

SUMMARY - HB-794

The need for House Bill 794 has been precipitated by efforts of the Land and Water Fund and other environmental groups to intervene in the Snake River Basin Adjudication and to block timber sales on endowment lands in northern Idaho. Such groups seek to confuse the terms "public trust" and "public interest" in an effort to obstruct use of natural resources and to reallocate water resources long held under vested water rights in the State of Idaho.

The public trust evolved from English common law and has been expanded by the courts in several states. The original concept of protection of public resource values in navigable streams and lakes was laudable. However, as it has been expanded, it has served to reallocate water and other resources from those developing such resources under the laws of their particular state. The public trust is not now defined by statute and needs to be defined and constrained. What does House Bill 794 accomplish?

It does:

- Define the term "public trust".
- Clarify that the public trust can be used to protect or encumber the beds of navigable streams and lakes by the State Land Board, the appropriate constitutional authority.
- Prohibit the violation of the exercise of private property rights.
- Prohibit using the "public trust" to interfere with the management and disposition of state endowment lands.
- Prohibits the use of the "Public Trust" to interfere with the adjudication and allocation of water resources.

It does not:

- Eliminate consideration of "the local public interest" in the administration and allocation of water resources.
- Interfere with wildlife management, minimum instream flows, recreation, water quality or other public values.

Some would argue that House Bill 794 would ultimately force all water and land management decisions into federal court. This is false. The bill does not repeal any statutory authority that presently exists and the state's authorities to manage its water and land resources are not injured in any way.

In summary, what this bill does is define the public trust and limits its application to the beds of navigable streams and lakes in the State of Idaho. The bill supports the private property rights of Idaho's citizens. The State Supreme Court has clearly held that the Legislature has the authority to define and regulate the public trust and it is our belief, at this time, that this should be done.

One example of why the public trust should be defined at this time is found in a recent action taken in California against the spaceholders in the Friant Dam and Reservoir on the San Joaquin River in California. A petition has been filed with the California Water Resource Control Board to take 500,000 acre feet of water away from irrigators holding space in the reservoir and commit that water for environmental purposes. The environmental groups filing the petition state in their complaint that "in exercising its sovereign power to allocate water resources in the public interest, the state is not confined by past allocation decisions which may be incorrect in light of current knowledge or inconsistent with current needs. The state accordingly has the power to reconsider allocation decisions." In essence, what the complainant states is that even though individuals and entities have received a vested water right from the state, it is not protectable if the state changes its mind because of some other societal goal. Under Idaho's Administrative Procedures Act and the rules of practice and procedure of the Department of Water Resources, a similar petition could be filed against any water right holder in Idaho precipitating a contested case which would move through the agency and could ultimately end up before the State Supreme Court. Without definition of the term "public trust" the interpretation of such a petition is left solely to the court. IWUA and the others supporting this legislation feel it is time that the Legislature clearly defines the public trust in order to eliminate conflict and clarify the rights of Idaho citizens.

To contact your Senator: Call - 208-334-2000
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WATER DISTRICT 1

GENERAL PURPOSE FINANCIAL STATEMENTS
WITH
INDEPENDENT AUDITORS' REPORT

YEAR ENDED OCTOBER 31, 1995



TABLE OF CONTENTS

	<u>Page</u>
INDEPENDENT AUDITORS' REPORT	1
GENERAL PURPOSE FINANCIAL STATEMENTS:	
Balance Sheets	2
Statements of Revenues, Expenses and Changes in Retained Earnings	3-4
Statements of Cash Flows	5-6
Statement of Expenses- Budgetary Basis - Budget to Actual	7
Notes to Financial Statements	8-14

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INDEPENDENT AUDITORS' REPORT

Department of Water Resources
Water District 1
Idaho Falls, Idaho

We have audited the accompanying general purpose financial statements of Water District 1, as of October 31, 1995, and for the year then ended, as listed in the table of contents. These financial statements are the responsibility of the District's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the general purpose financial statements referred to above present fairly, in all material respects, the financial position of Water District 1, as of October 31, 1995, and the results of its operations and cash flows for the year then ended, in conformity with generally accepted accounting principles.

Rudd & Company

December 27, 1995



WATER DISTRICT 1
BALANCE SHEETS
OCTOBER 31, 1995

	Water District Operating Fund	Water Bank Fund	Total (Memor- andum Only)
ASSETS			
CURRENT ASSETS:			
Cash and Cash Equivalents	\$1,313,142	\$ --	\$1,313,142
Restricted Cash and Cash Equivalents	300,000	1,595,995	1,895,995
Assessments Receivable	155,854	--	155,854
Upper Valley Attorney Fees to be Assessed	63,185	--	63,185
Due from Other Funds	38,328	--	38,328
Funds Held by Department of Water Resources	847	--	847
Excess Storage Users Receivable	--	8,434	8,434
Inventory	11,698	--	11,698
TOTAL CURRENT ASSETS	1,883,054	1,604,429	3,487,483
PROPERTY AND EQUIPMENT:			
Equipment	29,999	--	29,999
Less Accumulated Depreciation	(18,483)	--	(18,483)
NET PROPERTY AND EQUIPMENT	11,516	--	11,516
	\$1,894,570	\$1,604,429	\$3,498,999
LIABILITIES AND FUND EQUITY			
CURRENT LIABILITIES:			
Accounts Payable	\$ 127,340	\$ 4,003	\$ 131,343
Interest Payable	--	52,442	52,442
Refunds Due to Users	--	363,576	363,576
Water Bank Rental Deposits--1996	--	1,146,080	1,146,080
Payroll and Related Taxes Payable	1,910	--	1,910
Due to Other Funds	--	38,328	38,328
Accrued Compensated Absences	20,752	--	20,752
TOTAL CURRENT LIABILITIES	150,002	1,604,429	1,754,431
FUND EQUITY:			
Retained Earnings - Reserved	300,000	--	300,000
Retained Earnings - Unreserved	1,444,568	--	1,444,568
TOTAL FUND EQUITY	1,744,568	-	1,744,568
	\$1,894,570	\$1,604,429	\$3,498,999

The Accompanying Notes are an Integral Part
of the Financial Statements.

WATER DISTRICT 1
STATEMENTS OF REVENUES, EXPENSES
AND CHANGES IN RETAINED EARNINGS
YEAR ENDED OCTOBER 31, 1995

	Water District Operating Fund	Water Bank Fund	Total (Memor- andum Only)
OPERATING REVENUES:			
Water Assessments	\$ 571,399	\$ --	\$ 571,399
Water Rental	282,958	1,852,570	2,135,528
Miscellaneous	1,306	--	1,306
Stream Gaging	125,401	--	125,401
TOTAL OPERATING REVENUE	981,064	1,852,570	2,833,634
OPERATING EXPENSES:			
Transaction Charges	12,512	--	12,512
Bookshelf Bindery	2,379	--	2,379
Committee of Nine	9,055	--	9,055
Department of Water Resources	272,191	--	272,191
Depreciation	3,114	--	3,114
Equipment Expenses	266	--	266
ERO Resources	65,235	--	65,235
Idaho Water Users Association	500	--	500
Data Collection Platforms Maintenance	28,500	--	28,500
Interest	--	77,568	77,568
Legal	162,285	--	162,285
Meetings	2,531	--	2,531
Miscellaneous	430	185	615
Office	1,332	488	1,820
Payroll and Related Expenses	89,292	--	89,292
Postage	1,189	--	1,189
Professional Fees	4,900	--	4,900
Stream Gauging	139,916	--	139,916
Travel	7,211	--	7,211
Treasurer	850	--	850
Water Bank Refunds	--	50,200	50,200
Water Bank Supplier Payments	--	1,380,631	1,380,631
Water District Fee	--	282,959	282,959
Water Resources Board	--	136,873	136,873
TOTAL OPERATING EXPENSES	803,688	1,928,904	2,732,592

OPERATING INCOME (LOSS) BEFORE NONOPERATING REVENUE	177,376	(76,334)	101,042
NONOPERATING REVENUE:			
<u>Interest Income</u>	<u>101,268</u>	<u>76,334</u>	<u>177,602</u>
NET INCOME	278,644	--	278,644
RETAINED EARNINGS AT OCTOBER 31, 1994	<u>1,465,924</u>	<u>--</u>	<u>1,465,924</u>
RETAINED EARNINGS AT OCTOBER 31, 1995	<u>\$1,744,568</u>	<u>\$ --</u>	<u>\$1,744,568</u>

The Accompanying Notes are an Integral Part
of the Financial Statements.

