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## OTHER MINUTES

Water District 120 Advisory Meeting  
February 6, 2012  
900 N Skyline Dr. Ste A  
Idaho Falls ID

Meeting was called to order by Tim Deeg at 1:10 p.m. Those in attendance were Richard Mayer, Brian Lebrecht, Terrell Sorensen, Dan Hammond, Dane Watkins, Wendy Murphy, Cody Allen, Marla Tribble, Tim Deeg, Kenda Jones, James Cefalo, and Craig Evans.

Minutes were reviewed from February 2, 2011, advisory meeting. Dane Watkins motioned to accept minutes as written and distributed. Terry Sorensen seconded and minutes were passed.

Wendy Murphy presented the financial. There is \$193,397 in checking and savings. Accounts receivable was \$5486 for total current assets of \$198,883. There was a positive net change in assets of \$20,072. Accounts payable was \$4456. Current retained earnings as of October were \$168,376. There was a net increase in income of 26,050 for a total equity in the district of \$194,427. Overall expenses were down and assets are up. Profit and loss statement shows assessment income of \$100,553, finance charges of \$231.29, interest income of \$340.57, for total income of \$101,125. Expenses for 2011 included travel \$90.00, IDWR contract, \$66,024.30, office supplies \$74.52, audit \$1850, misc equipment \$17.90, meeting expense \$25.00, equipment expense of \$6993 for a total expense of \$75,074. Net income was \$26,050. IDWR contract was discussed. It can vary from year to year depending on factors such as, furlough hours, personal hours, watermaster charges, and how hours are charged to the district. The previous watermaster was charging 100% to this district and hours will be distributed differently this year. Agents will shift time between districts and the current watermaster hours will be shifted as well. The watermaster, James Cefalo, has been reviewing new aerial photography and will work on violations as necessary. A discussion was revisited regarding the equipment purchase from 2011. The equipment was purchased by water district 1 and reimbursed by water district 120. No equipment will be purchased in 2012. Dane Watkins motioned to accept the financial report, Craig Evans seconded and financial report is approved.

Cody Allen presented the watermaster report for Jim Bitzenburg. He and Jim work closely together and Jim was unable attend this meeting due to a death in his family. Of the 119 wells on his list, 9 were too complicated to measure or not functioning at all. The 1/3 protocol for the year was met. Jim is working with the State Office in Boise to ensure that flowmeters are installed on these wells. Jim is also working on licensing for IDWR and making sure all wells in Water district 120 are accounted for and in documented in WMIS. The new Fuji flowmeter that was purchased for 2012 was discussed and it is working well. Terrell Sorensen motioned to accept the water supply report as presented by Cody Allen, the motion was seconded by Dane Watkins and the report is passed.

Resolutions for 2012 were reviewed. Dates were changed to reflect the New Year. After much discussion regarding well charges and administrative charges, income changes recommended were:

- 1) Resolution #5a will be reduced from \$75 to \$60 per diversion
- 2) Resolution #5c will be reduced from 0.05 to 0.04 per AF for administrative purposes

The advisory members would like to include the income breakdown for minimum diversions, AF charges and administrative fees provided in resolution 5 for the annual meeting scheduled for February 13, 2012. A couple of address changes were made to the list of Advisory members. Tim Deeg motioned to accept the Resolutions, with changes, the motion was seconded and resolutions are passed.

Late assessments were discussed. There is one water user that is not using her water right; however, she does not want to pay her assessment. The department will need to decide whether or not to forfeit her water right, per Idaho Statute, lock the diversion or just take her out of the billing database. A letter will be sent to the user once it is decided how to proceed.

James Cefalo discussed other business which included where IDWR is dedicating its efforts. The adjudication is 99% complete, only 1% of claims are still out there. With that almost complete, IDWR is focusing on a backlog of licenses that have been in a holding phase. The permits have been developed and now need to be finalized as some go as far back as the 1980's. No new water rights are being issued so the licensing backlog will be addressed. James discussed NOV's which were sent to Courtney Albertson and Merlin Smith. Large civil penalties were imposed on these water users. They both resolved the issue by meeting with IDWR and agreeing to rent water from the water supply bank. People have rented water in the past and then do not come back every year to renew the rental agreement. Permanent water rights need to be obtained to adequately address the violations. Notices will be issued to other users that need to address watering beyond their water rights. The department will closely monitor these situations and act if necessary. Letters will be sent to the following water users:

Lance Funk

Double LL Farms

Ronnie Summers

BLM

Foster Farms

Deloy Ward

Monty Funk

Dyer Family Trust

Assurances were made that the Lance Funk violation is being looked at and properly addressed. There have been concerns from other water users that have been brought to the attention of IDWR and the water district chairman.

