have just been outlined and more could be discussed, but the key conflict is that of flood control versus refill regardless of the intended use of the stored water.

7-05. Flood Control Plan. This element of the Water Control Plan defines specific reservoir regulation criteria which shall be strictly followed during the flood control season. The flood control plan consists of the following:

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a. Winter Requirements. Flood control regulation during the period 1 November through 1 March requires that specific minimum flood control spaces be maintained in the reservoir projects to protect against unpredictable winter floodflows resulting from rapid snowmelt and/or

season, large rainstorms; underestimation of remaining runoff; river regulation during emergency conditions (such as canal breaks, construction within the Boise River channel, etc.); and storage of water for stream maintenance flows and municipal and industrial uses. The Bureau of Reclamation has the temporary State permit for Lucky Peak Lake storage and will be finalizing the permit by requesting that the Lucky Peak Lake noncontracted space be assigned as follows:

1. 13,950 acre-feet of water volume between pool elevations 3055 to 3060 for exclusive flood control.
2. 102,300 acre-feet for stream maintenance flows and municipal and industrial uses.

Even though the 60,000 acre-feet of space has last priority in the Boise reservoir system for the purpose of improving the flood control operation, the regulating agencies should try to refill the space because the water stored in the space is critical to maintaining minimum Boise River stream maintenance flows.

When Anderson Ranch, Arrowrock, and Lucky Peak projects have a total of 60,000 acre-feet of space or less (excluding surcharge) during the annual snowmelt flood control season, reservoir regulation will be guided by current basin conditions such as snowpack water contents, expected precipitation and temperatures, current irrigation diversions, and any other data which are available and indicate current flood potential. The regulating agencies will jointly determine current flood control requirements for existing basin conditions. If it is deemed safe to refill a portion of the final 60,000 acre-feet of space, the regulating agencies must agree on the proposed regulation schedule before additional planned filling begins. This filling will be limited by the "Final Fill Flood Control Requirements" shown on Plate 7-3A when unregulated inflows are greater than 10,000 cfs.

d. Constraints and Considerations. As part of the plans presented for each of the three flood control periods, there are some general constraints and considerations which affect final flood control regulation. The following information outlines these items.

(1) Regulation Objectives. The purpose of regulating the Boise River for flood control is to prevent loss of life and limit property damage due to flooding of the Boise River. To accomplish these goals,

it is desirable to contain Boise River natural floodflows within the reservoir projects while limiting downstream flows at the Glenwood Bridge gaging station to 6,500 cfs or less. The 6,500-cfs regulation objective at the Glenwood gage is a primary regulation target and should not be violated unless an emergency exists or is anticipated (refer to the individual flood control plans for each of the three periods). Flows of 6,500 cfs at the Glenwood gage do result in some minor flooding (primarily overbank flooding of agricultural and pastureland and seepage into low elevation areas); however, 6,500 cfs is considered to be the normal acceptable damage flow level by the regulating agencies. Using regulation objectives, less than 6,500 cfs would result in reducing the flood control capability of the system and past studies have shown that average annual flood damages would increase if the regulation objective was decreased. Streamflow magnitudes of 6,500 cfs at Glenwood gage are less serious later in the irrigation season as more water is diverted from the river below Glenwood gage.

During the irrigation season, irrigation water is diverted from the Boise River between Lucky Peak Dam and the Glenwood Bridge gaging station. These diversions are normally quite dependable from year to year and significantly aid in reducing flows and thus allow Lucky Peak releases to be increased by an equal amount if necessary for flood control. The following tabulation lists assumed irrigation diversions and total Lucky Peak releases used for the development of flood control criteria for normal flood control regulation.

Period	Flood Control Objective Boise River at Glenwood Gage (cfs)	Assumed Irrigation Diversions Lucky Peak to Glenwood Gage (cfs)	Flood Control Objective Lucky Peak Release (cfs)
1 Jan-31 Mar	6,500	0	6,500
1 Apr-30 Apr	6,500	1,600	8,100
1 May-31 May	6,500	3,700	10,200
1 Jun-31 Jul	6,500	3,800	10,300

A secondary flood control regulation objective is to maintain the downstream flows at the Parma gaging station to 7,000 cfs or less whenever possible. Flows at the Parma gage are dependent upon flows at the Glenwood gage, current irrigation diversions and return flows, and upon local runoff from rain or snowmelt.

The normal flood control regulation objectives just presented outline desirable maximum flood control limits which are usually obtainable within the physical limits of the existing reservoir system and the restricted downstream channel capacity. Occasionally a large or unusual flood event will occur which cannot be controlled within the reservoir system while maintaining 6,500 cfs at the Glenwood gage. When the flood control space requirements cannot be maintained with 6,500 cfs at the Glenwood gage, flood control strategies necessary to prevent loss of flood control regulation and still significantly reduce flood damages are presented within paragraphs 7-05.a., b., and c.

