

WATER DISTRICT 130
MINUTES OF STEERING COMMITTEE MEETING
OCTOBER 29, 2002
JEROME AMBULANCE CENTER, JEROME

Attendees: Lynn Tominaga, Dan Temple, Dean Stevenson, Douglas Grant, Larry Cope, Norm Young, Tim Luke, Cindy Yenter, Mike Faulkner, Jo Beeman, Jason Michiak, Jason Walker, Garr Wayment, Grant Wyatt, Randy Brown, Dick Elliot, Rich Dinges.

Meeting started at 9:00 a.m. with handout of minutes from last meeting held on June 19, 2002 in Buhl. Tim Luke, IDWR asked for a review of the minutes and a motion to accept the minutes as presented. No corrections were suggested. Doug Grant made a motion to accept, seconded by Jason Michiak and accepted by acclamation. Review and approval of minutes was followed by introduction of attendees.

Cindy Yenter, watermaster, gave a report of her activities since the last meeting. Cindy explained that she worked with IDWR using 2002 Landsat imagery and water right GIS place of use shape files to investigate potential unauthorized irrigation uses. She field investigated at least 10 areas, three were dry land farmed and seven appeared to be unauthorized uses. She sent notices for these seven areas and five of the seven had resulted so far in Notices of Violation (NOV) from IDWR. She is making some further investigation of lands within the North Side Canal Company (NSCC) service area. Cindy and Tim Luke provided some explanation about using NSCC assessment data linked with IDWR public land survey and water right place of use computer files to find irrigated lands that either do not have water rights or NSCC assessments. Over 100 parcels were found meeting these criteria and Cindy is in the process of field checking these locations to confirm irrigation and determine the source of water. Cindy had field checked over 35 parcels so far and found that about nine parcels were irrigated with ground water and without any overlying water rights.

Cindy also reported that she has also been involved in distribution and regulation of water rights on Alpheus Creek and delivery of water rights from the springs shared by Clear Springs Foods and Clear Lakes Trout pursuant to instructions from the Director of IDWR. Cindy also commented on the conditions of several spring sites in the area and provided a copy of an updated hydrograph of Curren Tunnel. Spring flows in the area have generally peaked for the year.

Cindy also described response to IDWR's curtailment letters that were sent to some users in June of 2002. All but two of the recipients of the letters joined the North Snake Ground Water District (NSGWD) to obtain safe harbor under the district's stipulated mitigation agreement. The two users and diversions that did not join the district were due either to non-use of the right/diversion or the use was limited to domestic and stock water purposes only. Cindy also reported on her review of reduction plans submitted to the NSGWD and Magic Valley Ground Water District (MVGWD). She reviewed plans for over 200 diversions within Water District 130 and estimated that at least two-thirds of the diversions in each ground water district were represented by a reduction plan. Dean Stevenson commented that he thought that more than two-thirds of the diversions in the MVGWD were represented by reduction plans. Cindy felt that a good faith effort had been made toward reaching the reduction objectives by both districts. Cindy also estimated that one-third to one-half of the diversions in both districts probably needed re-measurement in 2002 for adjusted PCC's based on system or other operating changes. She cautioned that volume estimates in 2002 for these wells might not be accurate if PCC's are not properly adjusted.

Cindy concluded her report by indicating that she is also working on review of water right transfers within the district for measuring device conditions, inclusion of new rights within the water and ground water districts. She is also working with several users on compliance with proper measuring and reporting.

Tim Luke of IDWR next gave a brief status of enforcement activities in both Water District 120 and 130. Tim expected District 120 to send out about 20 or more notices regarding unauthorized uses. Several compliance conferences had been scheduled for the five NOV's sent within District 130. Tim also reported

on the legislative proposals that had been suggested to the Governor's Office for the next legislative session. Norm Young of IDWR provided some further explanation about two of the proposed legislative changes, including clarification of illegal uses and providing clarification of the law to provide for review or hearings by IDWR on certain directions provided by the Director of IDWR that may impact water rights.

Lynn Tominaga mentioned that ground water users were looking at proposing some legislation to recognize sub-districts within water districts and provide for proxy voting of water rights by representatives of the sub-districts. Jason Michiak reported that he had spoken with Clive Strong of the Attorney General's office concerning similar legislation.

Larry Cope gave an update regarding longer-term stipulated agreements. He said that a conjunctive management technical group comprised of participants from the Basin 36 negotiation meetings was meeting on October 30 to review certain proposals and alternatives for mitigation and replacement water to certain springs and spring rights primarily in the Hagerman Valley. Jo Beeman asked about the proposal from NSGWD that had been circulated recently concerning some longer-term mitigation strategies. Larry Cope felt that the proposal included some good ideas and seemed to make sense. Dean Stevenson expressed some concern on behalf of MGVWD regarding the availability and cost of storage water for mitigation purposes. Dean felt that the conversions of ground to surface water uses proposed by NSGWD would require upfront acquisition of storage water but that the costs associated with obtaining storage water upfront and early in the season are higher whereas storage water seems to be more available and cheaper later in the year. Larry Cope suggested that water users in the Magic Valley region may need some support or help from Idaho's Congressional delegation and others in order to do conversions on a larger scale.