WATER DISTRICT 1
STATEMENTS OF CASH FLOWS
YEAR ENDED OCTOBER 31, 1995

	Water District Operating Fund	Water Bank Fund	Total (Memor- andum Only)
CASH FLOWS FROM OPERATING ACTIVITIES:			
Operating Income (Loss)	\$ 177,376	\$ (76,334)	\$ 101,042
Adjustments to Reconcile Operating Income to Net Cash Provided by Operating Activities:			
Depreciation	3,114	--	3,114
Changes in assets and liabilities:			
Increase in assessments receivable	(83,904)	--	(83,904)
Increase in Upper Valley Attorney Fees to be assessed	(24,790)	--	(24,790)
Increase in excess storage users receivable	--	(1,931)	(1,931)
Increase in due from other funds	(25,110)	--	(25,110)
Decrease in funds held by Department of Water Resources	12,191	--	12,191
Decrease in inventory	17,950	--	17,950
Increase (decrease) in accounts payable	15,933	(11,176)	4,757
Increase in interest payable	--	19,532	19,532
Decrease in refunds due to users	--	(1,336,755)	(1,336,755)
Increase in water bank rental deposits	--	1,072,864	1,072,864
Decrease in excess storage suppliers payable	--	(11,438)	(11,438)
Decrease in payroll and related expenses	(2,677)	--	(2,677)
Increase in due to other funds	--	25,110	25,110
Increase in accrued compensated absences	2,925	--	2,925
NET CASH FLOWS PROVIDED (USED) BY OPERATING ACTIVITIES	93,008	(320,128)	(227,120)
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:			
Acquisition of Equipment	(6,407)	--	(6,407)

CASH FLOWS FROM INVESTING ACTIVITIES:

Investments in U.S. Treasury Notes and Bonds	318,952	--	318,952
Interest Income	101,268	76,334	177,602

NET CASH FLOWS PROVIDED (USED)

BY INVESTING ACTIVITIES	420,220	76,334	496,554
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**NET INCREASE (DECREASE) IN CASH AND
CASH EQUIVALENTS**

506,821	(243,794)	263,027
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CASH AND CASH EQUIVALENTS

AT NOVEMBER 1, 1994	1,106,321	1,839,789	2,946,110
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CASH AND CASH EQUIVALENTS

AT OCTOBER 31, 1995	\$1,613,142	\$1,595,995	\$3,209,137
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SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:

Cash paid during the year for interest	\$	--	\$ 77,567	\$ 77,567
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CASH AND CASH EQUIVALENTS:

Cash and Cash Equivalents	\$1,313,142	\$	--	\$1,313,142
Restricted Cash and Cash Equivalents	300,000	1,595,995		1,895,995

\$1,613,142	\$1,595,995	\$3,209,137
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The Accompanying Notes are an Integral Part
of the Financial Statements.

WATER DISTRICT 1
STATEMENT OF EXPENSES
BUDGETARY BASIS - BUDGET TO ACTUAL
YEAR ENDED OCTOBER 31, 1995

				<u>WATER DISTRICT OPERATING FUND</u>	
				Variance	
				Favorable	
				(Unfavorable)	
	Budget	Actual			
OPERATING EXPENSES:					
Automation Expansion (Hydro Station)	\$ 15,000	\$ --		\$ 15,000	
BOR Contingency	57,000	--		57,000	
Transaction Charges	--	12,512		(12,512)	
Bookshelf Bindery	3,000	2,379		621	
Capital Acquisitions	9,500	6,673		2,827	
Committee of Nine	10,000	9,055		945	
Department of Water Resources	280,000	272,191		7,809	
Depreciation	--	3,114		(3,114)	
ESA Contingency	50,000	--		50,000	
Excess Storage Use Deposits	100,000	--		100,000	
Idaho Water Users Association	1,000	500		500	
Legal	10,500	12,954		(2,454)	
Legal - Upper Valley	100,000	63,185		36,815	
Meetings	2,000	2,531		(531)	
Miscellaneous	--	430		(430)	
Office	2,000	2,521		(521)	
Payroll and Related Expenses	100,960	89,292		11,668	
Professional Fees	5,000	4,900		100	
Stream Gauging	139,350	139,347		3	
Data Collection Platform Maintenance	35,000	28,500		6,500	
Travel	4,500	7,211		(2,711)	
Treasurer	2,500	850		1,650	
U of I Studies	4,000	--		4,000	
Water District Consultants and Attorneys	200,000	151,381		48,619	
Water Safety Program	500	--		500	
TOTAL OPERATING EXPENSES	\$1,131,810	\$ 809,526		\$ 322,284	

The Accompanying Notes are an Integral Part
of the Financial Statements.

WATER DISTRICT 1
NOTES TO FINANCIAL STATEMENTS
OCTOBER 31, 1995

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

Water Districts were established in 1903 by the Legislature with the duty of directing and controlling the distributions of water within each District assigned to the State Reclamation Engineer (later changed to the Department of Water Resources). The Upper Snake River drainage was designated as District 1. The Idaho Code was amended in 1986 to clarify the status of the Districts in that each shall be "considered an instrumentality of the State of Idaho".

In 1919 a group of nine water users from District 1 met with the State Reclamation Engineer to request the creation of a permanent Watermaster system. This group became known as the Committee of Nine and represented the collective interests of the various members of the District. The primary purpose of the Committee was to assure that proper distributions of available water supplies were made.

Beginning in 1979, the Committee of Nine could assist in the marketing of stored water from water banks as authorized by the Water Resource Board. Water Banks are a system which allows owners of water a means of "renting" amounts surplus to their needs to others without violating various requirements of Idaho Code.

The District is governed by the Department of Water Resources which confirms the selection of a Watermaster by the members of the District. The District meets annually at which time the members select a Watermaster, adopt various resolutions governing the activities of the District and Water Supply Bank and elect the local advisory committee members known as the Committee of Nine. The Committee of Nine is responsible for assisting the Water Resource Board in the operations of the Water Supply Bank and to advise the Watermaster on the general operations of the District.

Water District 1 is responsible to the Department of Water Resources and water right holders of the District to make proper distribution of available water supplies within the District as appropriated.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Fund Accounting

The accounts of the Water District are organized on the basis of funds, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts which comprise its assets, liabilities, fund equity, revenues and expenses.

The funds are as follows:

Water District Operating Fund - This fund is used to account for the Water District's general activities.

Water Bank Fund - This fund is used to account for rental of Water Bank water supply and the related expenses to the Water Resources Board and the Water District.

Basis of Accounting

The accounts of the district are organized on a basis similar to that of a governmental enterprise fund, which is used to account for operations that are financed and operated in a manner similar to business enterprises (i.e. where the intent of the governing body is that the costs of providing goods and services to the general public on a continuing basis be financed or recovered primarily through user charges). The accrual basis of accounting is used. Revenues are recognized when they are earned and expenses are recognized when they are incurred.

Budgets

The Water District adopts a budget for operating expenses at the annual meeting for the District's operating fund. The budget is prepared on a basis generally consistent with generally accepted accounting principles, except that expenses for capital acquisitions are budgeted. The reported operating expense amounts exclude actual capital acquisitions since they are capitalized and included in equipment.

The following is the adjustment to operating expenditures:

	<u>Reported Amounts</u>	<u>for Capital Acquisitions</u>	<u>Adjustment for Palisades Water Users</u>	<u>Adjustment Budgeted Amount</u>
Total Operating Expenses	\$ 803,688	\$ 6,407	\$ (569)	\$ 809,526

The District does not adopt a budget for the Water Bank Fund. Expenses are dependent on Water Bank rental income which varies from year to year based on water supply and cannot be predicted in advance. Therefore, a budget to actual comparison is not presented for the Water Bank.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Cash and Cash Equivalents

Cash and cash equivalents are identified as cash and short-term, highly liquid investments. Cash and cash equivalents for the Water District 1, include cash in checking and savings accounts and investments in the Idaho State Treasurer's pooled investment account.

Inventory

Inventory is recorded at cost with a first-in, first-out basis of accounting.

Property and Equipment

Property and equipment is recorded at cost. Depreciation is provided using the straight-line method over estimated useful lives of the related assets of five years.

The District purchases various data collection platforms (DCP's) and other equipment which are placed into service and become part of the overall water system. The water system is composed of several storage facilities and delivery systems which are owned by various entities and organizations. The District has a policy of expensing items as they are placed in service as part of the water system.

Memorandum Only - Total Columns

Total columns of the general purpose financial statements are captioned "memorandum only" to indicate that they are presented only to facilitate financial analyses. Data in these columns do not present financial position, results of operation, or cash flows in conformity with generally accepted accounting principles. Neither is such data comparable to a consolidation. Interfund eliminations have not been made in the aggregation of this data.

2. CASH AND CASH EQUIVALENTS

At October 31, 1995, the carrying amount of the District's deposits (savings and checking accounts) was \$73,247, and the bank balance was \$91,071. The bank balance of \$91,071 was covered by Federal Depository Insurance.

2. CASH AND CASH EQUIVALENTS (Continued)

The District has invested \$2,480,880 with the Idaho State Treasurer's pooled investment account. The State Treasurer invests in time certificates of deposit, local government tax anticipation notes, federal loans, U.S. Treasury Notes and other U.S. Governmental securities. Information regarding insurance or collateralization of amounts invested in the pooled accounts is not available.

The District has invested \$655,008 in money market funds that invest only in U.S. Treasuries. On October 31, 1995 fair market value of the money market funds approximated cost.

3. RESTRICTED CASH AND CASH EQUIVALENTS

Restricted cash and cash equivalents in the Water District operating fund of \$300,000 include \$100,000 for rental pool payment disputes which are deemed the responsibility of the District and \$200,000 for specific purposes authorized by the Committee of Nine. These purposes include District expenses, educational projects, and legislative and agency deliberations, and advisory committee expenses.

Restricted cash and cash equivalents in the Water Bank Fund of \$1,595,995 include funds held for the payment of Water Bank suppliers and administrative costs.

4. ASSESSMENTS RECEIVABLE

Assessments are billed at the end of the water year in the spring. The District has not incurred significant bad debts in the past and does not recognize any allowance for uncollectible accounts due to the legally enforceable nature of these assessments.

5. UPPER VALLEY ATTORNEY FEES TO BE ASSESSED

The Water District incurs legal services on behalf of certain upper Snake River valley users. The charges for these services are passed on to the users through additional assessments in the following year. The balance in this account represents attorney fees which have been incurred but have not yet been assessed to the respective users.

6. FUNDS HELD BY DEPARTMENT OF WATER RESOURCES

The Department of Water Resources provides the Water District with office space, administrative support and personnel. The District pays the Department monthly for these services in advance based on an estimate of the costs and balance of prior advance payments, as per the most recent memorandum dated March 2, 1993, between the Water District and the Department of Water Resources. The balance of funds held by the Department represents excess advance funds to be applied to future periods.