(2) Allocations. The following flood control space allocations define maximum spaces which can be used for flood control in each of the Boise River reservoir projects.

Project	Flood Control Allocation (Acre-Feet)	Reservoir Pool Range (Feet)
Anderson Ranch	418,178	4,044 to 4,196
Arrowrock	286,600	2,974 to 3,216
Lucky Peak	264,371	2,905 to 3,055
Lake Lowell	0	--
Diversion Dam	0	--
Total	969,149	

Flood control allocations for the Anderson Ranch and Arrowrock projects remain the same as shown in earlier manuals and references. The flood control allocation for the Lucky Peak project has been reduced from 278,276 acre-feet to 264,371 acre-feet in this manual to provide 5 feet of freeboard (surcharge) at the project to avoid inadvertent use of the emergency spillway. No flood control allocations are used for Lake Lowell or Diversion Dam pond even though floodwaters have been diverted to Lake Lowell to reduce Boise River flows in the past. It is expected that Lake Lowell will probably continue to be used to reduce floodwaters in the future; but these floodflow diversions are made by agreement with the Boise Project Board of Control and possible canal problems could arise which would make any allocation unusable. Therefore, the flood control plan excludes flood control diversions above conservative irrigation demand.

nonirrigation season for a specified beneficial use can be replaced in the same year within the constraints of the right(s) governing that * space.

At the end of the irrigation season, it is the responsibility of the Bureau, in conjunction with the Watermaster, to determine the amount of unused storage in each of the three main river reservoirs (Anderson Ranch, Arrowrock, and Lucky Peak) within 30 days of the time the Watermaster has determined the amount of stored water used. It is the duty of the Watermaster to determine on a daily basis the accumulation of stored water under the rights of each of the three reservoirs and to notify the Bureau each season when the maximum fill of each reservoir is known. The Bureau shall in turn inform the Watermaster of each user's stored water allocation in sufficient detail for proper delivery of that water.

f. Distribution of Irrigation Water. Water rights for direct diversion of flow for irrigation are potentially valid only during the 1 April through 31 October irrigation season. The Boise River Watermaster makes a daily calculation of natural (unregulated) flow at one or more locations near these points of diversion to sufficiently estimate the available natural flow supply. The Watermaster then credits the natural flow to appropriate users based on a list of water rights in force provided by the State of Idaho, Department of Water Resources. When the rate of diversion of a user is greater than the credited natural flow, the remainder is charged by the Watermaster to the user's stored water supply, or lacking storage, the rate of diversion must be reduced.

In many years flood control regulation extends several weeks into the irrigation season. When Lucky Peak flood control releases are equal to or greater than the demand for irrigation water (all users are receiving an adequate supply), the entire release is considered surplus to the Boise River and the above computation of natural flow diversion by user is not necessary. During this period, no charges are made against stored water supplies.

During the irrigation season, the Watermaster defines irrigation releases which are needed at Lucky Peak Dam. The Bureau in turn transfers water from Anderson Ranch and Arrowrock Reservoirs as necessary to provide water for irrigation release. Irrigation releases made from Lucky Peak are normally near 4,500 cfs.

g. Irrigation Responsibilities. It is the responsibility of the Central Snake Projects personnel (Bureau of Reclamation) and the Boise River Watermaster to supply water to the downstream users. The Central Snake Projects personnel regulate the Anderson Ranch, Arrowrock, and Lucky Peak projects for the purpose of water supply, and the Boise River Watermaster defines required Lucky Peak releases necessary to meet demands and then ensures that these demands are met.

From 1 April to approximately 1 July each year, the flood control season and the irrigation season normally overlap. Coordination for the purpose of meeting irrigation requirements during the flood control-irrigation overlap period will be done in accordance with the procedures defined within paragraph 7-05.e. of the Flood Control Plan. After the flood control season is over, the Corps of Engineers has only a limited responsibility in the regulation of the projects; therefore, the procedure in the following paragraphs will be used to eliminate unnecessary interagency coordination.

After the flood control season each year, the Chief of Hydrology Branch (Corps of Engineers) will by letter designate the Central Snake Projects Superintendent (Bureau of Reclamation) as the person responsible for releases from the Lucky Peak project. The Central Snake Projects Superintendent is then responsible for Lucky Peak releases during the remainder of the irrigation season because water will be withdrawn from storages for which the Bureau of Reclamation holds the storage licenses and permit. After the irrigation season each year, Lucky Peak releases will again become the responsibility of the Chief of the Hydrology Branch. Chief of the Hydrology Branch will then notify necessary personnel of this transfer in responsibility by letter.

