

**ANNUAL MEETING  
WATER DISTRICT 1**  
Idaho Falls, Idaho, March 6, 2001

**AGENDA**

- |         |  |   |
|---------|--|---|
| ✓ 9:00  | WELCOME & INTRODUCTION                                     | Leonard Beck                              |
| ✓ 9:10  | IDAHO WATER USERS ACTIVITIES                               | Norm Semanko                              |
| ✓ 9:25  | DEPARTMENT OF AG. WEED COORDINATION                        | Glen Secrest                              |
| ✓ 9:45  | ADJUDICATION STATUS REPORT                                 | Dave Tuthill                              |
| ✓ 10:00 | USBR REPORT ( <i>See next page (opposite side)</i> )       | <del>Ken Pedde</del> Jerry Gregg          |
| ✓ 10:15 | WATER SUPPLY OUTLOOK "                                     | Mike Beus                                 |
| ✓ 10:50 | IDWR DIRECTORS REPORT "                                    | Karl Dreher                               |
| ✓ 11:10 | REPORT OF THE COMMITTEE OF NINE                            | Leonard Beck                              |
| 11:25   | WATERMASTER'S REPORT                                       | Ron Carlson                               |
| 12:00   | LUNCH  |   |
| 1:00    | CALL TO ORDER  |   |
|         | A. ELECTION OF MEETING CHAIRMAN AND SECRETARY              |   |
|         | B. ROLL CALL   |   |
|         | C. READING OF THE 2000 ANNUAL MEETING MINUTES              |   |
|         | D. RECESS FOR CAUCUSSES (SELECTIONS FOR COMMITTEE OF NINE) |   |
|         | E. RECONVENE MEETING:                                      |   |
|         | 1. REPORT OF CREDENTIALS COMMITTEE                         |   |
|         | 2. AREA RECOMMENDATIONS FOR 2001 COMMITTEE OF NINE         |   |
| 1:30    | FINANCIAL REPORTS  | Brad Reed, Rudd & Company                 |
| 2:00    | LEGAL UPDATE   | John Simpson<br>Jerry Rigby<br>Roger Ling |
| 2:30    | RESOLUTIONS  |   |
| 3:00    | OLD BUSINESS   |   |
|         | NEW BUSINESS   |   |
| 4:00    | ADJOURN ANNUAL MEETING                                     |   |

## Jerry Gregg

- Fort Hall water use study
- Randy Bingham - Family Farm Alliance
  - working to make budgets more accessible
- Bi Op
  - Upper Snake Projects were removed
  - Now re-consulting w/ NMPS
- Flow Augmentation Program
  - Legislation needed
  - Re-Consultation with NMPS not desirable
- BOR will work with patrons to get through this year

## Mike Beus

- Low year by every measure
- American Falls will probably not fill

## Karl

- Long term effort to implement quality mgmt strategies in IDWR
  - Computer system upgrade
  - Upcoming - Water Dist 36 will incorporate ground water
    - Build a record re: impact of gw on surface water
  - General Water Management Rules to be adopted
    - will apply statewide
    - in addition to conj mgmt rules
    - Plus we are drafting water rights transfer rules
      - Transfers are becoming more complex
    - Plus add administrative measures above King Hill
  - Legislation for Lemhi R. Basin Instream Flow
    - Local advisory committee to administer water bank
    - Payment to dry up acres for irrigation cessation
- Funding for model recalibration w/ IPCO, BOR, USGS, IWRRI, USFJ  
March - IPCO will have doppler crews out

WATER DISTRICT 1 ANNUAL MEETING  
PROPOSED RESOLUTIONS

1. BE IT RESOLVED that the watermaster continue to apply the best available methods and technology to assure: accurate deliveries of natural flow and stored water, consistent regulation procedures, the availability of water supply and diversion records to the water users, and that all water users are assessed for water deliveries on a timely, accurate and equitable basis, and the preparation of the annual watermaster's report required by Idaho Code §42-606.

BE IT FURTHER RESOLVED that:

2. The watermaster will investigate ways to expand and maintain automation where it can effectively improve water management, reduce personnel costs, travel costs, or result in cost or water savings for Snake River water users, or assure better and more current data.
3. The water users of Water District 1 continue the cooperative program with the Idaho Department of Water Resources (IDWR) as outlined in the Memorandum of Understanding dated March 2, 1993, previously approved by the Committee of Nine, and signed by the chairman of the Committee of Nine and the director of the Department of Water Resources, a copy of this agreement is attached hereto as exhibit A and made a part hereof as if set out at length herein.
4. Ronald D. Carlson be re-elected watermaster for the ensuing year, and be authorized to hire a full-time staff of a deputy, two assistants, a secretary, a data specialist, and such other assistants as provided by the adopted budget. The watermaster may hire additional assistants as authorized in Idaho Code § 42-609 in an emergency.
5. Dale Rockwood be elected Water District 1 Treasurer and his annual compensation set by the Committee of Nine, but not to exceed the \$4,000 provided in the 2001 Water District 1 budget.
6. The duties of the watermaster and treasurer shall begin on this date and continue for a period of one full year.
7. The budget for Water District 1 for the 2001 year beginning November 1, 2000 be as follows:

**2001 Water District1 Budget**

**HYDROGRAPHERS**

Teton Basin	1,000 hours (+mi)	\$ 10,000	
Idaho Falls	800 hours (+mi)	6,500	
Lower Valley	400 hours (+mi)	3,300	
Henry Fork	1,800 hours (+mi)	22,000	
Teton River	520 hours (+mi)	7,000	
			\$ 48,800

**RIVER RIDERS**

Rigby & Heise Div.	1,200 hours (+mi)	\$ 8,000	
Blackfoot Division	600 hours (+mi)	3,200	
Swan Valley	480 hours (+mi)	5,400	
Upper Falls	250 hours (+mi)	1,500	
Idaho Falls	6 mos @ \$155 (Inc. mi)	950	
Willow Creek	6 mos @ \$525 (Inc. mi)	3,400	
Milner	12 mos @ \$35 (Inc. mi)	420	
			\$ 22,870

**PROGRAM EXPENSES**

Automation	\$ 46,000	
Vitel	53,000	
Streamgaging	218,804	
Recharge	0	
		\$ 317,804

**EQUIPMENT EXPENSES**

Office Equipment	\$ 5,000	
Computer	10,000	
Telephone	400	
		\$ 15,400

**PERSONNEL EXPENSES**

Recharge Coordinator	\$ 0	
Retirement	6,800	
Social Security	6,200	
Mileage	23,000	
State Insurance Fund	3,000	
Employment Insurance	1,000	
Health Insurance	0	
Part-Time Help	2,400	
Misc. Hydrographer Exp.	2,000	
Treasurer	4,000	
		\$ 48,400

2001 Water District1 Budget (Continued)

MISCELLANEOUS EXPENSES

Water Education	\$	850	
Otto Otter		1,000	
IWUA		1,000	
Postage		3,600	
Supplies		2,000	
Audit		6,100	
Meeting		3,500	
Legal Fees		0	
Committee of Nine		15,000	
Public Relations		50,000	
			\$ 83,050

WATERMASTER

IDWR Contract	\$	380,000	
Annual Book		4,000	
Travel		6,000	
Water Measurement Dist.		170,500	
			\$ 560,500

WD CONSULTANTS & ATTORNEYS

Attorneys	\$	600,000	
ERO		275,000	
Committee of Nine		10,000	
			\$ 885,000

EXCESS USE

\$ 100,000

ESA CONTINGENCY FUND

\$ 50,000

TOTAL WATER DISTRICT BUDGET

\$ 2,131,824

UPPER VALLEY FEES

\$ 100,000

TOTAL BUDGET W/ UV FEES

\$ 2,231,824

8. BE IT RESOLVED that the watermaster is hereby authorized to acquire, hold and dispose of such real and personal property, equipment and facilities in the name of the water district as necessary for the proper distribution of water and shall provide that all such real and personal property shall remain in the custody of the watermaster and the watermaster's successor.

9. WHEREAS, it is the watermaster's responsibility to assure the proper delivery of both natural flow and storage supplies to all water users, and

WHEREAS, the normal water district cost of delivering water to many water users is greater than their normal assessments would be based upon their total annual use of water;

✓ NOW, THEREFORE, BE IT RESOLVED that the watermaster of Water District 1 is hereby authorized to assess a \$30.00 minimum charge for every diversion within his jurisdiction.

10. WHEREAS, the water users of Water District 1 meeting in regular annual session find it necessary to confirm the continuation of the following "on-going" resolutions which direct the watermaster and the treasurer of the district in certain aspects of Water District 1 operations;

NOW, THEREFORE, BE IT RESOLVED that the Water District 1 budget prepared pursuant to Idaho Code § 42-615, and adopted in resolution no. 7 at this Water District 1 annual meeting, shall become the basis for the official billing of the amount of said budget for the succeeding year to the respective water users, using the actual deliveries for the past irrigation season or seasons as the basis for said distribution of such billing to the individual water users, canal companies, and irrigation districts, and is hereby authorized to collect all of the amounts billed;

That the treasurer shall establish and maintain a general account and shall cause all monies received to be deposited and shall make all disbursements as necessary to conduct the business of the water district;

That no ditch, canal company, or other water users shall have the right to demand and receive water, and the watermaster shall not deliver to such person until receipt of the amount due and payable from such user, and

That copies of the minutes of the annual meeting, the budget as approved, all resolutions approved, and the report prepared in accordance with Idaho Code § 42-615, shall be

filed with the director of the Department of Water Resources and with the county auditors of Bonneville, Madison, Teton, and Fremont Counties in accordance with Idaho Code § 42-617.

11. WHEREAS, it is in the best interest of the water users of Water District 1 to account for all diversions which might adversely affect any prior natural flow or storage rights;

BE IT RESOLVED that the watermaster shall be on duty to regulate diversions and collect records of water diversions during the entire year.

12. BE IT FURTHER RESOLVED that the Committee of Nine be designated to be the advisory committee under Idaho Code § 42-605 and be continued with nine regular members. The members representing the Burley and Minidoka Irrigation projects are to be alternated between the two districts as they arrange. In addition, advisory members representing the Bureau of Reclamation, Teton Basin, AFRD #2 Canal, A & B Irrigation, the Wyoming State Engineer and a member from the Burley or Minidoka district, whichever is not currently represented on the regular committee be included.

13. WHEREAS, the members of the Committee of Nine, as the water district's advisory committee, are elected to represent the general interest of the water users;

NOW, THEREFORE, BE IT RESOLVED that the Committee of Nine is hereby authorized to:

- (a) Advise and consult with the watermaster and director in matters related to water resources management and water distribution.
- (b) Serve as the standing resolutions committee for all meetings of the water district.
- (c) Take those actions necessary to represent and protect the interests of the water users of the water district and to authorize the expenditure of additional funds when necessary.
- (d) Employ such legal, engineering, technical and clerical services as may be deemed necessary for the Committee of Nine to fulfill its responsibilities to the water users of the water district.
- (e) Make and execute such contracts and agreements as may be deemed necessary or convenient.

- (f) Do such other things as the committee shall deem to be beneficial to the water users of the water district.

BE IT FURTHER RESOLVED that the Committee of Nine is hereby ratified as the local committee for the rental of stored water under Idaho Code § 42-1765.

14. WHEREAS, the Committee of Nine has been selected by the water users of Water District 1 to represent their collective interests;

BE IT RESOLVED that the Committee of Nine be authorized to modify the budget and approve the expenditure of funds held by the water district for the following purposes:

- (1) Unanticipated expenses of the water district.
- (2) Necessary improvements to the water district's facilities.
- (3) Educational projects designed to increase public awareness in the area of water distribution, water rights and water conservation.
- (4) Other public projects designed to assist in the adjudication, conservation or more efficient distribution of water.
- (5) Involvement in legislative, legal and agency deliberations on issues involving water quantity and quality which could affect water users of the water district, including naming Water District 1 as a petitioner in legal actions involving the ESA and the negotiation of federal claims and tribal claims filed in the SRBA, and further, to expend funds as are necessary that may exceed the budgeted amounts for such expenditures and then approved by the Committee of Nine.
- (6) To reimburse advisory committee members in accordance with the policy attached hereto as exhibit B.
- (7) Items authorized in resolution no. 13.