7. EXCESS STORAGE USERS RECEIVABLE AND SUPPLIERS PAYABLE

All water deliveries of the District are accounted for as being either a fulfillment of a water right or as a sale of stored water. Excess storage users receivable represents water delivered to users in excess of their water rights, which has not been paid for by users at year end. Excess storage suppliers payable represents the amount due to suppliers for stored water that has been sold during the year. A portion of the amount charged to excess storage users is paid to the Water District and the Water Resources Board for administrative costs.

8. ACCRUED COMPENSATED ABSENCES

Annual leave accrues at various rates according to the length of continuous employment. The amount earned is based on actual hours worked. The maximum annual leave which may be accumulated ranges from 24 to 42 days, depending on length of employment. Upon separation from state employment, employees will receive a lump-sum payment for earned but unused annual leave at the hourly rate of pay for the employee's grade and step.

9. INTERFUND RECEIVABLES AND PAYABLES

Interfund receivables and payables at October 31, 1995, were as follows:

	<u>Receivable</u>	<u>Payable</u>
Operating Fund	\$ 38,328	\$ --
Water Bank Fund	<u>--</u>	<u>38,328</u>
	<u>\$ 38,328</u>	<u>\$ 38,328</u>

10. PAYROLL AND RELATED EXPENSES

Included in payroll and related expenses are costs associated with the District contracting with several individuals to perform the various tasks of diverting and measuring water flows. Salary and reimbursement rates for travel are negotiated by the Watermaster and approved by the District at the annual meeting.

Payroll related expenses include payroll taxes and benefits.

11. STORAGE SPACE RENTAL

The District rents an enclosed storage area for various equipment, vehicles and supplies. A portion of the space is sublet to U.S. Geological Survey in exchange for stream gauging services performed by the U.S.G.S.

12. PENSION PLAN

Substantially all full-time employees and certain part-time employees of the Water District are members in the Public Employee Retirement System of Idaho (the System), a cost-sharing, multiple employer plan established by the Legislature of the State of Idaho. The Water District's total payroll for all employees for 1995 was \$51,525 of which \$37,022 was covered payroll for employee members in the System. The System is a defined benefit plan requiring both member and employer contributions.

After five years of credited service, members become fully vested in retirement benefits earned to date. Members are eligible for retirement benefits upon attainment of the ages specified for their employment classification. For each year of credited service, the annual service retirement allowance is 1.833 percent or 2.150 percent (depending upon employee classification) of the average monthly salary for the highest consecutive 48 months. Effective October 1, 1994, the annual service retirement allowance rates changed to 1.917 percent or 2.225 percent depending upon employee classification of the average monthly salary for the budget consecutive 42 months. The eligibility and amount of allowance differs for early retirement, service retirement, vested retirement and disability retirement.

12. PENSION PLAN (Continued)

The System's funding policy provides for periodic employer contributions at actuarially determined rates, expressed as percentages of annual covered payroll, to accumulate sufficient assets to pay benefits when due. The employer and employee contribution rates as a percentage of salary are as follows:

Employee Group	Contribution Rates at June 30, 1994		Contribution Rates Effective October 1, 1994	
	Employer	Employee	Employer	Employee
General 10.63%	6.38%	11.61%	6.97%	

Total contributions to the System for 1994 amounted to \$4,298 by the Water District and \$2,580 by members representing 11.6 percent and 6.9 percent of covered payroll, respectively. The Water District's 1995 actuarially determined contributions comprised .003 percent of the System's fiscal 1995 employer contributions of \$173,626,061.

The pension benefit obligation is a standardized disclosure measure of the present value of pension benefits, adjusted for the effects of projected salary increased and any step-rate benefits estimated to be payable in the future as a result of employee service to date. The measure is the actuarial present value of credited projected benefits and is intended to help users assess the System's funding status on a going-concern basis, assess progress made in accumulating sufficient assets to pay benefits when due, and make comparisons among public employee retirement systems. The System's pension benefit obligation was determined as part of an actuarial valuation at June 30, 1995. As of that date, the System's unfunded pension benefit obligation was as follows (in millions):

Total pension benefit obligation	\$ 3,834.8
Net assets available for benefits, at cost	<u>2,728.4</u>
Unfunded pension benefit obligation	<u>\$ 1,106.4</u>

Ten year historical trend data is presented as additional information in the financial statements of the System for the year ended June 30, 1995. This additional data provides information about progress made by the System in accumulating sufficient assets to pay benefits when due.

WATER DISTRICT 01 ANNUAL MEETING

WESTBANK INN, IDAHO FALLS

MARCH 5, 1996

- 9:00 WELCOME - COMMITTEE OF NINE - Claude Storer, Chairman
- 9:10 IDAHO WATER USERS - Sherl Chapman
- 9:25 POWER PLANNING COUNCIL - Mike Field
- 9:40 PLANS AND POLICIES OF THE BOR - Max Van den Berg
- 10:00 THE IDWR DIRECTOR'S REPORT - Karl Dreher
- 10:25 WATER SUPPLY OUTLOOK FOR 1995 - Mike Beus
- 10:55 REPORT OF THE COMMITTEE OF NINE - Claude Storer
- 11:15 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 1995 ANNUAL MEETING MINUTES
 - D. RECESS FOR CAUCUSES & SELECTION OF COMMITTEE OF NINE
 - E. RECONVENE MEETING:
 - 1. REPORT OF THE CREDENTIALS COMMITTEE
 - 2. AREA RECOMMENDATIONS FOR 1995 COMMITTEE OF NINE MEMBERS
 - 3. ELECTION OF THE COMMITTEE OF NINE
- 1:30 FINANCIAL REPORTS
- A. WATER DISTRICT ACCOUNTS - Del Raybould
- 2:00 RESOLUTIONS - Don Kramer
- 2:30 OLD BUSINESS
NEW BUSINESS
- 3:00 ADJOURN ANNUAL MEETING

Note: An organizational Meeting of the Committee of Nine will follow immediately after the annual meeting of Water District 1.

WATER DISTRICT 01 ANNUAL MEETING

Resolutions 1996

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 01 continue the cooperative program with the Idaho Department of Water Resources as outlined in the Memorandum of Understanding dated March 2, 1993, previously approved by the Committee of Nine and IDWR, and signed by the Chairman of the Committee of Nine and the Director of the Department of Water Resources, a copy of which 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. Dell Raybould be elected Water District Treasurer and his annual compensation set by the Committee of Nine but not to exceed the \$2,000 provided in the 1996 Water District 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 01 for the 1996 year beginning November 1, 1995 be as follows:

WATER DISTRICT 1 1996 PROPOSED BUDGET

HYDROGRAPHERS

Teton Basin	1,000 hrs. (+ mi.)	\$ 8,000
Idaho Falls	800 hrs. (+ mi.)	4,500
Lower Valley	400 hrs. (+ mi.)	5,000
Henrys Fork	1,800 hrs. (inc. mi.)	22,000
Teton River	520 hrs. (+ mi.)	<u>4,500</u>

\$ 44,000

RIVER RIDERS

Rigby & Heise Div.	1,200 hrs. (+ mi.)	\$ 6,500
Blackfoot Division	600 hrs. (+ mi.)	3,000
Swan Valley	480 hrs. (+ mi.)	5,500
Upper Falls River	250 hrs. (+ mi.)	1,000
Willow Creek	5 mth @ \$ 550 (inc. mi.)	3,200
Idaho Falls	6 mth @ \$ 150 (inc. mi.)	900
Milner	12 mth @ \$ 30 (inc. mi.)	<u>360</u>

\$ 20,460

PROGRAM BUDGETS

Automation Expansion	\$ 15,000
Hydromet Maintenance	35,000
Streamgaging	150,000
Studies	<u>4,000</u>

\$204,000

EQUIPMENT BUDGET

Office Equipment	\$ 1,000
Computers, software etc	7,700
Telephone	<u>600</u>

\$ 9,300

PERSONNEL BUDGET

Retirement	\$ 5,000
Social Security	5,000
Mileage	16,000
State Insurance Fund	3,500
Employment Insurance	500
Part-time Help	5,000
Hydrographer Expenses	1,000
Treasurer	<u>2,000</u>

\$ 38,000

MISCELLANEOUS BUDGET

IWUA	\$ 1,000
Water Safety	1,000
Supplies, Phone, Copying	2,000
Audit	5,000
Meetings	3,500
Legal Fees	15,000
Committee of Nine	10,000
Postage	<u>1,500</u>

\$ 39,000

WATERMASTER & STAFF

IDWR Contract	\$280,000
Report	3,000
Travel	<u>5,000</u>

\$288,000

Total 1996 Distribution Budget

\$642,760

W.D. Consultants & Attorneys - Resolution 14	200,000
Excess Storage Use - Resolution 16	100,000
ESA Contingency Fund	50,000

UPPER VALLEY

Consultants & Atty. - Resolution 20	\$100,000
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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 district cost of delivering water to many water users is greater than their normal assessments would be based upon their total season use of water;

NOW, THEREFORE, BE IT RESOLVED that the watermaster of Water District 01 is hereby authorized to assess a \$20.00 minimum charge for every diversion within his jurisdiction.

10. WHEREAS, the water users of Water District 01 meeting in regular annual session find it necessary to adopt certain "on-going" resolutions to direct the watermaster and treasurer of the district in certain aspects of district operations;

NOW, THEREFORE, BE IT RESOLVED that the Water District 01 budget prepared pursuant to Idaho Code § 42-615, and adopted in Resolution No. 7 at this Water District 01 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.

The treasurer shall establish and maintain a general account and shall cause to be deposited all monies received pursuant to the billing and shall make all disbursements as necessary to conduct the business of administering and delivering the waters of the 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.