Tim Luke gave an update on expansion of Water District 130 to include ground water rights in Administrative Basin 37 within the ESPA. The Motion for Interim Order filed by the state with the SRBA Court in August will be heard by the court on November 19, 2002. Tim gave a brief timeline review for the remaining process and noted that the Director could hold a public hearing around December 20th. Some discussion followed about IDWR's thoughts and timeline for inclusion of Basin 45 ESPA ground water rights in Water District 130. Grant Wyatt of the Southwest Irrigation District expressed some concern that his district had not been included in the original formation of Water District 130 but Tim and Norm Young explained that Basin 45 can not be included in any water district until the rights there are partially decreed or included in an SRBA Director's Report, which will not occur until later next year. Tim provided some further explanation of the process and Norm Young noted that based on the process IDWR could find that it is appropriate to include the Basin 45 rights in a different district or perhaps a separate district. Jo Beeman gave a quick explanation of the general objection filed on behalf of the NSGWD to the ground water rights in the Basin 37 Director's Report seeking inclusion of remarks about the Swan Falls agreement.

Participants next considered discussion about proposals for makeup of the water district advisory committee and methods for voting and making assessments within the district. Lynn Tominaga asked participants about their thoughts on splitting the district in to separate districts for ground water and spring users if participants cannot come to agreement on governance of the district. Several participants spoke in favor of trying to keep ground water users and spring users together in the same district. There was additional discussion concerning the statutory provisions for voting and assessments. Tim Luke reminded the group that there is approximately a 3 to 1 ratio of water diverted for non-consumptive uses from springs and ground water diverted for consumptive uses. There was reference to the original proposal and voting procedure suggested by Karl Dreher earlier this year whereby spring users or non-consumptive users would have voting rights equal to one-third of the voting rights of consumptive users. The steering committee had last discussed and showed support for an equal 50-50 split of voting rights and responsibility of budget between non-consumptive (surface water or spring right holders) and consumptive (ground water right holders). This proposal also provided that 50% of the advisory committee would include spring users. Several different proposals were offered or discussed regarding the advisory committee membership and voting at the annual meeting. The following suggestions or proposals resulted from the discussion:

- 1) Assessments set in accordance with Section 42-605. Assessments are made on an equal basis between ground water and surface water diversions using actual diversion records. Since there is

roughly a three to one ratio in amount of water diverted between surface water and ground water, then the surface water users may potentially control a majority of the voting at the annual meeting. The advisory committee composition may be independent of assessments and voting (i.e. committee can be 50-50 ground water – surface water representation or other ratio as determined by users at annual meeting).

- 2) Assessments set in accordance with Section 42-605A and split 50-50 between the spring/surface water right holders and the ground water right holders (Note: Assessing non-consumptive surface water users at about 1/3 of the total surface water diversions results in about a 50-50 split between surface water and ground water uses). Voting at the annual meeting would also be split 50-50. Actual surface water and ground water user votes cast at the meeting depend on the number of ground and surface water users present at any annual meeting. Again, advisory committee composition may be independent of assessments and voting.
- 3) Assessments and hence voting, set in accordance with Section 42-605A but split based on estimate of amount of time the watermaster dedicates to administration of consumptive ground water diversions and non-consumptive surface water diversions. It is roughly estimated, based in part on just the number of diversions, that this would result in a split of about 75 or 80% ground water to 20% or 25% surface water. This approach results in ground water users having majority voting
- 4) Assess a minimum charge of up to \$50 per diversion. Voting at annual meeting is based on amount assessed.

Note: Under Idaho Code, advisory committee composition is not dependent on type of uses or types of water rights within the district. Committee composition therefore can be different than the assessment/voting splits given in the above scenarios. It was suggested that the advisory committee could include an equal number of surface and ground water users to promote consensus committee decisions and recommendations but that assessments and voting at annual meetings could deviate from 50-50 split. Alternatively, the advisory committee could have more ground water representatives than surface water representatives but operate with the understanding that all committee decisions and recommendations must be made unanimously or have the consent of all members.

Dean Stevenson suggested that it would be difficult to discuss these options much further without having some clear or further understanding from the spring users as to their preference. Larry Cope suggested that he would schedule a separate meeting with the spring users to discuss these options. He thought he would try to schedule that meeting the week of November 11. Tim agreed to draft minutes and the proposals discussed for further consideration by the spring users at their meeting. Tim and Norm suggested that the steering committee should resolve this issue in advance of the annual district meeting scheduled in February. Tim suggested that a decision be reached in December. The group agreed to hold its next meeting on December 5, 2002 at 9:00 a.m. in the Jerome Ambulance Center, Jerome.

Minutes prepared and submitted by:

Tim Luke, IDWR