15. BE IT HEREBY RESOLVED that in accordance with the provisions of the March 2, 1993, Memorandum of Understanding with IDWR, the watermaster is hereby designated manager of the Rental Pool for the Committee of Nine.

16. WHEREAS, the watermaster from time to time finds that storage has been used in excess of entitlements, and

WHEREAS, these "excess uses" require an allocation of rental pool storage, and

WHEREAS, the collection of payment for these excess storage uses can be time-consuming and can result in delays in making lease payments to the rental pool lessors;

NOW, THEREFORE, BE IT RESOLVED that the watermaster is authorized to maintain \$100,000 of the funds generated through the administrative charge on water rentals for the purpose of assuring lessors can be paid prior to the final diversion data for the year being available to the watermaster.

BE IT FURTHER RESOLVED that all monies collected for excess use rental charges, plus all appropriate interest and penalties, shall be first used to replace monies spent from this account.

17. WHEREAS, the water district's credentials committee has historically specified that "no person be elected to membership and service on the Committee of Nine and credentials committee unless he be a land owner and a water user...;"

IT IS THEREFORE RESOLVED that water user and land owner shall be defined as follows:

1. One who owns an irrigated farm that is comprised of more than twenty (20) irrigated acres that has valid surface water rights deliverable by the Water District 1 Watermaster; and
  2. One who has received over 50 percent of his annual income during one or more of the past ten years from farming activities.
  3. Or has previously qualified for service on the Committee of Nine as defined by 1 and 2 above.
18. WHEREAS, it is in the interest of all water users to have the water rights within Water District 1 delivered by priority, and

WHEREAS, the accounting system now used by Water District 1 requires that each diversion have assigned to it a specific list of decreed, licensed, and storage entitlement, and

WHEREAS, those diversions which have no decreed, licensed or permitted water rights will, necessarily be taking storage water any time a diversion takes place;

NOW, THEREFORE, BE IT RESOLVED that no diversion under a decree, license or permit, shall be allowed unless the list of rights for that diversion are found in the watermaster's records or proper arrangements have been made to procure an adequate water supply prior to the start of the irrigation season.

19. BE IT RESOLVED that the annual Water District 1 meeting shall hereafter be held on the first Tuesday of March, of each year unless the director and Committee of Nine should find it necessary to change the meeting date, and

BE IT FURTHER RESOLVED that the water users of Water District 1 waive mailed notice of the annual meeting and direct publication of the meeting notice for two (2) consecutive weeks in an appropriate number of newspapers located throughout the water district.

20. WHEREAS, the water users located above Blackfoot, excluding Aberdeen Springfield Canal Company (upper valley), have chosen to collectively retain legal counsel, and

WHEREAS, it is their desire to have the watermaster assess the upper valley water users for these legal services in proportion to their water use;

NOW, THEREFORE, BE IT RESOLVED this sixth day of March, 2001, that the watermaster hereby be authorized to assess canals located above Blackfoot (excluding Aberdeen Springfield Canal Company) for legal fees and other appropriate expenses associated with representing the collective interest of the upper valley.

BE IT FURTHER RESOLVED that such charges may not exceed the amount budgeted during the current year.

BE IT FURTHER RESOLVED that the water district treasurer shall maintain said amounts in a separate account and that payment therefrom shall ONLY be made when authorized by the upper valley Committee of Nine representatives.

21. BE IT RESOLVED that 8.2 of Water District 1 Rental Pool Rules and Regulations be continued as approved by the Idaho Water Resource Board.

- 8.2. A. The rental price for 2001 shall be \$2.95 per acre-foot of water rented for authorized irrigation use above Milner Dam. This price shall include \$2.00 to the lessor, the water district's administrative charge of \$0.75 per acre-foot and the water board surcharge of \$0.20 per acre-foot.
- B. The price for water delivered below Milner Dam shall be \$10.50 per acre-foot. Of the \$10.50 rental price, \$7.00 per acre-foot shall go to those supplying the water released past Milner. The remainder of the rental price shall be allocated as follows: \$0.75 per acre-foot administrative charge retained by Water District 1, \$0.70 per acre-foot surcharge assessed by the Idaho Water Resource Board. The remaining \$2.05 per acre-foot shall be held by the water district for the primary purpose of offsetting costs associated with ESA and Federal claims and for the general improvements of the water district, specifically: streamgaging, automation and hydrologic investigations in Water District 1.
- C. In the event of a substantial shortage of water in the rental pool available for use above or below Milner, the price for the rental of water may be negotiated above the prices set forth in subsection A & B for a one year lease to make water available to meet the preferred irrigation needs above Milner and to lease additional water for other uses above and below Milner. The negotiated rental fee shall go to the assignors agreeing to seek negotiated rental rate and assigning water to next seek needs, less the administrative fee and surcharge specified in subsection B above.

## 22. INTERIM BUDGET

WHEREAS, Water District 1 changed its fiscal year to begin November 1 and end October 31 of each year, and

WHEREAS, the annual meeting of Water District 1 at which the annual budget is adopted is the first Tuesday in March, leaving the water district to operate for four months without a budget;

NOW, THEREFORE, BE IT RESOLVED by Water District 1 meeting in regular annual session, that the Committee of Nine be

authorized to adopt a continuing budget for the district to operate under between November and the annual meeting.

BE IT FURTHER RESOLVED that the continuing budget approved by the Committee of Nine shall reasonably represent the budget resolution the Committee of Nine will propose to the water users at the next annual meeting.

23. WATER DISTRICT 1 POLICY POSITION

WHEREAS, there are currently many issues that potentially can change water distribution patterns and water supplies in Idaho, and

WHEREAS, water users are now being asked to fund experts and attorneys in preparation for negotiations and/or litigation, and

WHEREAS, the water users of Water District 1 and their representatives, the Committee of Nine, wish to have a clear representation of the position of Snake River irrigators, and establish the following as the guiding principles in any and all negotiations and litigation:

1. Administration of water rights that have been or will be adjudicated in the SRBA must recognize traditional distribution and water management.
2. The zero minimum flow at Milner, as established in the state water plan be recognized as the state's position, and that there can be no call for deliveries below Milner by downstream interests.
3. Releases past Milner must be consistent with state law and limited to annual arrangements approved by the Committee of Nine and IWRB.
4. Any changes in upstream water rights that would allow water to be transferred below Milner will be vigorously opposed by Snake River water users and the Committee of Nine.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District 1, that the Committee of Nine is authorized to allocate sufficient funds to protect and defend these principles in negotiations with the federal government and Indian tribes and in challenging and defending claims in the Snake River Basin Adjudication or other necessary litigation.

24. ADMINISTRATION

WHEREAS, Idaho is a priority doctrine state where historically water has been developed and used in the various areas of the state, and

WHEREAS, the state has established administrative units in the form of water districts to distribute available water supplies, and

WHEREAS, water within these administrative units has been distributed without respect to rights that might have been established by downstream users, and

WHEREAS, upstream water users have not challenged or objected to the development of downstream water rights under the representation that their rights would not be subject to calls by water rights that exist outside of the state established administrative boundaries.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District 1 meeting in regular annual session this sixth day of March, 2001, that the Committee of Nine be authorized to expend the resources necessary to establish in the SRBA that past administration represents a vital element of a water right and must be preserved in the adjudication of rights in the SRBA.

25. SNAKE RIVER BASIN ADJUDICATION

WHEREAS, the U.S. Supreme Court has held that the United States is not required to pay filing fees in the Snake River Basin Adjudication (SRBA), and

WHEREAS, the water users of Water District 1 have been required to pay substantial filing fees in the SRBA, and

WHEREAS, the United States has filed claims in the SRBA for substantial and exorbitant amounts of water in the lower Snake River which threaten the continued viability of irrigated agriculture in Water District 1 and the rest of the state, and

WHEREAS, the water users of Water District 1 have devoted substantial time and money to negotiate and defend against the SRBA claims filed by the United States, and

WHEREAS, defending against the claims filed by the United States in the SRBA and other McCarran Amendment adjudications has come at great cost to western water users.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District 1, meeting in regular annual session this sixth day of March, 2001, that the members of the Idaho Congressional Delegation are encouraged to pursue the enactment of federal legislation requiring the United States to pay its fair share of filing fees in the SRBA.

AND BE IT FURTHER RESOLVED that the members of the Idaho Congressional Delegation are also encouraged to seek Congressional oversight into the United States' activities and spending in the SRBA and other McCarran Amendment adjudications.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the members of the Idaho Congressional Delegation, Governor Dirk Kempthorne, the Idaho State Attorney General, the Idaho Water Resources Department, and the Idaho Water Resource Board.

26. DISTRIBUTION OF RESERVOIR EVAPORATION LOSSES TO STORAGE SPACEHOLDERS

WHEREAS, evaporation losses resulting from the construction of Palisades, Island Park, Ririe, Lake Walcott, and American Falls Reservoirs are subtracted from the reservoir spaceholder fill so as not to impact deliveries to natural flow water rights, and

WHEREAS, the eight major storage reservoirs within Water District No. 1 are operated as a system, benefiting all water users by facilitating water deliveries and maximizing the probability of re-filling emptied storage space, and

WHEREAS, water allocated to a specific reservoir spaceholder may physically reside in any of the system reservoirs during the irrigation season;

NOW, THEREFORE, BE IT RESOLVED that the total reservoir evaporation loss computed during the irrigation season be subtracted from all reservoir spaceholders in Water District No. 1 proportionally according to each individual's percentage of the total reservoir system allocation.

27. ENDANGERED SPECIES – SALMON

BE IT RESOLVED, that the water users of Water District No. 1 oppose any plan to use natural flow or stored water from the upper Snake River basin for drawdown or flow augmentation in the lower Snake and Columbia Rivers which use is contrary to the laws of the state of Idaho or is in breach of any contract between spaceholders and the U.S. Bureau of Reclamation or is an abrogation of any such contract.

BE IT FURTHER RESOLVED that any such water acquired for salmon recovery purposes be obtained only on a willing buyer/seller or willing lessor/lessee basis with a clear preference for the rental process over permanent acquisition.

BE IT FURTHER RESOLVED, that the water users of Water District No. 1 oppose designating flow augmentation for salmon migration as a beneficial use in Idaho.

28. WHEREAS, the Federal Endangered Species Act is clearly designed to support maintaining endangered or threatened species through artificial propagation; and

WHEREAS, special interest groups use the Act to obstruct beneficial water resource projects; and

WHEREAS, the appropriate federal agencies do not adequately or appropriately administer the Act; and

WHEREAS, recovery plans for threatened and endangered species is a federal obligation but can be delegated to or developed in cooperation with states.

NOW, THEREFORE, BE IT RESOLVED, that the water users of Water District No. 1 support revision and amendment of the Endangered Species Act of 1973 to:

1. Require simultaneous recovery plans with listing decisions;
2. Require that the agency specify only reasonable and prudent alternatives contained in approved recovery plans if alternatives are needed to avoid jeopardy;
3. Require the agency to include economic considerations as well as scientific data in a determination of the value of listing a species for either threatened or endangered status.
4. Provide that cooperative agreements between federal, state and local agencies, and water supply entities shall be deemed a substitute for listing for habitat conservation or recovery plans;
5. Preclude the Secretary of Interior from designating by regulation waters to which the United States exercises sovereignty as critical habitat that would impact non-federal waters or entities;
6. No provision or program of the Endangered Species Act shall be construed or applied to authorize a taking or deprivation of any state created interest in water or water right.