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 01 to account for all diversion which might adversely affect any prior natural flow or storage diversions;

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

12. BE IT FURTHER RESOLVED that the Committee of Nine be designated 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 District and to expend such funds as 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 District.
- (e) Make and execute such contracts and agreements as may be deemed necessary or convenient.
- (f) To do such other things as the Committee shall deem to be beneficial to the water users of the 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 as 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 expend funds held by the District for the following purposes:

- (1) Expenses of the District.
 - (2) Improvements to the District's facilities, including a reasonable reserve for future improvements.
 - (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) For 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 01 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 lessees,

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 paying lessees for excess uses prior to these amounts being collected.

BE IT FURTHER RESOLVED, that all monies collected for administrative 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 01 Watermaster.
 2. One who has received over 50 percent of his annual income during one or more of the past ten years from farming activities.
18. WHEREAS, it is in the interest of all water users to have the water rights within Water District 01 delivered according to the priority system; and,

WHEREAS, the accounting system now used by Water District 01 requires that each diversion have assigned to it a specific list of decreed, licensed, and storage entitlement; and,

WHEREAS, those diversions which have no record of water rights on file with the Department of Water Resources or the Water District office will, necessarily be taking storage water any time a diversion takes place.

NOW, THEREFORE, BE IT RESOLVED that no diversion shall be allowed to divert water unless the proper 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 01 meeting shall hereafter be held on the first Tuesday of March of each year unless the director and Committee of Nine should find in necessary to change the meeting date; and

BE IT FURTHER RESOLVED that the water users of Water District 01 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 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 seventh day of March 1995, 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 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 the amendment to 8.2 of Water District 01 Rental Pool Rules and Regulations be approved as hereafter set out and transmitted to the Idaho Water Resource Board for approval.

8.2. A. The rental price for 1996 shall be \$2.95 per acre foot rented for beneficial uses delivered above Milner dam. This price shall include the District's administrative charge of \$0.75 per acre foot and the Water Board surcharge of \$0.20 per acre foot.

B. The Committee of Nine, being the designated rental pool committee of Water District 01, is charged with the responsibility of establishing the rental price, administrative charges, if any, to the district and the water board, and an accepted lease arrangement with any interested entity that may rent water for delivery below Milner Dam. Also the Committee of Nine shall determine the uses of any administrative charges that may accrue to the District on the above rentals.

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 No. 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 in SRBA must recognize traditional distribution and water management.
2. The zero flow at Milner standard, 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.
4. Any changes in upstream water rights that would allow water to be moved below Milner through provisions of State or Federal law 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 No. 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. SUPPORT FOR IDAHO LEGISLATURES'S SALMON POLICY

WHEREAS, the Bonneville Power Administration contracted for and received a water management opportunities report for the Snake River Basin as prepared by Bookman-Edmonston Engineering, Inc. in July of 1994; and

WHEREAS, said report identifies alternatives to make water available for the benefit of Snake River endangered salmon which are in some instances based upon false assumptions; and

WHEREAS, it may be necessary for Snake River Basin water users in Idaho to confront the conclusions of said study in their effort to resist flush and drawdown proposals included in the 1995 Biological Opinion and Recovery Plan for endangered salmon;

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District 01, meeting in annual session this 5th day of March, 1996, that the Committee of Nine continue to support a legislative study overwiewing the Bookman-Edmonston Report conslusions; and

BE IT FURTHER RESOLVED that the Committee of Nine support House Concurrent Resolution 37 to the end that state policy as to salmon recovery does not include either drawdown or flush; and

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, members of the Idaho Congressional Delegation, the Pacific Northwest Power Planning Council, and the Resource and Appropriations Committees of the Idaho Legislature.

25. WHEREAS, the recovery plan to restore endangered Snake River salmon and the current biological opinion require that the U.S. Bureau of Reclamation release 427,000 acre feet of water from the Upper Snake River Basin each year, to be acquired from willing sellers and lessees, and pursuant to state law; and

WHEREAS, to facilitate these releases, the Bureau has applied to the director of the Idaho Department of Water Resources to add additional beneficial uses and places of use to the water rights it holds legal title to in Snake River Reservoirs; and

WHEREAS, the Bureau has agreed to hold its applications in abeyance and secure water from willing sellers and lessees to meet the 427,000 acre foot requirement through 1999; and

WHEREAS, it is in the best interest of the storage space holders and water users within Water District No. 1 to make water available to the Bureau to meet the requirements of the biological opinion for the next five years, so as to avoid the

time, money and energy that would be required to oppose the Bureau's applications; and

WHEREAS, the Bureau may not release water to satisfy the requirements of the biological opinion without authority under state law; and

WHEREAS, Idaho Code Sec. 42-1763B is currently being proposed to provide interim authority until the year 2000 so that rented water could be released for the intended purpose of augmenting flows during the migration of endangered Snake River salmon; and

WHEREAS, this legislation was the product of good faith negotiations between the Bureau, irrigators, and others; and

WHEREAS, this legislation would provide an opportunity for necessary scientific studies to be conducted before the year 2000 regarding the benefits, if any, of the flow augmentation; and

WHEREAS, Snake River irrigators believe this legislation is the best alternative available at the current time.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District No. 1, meeting in regular annual session this 5th day of March, 1996, that the Committee of Nine SUPPORTS the enactment of Idaho Code Sec. 42-1763B.

BE IT FURTHER RESOLVED that this resolution be forwarded to the Idaho State Legislature and that copies of this resolution be forwarded to the germane committees of the house and the senate, and to the governor of the State of Idaho.

26. ITCH STUDIES

WHEREAS, existing diversion moratoriums need to be continued until such time as ongoing studies are completed and the determination is made that additional water is available for appropriation, before the same is appropriated; and

WHEREAS, the State Legislature is a vital partner in funding said studies;

NOW, THEREFORE, BE IT RESOLVED by the users of Water District 01, meeting in regular annual session this 5th day of March, 1996, in Idaho Falls, Idaho, that Water District 01 support continued funding.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, the Chairman of the House and Senate Resources Committees of the Idaho State Legislature, the Idaho Water Users Association, officials of the Idaho Department of Water Resources, the officers of organized groundwater

organizations, and the directors of the Twin Falls and North Side Canal Companies.

27. NEZ PERCE AND FEDERAL SNAKE RIVER BASIN ADJUDICATION CLAIMS

WHEREAS, the users of Water District 01 have been represented by the Committee of Nine to work with certain Boise Valley water organizations in an attempt to settle the substantial claims filed by the Nez Perce Indian Tribes and United States Agencies in the Snake River Basin Adjudication for substantial and sometimes exorbitant amounts of water in the Lower Snake River; and

WHEREAS, it is necessary that the representatives of Water District 01 and other irrigation entities proceed to develop studies and data to substantiate objections to said claims on behalf of said users; and

WHEREAS, the State of Idaho is also involved in said negotiations on behalf of its citizens;

NOW, THEREFORE, BE IT RESOLVED that the State Attorney General and the Committee of Nine be encouraged to continue to participate in the negotiations for settlement of the Nez Perce and Federal claims on the Lower Snake River in Idaho;

AND BE IT FURTHER RESOLVED that the Committee of Nine be authorized to take such actions as necessary to protect water rights and historical uses of water in Water District No. 1 in the Snake River Basin Adjudication or the eventual litigation thereof if said negotiation should fail.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, the Idaho State Attorney General, the Idaho Water Resource Board, the Boise Board of Control, the Idaho Water Users Association, and the Pacific Northwest Power Planning Council.

28. SHELLEY FEDERAL ENERGY REGULATORY COMMISSION PROJECT

WHEREAS, the City of Idaho Falls has filed an Application with the Federal Energy Regulatory Commission to license the Shelley Power Project near Shelley, Idaho; and

WHEREAS, Water District 01 has intervened in said proceeding through the Committee of Nine to resist the project proposal that would inundate the District's natural weir in Snake River near Shelley, Idaho; and

WHEREAS, to date the City of Idaho Falls has not seen fit to negotiate a replacement for said weir with Water District 01;

NOW, THEREFORE, BE IT RESOLVED by the users of Water District 01, meeting in regular annual session this 5th day of March,

1996, in Idaho Falls, Idaho, that the District continue to oppose the construction of the Shelley Project until a substitute or replacement weir has been proposed and approved by Water District 01.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, members of the Idaho Congressional Delegation, the Pacific Northwest Power Planning Council, and the Resource and Appropriations Committees of the Idaho Legislature.

29. WATER MEASUREMENT

WHEREAS, the 1994 Legislature adopted a water measurement law in Chapter 7 of Title 42; and

WHEREAS, Idaho Department of Water Resources has developed a test basin for implementation of the measurement law; and

WHEREAS, Idaho Department of Water Resources proposes the adoption of a water measurement district that would encompass those areas not now in a duly formed water district or other political subdivision of the state or a water delivery entity charged with the measurement of water diversions within its jurisdiction; and

WHEREAS, water diversion and supply data is needed to assess present uses and diversions from existing and average annual supplies;

NOW, THEREFORE, BE IT RESOLVED by the users of Water District No. 1, meeting in regular annual session this 5th day of March, 1996, in Idaho Falls, Idaho, that the Water District No. 1 encourage the full implementation of the water measurement law in the State of Idaho to obtain the data necessary to complete studies as to Idaho's dependable supplies of water.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, members of the Idaho Congressional Delegation, the Pacific Northwest Power Planning Council, and the Resource and Appropriations Committees of the Idaho Legislature.

PUBLIC TRUST LEGISLATION
HOUSE BILL 794

WHEREAS, certain pronouncements of the Idaho Supreme Court may have unintentionally expanded the Public Trust Doctrine beyond its traditional application of protecting the beds of navigable waters held in trust by the State of Idaho; and

WHEREAS, the doctrine could have dire consequences for Idaho water users if expanded to water rights and supplies, possibly jeopardizing the finality of decrees entered on the Snake River Basin Adjudication.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District No. 1 meeting in regular annual session this 5th day of March, 1996, in Idaho Falls, Idaho, that House Bill 794 be supported to define and limit the Public Trust Doctrine in Idaho.