IDWR just recently received data from Idaho Power, the information still needs to be reviewed and entered into our system. Idaho Power would like the IDWR and the ground water districts to sign an agreement of confidentiality. They do not want the information they provide to IDWR to be put out for the public. There was more discussion regarding notices of violation and how those are being handled. All questions are resolved as much as possible at this time.

Tim Deeg motioned to adjourn, the motion was seconded and the meeting adjourned at 2:50 p.m.

## **MINUTES OF ANNUAL MEETING**

Water District 120 Annual Meeting

February 13, 2012

Bingham County Courthouse

501 N Maple

Blackfoot, ID

Meeting was called to order at 1:10 pm by Tim Deeg. Board members in attendance were Tim Deeg, Marla Tribble, Stephanie Mickelson, Dane Watkins, Richard Mayer, Craig Evans, Richard Line and Dan Hammond. IDWR representatives were, Lyle Swank, James Cefalo, Jim Bitzenburg, Wendy Murphy, Kenda Jones, and Tim Luke. There were 7 others in attendance.

Chairman and Secretary were nominated. Stephanie Mickelson nominated Tim Deeg as Chairman and Kenda Jones as Secretary. The motion was seconded by Dane Watkins and the nominations are passed without opposition.

Minutes were reviewed from the February 14, 2011 annual meeting. Stephanie Mickelson motioned to accept the minutes as presented, the motioned was seconded and the minutes are accepted as written and distributed.

Wendy Murphy presented the financial report. There is \$193,397 in checking and savings. Accounts receivable was \$5486 for total current assets of \$198,883. Accounts payable was \$4456. Current retained earnings as of October 31, 2012 were \$168,376. There was a net increase in income of 26,050 for a total equity in the district of \$194,427. Overall expenses were down and assets are up. Profit and loss statement shows assessment income of \$100,553, finance charge income of \$231, interest income of \$340, for total income of \$101,125. Expenses for 2011 included travel \$90.00, IDWR contract, \$66,024.30, office supplies \$75, audit \$1850, misc equipment \$17.90, meeting expense \$25.00, equipment (Fuji flowmeter) expense of \$6993 for a total expense of \$75,074. Net income was \$26,050. We were considerably under budget for the year. The previous watermaster was charging 100% to this district and hours will be distributed differently this year as Gene Hansen, the previous watermaster retired. Additionally, it took some time to hire a new agent for a position that was open due to Gene's retirement. Agents will shift time between districts and the current watermaster hours will be shifted as well. Tim Deeg inquired as to whether or not the purchase of the flowmeter should be listed as an asset, and it will be. The audit was discussed and it will be done bi-annually. It is more cost effective to have the auditor do two years. The fiscal year for the water district is thru October 31st. A discussion was revisited regarding the equipment purchase from 2011. The equipment was purchased by water district 1 and reimbursed by water district 120. No equipment will be purchased in 2012. Richard Line motioned to accept the financial report, Dane Watkins seconded and financial report is approved.

Jim Bitzenburg presented the watermaster report. He introduced himself and talked about his duties with IDWR and water district 120.

Of the 119 wells on his list, 106 were actually measured, 9 were too complicated not functioning at all and the remaining wells were not running at the time of the visits. The 1/3 protocol for the year was met. Jim is working with the State Office in Boise to ensure that flowmeters are installed on these wells with equipment that is not functioning. Jim is also working on licensing for IDWR and making sure all wells in Water district 120 are accounted for and documented in WMIS. Goals for 2012 are to finish data entry, inventory new wells and visit all wells that are scheduled for measurement in 2012. Jim has been doing ground water measurements on sites that used to be measured by USGS. Levels vary depending on where the site is located and also what kind of water supply existed for the relevant year. The upper snake reservoir chart shows Palisades at 86% of full, Jackson Lake  $\frac{3}{4}$  full, Island Park is 81% of full, Henry's Lake is almost full, and American Falls is  $\frac{3}{4}$  full. There was a slow snow pack melt last year, coupled with a warm winter which helped the water situation. Most of the streams and rivers are flowing above normal, compared to previous years. Most recent snow/water equivalent maps show water supply is looking decent for the year, however, not quite at normal levels. Bear River is low compared to previous years. Precipitation forecast for February through April appears to show average or above average outlook for that time frame. Dane Watkins motioned to accept the Water supply report, Stephanie Mickelson seconded and the water supply report is passed.