29. CLEAN WATER ACT

WHEREAS, the United States Congress is presently considering reauthorization of the Clean Water Act; and

WHEREAS, such reauthorization may significantly impact the water users in Water District No. 1

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 urge Congress and the administration to incorporate the following principals in any activities regarding the Clean Water Act:

1. That neither the Corps of Engineers nor EPA nor any other federal agency or officer shall utilize any provision or program under the Clean Water Act to allocate or reallocate water quantity under water rights acquired pursuant to state law as part of any program that seeks to require specified levels of assimilative capacity, dilution water or instream flows.
2. No provision or program of the Clean Water Act shall be construed or applied to authorize a taking of any interest in water created pursuant to state law.
3. That section 404 protections and controls not be expanded.
4. The Corps should adopt simplified procedures for issuing general and nationwide permits and for transferring 404 permit authority to states. Certain categories of water such as headwaters, isolated waters, and certain intrastate waters should be excluded from permit requirements.
5. The Corps or EPA may not prohibit or in any way restrict or condition water diversions, depletions, or the consumptive use of water or water rights, which are authorized or decreed under state law.
6. Section 404 and wetland jurisdiction should be limited so that it does not apply to water surfaces and water related vegetation areas created artificially incidental to irrigation, hydropower and water supply projects.
7. Reasonable best management practices should be incorporated in the law as the programs to be pursued for non-point sources.
8. Maintain the provisions of the Clean Water Act that exempt irrigation delivery or conveyance systems and return flows from point source regulation. Existing non-point sources shall remain as non-point sources under any program adopted under the Clean Water Act. Entities owning such irrigation delivery or conveyance facilities shall be permitted to control or regulate the quality of such return flows and to develop cooperative programs with water users.
9. That any proposed total maximum daily loads regulation should be subject to public review and comment as provided for by state law before implementation.

30. SNAKE RIVER RECHARGE

WHEREAS, water levels in the Eastern Snake Plain Aquifer, as well as surface water flows, have decreased over the past several years; and

WHEREAS, these decreased water levels may be improved by artificial recharge at various locations on the Snake River Plain as determined by the Eastern Snake Plain Aquifer model and recharge study.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 support continued efforts to identify and implement the most effective aquifer recharge sites and projects, including those, which would replenish surface and spring flows.

31. OFFICE OF SPECIES CONSERVATION – ENDANGERED SPECIES

WHEREAS, the state of Idaho must marshal the various resources of the state in a cooperative, consensus-based approach to address endangered species in Idaho; and

WHEREAS, the Idaho office of Species Conservation should coordinate policy and action between state and local agencies and landowners to take measures to avoid future threatened or endangered listing of species within Idaho.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 support the state of Idaho's office of Species Conservation and its efforts to coordinate policy and programs, including policies and programs of the water users of Idaho, related to proposed threatened and endangered species in Idaho, and declining species that face possible future ESA listings.

32. UNITED STATES BUREAU OF RECLAMATION – LEGAL OBLIGATIONS

WHEREAS, the United States Bureau of Reclamation (USBR) has entered into numerous contracts with irrigation districts, canal companies, water delivery entities, and other water users in Water District No. 1 to store and deliver water for irrigation; and

WHEREAS, the USBR is legally obligated to follow the terms and conditions of these contracts; and

WHEREAS, concerns have been raised over USBR's winter operations at Palisades Reservoir and the effect of those operations on the fishery of the South Fork of the Snake River; and

WHEREAS, USBR has previously identified and addressed these concerns for winter operations and continues to be mindful of the fishery resource of the South Fork of the Snake River when operating Palisades Reservoir.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 support the various contracts between irrigation entities and USBR and urges USBR to continue to adhere to these contracts when operating the reservoirs, including Palisades Reservoir.

33. USBR OPERATION & MAINTENANCE ACTIVITIES

WHEREAS, the United States Bureau of Reclamation operates and maintains important water supply and hydropower facilities throughout Water District No. 1; and

WHEREAS, such facilities are aging and in need of major maintenance or restoration activities and, in some cases, the high costs of completing these maintenance projects are compounded by governmental, environmental, or endangered species requirements; and

WHEREAS, the U. S. Bureau of Reclamation plans, budgets, manages, allocates and passes the costs of project O & M and extraordinary maintenance or restoration activities on to their water user customers without significant involvement from the project beneficiaries.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 urge the Bureau of Reclamation to:

1. Work with their contractors in formulating O&M budgets and planning for extraordinary maintenance or restoration activities on applicable facilities well in advance of actual expenditures;
2. Account for and explain to their contractors, on a quarterly basis, actual O&M costs incurred for each applicable facility, including budget comparisons and other detailed cost accounting analysis as requested by the contractors;
3. Work with their contractors on planning, budgeting, bidding, and managing extraordinary maintenance and renovation activities on applicable facilities in order to contain costs and maximize benefits;
4. If requested by their contractors, allow the costs of extraordinary maintenance and renovation activities to be repaid by project beneficiaries over a 5- to 10- year timeframe under existing or future legislation; and
5. Work with Congress and the Administration to obtain alternative funding sources to assist their contractors in covering the added costs or complying with environmental or species protection laws in maintaining and restoring Bureau of Reclamation facilities in the West.

34. FLOW AUGMENTATION STUDY

WHEREAS, the National Marine Fisheries Service (NMFS) continues to struggle with alternatives that will best recover Idaho's endangered anadromous fish; and

WHEREAS, augmentation water from Idaho has been the preferred solution of NMFS since 1992 and up to 427,000 acre feet of Idaho water has been supplied annually by willing lessor through Idaho water bank pursuant to Idaho Code § 42-1763A and § 42-1763B; and

WHEREAS, the smolt to adult ratios (SARs) continue to indicate levels below those necessary for recovery of the species, in spite of flow augmentation with 427,000 acre feet of Upper Snake water and more than one (1) million acre feet from Dworshak Reservoir; and

WHEREAS, several environmental groups have filed an action in federal court (Trout Unlimited v. NMFS), seeking to require that USBR and NMFS acquire additional water from the Upper Snake; and

WHEREAS, serious questions exist regarding USBR's ability to deliver an additional one (1) million acre feet; and

WHEREAS, the acquisition of additional water would be contrary to existing state and federal law and policy;

NOW, THEREFORE, BE IT RESOLVED the water users of Water District No. 1 oppose any legal action seeking to require augmentation water from Idaho, and urge USBR and NMFS to reject any proposal to use additional Idaho water unless it is obtained from willing sellers or lessor and such arrangement has been approved by the Idaho Legislature.

35. HYDROELECTRIC PROJECT RELICENSING (Hells Canyon Complex and other facilities)

WHEREAS, the Idaho Power Company and other utilities that supply electricity to water users in Water District No. 1 are currently in the process of relicensing various hydroelectric projects, including the Hells Canyon Complex; and

WHEREAS, water users in Water District No. 1 rely upon a firm supply of power from the Idaho Power Company and other utilities; and

WHEREAS, the Hells Canyon Complex supplies over 75% of the hydroelectric power generated by the Idaho Power Company;

NOW, THEREFORE, BE IT RESOLVED that the water users in Water District No. 1 are opposed to the study or implementation of the possible introduction of salmon and steelhead species above the Hells Canyon Complex of hydroelectric dams; and

BE IT FURTHER RESOLVED that the water users of Water District No. 1 urge FERC, the State of Idaho and the Idaho Power Company to oppose introduction of the species above the Hells Canyon Complex, or any study of dam removal at Hells Canyon or other locations within the State of Idaho.

36. HYDROELECTRIC ENERGY ISSUES

WHEREAS, the recent energy crisis in California caused the Secretary of Energy to declare an emergency and order 75 entities to sell electricity to the California Independent System Operator (ISO) that was available in excess of electricity needed by each entity to render service to their firm customers; and

WHEREAS, two of the entities identified by the Secretary, Idaho Power Company and PacifiCorp, supply electricity to water users in Water District No. 1; and

WHEREAS, due to a projected dry year in 2001, and the many interests associated with reservoirs in Idaho apart from generating hydroelectricity, including water users in Water District No. 1, the Idaho Public Utilities Commission, by Order No. 28605 in Case No. GNR-E-00-1, ordered Idaho Power and PacifiCorp not to draft additional water from reservoirs or through hydroelectric facilities to generate excess energy to serve non-system needs; and

WHEREAS, the water users of Water District No. 1 are dependent upon such reservoirs filling to meet storage water rights as well as providing a reliable source of electricity from such utilities as Idaho Power, PacifiCorp, and the USBR.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 oppose any future efforts to have reservoirs drafted to generate excess electricity to serve non-system needs.

37. LEGISLATIVE COMMITTEES

WHEREAS, the water users in Water District No. 1 are dependent upon numerous storage and surface water rights, as well as a reliable source of electricity; and

WHEREAS, natural resource and electric utility industry issues, particularly the effort to negotiate a settlement of the Nez Perce tribal claims in the Snake River Basin Adjudication, as well as the expiration and potential renewal of legislation authorizing the use of 427,000 acre feet of Idaho water for salmon recovery and evolving water rights issues connected to electric utility restructuring are of the utmost importance to water users in Water District No. 1; and

WHEREAS, the Idaho Legislature has passed resolutions appointing committees to study issues regarding natural resources and the electric utility industry in the state.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 support the efforts of the legislative committees and recognize that the Committee of Nine may advise these committees as needed to ensure that the interest of water users in Water District No. 1 are protected.

38. OUTSTANDING RESOURCE WATERS

WHEREAS, several environmental groups have recently petitioned the Department of Environmental Quality (DEQ) to designate certain waters of the state, including the South Fork of the Snake River and several of its tributaries as "outstanding resource waters;" and

WHEREAS, the DEQ declined to recommend the designation of the South Fork or any of its tributaries as "outstanding resource waters" to the Idaho Legislature this year; and

WHEREAS, potential listing of the South Fork and its tributaries as "outstanding resource waters" could place additional restrictions on non-point source activities, and could adversely impact water rights or irrigation storage held by water users in Water District No. 1.

NOW, THEREFORE, BE IT RESOLVED that the water users in Water District No. 1 oppose any future petitions by environmental groups or others to designate the South Fork of the Snake River or any of its tributaries as "outstanding resource waters," or any other redesignation.

WATER DISTRICT 01 ANNUAL MEETING  
MARCH 7, 2000  
CAVANAUGH'S ON THE FALLS, IDAHO FALLS, IDAHO

This annual meeting of the waterusers of Water District 01 was held on March 7, 2000, at 9:00 a.m. at Cavanaugh's on The Falls. Committee of Nine Chairman Dell Raybould conducted the meeting. He introduced staff and attorneys for Water District 01 as well as special guests.

Sherl Chapman was the first speaker on the program. He encouraged the waterusers to keep involved and thanked the attorneys for their work during the past year. He said the 1999 biological opinion from the National Marine Fisheries Service is expected out in May or June. Other federal documents that have come out are the All-H Paper and the Corp's Environmental Impact Statement on the operation of their projects. Hearings on these documents have been packed by the environmental groups. There is a tremendous amount of rhetoric that dam breaching will save the salmon. The environmentalist are trying to say that Idaho water won't be required if dams are breached, but that is either a lie or a falsehood. He said that every alternative requires Idaho water. He reviewed some proposed legislation: House Bill 546 deals with frivolous protests of applications before the Idaho Department of Water Resources; Senate 1419 deals with off stream livestock watering; Senate Bill 1426 makes the Division of Environmental Quality a department of state government; and Senate Bill 1488 and 1490 creates an office of species conservation.

Snake River Watermaster Ronald Carlson presented an award to Sherl Chapman for all of the work he has done on behalf of Idaho's waterusers. Mr. Chapman has announced his retirement from the Idaho Waters Users Association will be effective this coming July 1.