The Central Snake Projects Superintendent, after being designated as responsible for Lucky Peak releases, will by letter designate personnel authorized to call Lucky Peak project personnel and order release changes. He may designate either himself and members of his staff or the Boise River Watermaster as authorized personnel, but only one office at one time will be authorized to call Lucky Peak.

7-07. Maintenance Plan. After the irrigation season ends (approximately 15 October), Lucky Peak releases are reduced to minimum and water is normally stored within the three reservoirs until flood control releases are required, or until storage transfer to Lake Lowell, or until irrigation season begins again. Project inspections and maintenance as well as downstream maintenance and construction should normally be scheduled within

1978

HOUSE PRINTING AND LEGISLATIVE EXPENSE COMMITTEE

MINUTES

2nd Regular Session
44th Idaho Legislature

THIS IS 1/7/78

RESOURCES AND CONSERVATION COMMITTEE

MINUTES

DATE:

PRESENT: CHATBURN, CHAIRMAN
REARDON
LEWIS
WINCHESTER
FITZ
INGRAM
JOHNSON
TIBBITTS
BATEMAN

JONES
KNIGGE
STEPHENSON
HEDLUND
SNYDER
WESTERBERG
REYNOLDS
CLEMM

ABSENT: BRACKETT

GUESTS: GORDON JOHNSON
SENATOR JOHN BARKER
NANCY HOEACK
MARJORIE HAYES
GORDON TATE
BOB WAILTEY
MARK INGRAM
GORDON RANDS
GEORGE L. YOST
KENNETH DUNN
GARY RICHARDSON
SID SPRECHER

VIEWING ONLY
AMERICAN FALLS RESERVOIR DISTRICT
OBSERVER
IDAHO CONSERVATION LEAGUE
IDAHO STATE GRANGE
IDAHO STATE GRANGE
IDAHO CONSERVATION LEAGUE
IDAHO CONSERVATION LEAGUE
IDAHO WATER BOARD
DEPT. OF WATER RESOURCES
IDAHO CONSERVATION LEAGUE
KAID - IPBN

MINUTES: Chairman Chatburn called the meeting to order at 1:30 p.m.

The minutes of the previous meeting were approved.

Rep. Chatburn introduced a ~~chairman from the~~ Water Resource Board, George Yost, and Steve Allred from the Department of Water Resources who was to speak on the water plan.

Mr. Allred passed out copies of the Water Power Initiative and the resolution of the Los Angeles County Board of Supervisors. Mr. Allred went on to discuss pressures in regard to what other states were doing.

Chairman Chatburn recognized Senator Barker and invited him to ask any questions he might have.

QUESTIONS: Rep. Clemm: Did you speak to the Columbia River Basin letter that was submitted?

Mr. Allred: No, I did not. The federal law required that a plan should be submitted for every river basin. We have been working on one for the Columbia River Basin. We have achieved agreement that our state water plan would be the basis of that plan that affected Idaho. That plan is in the process of being written and adopted now. He went on to say that since our water plan is not in force there are some that felt they were free to do other things than what they had agreed to. That is another real pressure. If the water plan were in force then other states and the River Board Commission would recognize Idaho's water plan. If they set theirs first then there might be some dispute. This is also true of the federal government.

is that based on the 100 year or the 50 year

Mr. Allred: As I remember this is the 100 year Flood.

POLICY NO. 6: INSTREAM FLOWS

Water rights should be granted for instream flow purposes. The legislation authorizing this policy should recognize and protect existing water rights and priorities of all established rights and delegate responsibilities for determining flows and administrative authority to the Department of Water Resources. The legislation should also direct that the Idaho Water Resource Board shall be the only applicant for instream flow.

QUESTIONS:

Sen. Barker: Shouldn't the legislature be made as another applicant? Shouldn't it say that the Water Resource Board would normally be the only applicant but the legislature may have the right to make applicants?

Mr. Allred: I think that they already have that right. I think if you want to reserve certain instream flows that you ought to just pass a bill to that effect. You could amend it so that the legislature could be an applicant but that would mean we would have to go through the whole administrative process.

Rep. Tibbitts: Would you define instream flows?

Mr. Allred: Those flows by which there is no diversion. They are instream flows for some purpose whether fisheries, recreation, or water quality. There is no physical diversion. When you look at this you have to look at policy no. 1 and policy no. 32.

Rep. Tibbitts: Do you have all instream flows identified?

Mr. Allred: You mean that are already adopted, that are already placed. No we don't. We have as many of them as we can find. Just because they are not in the books doesn't mean there are no instream flows. There is no procedure to review them at a state level so this would provide that basis.