Resolutions for 2012 were reviewed. Changes were made to reflect the New Year. A correction was made to Resolution #10, 0.05 should read 0.04. Other changes are as follows:

Resolutions for 2012 were reviewed. Dates were changed to reflect the New Year. After much discussion regarding well charges and administrative charges, income changes recommended were:

- 1) Resolution #5a will be reduced from \$75 to \$60 per diversion
- 2) Resolution #5c will be reduced from 0.05 to 0.04 per AF for administrative purposes

Election of advisory was next on the agenda. Tim Deeg proposed that members remain the same, with a few changes. The proposed changes are as follows:

- 1) Marshall Jensen was nominated to committee
- 2) Neal Powell was removed as an alternate and replaced by LaVerelle Stecklein
- 3) Ron Harwell was removed as a committee member
- 4) Neil Morgan was nominated to replace Ron Harwell
- 5) Lance Gardner was nominated as a committee member
- 6) LaVerelle Stecklein was moved to an alternate member

A motion was made to accept the committee members as nominated and with changes. Marla Tribble seconded and the committee members are passed without opposition.

Tim Deeg gave the chairman report. There weren't any mitigation obligations for the past year due to a great water year. The district should be hearing from the Director sometime mid April with any mitigation obligations that are anticipated for the upcoming year. Idaho ground water appropriators do have water leased for the upcoming year if the need arises. Also the district has leased water from the state of Wyoming on a contractual basis. It will be available for purchase if the need arises. The district is working closely with Twin Falls Canal Company in trying to determine what kind of projects may help

them save water and help decrease the mitigation obligation to them in the dry years. A study was conducted to further this project. Acquiring water is difficult in dry years and it is a priority to have something in place for those years. The ground water users have acquired three large fish facilities from the Hardy family. There are four ground water districts that have purchased the facilities, bonding has been completed, funding is in place and all documents seem to be in order. The water resource board has 33 million dollars in the bank for the district to draw on and will be used to pay the Hardy family for the facilities. The actual purchase price was 30 million. It has taken a lot of time and effort for this sale to be completed. The facilities are fairly large in size and range from 120 cfs of water to upwards of 200 cfs. There is a total of about 423 cfs of water that the three facilities use. One facility is Clear Lake, one is Blue Lakes and one is Rim View. The ground water users will be leasing two of the facilities. The Clear Lake facility was part of an exchange with Clear Springs that fulfilled a mitigation requirement. This is part of a mitigation plan that hopefully will take care of any delivery calls that may affect any water user that is a member of IGWA. There is a potential of having a significant obligation to Clear Springs and with the exchange of this facility, the obligation will be greatly decreased. The exchange also ensures that a delivery call can never be made on any facilities that they lease, own, or acquire in the future. Clear Springs is the largest fish producer in the state. Other options were looked at and this plan is the most cost effective and in the best interest of all water users. The four districts that were involved in the bonding process and have rights are, Lower Snake, Magic Valley, AF-Aberdeen and Bingham GWD. This is a one of a kind transaction and the first time in the United States an exchange like this has taken place. Costs, interest rates, bonding and other aspects of this transaction were discussed and all questions were addressed.

James Cefalo discussed other business which included where IDWR is dedicating its efforts. The adjudication is 99% complete, only 1% of claims are still out there. With that almost complete, IDWR is focusing on a backlog of licenses that have been in a holding phase. The permits have been developed and now need to be finalized as some go as far back as the 1980's. IDWR will be doing field exams this summer for permits that have approved and need to be examined for licensing. Aerial photography for 2011 is available and IDWR will be looking at this and addressing any violations that need to be addressed.