Bill McDonald, Regional Director of the Bureau of Reclamation, said that he has now served eight months in that position. He said the Grassy Lake Spillway Modification Report will go to the office of Management and Budget this coming fall and then on to Congress for their approval. There is proposed legislation on Safety of Dams that will increase the ceiling of what can be spent. The bill will require an interest component on the irrigator's 15 percent-cost share. Concerning the Endangered Species Act, the USBR is trying to juggle responsibilities to their contractors with their responsibility to conserve threatened and endangered species. He is currently under consultation with NMFS and the US Fish and Wildlife Service on new listings and on previous listings. The Biological Opinion on snails show that USBR facilities are not jeopardizing their existence. The Biological Opinion to NMFS on the operation of the Upper Snake River reservoirs shows a continuation of the 427,000 acre feet under the willing seller/willing buyer arrangement, but Mr. McDonald warned that if legislation authorizing the 427,000 acre feet to go out of the state is not approved by the legislature then the USBR will have to consult with the other federal agencies. He is fearful of what potentially could come out of that. He said that the Bureau's efforts to find water for flow augmentation will continue and he encouraged the waterusers and the Bureau to work together. Concerning the Earth Justice Legal Defense Fund suit against the USBR, the issues at hand are: 1) the USBR hasn't asserted its authority to conserve threatened and endangered species, 2) the USBR hasn't fully implemented

the NMFS Biological Opinion by not dedicating water for salmon recovery, 3) the USBR consultation on operation of the Upper Snake is too narrow, it should address illegal or improper use of Reclamation water. Mr. McDonald indicated that the USBR was one of nine federal agencies to write the All-H Paper. The Burley Irrigation District title transfer came to a successful completion. He said he is open to other title transfer projects that make sense. The USBR in cooperation with the waterusers is looking closely at their operation and maintenance billing procedure. The Bureau is developing twenty year maintenance plans for all of their dams. They are planning to continue their project tours with emphasis on maintenance of their dams and facilities. Mr. McDonald thought that the USBR budgets will be stable or slightly decreasing the next few years, but warned that perhaps they will not be able to continue cost sharing on some projects such as groundwater recharge, water conservation plans, and water quality.

Adjudication Bureau Chief of the Department of Water Resources Dave Tuthill gave an update on the status of the Snake River Basin Adjudication. He said that the federal based rights are handled by the State Attorney General's Office and the state based rights are handled by IDWR. He then provided a status report on the state based rights. His office is working on having maps of the places of use that have been claimed in the adjudication be on the Internet during this coming year. He said that the SRBA is on schedule.

Director of the Idaho Department of Water Resources Karl Dreher said that the managed recharge report has been completed. It concluded that managed recharge is doable on a large scale basis, but there are problems that need to be addressed such as use of Bureau of Reclamation facilities, non-subordination of recharge rights to Idaho Power's downstream water rights, costs of new construction and other biological and institutional problems. Mr. Dreher said that the IDWR is asking the legislature to fund a person to work on those problems. He said the Department has proposed legislation to increase the fees for transfer applications in order to process a backlog of about three hundred applications. Concerning flow augmentation, he said that the federal agency family has taken the 427,000 acre feet and the waterusers for granted. He expressed concern that with the mediation breakdown, roadless issues, and other federal issues there may not be a renewal of the 427,000 acre feet legislation. The Department has been working behind the scenes trying to prevent water going out of the state for flow augmentation. Because there is a considerable body of scientific evidence against flow augmentation that will be appropriately introduced, he believes the state will intervene in the Earth Justice suit on the side of NMFS and the USBR. Some groups are calling for more water because they believe that it increases smolt survival.

Mike Beus of the USBR reviewed the 1999 reservoir operations. He said the spring flood control operation went well. The flow target was exceeded slightly at Blackfoot. He thought that American Falls is going to fill by April 1. He indicated that snow coarses in the Snake River drainage are 81 percent on the Henry's Fork, 86 percent for Palisades, and the stream flow forecast is 87 percent for the South Fork at Heise and 112 percent for the Henry's Fork as of February 1. Mr. Beus said that the long range weather forecast indicates that March through

May 2000 precipitation was not predicted. He said that long range weather forecasting is improving but is still very unpredictable.

Chairman Dell Raybould gave the Committee of Nine Report. He encouraged the waterusers to attend the salmon hearings and be counted. He reviewed historical points leading up to the present situation waterusers now face and discussed present obstacles such as the Wilderness Claims and a motion by the federal government and the Indians to dismiss Judge Wood as the presiding judge in the SRBA. Mr. Raybould also praised several individuals who have represented waterusers over the last few years.

Watermaster Ronald Carlson said waterusers need to keep a historical perspective. The collective history of this group will pretty much be gone in the next twenty to twenty-five years. We need to bring younger waterusers along to pass down the history of the waterusers. Mr. Carlson reviewed the minutes of the annual meeting of January 30, 1923, when the Committee of Nine was established. He said that the evaporation calculation has been an issue for a long time, since 1923. Recently evaporation was charged to the space holders in each reservoir where ever evaporation was charged. That process works good in wet years but in dry years when reservoirs contain water from other reservoirs that process doesn't work as well. He is proposing a resolution to charge evaporation proportionally to all of the reservoirs in the system based on the total reservoir evaporation.

Assistant Watermaster Lyle Swank presented a computer simulation on the operation of the reservoir system for 1999 as well as snow course comparisons. He is hoping to expand the simulation to a state overview of reservoirs and snow courses to track flow augmentation releases.

The meeting adjourned for lunch at noon. Upon reassembly Diana Cross, from the Bureau of Reclamation, described the procedures for the Salmon Recovery Hearings that will be held later in the day.

Election for a temporary chairman was held. Dell Raybould was duly nominated and elected and Dale Swensen was elected temporary secretary. Tony Olenichak conducted a roll call of the canal companies and irrigation districts that were present. Don Hale moved that the Minutes of the annual meeting held on March 2, 1999, be approved. Keith Esplin seconded the unanimously passed motion. The meeting then broke into caucuses for the Committee of Nine elections and the following were nominated: Leonard Beck, Paul Berggren, Leland Clark, Don Hale, Larry Kerbs, Wayne Lincoln, Albert Lockwood, Dale Rockwood, and Claude Storer. Alternate members: Dell Raybould and Mike Wilkins. Advisory members: Scott Breeding, Lynn Harmon, Jack Hoopes, and Larry Moore. Lloyd Hicks moved, seconded by Ted Hansen, and unanimously passed that the nominated members to the Committee of Nine, alternates and advisors, be elected.

Dave Rydalch reported on the Credentials Committee. Don Hale moved, seconded by Albert

COMMITTEE OF NINE MINUTES -3

Lockwood, and unanimously passed that the report be approved.

Treasurer Dale Rockwood introduced Brad Cannon of Rudd and Company who presented a report on the audit that his firm conducted. The audit expressed a clean opinion of the finances of the Water District. Mr. Rockwood compared the actual expenses for 1999 to the amount budgeted, whereupon Don Hale moved, seconded by Claude Storer, and unanimously passed that the financial report be accepted.

Attorney John Simpson reported on legal issues regarding the SRBA and the Federal Reserve Water Right Claims. He said that the Forest Service Claims are at various stages of litigation, the Wilderness Claims have been reheard by the Supreme Court and are currently waiting for a decision, and the SNRA, Hells Canyon and Wild and Scenic Claims are all under appeal. The Organic Act Claims have sub case status. The Deerflats Claim is under appeal to the Supreme Court. Concerning the Nez Perce Instream Flow Claims, there is a motion for summary judgement by the waterusers that was approved by the District Court and is now under appeal to the Supreme Court. One of the spinoffs of that case is a motion to dismiss Judge Wood. The Earth Justice suit contains allegations that can impact all operations of the Upper Snake. The parties need to respond by the end of April. The waterusers are coordinating their response with the state, Bureau of Reclamation, and National Marine Fisheries Service. Jim Anderson, a biologist from Portland, has been hired to critique the ESA and salmon recovery documents on behalf of the waterusers.

Attorney Roger Ling reported on the mediation. He explained what a federal reserve water right is and that the Deerflats, Wilderness, and Organic Claims are implied Federal Reserve Water Rights which are different from an express claim which the tribes have. The SRBA Court ordered mediation on the Nez Perce instream claims. The waterusers want to get certainty and sufficiency on Clean Water Act and Endangered Species Act potential future claims in the process. All federal agencies understood the waterusers proposals but are not willing to give sufficiency and certainty. Mr. Ling read a press release explaining the position of the Committee of Nine.

Vice-Chairman Leonard Beck presented the resolutions. Resolutions one through six and eight through twenty-seven were approved by the waterusers. Resolution seven which is the Water District Annual Budget was questioned. There was a motion and a second that the budget for public relations be reduced to \$25,000 and then approve the entire budget. The motion failed on a voice vote. A motion was then made to approve the budget including \$100,000 for public relations. The motion was seconded and passed.

Mike Fields of the Northwest Power Planning Council encouraged the waterusers to testify at the Salmon Hearings later this afternoon.

Watermaster Ron Carlson expressed appreciation for Dell Raybould for his service and leadership as Chairman of the Committee of Nine for the last two years and presented him with a plaque on behalf of the waterusers.

Meeting was adjourned at 3:20 p.m.

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

This memorandum of understanding is entered into by and between the Director of the Department of Water Resources, (hereinafter called the Director) and the water users of Water District No. 1, Upper Snake River, (hereinafter called Water District No. 1) acting through the Water District advisory committee known as the Committee of Nine.

WHEREAS, the statutes of the State of Idaho provide for the Director to have direction and control of the distribution of the waters of the state to those holding valid rights to the use thereto; and

WHEREAS, the Water District No. 1 authorized the Committee of Nine, as advisors to, and elected representatives of the water district, by resolution duly adopted at the March 2, 1993, annual meeting of the water users of the district to enter this memorandum of understanding continuing a cooperative program with the Director to provide watermaster services for Water District No. 1 and

WHEREAS, the Committee of Nine will, among other things, serve as advisors to the Director and the watermaster in matters relating to the distribution of the natural flow and stored water within the district:

NOW, THEREFORE, the Director agrees to provide the following services to Water District No. 1, effective upon the execution of this memorandum of understanding and to continue to provide the services from year-to-year as herein provided upon election of the regional manager of the Department as watermaster and the adoption of a budget by the water users at the annual water district meeting authorizing expenditures in accordance with the purposes of this memorandum of understanding:

- 1) To provide watermaster services to Water District No. 1 for the period from the effective date of this memorandum until the end of any subsequent water district year as agreed to by the water users of Water District No. 1 at their annual meeting and the director of the Department. Such watermaster services will be provided under the direction of the regional manager of the Department's Eastern Region consistent with the provisions of Title 42, Idaho Code.

- 2) To provide the equivalent of 2/3 of a person year of the Regional manager as watermaster throughout the Water District year and to provide any additional part time

or full time employees as necessary for the water distribution operations of Water District No. 1 in accordance with its adopted budget.

3) To provide office space as necessary for operation of Water District No. 1 and to provide Department vehicles for use by full-time employees of the Department, to conduct Water District business, and to share the use of other Department equipment and facilities as are necessary to equitably distribute the waters to the users within Water District No. 1.

WATER DISTRICT NO. 1 agrees as follows:

1) To pay the Department, on an advance basis, sufficient funds to cover the costs of operations incurred in providing watermaster services to Water District No. 1 provided, however, that reimbursement for the watermaster shall not exceed 2/3 of the personnel costs of the regional manager and provided further that all other costs incurred in conducting Water District No. 1 business will be paid in full. Indirect costs will be paid at the rate approved by the Department of the Interior Inspector General and current at the time of the water district annual meeting. The approved indirect rate shall be reduced in recognition of the Department's statutory responsibility to supervise water distribution by subtracting in the indirect calculation any personnel costs included for the Director and the Administrator of the Water Management Division.

Mileage and per diem costs will be based upon the rate provided by state law for state employees.

The Department will credit the District for a portion of the District's expenditures to the U.S. Geological Survey for the cooperative streamgaging program. The amount credited each year will be one-half (1/2) the amount the district pays for that year to the U.S. Geological Survey for operation of certain streamgages the Director determines are needed for data collection purposes needed by the Department other than and in addition to the District's water distribution data needs.