BE IT FURTHER RESOLVED that copies of this resolution be sent to Governor Phil Batt, the legislative leadership, and the Resource and Conservation Committees of the Idaho Legislature.

02299605.JAR

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.

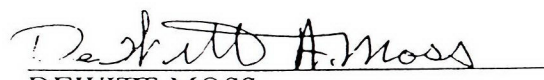
3) This memorandum of understanding will continue from year to year and can be amended or terminated at any time by agreement of the director of the Department and Water District No. 1, on the recommendation of the Committee of Nine.

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

March 1, 1995

PROPOSED

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 (\$50/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 Subcommittee, 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 \$50.00\$ _____

PERSONAL CAR USAGE _____ MILES\$ _____
(at 28 cents per mile)

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 _____ Bookkeeper's Initials _____ Check # _____

1995 BUDGET COMPARISON

	<u>1995 Budgeted</u>	<u>1995 Actual</u>	<u>1996 Budgeted</u>
<u>HYDROGRAPHERS</u>			
Teton Basin	\$ 8,000	5,814	\$ 8,000
Idaho Falls	4,500	2,373	4,500
Lower Valley	6,000	2,783	6,000
Henry's Fork	17,000	21,078	22,000
Teton River	4,500	4,005	4,500
	<u>\$ 40,000</u>	<u>\$ 36,053</u>	<u>\$ 44,000</u>
<u>RIVER RIDERS</u>			
Rigby & Heise Div.	\$ 6,500	5,635	\$ 6,500
Blackfoot Division	3,000	2,119	3,000
Swan Valley	5,500	5,400	5,500
Upper Falls River	1,000	869	1,000
Idaho Falls	1,000	2,676	900
Willow Creek	3,200	527	3,200
Milner	360	360	360
	<u>\$ 20,560</u>	<u>\$ 17,586</u>	<u>\$ 20,460</u>
<u>PROGRAM EXPENSES</u>			
Automation	\$ 15,000	0	\$ 15,000
Sutron	35,000	28,500	35,000
Streamgaging	139,350	139,347	150,000
U of I Studies	4,000	0	4,000
	<u>\$193,350</u>	<u>\$167,847</u>	<u>\$204,000</u>
<u>EQUIPMENT EXPENSES</u>			
Office Equipment	\$ 1,500	0	\$ 1,000
Computer, PC's	8,000	6,673	7,700
Telephone	0	0	600
	<u>\$ 9,500</u>	<u>\$ 6,673</u>	<u>\$ 9,300</u>
<u>PERSONNEL EXPENSES</u>			
Retirement	\$ 5,000	4,505	\$ 5,000
Social Security	5,000	4,035	5,000
Mileage	21,000	14,690	16,000
State Insurance Fund	3,500	3,388	3,500
Employment Insurance	500	243	500
Part-time help (F-Mad)	4,900	4,800	5,000
Misc. Hydrographer Exp.	500	831	1,000
Treasurer	2,500	1,085	2,000
	<u>\$ 42,900</u>	<u>\$ 33,577</u>	<u>\$ 38,000</u>
<u>MISCELLANEOUS EXPENSES</u>			
Otto Otter	\$ 1,000	500	\$ 1,000
IWUA	500	250	1,000
Postage	0	1,189	1,500
Supplies, Copying, Phone	2,000	1,332	2,000
Audit	5,000	4,900	5,000
Meetings	2,000	2,531	3,500
Legal Fees	10,500	12,954	15,000
Committee of Nine	10,000	9,055	10,000
BOR Last to Fill Contingency	57,000	0	0
	<u>\$ 88,000</u>	<u>\$ 32,711</u>	<u>\$ 39,000</u>
<u>WATERMASTER</u>			
IDWR Contract	\$280,000	260,000	\$280,000
Report	3,000	2,379	3,000
Travel	4,500	7,211	5,000
	<u>\$287,500</u>	<u>\$269,590</u>	<u>\$288,000</u>
Total	<u>\$681,810</u>	<u>\$564,037</u>	<u>\$642,760</u>
<u>COMMITTEE OF NINE</u>			
#14-Consult. & Attn.	\$ 200,000	151,380	200,000
#16-Excess Use	100,000	0	100,000
ESA Contingency Fund	50,000	0	50,000
Total	<u>\$1,031,810</u>	<u>\$715,417</u>	<u>\$ 922,760</u>
<u>UPPER VALLEY ADD ON</u>			
#20-Legal	100,000	63,185	100,000
Total	<u>\$1,131,810</u>	<u>\$778,602</u>	<u>\$1,092,760</u>

1996 BUDGET COMPARISON
11/1/95-2/29/96

	<u>1996 Budgeted</u>	<u>1996 Actual</u>
<u>HYDROGRAPHERS</u>		
Teton Basin	\$ 8,000	
Idaho Falls	4,500	
Lower Valley	6,000	
Henrys Fork	22,000	7,080
Teton River	<u>4,500</u>	
	\$ 44,000	<u>7,080</u>
<u>RIVER RIDERS</u>		
Rigby & Heise Div.	\$ 6,500	735
Blackfoot Division	3,000	115
Swan Valley	5,500	
Upper Falls River	1,000	
Idaho Falls	900	
Willow Creek	3,200	
Milner	<u>360</u>	<u>120</u>
	\$ 20,460	
<u>PROGRAM EXPENSES</u>		
Automation	\$ 15,000	
Sutron	35,000	
Streamgaging	150,000	12,636
U of I Studies	<u>4,000</u>	
	\$204,000	<u>12,636</u>
<u>EQUIPMENT EXPENSES</u>		
Office Equipment	\$ 1,000	
Computer, PC's	7,700	211
Telephone	<u>600</u>	
	\$ 9,300	<u>211</u>
<u>PERSONNEL EXPENSES</u>		
Retirement	\$ 5,000	763
Social Security	5,000	539
Mileage	16,000	741
State Insurance Fund	3,500	3,110
Employment Insurance	500	70
Part-time help (F-Mad)	5,000	680
Misc. Hydrographer Exp.	1,000	190
Treasurer	<u>2,000</u>	
	\$ 38,000	<u>6,093</u>
<u>MISCELLANEOUS EXPENSES</u>		
Otto Otter	\$ 1,000	
IWUA	1,000	500
Postage	1,500	175
Supplies, Copying, Phone	2,000	281
Audit	5,000	3,500
Meetings	3,500	176
Legal Fees	15,000	3,659
Committee of Nine	10,000	3,889
BOR Last to Fill Contingency	<u>0</u>	
	\$ 39,000	<u>12,180</u>
<u>WATERMASTER</u>		
IDWR Contract	\$280,000	95,000
Report	3,000	2,911
Travel	<u>5,000</u>	<u>1,436</u>
	\$288,000	99,347
 Total	 <u>\$642,760</u>	 <u>138,517</u>
<u>COMMITTEE OF NINE</u>		
#14-Consult. & Attn.	200,000	56,644
#16-Excess Use	100,000	
ESA Contingency Fund	50,000	
 Total	 <u>\$ 922,760</u>	 <u>195,161</u>
<u>UPPER VALLEY ADD ON</u>		
#20-Legal	100,000	27,390
Total	<u>\$1,092,760</u>	<u>222,551</u>

WATER DISTRICT 01 ANNUAL MEETING

WESTBANK INN, IDAHO FALLS

MARCH 5, 1996

9:00 WELCOME - COMMITTEE OF NINE - Claude Storer, Chairman
9:10 IDAHO WATER USERS - Sherl Chapman
9:25 POWER PLANNING COUNCIL - Mike Field
9:40 PLANS AND POLICIES OF THE BOR - Max Van den Berg
10:00 THE IDWR DIRECTOR'S REPORT - Karl Dreher
10:25 WATER SUPPLY OUTLOOK FOR 1995 - Mike Beus
10:55 REPORT OF THE COMMITTEE OF NINE - Claude Storer
11:15 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 1995 ANNUAL MEETING MINUTES
- D. RECESS FOR CAUCUSES & SELECTION OF COMMITTEE OF NINE
- E. RECONVENE MEETING:

- 1. REPORT OF THE CREDENTIALS COMMITTEE
- 2. AREA RECOMMENDATIONS FOR 1995 COMMITTEE OF NINE MEMBERS
- 3. ELECTION OF THE COMMITTEE OF NINE

1:30 FINANCIAL REPORTS

- A. WATER DISTRICT ACCOUNTS - Del Raybould

2:00 RESOLUTIONS - Don Kramer

2:30 OLD BUSINESS
NEW BUSINESS

3:00 ADJOURN ANNUAL MEETING

Note: An organizational Meeting of the Committee of Nine will follow immediately after the annual meeting of Water District 1.