Rep. Stephenson: This year our water rights were cut. This was because of a particular situation in the water shed. Does that affect the water rights that are on the Boise River?

Mr. Allred: This would have a priority over some thing later than 1978. Any right prior to 1978 would have to be satisfied first. You can presently develop instream flows by storage. You can not go into a stream where there is no storage. We don't want that diverted. Anything that had a prior priority date would get water before that instream flow would get water.

POLICY NO. 7: STATE NATURAL AND RECREATIONAL SYSTEM

A State Natural and Recreational River System should be established and designed to fit the desires of the citizens of Idaho. Legislation implementing this policy should permit the protection of the unique features that exist on each of the various rivers within the state and should provide the necessary authorization and adequate funding to state and local government to protect such rivers and related lands for recreational, scenic and natural values while still allowing the widest possible opportunity for use by private interests.

It was moved by Rep. Westerberg and second by Rep. Stephenson that Policy 5 be retained. Motion carried.

POLICY NO. 6:

Senator Barker: The Water Resources Board should not be the only applicant, the legislature should be an applicant. It seems to me that it should say the Water Resources Board or the legislature.

Rep. Bateman: How about some kind of wording like this:

The legislature upon recommendation shall be the only applicant.

Rep. Chatburn: There should be some language referring to upstream storage.

Rep. Knigge: That is the only way I could go along with this is to have upstream storage.

Rep. Clemm: We would have to write legislation for this at that time and we could spell out these areas of concern.

Rep. Westerberg: The Water Resources Board should be the one responsible but there should be someone over them. Applications for instream flows should be subject to approval by the legislature. I move that we say this. Second by Knigge.

Rep. Knigge: Would this be impossible for your Department to handle with this additional language?

Mr. Allred: No.

Rep. Westerberg: This says subject to the approval. This does not mean every one, but gives us veto power.

Mr. Allred: Instead of subject to approval maybe you should say subject to over view.

Rep. Clemm: Do you believe that the type of wording would require legislative approval?

Mr. Allred: I think that if you say subject to approval that would indicate to me that some type of approval of the legislature would be required.

Rep. Clemm: You don't think the Water Resources Board would designate instream flows without the legislature's approval?

Mr. Allred: Yes, I think that is right.

Rep. Chatburn: The question is before you that Policy No. 6 should read "..... The legislation should also direct that the Idaho Water Resource Board shall be the only applicant for instream flow subject to the approval of the legislature."

Motion Carried.

POLICY NO. 7:

Rep. Johnson: Are unique features already identified?

Mr. Allred: That would be speaking toward features on rivers. I would assume it would be specific in legislation.

Rep. Clemm: Any policy must recognize rights of property owners. Any policy that says designed to fit the desires of the citizens does this. I support this policy with one change in line 5. ".... the various rivers bordered by public lands within the state and should provide the..."

Rep. Reynolds: This would be an alternative to the National System?

mendation to be placed on the Second Reading Calendar.
Motion Carried.

H 636: MEMBERSHIP OF THE WATER RESOURCES BOARD Sponsor: Rep. Tibbitts

This bill provides that appointments to the Water Resource Board shall be subject to approval of the House of Representatives as well as the Senate.

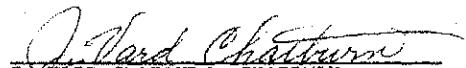
It was moved by Rep. Worthen, seconded by Rep. Bateman that we report H 636 to the floor with a do pass recommendation to be placed on the second reading calendar. Motion carried. Rep. Jones and Rep. Clemm voted no.

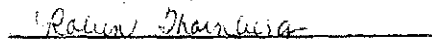
The reports were given on the rules and regulations of the Outfitters and Guides, The Department of Water Resources, Idaho Fish and Game Commission, and the Department of Lands - Idaho Forest Practices Act. They were all found to be in order and having no problems.

It was moved by Rep. Clemm and seconded by Rep. Lewis that the reports be adopted. Motion carried. Chairman Chatburn said that he would report to the Speaker as he was required to do.

RS 3600C1: RECORDING OF WATER RIGHTS AND MINIMUM STREAM FLOWS

It was moved by Rep. Lewis that we accept the report of the subcommittee and that we pass RS 3600C1 to the floor with a do pass recommendation when the bill is printed and that the speaker place it on the Second Reading Calendar. Second by Rep. Bateman. Motion carried. Rep. Jones and Winchester voted no. There being no further business, the meeting adjourned at 5:25 p.m.


J. WARD CHATBURN, CHAIRMAN


ROBIN THORNBERG, SECRETARY