THE PARTIES mutually agree that:

1) The regional manager and any other persons directly employed by the Department as classified state employees, performing duties on behalf of Water District No. 1 under this memorandum will only perform duties necessary to:

**MEMORANDUM OF UNDERSTANDING - 2**

a) Deliver and account for distribution of natural flow and stored water within the District,

b) Provide assistance to the Committee of Nine in operating the local rental pool. This assistance will include accepting applications to put water into the pool and to rent water from the pool, receipting and depositing funds associated with the bank, providing information on the water in the bank and rentals therefrom. The Committee of Nine, or its designated subcommittee will determine the water leases and rentals and approve all disbursements of rental pool money.

c) Prepare reports and proposed budgets as required by Title 42, Idaho Code.

d) Provide technical assistance and information to the Committee of Nine and the Department relative to the water distribution and water banking duties of the watermaster.


The Committee of Nine will make other arrangements for representation and management of any other interests of the water users within the Water District as directed at the annual meeting.

2) The director of the Department and the chairman of the Committee of Nine shall consult annually prior to the end of the water district's fiscal year concerning the continuation of this memorandum and any need for modification of it.

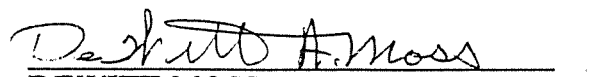
3) This memorandum of understanding will continue from year to year and can be amended or terminated at any time by agreement of the director of the Department and Water District No. 1, on the recommendation of the Committee of Nine.

4) This memorandum of understanding supersedes and replaces the memorandum of understanding dated March 3-4, 1979.

5) Nothing in this agreement will act to change, modify, or release either party of any obligation or responsibility otherwise provided by contract or by law.

  
R. KEITH HIGGINSON  
Director  
Department of Water Resources

Date: 3/04/93

  
DEWITT MOSS  
Chairman  
Committee of Nine/Water District No. 1

Date: 3/10/93



## **EXHIBIT B**

### **COMMITTEE OF NINE**

#### **MEETING REIMBURSEMENT RULES**

1. All Committee of Nine expenses must be approved by chairman.
2. All requests for reimbursement must be on an approved form with copies of receipts attached.
3. Reimbursement is intended only for official Committee of Nine and sub-committee meetings called by chairman or vice-chairman, or other meetings approved in advance by Committee of Nine.
4. Reimbursement shall include per diem (\$100/day), mileage (\$0.28/mi.), meals, travel, and room (if necessary).

Because of extra duties outside scheduled meetings, the chairman shall receive an additional \$25/day for each meeting.

5. Reimbursement is intended for Committee of Nine members and appointed officers who contribute their time. If the Committee of Nine approves per diem and reimbursement for a member who is being paid for his time from a different source, reimbursement shall be made to the employer.
6. Advisors and/or alternates to regular Committee of Nine meetings shall not be authorized per diem and reimbursement for regular Committee of Nine meetings but shall be reimbursed if they serve on a special Committee of Nine sub-committee, or attend other meetings approved by the Committee of Nine.

**COMMITTEE OF NINE**  
**MEETING REIMBURSEMENT**

DATE AND PLACE OF MEETING:

PURPOSE OF MEETING:

OFFICIAL POSITION:

PER DIEM ..# OF MTGS \_\_\_\_\_ X \$100.00 ..... \$ \_\_\_\_\_

PERSONAL CAR USAGE \_\_\_\_\_ MILES ..... \$ \_\_\_\_\_  
(at 31 cents per miles)

MEALS..... \$ \_\_\_\_\_

LODGING..... \$ \_\_\_\_\_

AIR FARE..... \$ \_\_\_\_\_

OTHER TRAVEL FARE..... \$ \_\_\_\_\_

MISCELLANEOUS..... \$ \_\_\_\_\_  
(parking, tips, cab, etc.)

TOTAL..... \$ \_\_\_\_\_  
(attach all available receipts)

\_\_\_\_\_  
Committee Member (Signature)

APPROVED:

\_\_\_\_\_  
Chairman, Committee of Nine

AMOUNT REIMBURSED.....\$ \_\_\_\_\_

Date \_\_\_\_\_ Bookkeepers Initials \_\_\_\_\_ Check # \_\_\_\_\_

I would like to thank all of those who have been so willing to share of their time in the guidance and the defense of our legal water rights to us as water users of Water District 01. These men and women have encouraged and propelled us to go from a reactionary group and to one that is on the offense if not visionary in their united effort in the defense of these water rights.

We have entered into a joint venture with the Idaho Water Users in hiring a public relations firm to help prepare and release articles for publication in our local newspapers. Hopefully these articles not only get a true message out to the readers but also encourage us as water users to be more vocal and attentive in our discussions with our neighbors. Again we need to be more assertive with our efforts to define and publicize the true issues that are before us.

Our Federal Instream Coalition Committee, which is a united effort of water users both above and below Milner, have truly taken and been in the lead in setting the perimeters to which any mediated settlement between us, the Nez Perce, and the Federal Government might be reached. There has been many obstacles placed in front of this effort, but I can assure you that we have remained firm in our position. This effort is somewhat in a standstill mode at this time with the new administration and with many of the positions that need to be filled with those who may be capable of making decisions at the Federal level. However, we have made progress, and I believe that there are entities that now know that the Water Users of Idaho are united in this and are going to be a voice that will be heard. If this mediated effort does not reach an ending that we can agree with we are more preparing for litigation in the defense of our legal water rights.

As the West was being settled and developed, with the encouragement of the Federal Government as they looked for ways to use the natural resources that were found in the West, there were many who would try to sell a "cure all" for anything that may ail you. This "cure all" would be promoted as a remedy for anything. One might say that this "cure all" promotion is still being pursued today. The only problem is that it is our water that is being promoted as the "cure all" and just as in times past, it is not a remedy for that which supposedly ails these who promote the "cure all". Our water is being promoted as the "cure all" for fish who need to be flushed to the ocean, one might ask who is going to be flushed where. Our water is being promoted as the "cure all" for the deterrence of predators from accomplishing their natural response as part of the eco-system. Our water is being promoted as the "cure all" to satisfy wrongly interpreted rights of those inhabitants of this Federally encouraged developed West. Finally our Water is being promoted as the "cure all" for any thing or any one who may have an economic want and needs

a remedy. As in times past individuals or promoters of "cure ailsll" were found to be bogus with their claims of having a potion that would be the remedy of all that ails you. The same is being found to exist today with the promotion of our water as the "cure all" of today's ails. Instead of being stopped or dismissed we are finding this same government and its agencies are using manpower and efforts to further these bogus "cure ailsll". I would like to say enough is enough. Federal Government stand up for those who you encouraged to be settle this arid West and helped develop the land that are taxed and produce commodities to help feed the world.

The true "cure all" is for all to recognize these Water Rights for the purpose that they were granted. To be diverted for the beneficial use of the land for which they water for the production of these before mentioned commodities which feed the world and fund the needs of these United States.

Adversity, it has been said, is the "glue" that bonds people together during difficult and tough times. There is much adversity facing us today for us to need the super "glue" that is bonding us together. However one is causing us to bond more than any other and that is the adversity of those who are selling and promoting our Water as the "cure all" of the Northwest.

It has been my privilege and opportunity, to be involved with all of you, as the Chairman of the Committee of Nine as we truly take the lead in this the 21st Century in the defense of our valid and legal Water Rights.

May I take a moment to express my appreciation to my parents who taught service as a way of life and also to my wife and our children for allowing me to take time to serve you.

## 2000 BUDGET COMPARISON

		SPENT	2000 BUDGET	2001 BUDGET
<b><u>HYDROGRAPHERS</u></b>				
TETON BASIN	OBRIEN	7,439	8,000	10,000
IDAHO FALLS		6,468	14,300	6,500
LOWER VALLEY	MILLS	2,357	3,300	3,300
HENRYS FORK	RICHARDS	23,436	23,000	22,000
TETON RIVER	BLANCHARD	5,739	5,400	7,000
TOTAL		45,439	54,000	48,800
<b><u>RIVER RIDERS</u></b>				
RIGBY & HEISE	HALL/OLSON	7,518	6,500	8,000
BLACKFOOT	LINDSAY	2,248	3,200	3,200
SWAN VALLEY	BITTON/MARTI	5,400	5,000	5,400
UPPER FALLS	LENZ	1,246	1,200	1,500
IDAHO FALLS	HALL	895	900	950
WILLOW CRK	SKARR	3,043	3,400	3,400
MILNER	YOST	400	420	420
TOTAL		20,750	20,620	22,870
<b><u>PROGRAM EXPENSES</u></b>				
AUTOMATION		26,000	46,000	46,000
VITEL		44,132	37,000	53,000
STREAMGAGING		200,355	195,535	218,804
RECHARGE		24,410	20,000	0
TOTAL		294,897	298,535	317,804
<b><u>EQUIPMENT EXPENSES</u></b>				
OFFICE EQUIPMENT		0	5,000	5,000
COMPUTER		2,116	5,000	10,000
TELEPHONE		316	1,000	400
TOTAL		2,432	11,000	15,400
<b><u>PERSONNEL EXPENSES</u></b>				
RECHARGE COORDINATOR		6,554	12,000	0
RETIREMENT		4,082	6,800	6,800
SOCIAL SECURITY		4,644	6,200	6,200
MILEAGE		20,611	20,000	23,000
STATE INSURANCE FUND		2,464	4,800	3,000
EMPLOYMENT INSURANCE		823	700	1,000
HEALTH INSURANCE		476	1,400	0
PART-TIME HELP		2,400	4,600	2,400
MISC. HYDROGRAPHER EXP		1,075	1,500	2,000
TREASURER		1,800	4,000	4,000
TOTAL		44,930	62,000	48,400
<b><u>MISCELLANEOUS EXPENSES</u></b>				
WATER EDUCATION		850	850	850
OTTO OTTER		900	1,000	1,000
IWUA		500	1,000	1,000
POSTAGE		3,571	3,500	3,600
SUPPLIES		798	2,000	2,000
AUDIT		6,050	6,000	6,100
MEETINGS		2,944	3,500	3,500
LEGAL FEES		0	0	0
COMMITTEE OF NINE		14,766	13,000	15,000
PUBLIC RELATIONS		1,200	100,000	50,000
TOTAL		31,579	130,850	83,050

## 2000 BUDGET COMPARISON

	SPENT	2000 BUDGET	2001 BUDGET
<b><u>WATERMASTER</u></b>			
IDWR CONTRACT	362,646	370,000	380,000
ANNUAL BOOK	3,677	6,000	4,000
TRAVEL	4,157	6,000	6,000
WATER MEASUREMENT DIST	129,931	159,000	170,500
TOTAL	<u>500,411</u>	<u>541,000</u>	<u>560,500</u>
<b><u>WD CONSULTANTS &amp; ATTORNEYS</u></b>			
ROSHOLT	326,378		
LING	119,213		
RIGBY	59,607		
ATTORNEYS	505,198	600,000	600,000
ERO	207,839	275,000	275,000
COMMITTEE OF NINE	6,832	10,000	10,000
WATERMASTER	0	0	0
TOTAL	<u>719,869</u>	<u>885,000</u>	<u>885,000</u>
<b><u>EXCESS USE</u></b>	3,296	100,000	100,000
<b><u>ESA CONTINGENCY FUND</u></b>	0	50,000	50,000
<b>TOTAL WATER DISTRICT BUDGET</b>	<u>1,663,602</u>	<u>2,153,005</u>	<u>2,131,824</u>
<b><u>UPPER VALLEY FEES</u></b>	62,854	100,000	100,000
<b>TOTAL BUDGET W/ UV FEES</b>	<u>1,726,456</u>	<u>2,253,005</u>	<u>2,231,824</u>