WATER DISTRICT 01 ANNUAL MEETING

Resolutions 1996

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 01 continue the cooperative program with the Idaho Department of Water Resources as outlined in the Memorandum of Understanding dated March 2, 1993, previously approved by the Committee of Nine and IDWR, and signed by the Chairman of the Committee of Nine and the Director of the Department of Water Resources, a copy of which 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. Dell Raybould be elected Water District Treasurer and his annual compensation set by the Committee of Nine but not to exceed the \$2,000 provided in the 1996 Water District 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 01 for the 1996 year beginning November 1, 1995 be as follows:

WATER DISTRICT 1 1996 PROPOSED BUDGET

HYDROGRAPHERS

Teton Basin	1,000 hrs. (+ mi.)	\$ 8,000
Idaho Falls	800 hrs. (+ mi.)	4,500
Lower Valley	400 hrs. (+ mi.)	5,000
Henry's Fork	1,800 hrs. (inc. mi.)	22,000
Teton River	520 hrs. (+ mi.)	<u>4,500</u>

\$ 44,000

RIVER RIDERS

Rigby & Heise Div.	1,200 hrs. (+ mi.)	\$ 6,500
Blackfoot Division	600 hrs. (+ mi.)	3,000
Swan Valley	480 hrs. (+ mi.)	5,500
Upper Falls River	250 hrs. (+ mi.)	1,000
Willow Creek	5 mth @ \$ 550 (inc. mi.)	3,200
Idaho Falls	6 mth @ \$ 150 (inc. mi.)	900
Milner	12 mth @ \$ 30 (inc. mi.)	<u>360</u>

\$ 20,460

PROGRAM BUDGETS

Automation Expansion	\$ 15,000
Hydromet Maintenance	35,000
Streamgaging	150,000
Studies	<u>4,000</u>

\$204,000

EQUIPMENT BUDGET

Office Equipment	\$ 1,000
Computers, software etc	7,700
Telephone	<u>600</u>

\$ 9,300

PERSONNEL BUDGET

Retirement	\$ 5,000
Social Security	5,000
Mileage	16,000
State Insurance Fund	3,500
Employment Insurance	500
Part-time Help	5,000
Hydrographer Expenses	1,000
Treasurer	<u>2,000</u>

\$ 38,000

MISCELLANEOUS BUDGET

IWUA	\$ 1,000
Water Safety	1,000
Supplies, Phone, Copying	2,000
Audit	5,000
Meetings	3,500
Legal Fees	15,000
Committee of Nine	10,000
Postage	<u>1,500</u>

\$ 39,000

WATERMASTER & STAFF

IDWR Contract	\$280,000
Report	3,000
Travel	<u>5,000</u>

\$288,000

Total 1996 Distribution Budget

\$642,760

W.D. Consultants & Attorneys - Resolution 14	200,000
Excess Storage Use - Resolution 16	100,000
ESA Contingency Fund	50,000

UPPER VALLEY

Consultants & Atty. - Resolution 20	\$100,000
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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 district cost of delivering water to many water users is greater than their normal assessments would be based upon their total season use of water;

NOW, THEREFORE, BE IT RESOLVED that the watermaster of Water District 01 is hereby authorized to assess a \$20.00 minimum charge for every diversion within his jurisdiction.

10. WHEREAS, the water users of Water District 01 meeting in regular annual session find it necessary to adopt certain "on-going" resolutions to direct the watermaster and treasurer of the district in certain aspects of district operations;

NOW, THEREFORE, BE IT RESOLVED that the Water District 01 budget prepared pursuant to Idaho Code § 42-615, and adopted in Resolution No. 7 at this Water District 01 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.

The treasurer shall establish and maintain a general account and shall cause to be deposited all monies received pursuant to the billing and shall make all disbursements as necessary to conduct the business of administering and delivering the waters of the 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.

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 01 to account for all diversion which might adversely affect any prior natural flow or storage diversions;

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

12. BE IT FURTHER RESOLVED that the Committee of Nine be designated 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 District.
- (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 District.
- (e) Make and execute such contracts and agreements as may be deemed necessary or convenient.
- (f) To do such other things as the Committee shall deem to be beneficial to the water users of the 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 as 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 expend funds held by the District for the following purposes:

- (1) Expenses of the District.
- (2) Improvements to the District's facilities, including a reasonable reserve for future improvements.
- (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) For involvement in legislative and agency deliberations on issues involving water quantity and quality which could affect water users of the Water District including naming Water District 01 as a petitioner in legal actions involving the ESA and the negotiation of federal claims and tribal claims filed in the SRBA.
- (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 lessees,

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 paying lessees for excess uses prior to these amounts being collected.

BE IT FURTHER RESOLVED, that all monies collected for administrative 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 01 Watermaster.
 2. One who has received over 50 percent of his annual income during one or more of the past ten years from farming activities.
18. WHEREAS, it is in the interest of all water users to have the water rights within Water District 01 delivered according to the priority system; and,

WHEREAS, the accounting system now used by Water District 01 requires that each diversion have assigned to it a specific list of decreed, licensed, and storage entitlement; and,

WHEREAS, those diversions which have no record of water rights on file with the Department of Water Resources or the Water District office will, necessarily be taking storage water any time a diversion takes place.

NOW, THEREFORE, BE IT RESOLVED that no diversion shall be allowed to divert water unless the proper 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 01 meeting shall hereafter be held on the first Tuesday of March of each year unless the director and Committee of Nine should find in necessary to change the meeting date; and

BE IT FURTHER RESOLVED that the water users of Water District 01 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 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 seventh day of March 1995, 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 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 the amendment to 8.2 of Water District 01 Rental Pool Rules and Regulations be approved as hereafter set out and transmitted to the Idaho Water Resource Board for approval.

8.2. A. The rental price for 1996 shall be \$2.95 per acre foot rented for beneficial uses delivered above Milner dam. This price shall include the District's administrative charge of \$0.75 per acre foot and the Water Board surcharge of \$0.20 per acre foot.

B. The 1996 rental price for stored water delivered below Milner Dam shall be \$15.75 per acre foot, which includes the District's administrative charge of \$7.50 per acre foot and the Board surcharge of \$0.75 per acre foot.

The District administrative charge shall be assessed and retained for the following purposes:

1. To acquire water or otherwise mitigate the impacts to irrigators resulting from the District's commitment to provide up to 250,000 acre feet of water to the Bureau of Reclamation each year for the next four years.
2. To secure water, should mitigation be necessary, for the "last to fill" provisions of the rental pool rules.
3. To acquire water to guarantee the agricultural preference in the rental pool rules.

4. To make system improvements that enhance measurement, distribution, data collection or improve water management on the upper Snake.
5. To protect the water users rights to have water delivered in the amounts and under the priority and distribution system historically recognized in Water District 1.

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 No. 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 in SRBA must recognize traditional distribution and water management.
2. The zero flow at Milner standard, 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.
4. Any changes in upstream water rights that would allow water to be moved below Milner through provisions of State or Federal law 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 No. 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.

BOOKMAN-EDMONSTON REPORT
SUPPORT FOR IDAHO LEGISLATURE'S SALMON POLICY

WHEREAS, the Bonneville Power Administration contracted for and received a water management opportunities report for the Snake River Basin as prepared by Bookman-Edmonston Engineering, Inc. in July of 1994; and

WHEREAS, said report identifies alternatives to make water available for the benefit of ~~Columbia-Snake~~ River endangered salmon which are in some instances based upon false assumptions; and

WHEREAS, it may be necessary for Snake River Basin water users in Idaho to confront the conclusions of said study in their effort to resist flush and drawdown proposals included in the 1995 Biological Opinion and Recovery Plan for endangered salmon;

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District No. 1, meeting in annual session this 7th-5th day of March, 1995~~6~~, that ~~the Legislature of the State of Idaho be encouraged to appropriate adequate funds for the preparation of a comparable report which refutes some of the Bookman-Edmonston conclusions which will be used as assumptions in an attempt by governmental agencies to secure water supplies from the Upper Snake Basin for drawdown and/or flush in the Lower Snake and Columbia. the Committee of Nine continue to support a legislative study~~ overviewing the Bookman-Edmonston Report conclusions; and

BE IT FURTHER RESOLVED that the Committee of Nine support House Concurrent Resolution 37 to the end that state policy as to salmon recovery does not include either drawdown or flush; and

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, members of the Idaho Congressional Delegation, the Pacific Northwest Power Planning Council, and the Resource and Appropriations Committees of the Idaho Legislature.

RESOLUTION

WHEREAS, the recovery plan to restore endangered Snake River salmon and the current biological opinion require that the U.S. Bureau of Reclamation release 427,000 acre feet of water from the Upper Snake River Basin each year, to be acquired from willing sellers and lessees, and pursuant to state law; and

WHEREAS, to facilitate these releases, the Bureau has applied to the director of the Idaho Department of Water Resources to add additional beneficial uses and places of use to the water rights it holds legal title to in Snake River Reservoirs; and

WHEREAS, the Bureau has agreed to hold its applications in abeyance and secure water from willing sellers and lessees to meet the 427,000 acre foot requirement through 1999; and

WHEREAS, it is in the best interest of the storage space holders and water users within Water District No. 1 to make water available to the Bureau to meet the requirements of the biological opinion for the next five years, so as to avoid the time, money and energy that would be required to oppose the Bureau's applications; and

WHEREAS, the Bureau may not release water to satisfy the requirements of the biological opinion without authority under state law; and

WHEREAS, Idaho Code Sec. 42-1763B is currently being proposed to provide interim authority until the year 2000 so that rented water could be released for the intended purpose of augmenting flows during the migration of endangered Snake River salmon; and

WHEREAS, this legislation was the product of good faith negotiations between the Bureau, irrigators, and others; and

WHEREAS, this legislation would provide an opportunity for necessary scientific studies to be conducted before the year 2000 regarding the benefits, if any, of the flow augmentation; and

WHEREAS, Snake River irrigators believe this legislation is the best alternative available at the current time.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District No. 1, meeting in regular annual session this 5th day of March, 1996, that the Committee of Nine SUPPORTS the enactment of Idaho Code Sec. 42-1763B.

BE IT FURTHER RESOLVED that this resolution be forwarded to the Idaho State Legislature and that copies of this resolution be forwarded to the germane committees of the house and the senate, and to the governor of the State of Idaho.