## 2001 BUDGET COMPARISON

		SPENT	2001 BUDGET
<b><u>HYDROGRAPHERS</u></b>			
TETON BASIN	OBRIEN	747	10,000
IDAHO FALLS	HOLLIDAY		6,500
LOWER VALLEY	MILLS	247	3,300
HENRYS FORK	RICHARDS	4,752	22,000
TETON RIVER	BLANCHARD	514	7,000
TOTAL		<u>6,260</u>	<u>48,800</u>
<b><u>RIVER RIDERS</u></b>			
RIGBY & HEISE	HALL/OLSON	104	8,000
BLACKFOOT	LINDSAY	44	3,200
SWAN VALLEY	BITTON/MARTIN		5,400
UPPER FALLS	LENZ		1,500
IDAHO FALLS	HALL	10	950
WILLOW CRK	SKARR		3,400
MILNER	YOST	140	420
TOTAL		<u>298</u>	<u>22,870</u>
<b><u>PROGRAM EXPENSES</u></b>			
AUTOMATION			46,000
VITEL			53,000
STREAMGAGING		11,463	218,804
RECHARGE			0
TOTAL		<u>11,463</u>	<u>317,804</u>
<b><u>EQUIPMENT EXPENSES</u></b>			
OFFICE EQUIPMENT		0	5,000
COMPUTER		144	10,000
TELEPHONE		92	400
TOTAL		<u>236</u>	<u>15,400</u>
<b><u>PERSONNEL EXPENSES</u></b>			
RECHARGE COORDINATOR			0
RETIREMENT		-1,960	6,800
SOCIAL SECURITY		391	6,200
MILEAGE		1,327	23,000
STATE INSURANCE FUND		1,609	3,000
EMPLOYMENT INSURANCE		70	1,000
PART-TIME HELP		2,400	2,400
MISC. HYDROGRAPHER EXP		29	2,000
TREASURER		600	4,000
TOTAL		<u>4,466</u>	<u>48,400</u>

	SPENT	2001 BUDGET
<b><u>MISCELLANEOUS EXPENSES</u></b>		
WATER EDUCATION	850	850
OTTO OTTER		1,000
IWUA	500	1,000
POSTAGE	-372	3,600
SUPPLIES	447	2,000
AUDIT	5,300	6,100
MEETINGS	1,050	3,500
LEGAL FEES		0
COMMITTEE OF NINE	5,444	15,000
PUBLIC RELATIONS	2,950	50,000
TOTAL	<u>16,169</u>	<u>83,050</u>
<b><u>WATERMASTER</u></b>		
IDWR CONTRACT	119,000	380,000
ANNUAL BOOK		4,000
TRAVEL	1,803	6,000
WATER MEASUREMENT DIST	36,702	170,500
TOTAL	<u>157,505</u>	<u>560,500</u>
<b><u>WD CONSULTANTS &amp; ATTORNEYS</u></b>		
ROSHOLT	47,448	
LING	38,013	
RIGBY	14,265	
ATTORNEYS	<u>99,726</u>	600,000
ERO	32,593	275,000
COMMITTEE OF NINE	5,828	10,000
TOTAL	<u>138,147</u>	<u>885,000</u>
<b><u>EXCESS USE</u></b>		100,000
<b><u>ESA CONTINGENCY FUND</u></b>		50,000
<b>TOTAL WATER DISTRICT BUDGET</b>	<u><u>334,544</u></u>	<u><u>2,131,824</u></u>
<b><u>UPPER VALLEY FEES</u></b>	32,490	100,000
<b>TOTAL BUDGET W/ UV FEES</b>	<u><u>367,034</u></u>	<u><u>2,231,824</u></u>

Water District 1  
Balance Sheet  
As of February 28, 2001

	Feb 28, 01
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
100 · Petty Cash	100.00
102 · Cash-Bank of Commerce	70,583.87
104 · Cash-Merrill Lynch	2,208,901.40
110 · ID TREAS-GENERAL-1526	1,779,285.22
111 · TREAS/ERO/LEGAL FEES	239,703.09
112 · Rental Contingency	97,953.15
Total Checking/Savings	4,396,526.73
Accounts Receivable	
120 · Assess.Receivables	131,132.05
Total Accounts Receivable	131,132.05
Other Current Assets	
122 · DUE FROM RENTAL POOL	-1,019,090.92
123 · Due from Eastern WMD	15,992.26
124 · Due from Northern WMD	7,228.76
132 · Funds Held By IDWR	-1,899.68
136 · INVENTORY	30,345.00
140 · EQUIPMENT	55,541.72
145 · ACCUM DEPRECIATN-EQUP	-26,875.18
Total Other Current Assets	-938,758.04
Total Current Assets	3,588,900.74
<b>TOTAL ASSETS</b>	<b>3,588,900.74</b>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
200 · Adjudication Payable	7,020.60
Total Accounts Payable	7,020.60
Other Current Liabilities	
Payroll Liabilities	
205 · FICA	
Company	54.88
Employee	54.88
Total 205 · FICA	109.76
206 · Federal Withholding	12.00
207 · State Withholding ID	12.08
208 · Other Payroll Taxes	
INSURANCE PAYABLE	-0.04
Medicare	
Company	12.84
Employee	12.84
Total Medicare	25.68

Water District 1  
Balance Sheet  
As of February 28, 2001

	Feb 28, 01
SUIID	
Company	97.59
Total SUIID	97.59
Total 208 · Other Payroll Taxes	123.23
220 · PERSI	
Company	-2,523.62
Employee	91.47
Total 220 · PERSI	-2,432.15
Payroll Liabilities - Other	0.06
Total Payroll Liabilities	-2,175.02
224 · UPPER VALLEY PREPAID L...	109,114.61
225 · WATER AWARENESS WEEK	1,449.03
Total Other Current Liabilities	108,388.62
Total Current Liabilities	115,409.22
Total Liabilities	115,409.22
Equity	
390 · Retained Earnings	3,480,713.43
Net Income	-7,221.91
Total Equity	3,473,491.52
TOTAL LIABILITIES & EQUITY	3,588,900.74

Water District 1  
Income & Expenses  
November 2000 through February 2001

	Nov '00 - Feb 01
Ordinary Income/Expense	
Income	
400 • Fee Income	
Contract Palisade	3,000.00
Delivery Bonn. Co.	-278.86
Upper Valley Fees	125,000.00
Total 400 • Fee Income	127,721.14
459 • Streamgaging Misc.	96,255.00
460 • MEASUREMENT DISTRICTS	
INDIRECT CHARGES EASTERN	535.23
INDIRECT CHARGES NORTHERN	526.76
Total 460 • MEASUREMENT DISTRI...	1,061.99
480 • Dividend/Interest Income	
Interest (checking) '92	771.04
Interest 1526-General 92	40,920.83
Merrill Lynch '92	23,652.52
Total 480 • Dividend/Interest Income	65,344.39
490 • Miscellaneous Income	126.24
Total Income	290,508.76
Gross Profit	290,508.76
Expense	
500 • Payroll Expenses	
Gross Wages	
East MD Salary	0.00
North MD Salary	0.00
WD1 Salaries	
Hydrographers	
Teton Basin - OBrien	747.00
Lower Valley - Mills	246.50
Henrys Fork - Richards	3,304.08
Teton River - Blanchard	514.14
Total Hydrographers	4,811.72
River Riders	
Rigby - Hall	44.00
Heise - Olson	60.00
Blackfoot - Lindsay	43.80
Idaho Falls - Hall	10.00
Milner - Yost	140.00
Total River Riders	297.80
Total WD1 Salaries	5,109.52
Total Gross Wages	5,109.52

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03/02/01  
Accrual Basis

**Water District 1**  
**Income & Expenses**  
November 2000 through February 2001

	Nov '00 - Feb 01
500 • Payroll Expenses - Other	0.06
Total 500 • Payroll Expenses	5,109.58
Program Expenses	
554 • Streamgaging	
USGS Coop	
D St. Rental USGS	11,462.68
Total USGS Coop	11,462.68
Total 554 • Streamgaging	11,462.68
Total Program Expenses	11,462.68
600 • Equipment Expenses	
Computer	144.04
Telephone	92.16
Total 600 • Equipment Expenses	236.20
Personnel Expense	
652 • PERSI	
Persi - WD1	-1,960.27
Total 652 • PERSI	-1,960.27
653 • Payroll Taxes	
FICA	
Fica - WD1	-37.55
FICA - Other	354.35
Total FICA	316.80
Medicare	
Medicare - WD1	-8.78
Medicare - Other	82.88
Total Medicare	74.10
SUIID	
SUIID - WD1	-7.26
SUIID - Other	77.59
Total SUIID	70.33
Total 653 • Payroll Taxes	461.23
660 • Mileage	
Mileage (Lindsay-Blackfoot)	46.80
Mileage (Mills - LV Hydro)	150.48
Mileage (Richards-Henrys Fork)	1,447.86
Mileage(Blanchard-Teton Riv)	594.43
Mileage(O'Brien-Teton Basin)	441.68
Mileage(Olsen, Hall)	94.00
Total 660 • Mileage	2,775.25

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03/02/01  
Accrual Basis

**Water District 1**  
**Income & Expenses**  
November 2000 through February 2001

	Nov '00 - Feb 01
675 · State Insurance Fund Exp.	1,609.00
679 · Fremont-Mad. Coop	2,400.00
680 · Hydrographer Misc Exp	29.23
685 · TREASURER'S EXPENSES	
TREASURER'S SALARY	600.00
Total 685 · TREASURER'S EXPEN...	600.00
 Total Personnel Expense	 5,914.44
Miscellaneous	
701 · Otto Otter	850.00
702 · IWUA	500.00
703 · Postage	-371.80
704 · Office Supplies	447.28
707 · Audit	5,300.00
708 · Meetings	
Annual Meeting	800.00
Meetings-General	250.36
Total 708 · Meetings	1,050.36
730 · Gage-Staff Gaging Equip.	-112.00
740 · Committee of Nine	
Leonard Beck	1,254.57
Paul Berggren	300.00
Ed Clark	330.12
Don Hale	527.40
Wayne Lincoln	955.35
Albert Lockwood	708.00
Dale Rockwood	200.00
Claude Storer	700.00
740 · Committee of Nine - Other	468.90
Total 740 · Committee of Nine	5,444.34
750 · PUBLIC RELATIONS	2,949.93
Total Miscellaneous	16,058.11
Watermaster	
760 · IDWR Contract	119,000.00
780 · Travel	1,802.80
790 · MEASUREMENT DISTRICTS	
EASTERN	
Auto Expense - East	0.00
Hydrographer Exp - East	0.00
Legal/Advisory - East	0.00
Office Supplies - East	0.00
Total EASTERN	0.00

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03/02/01  
Accrual Basis

Water District 1  
Income & Expenses  
November 2000 through February 2001

	Nov '00 - Feb 01
NORTHERN	
Hydrographer Exp. - North	0.00
Office Supplies - North	0.00
Total NORTHERN	0.00
Total 790 · MEASUREMENT DIST...	0.00
Total Watermaster	120,802.80
800 · WD Consultants & Attorneys	
Committee of Nine - Nez Perce	5,827.75
ERO Resources	32,593.27
Indians - Legal	99,725.84
Total 800 · WD Consultants & Attorne...	138,146.86
Total Expense	297,730.67
Net Ordinary Income	-7,221.91
Net Income	-7,221.91

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03/02/01

Accrual Basis

## WATER DISTRICT 01-RENTAL POOL

## Balance Sheet

As of February 28, 2001

	Feb 28, 01
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
102 · US BANK	28,553.87
110 · TREAS-1621 - AG	656,755.10
111 · Treas- 1814 - RECHARGE	425,481.46
112 · TREAS-1620 - PWR	720,737.77
114 · TREAS 1722-USBR (2.05)	453,451.92
Total Checking/Savings	2,284,980.12
Accounts Receivable	
119 · Receivables	6,106.54
Total Accounts Receivable	6,106.54
Total Current Assets	2,291,086.66
<b>TOTAL ASSETS</b>	<b>2,291,086.66</b>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Other Current Liabilities	
200 · Suppliers Payable	684,855.00
204 · Deposits	
Deposit - Future Below Milner	1,050,000.00
Deposits - Future Ag Rental	656,755.10
Deposits - Recharge	425,481.56
Deposit - USBR (2.05)	453,451.82
Total 204 · Deposits	2,585,688.48
207 · INTEREST PAYABLE	
AG ACCT - 1621	10,485.65
USBR - 1620	29,158.45
207 · INTEREST PAYABLE - Other	-10.00
Total 207 · INTEREST PAYABLE	39,634.10
222 · DUE TO WATER DISTRICT	-1,019,090.92
Total Other Current Liabilities	2,291,086.66
Total Current Liabilities	2,291,086.66
<b>Total Liabilities</b>	<b>2,291,086.66</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>2,291,086.66</b>

10:28 AM  
03/02/01  
Accrual Basis

**WATER DISTRICT 01-RENTAL POOL  
INCOME & EXPENSES**  
November 2000 through February 2001

	Nov '00 - Feb 01
Income	
400 · Water Bank Rental	
BOR Water Rental	0.00
Total 400 · Water Bank Rental	0.00
480 · interest income	
ag-1621 interest	2,197.91
power-1620 interest	13,960.76
Recharge - 1814 INTEREST	7,212.77
USBR (2.05) - 1722 Interest	5,258.70
480 · interest income - Other	1,337.09
Total 480 · interest income	29,967.23
Total Income	29,967.23
Expense	
515 · Interest Paid	
INTEREST PAID-(2.05 DEPOSIT)	6,595.79
Interest Paid - Recharge	7,212.77
Ag Interest Pd	2,197.91
Power Interest Pd	13,960.76
Total 515 · Interest Paid	29,967.23
Total Expense	29,967.23
Net Income	0.00

CONSULTANTS AND ATTORNEYS					
YEAR	CONSULTANTS	ROSHOLT	LING	RIGBY	TOTAL
1994	\$ 13,949.20	\$ 12,122.51	\$ 6,697.29		\$ 32,769.00
1995	\$ 61,981.92	\$ 63,247.32	\$ 12,766.76	\$ 13,384.00	\$ 151,380.00
1996	\$ 80,220.85	\$ 157,332.77	\$ 38,688.22	\$ 18,862.30	\$ 295,104.14
1997	\$ 146,017.60	\$ 238,562.29	\$ 47,164.54	\$ 32,794.30	\$ 464,538.73
1998	\$ 134,347.38	\$ 284,798.45	\$ 42,888.10	\$ 67,967.97	\$ 530,001.90
1999	\$ 271,271.72	\$ 376,259.85	\$ 40,114.31	\$ 65,614.39	\$ 753,260.27
2000	\$ 207,838.64	\$ 326,378.12	\$ 119,213.37	\$ 59,607.13	\$ 713,037.26
TOTALS	\$ 915,627.31	\$ 1,458,701.31	\$ 307,532.59	\$ 258,230.09	\$ 2,940,091.30

**WATER DISTRICT 1**  
**RENTAL POOL PROCEDURES**

**RULE 1. AUTHORITY AND STATEMENT OF PURPOSE.**

- 1.1. These procedures have been adopted by the Committee of Nine pursuant to Section 42-1765, Idaho Code, to assure the orderly operation of the Water District 1 Rental Pool by the Committee of Nine of Water District 1. Under no circumstances shall these procedures be interpreted or construed to limit the authority of the director of the Department of Water Resources, the Water Resource Board, the Committee of Nine, or the Snake River Watermaster in discharging their duties as set forth in the statutes of the state of Idaho and rules and the regulations promulgated thereto.
- 1.2. It is the purpose of these procedures to provide:
  - A. The procedures by which the Committee of Nine, upon being appointed a local committee by the Water Resource Board, shall facilitate the rental of stored water made available to the committee for that purpose.
  - B. The process, consistent with the Idaho Code and the rules of the Idaho Water Resource Board, by which stored water supplies may be made available, for a specified period of time and for a particular beneficial use, to water users who need additional water.
  - C. Incentives for those owning reservoir space and having stored water which may be, from time to time, surplus to their needs, to make such space and water accruing thereto, available to the rental pool for other users and uses. In no case will water from the rental pool be used to maintain minimum flows greater than those established pursuant to state law.
  - D. A recognized system through which stored water supplies may be located, identified, and included in the rental pool, and subsequently rented from the rental pool for specific times, purposes, and uses.
  - E. Funding to Water District 1 for services rendered in the operation of the rental pool; for making improvements in distribution facilities; for improving efficiency in the distribution of water within Water District 1; and in better managing water resources of the Snake River.
- 1.3. Available water supplies may be assigned to the Committee for inclusion in

the Rental Pool by the space holder and rented from the Rental Pool by the Committee for any beneficial purpose recognized by the laws of the State of Idaho, provided other water rights are not injured, or irrigators are not deprived of supplemental storage by renting water for uses other than irrigation.

**RULE 2. DEFINITIONS.**

- 2.1. **ACRE-FOOT** - a volume of water sufficient to cover one acre of land one foot deep and is equal to 43,560 cubic feet.
- 2.2. **ANNUAL** - refers to the period between annual meetings of Water District 1, and normally will be a period starting the first Tuesday in March and ending on the first Monday of March of the succeeding year.
- 2.3. **APPLICANT** – means any person who seeks to rent storage water from the Rental Pool by submitting a request to rent storage water, accompanied by a required cash deposit.
- 2.4. **2.4 ASSIGN or ASSIGNMENT** – means to designate an amount of reservoir space to the rental pool for a designated period of time and purpose.
- 2.5. **ASSIGNOR** – the entity that assigns storage water to the rental pool.
- 2.6. **BOARD** - means the Idaho Water Resource Board.
- 2.7. **BUREAU** - means the Bureau of Reclamation, Department of the Interior, United States of America, or USBR.
- 2.8. **COMMITTEE** - means the Committee of Nine, the advisory committee selected by Water District 1 at their annual meeting, and appointed as the local committee by the Board pursuant to I.C. §42-1765.
- 2.9. **DEPARTMENT** - means the Idaho Department of Water Resources or IDWR.
- 2.10. **2.10 DIRECTOR** - means the director of the IDWR.
- 2.11. **DISTRICT** - means Snake River Water District 1 of the state of Idaho.
- 2.12. **LATE SEASON LEASE** - means an agreement whereby water is acquired from the rental pool for release for non-irrigation beneficial uses after October 31 of one calendar year and before June 15 of the following year.
- 2.13. **LEASE** - a written contract by which storage water accruing to a specified

storage space is made available to the Committee for a renter.

- 2.14. **LESSEE** – means any person who rents water from the space that has been assigned to the committee.
- 2.15. **LESSOR** – is any person assigning space or water to the Committee for inclusion in the Rental Pool.
- 2.16. **LONG-TERM ASSIGNMENT** – means a contract between a spaceholder (“Lessor”) and the Committee by which the Lessor agrees to assign a specific amount of storage to the Committee for inclusion in the Rental Pool for a period of not less than 2 nor more than 20 years.
- 2.17. **LONG-TERM RENTAL AGREEMENT** – means a contract between an applicant and the Committee by which applicant agrees to rent a specific amount of storage from the Rental Pool each year for not less than 2 years or more than 20 years.
- 2.18. **MILNER** - means Milner Dam or the lowest diversion in Water District 1.
- 2.19. **PAID-OUT** - means the cost of construction under a space holder's contract with the United States Bureau of Reclamation has been paid in full, or for other reasons, there are no remaining obligations to comply with the reporting requirements of the Reclamation Reform Act (RRA) of 1982.
- 2.20. **PERSON** - means any individual, corporation, partnership, irrigation district, canal company, or other political subdivision or governmental agency.
- 2.21. **RENT or RENTAL** - means an application for a specific amount of rental pool storage water that has been approved pursuant to these rules.
- 2.22. **RENTAL POOL** - refers to the storage water activities administered by a local committee appointed by the Water Resources Board.
- 2.23. **RENTAL POOL COMMITTEE** - A sub-committee appointed by the Committee of Nine composed of the Water District 1 Watermaster, a designated representative from the Burley office of Bureau of Reclamation and three members or alternates of the Committee of Nine.
- 2.24. **RENTER** – means the person receiving an approved application pursuant to these rules.
- 2.25. **SPACE** - means all or any portion of the active impoundment volume of a reservoir measured in acre-feet.
- 2.26. **SPACEHOLDER** – means the person who holds the contractual right to the

water stored in the space of a storage facility allocated to that person.

2.27. **STORAGE** - means the portion of the available space that contains stored water.

2.28. **WATERMASTER** - means the watermaster of Water District 1.

### **RULE 3. GENERAL PROCEDURES.**

- 3.1. It is the policy of the water users of Water District 1 and the committee to operate the rental pool under the priorities hereinafter stated for the maximum beneficial use of available water supplies.
- 3.2. A primary purpose in the operation of the rental pool will be to benefit the agricultural water users within Water District 1. These procedures are designed to assure that stored water assigned to the Committee and included in the rental pool from federal and other private reservoirs within Water District 1 is rented, or otherwise allocated, in a manner that protects other water rights and assures that water is first made available to meet the irrigation requirements of irrigation water users within Water District 1 before other uses are considered, according to the provisions outlined in Rule 7 of these procedures.
- 3.3. The operation of the rental pool shall in no way recognize any obligation to maintain flows below Milner Dam or to assure the minimum stream flows established at the USGS gaging station on the Snake River near Murphy.
- 3.4. The operation of the rental pool shall be consistent with the statutes creating the Water Supply Bank, the rules and regulations of the board, and the provisions of the space holder's contracts with the United States.
- 3.5. Storage water is accepted into the rental pool on a contingency basis. Payments to the lessor (supplier) will be made to the extent rental monies are received by Water District 1 pursuant to these rules.
- 3.6. The space of storage water assigned to the committee that is rented for uses below Milner shall assume a priority date for refill that is later in time than all other reservoirs rights in the system, until all space in said reservoir system has filled.
- 3.7. Only storage water assigned to the Committee without restriction shall be made available to uses below Milner.
- 3.8. It is the policy of the Committee of Nine, in operating the rental pool to facilitate annual rentals, to base all transactions on allocated storage rather

than reservoir space.

- 3.9. Any applicant, or any person assigning water to, or renting water from the rental pool, who is aggrieved by a decision of the rental pool committee, or on matters related to the operations of the rental pool, may request a hearing before the Committee of Nine within fifteen (15) days of the date the watermaster first proposed his written resolution of the grievance. After hearing the grievance and after review by the Committee, a decision will be made in writing and signed by a majority of the Committee. Said decision shall set forth the reasons for the Committee's decision. The decision of the Committee of Nine may be appealed to the board.
- 3.10. All leases of stored water within Water District 1, unless the associated change in point of diversion and place of use is being initiated through the statutory transfer process, shall be transacted through the Water District 1 Rental Pool, unless the transaction is an internal lease within the distribution system of a spaceholder. An exception to this rule shall apply for other rental pools created by the board within Water District 1, including the Rental Pool of the Shoshone-Bannock Indian tribes established pursuant to the 1990 Fort Hall Agreement.

#### **RULE 4. MANAGEMENT.**

- 4.1. 4.1 The Rental Pool shall be operated pursuant to Idaho Code, Section 42-1761 through 42-1766, in accordance with policies established by the Committee of Nine.
- 4.2. A sub-committee of the Committee of Nine, known as the Rental Pool Committee, shall have the following general responsibilities:
- A. To determine general policies regarding annual storage leases and rentals which may not be covered by the adopted procedures of the Committee of Nine.
  - B. To assist the watermaster in the allocation of water from the rental pool when conflicts arise.
  - C. To advise the Committee of Nine on storage rental activities.
  - D. To set policies for the disbursement of funds generated by the rental pool.
- 4.3. The watermaster shall act as the manager of the rental pool. His authority shall include accepting water or space into the rental pool, executing rental agreements on behalf of the Committee of Nine, disbursing and investing

funds generated through the rental of stored water, and distribution of water supplies from the rental pool. All funds invested shall be considered public funds for investment purposes pursuant to the Public Depository Law, Chapter 1, Title 57, Idaho Code.