ITCH STUDIES

WHEREAS, existing diversion moratoriums need to be continued until such time as ongoing studies are completed and the determination is made that additional water is available for appropriation, before the same is appropriated; and

WHEREAS, the State Legislature is a vital partner in funding said studies;

NOW, THEREFORE, BE IT RESOLVED by the users of Water District No. 1, meeting in regular annual session this ~~7th~~5th day of March, 199~~5~~6, in Idaho Falls, Idaho, that Water District No. 1 support continued funding.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, the Chairman of the House and Senate Resources Committees of the Idaho State Legislature, the Idaho Water Users Association, officials of the Idaho Department of Water Resources, the officers of organized groundwater organizations, and the directors of the Twin Falls and North Side Canal Companies.

NEZ PERCE AND FEDERAL SNAKE RIVER BASIN ADJUDICATION CLAIMS

WHEREAS, the users of Water District No. 1 have been represented by the Committee of Nine to work with certain Boise Valley water organizations in an attempt to settle the substantial claims filed by the Nez Perce Indian Tribes and United States Agencies in the Snake River Basin Adjudication for substantial and sometimes exorbitant amounts of water in the Lower Snake River; and

WHEREAS, it is necessary that the representatives of Water District No. 1 and other irrigation entities proceed to develop studies and data to substantiate objections to said claims on behalf of said users; and

WHEREAS, the State of Idaho is also involved in said negotiations on behalf of its citizens;

NOW, THEREFORE, BE IT RESOLVED that the State Attorney General and the Committee of Nine be encouraged to continue to participate in the negotiations for settlement of the Nez Perce and Federal claims on the Lower Snake River in Idaho;

AND BE IT FURTHER RESOLVED that the Committee of Nine be authorized to take such actions as ~~are necessary to prepare for filing objections to said claims~~ protect water rights and historical uses of water in Water District No. 1 in the Snake River Basin Adjudication or the eventual litigation thereof if said negotiation should fail.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, the Idaho State Attorney General, the Idaho Water Resource Board, the Boise Board of Control, the Idaho Water Users Association, and the Pacific Northwest Power Planning Council.

SHELLEY FEDERAL ENERGY REGULATORY COMMISSION PROJECT

WHEREAS, the City of Idaho Falls has filed an Application with the Federal Energy Regulatory Commission to license the Shelley Power Project near Shelley, Idaho; and

WHEREAS, Water District No. 1 has intervened in said proceeding through the Committee of Nine to resist the project proposal that would inundate the District's natural weir in Snake River near Shelley, Idaho; and

WHEREAS, to date the City of Idaho Falls has not seen fit to negotiate a replacement for said weir with Water District No. 1;

NOW, THEREFORE, BE IT RESOLVED by the users of Water District No. 1, meeting in regular annual session this ~~7th~~5th day of March, 1995~~6~~, in Idaho Falls, Idaho, that the District continue to oppose the construction of the Shelley Project until a substitute or replacement weir has been proposed and approved by Water District No. 1.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, members of the Idaho Congressional Delegation, the Pacific Northwest Power Planning Council, and the Resource and Appropriations Committees of the Idaho Legislature.

WATER MEASUREMENT

WHEREAS, the 1994 Legislature adopted a water measurement law in Chapter 7 of Title 42; and

WHEREAS, Idaho Department of Water Resources has developed a test basin for implementation of the measurement law; and

WHEREAS, Idaho Department of Water Resources proposes the adoption of a water measurement district that would encompass those areas not now in a duly formed water district or other political subdivision of the state or a water delivery entity charged with the measurement of water diversions within its jurisdiction; and

WHEREAS, water diversion and supply data is needed to assess present uses and diversions from existing and average annual supplies;

NOW, THEREFORE, BE IT RESOLVED by the users of Water District No. 1, meeting in regular annual session this ~~7th~~^{5th} day of March, 1995~~6~~, in Idaho Falls, Idaho, that the Water District No. 1 encourage the full implementation of the water measurement law in the State of Idaho to obtain the data necessary to complete studies as to Idaho's dependable supplies of water.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Phil Batt, members of the Idaho Congressional Delegation, the Pacific Northwest Power Planning Council, and the Resource and Appropriations Committees of the Idaho Legislature.

INTERIM BUDGET

WHEREAS, Water District No. 1 changed its fiscal year to begin November 1 and end October 31 of each year; and

WHEREAS, the annual meeting of Water District No. 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 No. 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.

WATER DISTRICT NO. 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 No. 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 in SRBA must recognize traditional distribution and water management.
2. The zero flow at Milner standard, 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.
4. Any changes in upstream water rights that would allow water to be moved below Milner through provisions of State or Federal law 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 No. 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.

RESOLUTION

WHEREAS, the National Marine Fisheries Service's (NMFS) 1995-1998 Biological Opinion and Proposed Recovery Plan for Snake River Salmon, and the United States Bureau of Reclamation's (USBR) Record of Decision, require augmenting Lower Snake and Columbia River flows with 427,000 acre feet of storage from the Upper Snake River Basin, 250,000 of which is allocated to come from above Milner Dam; and

WHEREAS, Water District No. 1, acting through the Committee of Nine has executed a Stipulation to support the USBR in the acquisition of 427,000 acre feet from willing lessors through local water banks in 1996 and to support legislation authorizing releases in 1996, 1997, 1998, and 1999; and

WHEREAS, it is in the interest of Water District No. 1 to lease the USBR water to meet their Endangered Species Act (ESA) water requirements up to 250,000 acre feet from reservoirs above Milner Dam, to the extent the Bureau does not have non-contracted water available, for four (4) years, while first protecting water bank water agricultural lessees.

NOW, THEREFORE, be it unanimously resolved that Water District No. 1, meeting in regular annual session this 5th day of March, 1996, hereby approves the lease to the USBR of 250,000 acre feet in 1996, 1997, 1998, and 1999 on the terms and conditions of the lease attached hereto as Exhibit "A"; and

BE IT FURTHER RESOLVED that after deduction of the Water District No. 1 administrative charge, one-half (1/2) of the net rental proceeds shall be paid to the Water District No. 1 reservoir spaceholders in proportion to the use of said spaceholders' storage water, the other one-half (1/2) to be paid to Water District No. 1;

BE IT FURTHER RESOLVED that pursuant to said lease, all rental monies received by Water District No. 1 as rental proceeds (except Water District No. 1's Rental Pool administrative charge) be held in a special Water District No. 1 bank account, funds from which shall only be used to advance and defend the position of Water District No. 1 in connection with the current ESA matters and germane Snake River Basin Adjudication (SRBA) issues. At such time as ESA and SRBA issues no longer exist, the funds may be used for general Water District No. 1 expenses.

Adopted this 5th day of March, 1996.

Chairman

ATTEST:

Secretary

12159503.JAR

LEASE

THIS LEASE is intended to delineate in writing the Agreement between WATER DISTRICT 01, an instrumentality of the State of Idaho, hereinafter "W.D. 01," and the UNITED STATES OF AMERICA, acting through the Regional Director of the Pacific Northwest Region, Bureau of Reclamation, acting upon authorization of the Secretary of Interior, hereinafter "USBR";

WITNESSETH:

WHEREAS, the National Marine Fisheries Service's (NMFS) 1995-1998 Biological Opinion and Proposed Recovery Plan for endangered Snake River salmon provide for flow augmentation in the Lower Snake and Columbia Rivers with water from federal reservoirs in the Upper Snake River Basin; and

WHEREAS, the USBR has consulted with the NMFS in accord with the Endangered Species Act (ESA) and has adopted a Record of Decision requiring the acquisition of 427,000 acre feet of water from the Upper Snake River Basin; and

WHEREAS, the USBR has filed applications to add additional beneficial uses to their state water rights for reservoirs in the Upper Snake River Basin, resulting in a stay of the process and passage of House Bill 704 by the 1996 Idaho Legislature, authorizing the use of said 427,000 acre feet of water for salmon migration purposes each year until January 1, 2000; and

WHEREAS, the USBR is now anxious to obtain up to 250,000 acre feet of water from above Milner Dam pursuant to the provisions of House Bill 704, only from willing lessors, and in accord with Idaho Water Resource Board (IWRB) Water Bank statutes, rules and regulations, and W.D. 01 Rental Pool rules; and

WHEREAS, the IWRB Water Bank and the rules of the W.D. 01 Rental Pool do not prohibit leases for more than one (1) year so long as the W.D. 01 administrative charges and the IWRB surcharge are paid; but

WHEREAS, because W.D. 01 feels a commitment to participate in providing water for the salmon effort, W.D. 01 has adopted water bank rules that specify that water from USBR reservoirs in W.D. 01 may not be leased except through W.D. 01 between April 1, 1996 and January 1, 2000, and that "recharge" shall be subordinated to water for this USBR Lease; and

WHEREAS, the parties agree that this Lease is not violative of Idaho law and that no other water user will be injured; and

WHEREAS, the parties are anxious to enter into a lease to provide up to 250,000 acre feet each year for a four (4) year period.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the parties herein agree as follows:

1. USBR Uncontracted Water. The USBR may release its water from its uncontracted space in USBR reservoirs in W.D. 01 without regard to the agricultural preference of the W.D. 01 Rental Pool, but shall pay the .75¢ per acre foot administrative charge and be subject to the "last-to-fill rule" of said Rental Pool.

2. Lease. W.D. 01 agrees to attempt to obtain from W.D. 01 reservoir spaceholders, and prioritize for use by the USBR, up to 250,000 acre feet of water to lease to USBR (after first supplying 50,000 acre feet for the agricultural priority), for use below Milner Dam. W.D. 01 makes no guarantee that it will have obtained any storage water for lease or that any storage water will be available to USBR under this Lease, provided that W.D. 01 will use "best efforts" to attempt to secure up to the 250,000 acre feet each year of this lease.

3. Term. This Lease shall be for a four (4) year term, commencing as of April 1, 1996, and terminating December 31, 1999.

4. Lease Price. The rental price shall vary based on the amount of water the USBR receives in each year under this Lease as follows:

(a) For the first 100,000 acre feet supplied to USBR under this Lease, the price shall be \$7.00, which price covers W.D. 01's administrative charge, plus a .70¢ (10%) surcharge to the IWRB, for a total price of \$7.70 per acre foot.

(b) For the next 75,000 acre feet supplied to USBR under this Lease, the price shall be \$12.00, which price covers W.D. 01's administrative charge, plus a \$1.20 (10%) surcharge to the IWRB, for a total price of \$13.20.

(c) For the last 75,000 acre feet supplied to USBR under this Lease, the price shall be \$17.00, which price covers W.D. 01's administrative charge, plus a \$1.70 (10%) surcharge to the IWRB, for a total price of \$18.70.

(d) The price for any powerhead water used by USBR for its own purposes shall be .83¢ per acre foot; .75¢ for the W.D. 01 administrative charge, and .8¢ for the IWRB surcharge.

5. Less Than 250,000 Acre Feet Available. If in any year of this Lease W.D. 01 cannot secure the water needed by the USBR because the W.D. 01 spaceholders have not committed the necessary water for lease, and after USBR has taken all the water that is assigned up^{to} the 250,000 acre feet total (including their uncontracted storage), USBR may begin taking water from the Rental Pool beginning April 1. Said water shall be first charged against water subsequently assigned to the W.D. 01 Rental Pool. If sufficient water is not eventually assigned to the Rental Pool to cover the USBR's releases under this Lease by the following February 28th, said withdrawals will be credited to USBR's powerhead

water, provided said powerhead shall be "last-to-fill" under Rental Pool Rules and USBR shall pay .75¢ per acre foot for each acre foot of powerhead water used.

6. Period of Use. The use of water (which is the subject of this Lease) shall be between April 1 and February 28 of the following year, but said releases at Milner Dam shall not exceed fifteen hundred (1,500) cubic feet per second (cfs) in diversion rate. USBR shall be required to evacuate any water which is the subject of this Lease on or before February 28th of any year, or said water shall be lost to USBR.

7. (a) Termination by USBR. USBR may terminate this Agreement by thirty (30) days mailed notice for any reason.

(b) Termination by W.D. 01. W.D. 01 may terminate this Lease by thirty (30) days mailed notice if:

1. The 1995-1998 Biological Opinion, Proposed Recovery Plan, or Record of Decision are amended to eliminate, increase, or reduce USBR's requirement to provide 427,000 acre feet from the Upper Snake River Basin;

2. USBR initiates consultation with National Marine Fisheries Service as to storage water above Milner Dam; or

3. A court of competent jurisdiction orders a stay or otherwise terminates or alters the flow augmentation program.

(c) Termination pursuant to this article by W.D. 01 shall result in total refund to USBR of unused rental monies paid in advance, including the W.D. 01 administrative charge and the IWRB surcharge. Termination pursuant to this article by the USBR shall result in refund of unused rental monies paid in advance.

8. Indemnification. USBR shall indemnify and hold harmless W.D. 01 or W.D. 01 spaceholders from any claim of any other federal agencies, pertaining to other threatened or endangered species or any other claim or claims brought by any third party (including W.D. 01 water users) by reason of USBR's actions under this Lease.

9. Whole Agreement. In the event that any provision of this Lease is declared invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement
the day and year first above written.

WATER DISTRICT 01

By: _____
Its: _____

UNITED STATES OF AMERICA

By: _____
Regional Director
Pacific Northwest Region
Bureau of Reclamation
1150 North Curtis Road
Boise, Idaho 83706-1234

STATE OF IDAHO)
)ss.
County of _____)

On this _____ day of _____, 1996, before me, a Notary Public, in and for said County and State, personally appeared _____, known or identified to me to be the _____ of Water District 01, an instrumentality of the State of Idaho, that executed the foregoing instrument, and acknowledged to me that Water District 01 executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR IDAHO
Residing at: _____
My commission expires: _____

STATE OF IDAHO)
)ss.
County of _____)

On this _____ day of _____, 1996, before me, a Notary Public, in and for said County and State, personally appeared _____, known or identified to me to be the Regional Director of the Pacific Northwest Region, Bureau of Reclamation, Department of the Interior, that executed the foregoing instrument, and acknowledged to me that the United States of America executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR IDAHO
Residing at: _____
My commission expires: _____

12159502.JAR

PUBLIC TRUST LEGISLATION
HOUSE BILL 794

WHEREAS, certain pronouncements of the Idaho Supreme Court may have unintentionally expanded the Public Trust Doctrine beyond its traditional application of protecting the beds of navigable waters held in trust by the State of Idaho; and

WHEREAS, the doctrine could have dire consequences for Idaho water users if expanded to water rights and supplies, possibly jeopardizing the finality of decrees entered on the Snake River Basin Adjudication.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District No. 1 meeting in regular annual session this 5th day of March, 1996, in Idaho Falls, Idaho, that House Bill 794 be supported to define and limit the Public Trust Doctrine in Idaho.

BE IT FURTHER RESOLVED that copies of this resolution be sent to Governor Phil Batt, the legislative leadership, and the Resource and Conservation Committees of the Idaho Legislature.

02299605.JAR

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 794

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO THE PUBLIC TRUST DOCTRINE; AMENDING TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 58, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO DEFINE TERMS, TO PROVIDE LIMITATIONS TO THE APPLICATION OF THE PUBLIC TRUST DOCTRINE AND TO PROVIDE SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 12, Title 58, Idaho Code, and to read as follows:

CHAPTER 12

PUBLIC TRUST DOCTRINE

58-1201. FINDINGS. The legislature hereby finds and declares:

(1) Upon admission of the state of Idaho into the union, the title to the beds of navigable waters became state property, and subject to its jurisdiction and disposal under the equal footing doctrine. According to the United States supreme court's decision in *Shively v. Bowlby*, the state has the right to dispose of the beds of navigable waters, "in such manner as [it] might deem proper,... subject only to the paramount right of navigation and commerce." The state has the right to determine for itself "to what extent it will preserve its rights of ownership in them, or confer them on others," *Shively v. Bowlby*, 152 U.S. 1, 56 (1893); and

(2) Since the admission of the state of Idaho into the union, article XV of the constitution of the state of Idaho has governed the appropriation and use of the waters of Idaho. Pursuant to article XV of the constitution of the state of Idaho, the legislature of the state of Idaho has enacted a comprehensive system of laws for the appropriation, transfer and use of the waters of Idaho, which addresses the public interest therein; and

(3) Upon admission of the state of Idaho into the union, the state was granted certain lands by the United States government as an endowment for designated institutions. Article IX of the constitution of the state of Idaho, and laws enacted pursuant thereto, establish a comprehensive system of laws for the management of state endowment lands, which addresses the public interest therein; and

(4) The common law doctrine known as the public trust doctrine, adopted by inference in section 73-116, Idaho Code, has guided the alienation or encumbrance of the title to the beds of navigable waters held in trust by the state. The public trust doctrine has been cited in court decisions and pleadings in ways that have created confusion in the administration and management of the waters and endowment lands; and

(5) The public's interest in the environment is protected in other parts of Idaho's constitutional or statutory law; and

(6) The purpose of this act is to clarify the application of the public

trust doctrine in the state of Idaho and to expressly declare the limits of this common law doctrine in accordance with the authority recognized in each state to define the extent of the common law.

58-1202. DEFINITIONS. For the purposes of this chapter, the following definitions apply:

(1) "Beds of navigable waters" means those lands lying under or below the "natural or ordinary high water mark" of navigable waters.

(2) "Natural or ordinary high water mark" means the line that water impresses on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. When the soil, configuration of the surface, or vegetation has been altered by man's activity, the natural or ordinary high water mark shall be located where it would have been if no alteration had occurred.

(3) "Navigable waters" means those waters that were susceptible to being used, in their ordinary condition, as highways for commerce on the date of statehood, under the federal test of navigability.

(4) "Public trust doctrine" means the common law rule relating to the title to the beds of navigable waters adopted by inference in section 73-116, Idaho Code.

58-1203. LIMITATIONS TO THE APPLICATION OF THE PUBLIC TRUST DOCTRINE. (1) Other provisions of statutory or common law notwithstanding, the public trust doctrine as it is applied in the state of Idaho is solely a limitation on the power of the state to alienate or encumber the title to the beds of navigable waters as defined in this chapter.

(2) The public trust doctrine shall not be applied to any purpose other than as provided in this chapter. Specifically, but without limitation, the public trust doctrine shall not apply to:

(a) The management or disposition of lands held for the benefit of the endowed institutions as set forth in article IX of the constitution of the state of Idaho;

(b) The appropriation or use of water, or the granting, transfer, administration, or adjudication of water or water rights as provided for in article XV of the constitution of the state of Idaho and title 42, Idaho Code, or any other procedure or law applicable to water rights in the state of Idaho; or

(c) The protection or exercise of private property rights within the state of Idaho.

(3) Nothing in this chapter shall be construed as a limitation on the power of the state to authorize public or private use, encumbrance or alienation of the title to the beds of navigable waters held in public trust pursuant to this chapter for such purposes as navigation, commerce, recreation, agriculture, mining, forestry, or other uses, if, in the judgment of the state board of land commissioners, the grant for such use is made in accordance with the statutes and constitution of the state of Idaho.

58-1204. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not effect the validity of remaining portions of this act.

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

March 1, 1995

PROPOSED

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 (\$50/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 Subcommittee, 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 \$50.00\$ _____

PERSONAL CAR USAGE _____ MILES\$ _____
(at 28 cents per mile)

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 _____ Bookkeeper's Initials _____ Check # _____