#### **RULE 5. SPACE ASSIGNMENTS**

- 5.1. Any person who owns or controls space or storage in a reservoir located in Water District 1 may seek to assign any portion of his space or accrued storage to the committee.
- 5.2. Storage assigned for rent through the rental pool will be identified by reservoir. If no designation is made by a person holding space in more than one reservoir, it shall be understood that American Falls space will be designated before Jackson space and Jackson space will be designated before Palisades space.
- 5.3. Storage assignments are subject to the approval of the rental pool committee. Reservoir space assigned to the rental pool may be rejected in whole, or in part, by the rental pool committee or they may place special conditions on usage, allocation, and price, if, in the judgment of the committee, accepting said water will not be in the best interest of the rental pool or the water users of Water District 1.
- 5.4. Assignments of storage to the committee shall be on a priority basis as set forth in rule 6.
- 5.5. Assignments of storage to the committee shall be in writing on forms provided by the watermaster and shall bear the date they were received in the watermaster's office in Idaho Falls.
- 5.6. Assignments of reservoir space may be made for periods of up to twenty (20) years. Any space assigned for periods in excess of two (2) years shall be subject to rule 9 of these procedures.
- 5.7. All space assigned to the committee shall be under the control of the watermaster and the rental pool committee for the duration of the year, or assignment period.
- 5.8. Any lease executed by the committee at the direction of the director or the board, cannot be for a rental an administrative charge less than that charged by the local committee in any year of said lease.
- 5.9. The spaceholder who assigns space to the committee is responsible for paying his continuing obligations to the Bureau of Reclamation for applicable

construction or annual operation and maintenance.

- 5.10. Subject to the provisions of paragraph 7.5 and 7.6, any assignment of space or storage to the rental pool, which has not been rented by the committee prior to November 1 of that year shall be terminated unless specifically extended through the written agreement of the spaceholder, and the storage water not rented shall be returned to the credit of the spaceholder.
- 5.11 5.11 Any person who has assigned storage to the Committee, who later determines that he needs additional storage, will be able to rent his own storage unless it has already been rented for irrigation uses above Milner. To the extent his water has been allocated for uses below Milner, his percentage of this supply will be replaced from water supplied by other lessors to the extent other supplies are available. The amount of water available for rent by a lessor from storage he assigned shall be available to him at no additional cost. Water rented in excess of the storage he assigned and is available at the time of the request shall be subject to all of the applicable costs set forth in these rules.

## **RULE 6. PRIORITIES OF ASSIGNMENTS.**

- 6.1. 6.1. Any person holding space in a federal or private reservoir who assigns storage to the committee for annual rental prior to June 1 of any year shall share proportionally with others who assigned storage to the Committee prior to June 1. Assignments for periods longer than one year shall be considered to be prior to June 1 each subsequent year of the assignment.
- 6.2 6.2 Any person holding space in a federal or private reservoir who assigns storage to the committee for annual rental after June 1 and before July 1 of any year shall share proportionally with other lessors assigning storage to the committee after June 1 and before July 1.
- 6.3. 6.3. Any person holding space in a federal or private reservoir who assigns storage to the committee for annual rental after July 1 of any year shall receive his share of the proceeds for the rental of all or part of the water rented which was made available after July 1 of that year on a "first come" basis, after water from space assigned prior to July 1 has been rented.
- 6.4. All storage assigned to the committee before June 1 of any year will be rented before any storage assigned after June 1 is rented. All storage assigned to the committee after June 1 and before July 1 will be rented before any storage assigned after July 1 is rented.
- 6.5. 6.5. Whenever storage is assigned to the committee for an annual lease, it will be assumed that it is the intention of the spaceholder to assign sufficient

space to yield the designated amount of storage. If the yield from that space is insufficient to provide the designated amount of water, the assignment will be reduced to equal the yield from the space assigned.

- 6.6. If a spaceholder should choose to assign all of his space to the committee the "yield" of that space shall be determined by the watermaster after calculating the percentage of fill of that leased space in that particular reservoir, minus evaporation, and any fill restrictions associated with restrictions arising from rule 3.6 of these procedures.

#### **RULE 7. PRIORITIES FOR RENTING WATER.**

- 7.1. The following priorities shall apply in allocating storage to those seeking to rent water from the Water District 1 Rental pool:

- A. The first priority in renting water from the rental pool shall be given to those applicants owning space in any of the Bureau's federal storage reservoirs in the district who used their storage for irrigation prior to 1979.
- B. The second priority in renting water from the rental pool shall be given to other applicants for irrigation uses above Milner, with preference going to lands for which storage was first rented prior to 1992.
- C. C. The third priority in renting water from the rental pool shall be given to applicants for other beneficial uses in the order in which their requests are received.
- D. D. All preferences listed in Rule 7 must be exercised prior to August 15 of each year. Any available storage remaining in the rental pool after August 15 of each year shall be made available to rent on a first-come first-serve basis without giving any preferences to any special beneficial use.

- 7.2. Priority within each priority class listed above shall be determined by the date on which the water user's application and payment is received at the office of the watermaster in Idaho Falls; the earlier in the year the executed lease is received by the watermaster, the higher the priority in the priority group the entity will receive. Long-term rental agreements shall be approved according to the priorities outlined in rule 7.1, as initiated in rule 9.4. The first applicant who has entered into a long-term rental agreement and has rented storage water prior to 1992, shall have the earliest priority for rental pool supplies within his priority class. All subsequent long-term rental agreements shall have the same relative priorities in their appropriate priority group as their rental agreement does to other long-term rental agreements in the same

priority group.

- 7.3. Any person having received an approved rental agreement from the watermaster may request water in subsequent years by confirming, in writing, that all of the information on the original rental agreement is true and correct, and by identifying the amount of water he wishes to rent. The priority, in this case, will be the date on which payment is received by the watermaster.
- 7.4. Space assigned to the rental pool for more than one year from reservoirs with paid-out federal contracts shall be first reserved for allocation for irrigation purposes. Any person renting water from such space for irrigation shall be subject to all applicable water laws of the state of Idaho but shall not as a result be subject to *the Reporting requirements of the* Federal Reclamation Reform Act of 1982 (RRA). If sufficient space is not available in paid-out reservoirs and stored water is rented from a reservoir with remaining federal repayment contracts, then anyone renting such water may be responsible for compliance with the limitations and reporting requirements of the RRA, should the Bureau of Reclamation determine RRA compliance is required.
- 7.5. The watermaster will use his best efforts to assure that unauthorized diversions of water do not occur. In the case unauthorized diversions do occur, any water diverted within Water District 1 will be charged by the watermaster as storage used. Any such unauthorized use of water shall be replaced from available rental pool supplies at a cost to the user equal to the established rental pool price. The Watermaster may assess an additional seventy-five cents (\$0.75) to cover increased administrative costs. The administrative costs shall be waived by the watermaster if, such unauthorized use resulted from measurement or accounting errors. If there is insufficient storage available in the rental pool during the current year, then the obligation to rent water to replace the stored water used without authorization shall continue to the following year.
- 7.6. Water that remains unrented on November 1 of each year shall be returned to the storage space of the lessor.

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**RULE 8. LEASE PAYMENTS AND RENTAL RATES.**

- 8.1. 8.1. The rates for the storage rented from the rental pool shall be set by the Committee of Nine each year.
- 8.2. A. The rental price for 2001 shall be \$2.95 per acre-foot of water rented for beneficial uses above Milner Dam. This price shall include \$2.00 to the lessor, the water district's administrative

charge of \$0.75 per acre-foot and the water board surcharge of \$0.20 per acre-foot.

B. The price for water delivered below Milner Dam shall be \$10.50 per acre-foot. Of the \$10.50 rental price, \$7.00 per acre-foot shall go to those supplying the water released past Milner. The remainder of the rental price shall be allocated as follows: \$0.75 per acre-foot administrative charge retained by Water District 1, \$0.70 per acre-foot surcharge assessed by the Idaho Water Resource Board. The remaining \$2.05 per acre-foot shall be held by the water district for the primary purpose of offsetting costs associated with ESA and Federal claims and for the general improvements of the water district, specifically: streamgaging, automation and hydrologic investigations in Water District 1.

C. The price for water delivered below Milner Dam may be negotiated by the Committee if a power emergency, or other emergency exists that would justify a special one-year lease. In this case a lessor would acquire water at a negotiated price that was determined to his satisfaction to be sufficient to allow the space holder(s) to idle land and lease the stored water for one-year. Should this condition exist, and land idling arrangements are made, the negotiated amount will go to the lessee minus the administrative fee and surcharge specified in B above.

8.3 Payments to the lessors shall be made in accordance with the priorities of rule 6 and shall be based upon the annual report of the Snake River Watermaster. Final payments to the lessors shall be considered due and payable once the watermaster has calculated the actual water used within Water District 1 for the annual watermaster's report and the rental payments have been received.

8.4. The rental pool committee may authorize the watermaster to make timely partial payments to the lessors based upon provisional data when, in the judgment of the watermaster, such partial payments can be made with reasonable certainty.

8.5. All rental monies not paid to lessor's under rule 8.4 above shall be maintained in a separate interest-bearing account with accrued interest being distributed on a pro-rata basis at the time that final payments are made. The water district shall be entitled to use all rental funds on an as needed basis provided the accrual of interest due suppliers is not affected.

#### **RULE 9. LONG-TERM RENTAL AGREEMENTS.**

9.1. The Committee of Nine may arrange leases of storage space for periods not to

exceed twenty (20) years. Such long-term leases will be negotiated on a case-by-case basis and may be supplied from anticipated future annual space/water assignments to the committee, or from specific space assignments, or a combination of the two.

- 9.2. Contracts for long-term leases shall be subject to all applicable provisions of these rules. Long-term lease agreements in excess of five (5) years shall only become effective upon final approval of the lease agreement by the board.
- 9.3. Any long-term lease agreement shall contain the following information:
- A. The name and address of the renter.
  - B. The amount of storage space needed annually.
  - C. The lease price.
  - D. The legal description of the point of diversion and the place of use.
  - E. The duration of the lease agreement
  - F. The understanding of responsibilities and exposure if reservoir space does not fill at some time during the term of the agreement.
  - G. The beneficial use to be achieved through the delivery of the rented water.
- 9.4. A long-term lease agreement will be initiated by submitting an application on forms provided by the watermaster to the watermaster's office in Idaho Falls. Upon approval of the request by the Committee of Nine, the watermaster shall initiate the lease upon receipt of the first year's payment. Each successive year the scheduled payment shall be due on the date specified in the agreement. Failure of the renter to meet any payment shall void the agreement and any subsequent rental by that renter shall be under the last priority provided by rule 7.
- 9.5. For the purposes of rule 7, the date of the agreement shall be the date the application is received by the watermaster.

#### **RULE 10. PRIVATE AND SPECIAL PURPOSE LEASE AGREEMENTS**

- 10.1. The Committee may facilitate private leases between and among water users. Private leases involve a specific space holder(s) and lessee(s). Private leases may be for such purposes as storage leases between an irrigation district and a patron or leases between two or more irrigation entities.

- 10.2. Private and Special purpose lease agreements can only be made when other water rights will not be injured by the agreement, or the lessor agrees, as part of the lease agreement, to provide specific mitigation to offset the resultant injury.
- 10.3. The Committee may facilitate special purpose leases for such purposes as mitigation, aquifer recharge, stream flow enhancement, or power emergencies. The storage for special purpose leases may be provided by specific space holders or from the general annual rental pool.
- 10.4. The terms of the agreement including price, duration, administrative charges or surcharges shall be included as part of the lease agreement. Diversion of water under either type of agreement shall not commence until it has been properly signed by all contracting parties and the Watermaster.
- 10.5. Private leases may be for periods of up to twenty (20) years.
- 10.6. Special purpose leases must be for periods of one year or less, or, if for a longer period must be reviewed and approved by the committee annually.