Tim Luke, with the Water Management department in Boise introduced himself and spoke of his duties within the department. He is the Bureau Chief of Water Compliance. He addressed violations that are ongoing and are being looked at for possible penalties. He spoke of an order that went out for WD140 regarding standards for flowmeters. Last year was the first year for compliance of this order. Extensions were granted for those that were unable to comply. Idaho Power disclosure agreement was discussed. They do not want their records disclosed to the public. IDWR is not required to sign such an agreement, however, the ground water districts will be asked to sign. If a user comes in and requests his or her individual information, it should be provided. They can also go directly to the power company. If another agency requests information, the data can be provided, without a name. The specifics and/or concerns from individuals can be addressed with the legal department at IDWR in Boise. Over the winter, a water measurement district was created in the Upper Big Wood River, Camas ?? It is just starting up so people will be submitting measurement plans for this area. They will also have to be



within department standards for magnetic flowmeters or show the PCC method is accurate. Lists were sent last fall to groundwater districts identifying people that have groundwater rights and wells that are outside of the GWD boundaries. They will need to participate for mitigation purposes with the GWD.

Tim Deeg discussed the need to be aware of people using water outside of their water right. He reminded attendees that it is a crime against the state to violate the laws regarding water use.

Tim Deeg asked for a motion to adjourn. Lance Gardner motioned to adjourn, Stephanie Mickelson seconded and the meeting adjourned at 2:50.

## **APPROVED RESOLUTIONS**

**Water District 120  
2012 Resolutions**

1. That the watermaster perform the duties as required by Chapter 6, Title 42, Idaho Code and in accordance with:
  - 1) The duties described in the Final Order Creating Water District 120, signed by the Director of the Idaho Department of Water Resources (IDWR), February 19, 2002, including:
    - a) Curtail illegal diversions;
    - b) Measure and report the diversions under water rights;
    - c) Enforce the provisions of the stipulated agreements approved by the Director, and;
    - d) Curtail out-of-priority diversions determined by the director to be causing injury to senior priority water rights if not covered by a stipulated agreement or a mitigation plan approved by the Director.
  - 2) Direction and guidance provided by the Director of IDWR pursuant to Idaho Water Law.
  - 3) The annual water district resolutions as adopted herein.
2. \_James Cefalo be elected the watermaster for Water District 120. That the Director of IDWR appoints \_James Cefalo, an employee of IDWR, to provide watermaster services for the ensuing year.
3. As provided in Idaho Code § 42-608(4), the watermaster shall serve throughout the entire year after election at this meeting and upon appointment by the Director.
4. The water users of Water District 120 hereby empower the elected advisory committee to enter into a Memorandum of Understanding between the Water District and the Director of IDWR that will provide for the following:
  - a) Compensation of the watermaster and all related water district expenses for the 2012 fiscal year shall be provided by the water district.
  - b) The budget for Water District 120 for the ensuing year will be set at this annual meeting in resolution 10. Appointment of a district treasurer for fiscal year 2012 will occur during a regular or special meeting of the advisory committee of Water District 120 before assessments from the water district are sent.
  - c) The watermaster shall maintain an office for the ensuing year within the IDWR Eastern Regional Office, located in Idaho Falls, Idaho.
  - d) IDWR will provide office space, vehicles and the use of all necessary office and field equipment in exchange for compensation as set in the 2010 budget. This arrangement shall not give Water District 120 any ownership interest in any IDWR office space and equipment. However,

equipment purchased by Water District 120 will remain owned by Water District 120

- e) Districts identified in item 6 are expected to fund, at their own expense during the 2012 fiscal year, personnel and equipment necessary for measurement and reporting of diversions within these districts.
5. Diversions in Water District 120 that are not already measured by one of the districts identified herein and also have a diversion rate allowed by their water right in excess of 0.24 cfs shall be measured directly by the water district in the ensuing year and assessed for measuring and reporting at the following rate;
- a) \$\$60 per diversion
  - b) Per AF charge for measurement of \$0.60
  - c) \$\$0.04 per AF for Administrative purposes
6. Water District 120 includes one or more ground water districts, irrigation districts or other geographical areas where the source of water or nature of water use is common among water right owners and users. The following ground water districts and irrigation districts may already be measuring and reporting diversions on their own to promote efficiency in the administration of water rights and water management.
- 1) Aberdeen-American Falls Ground Water District
  - 2) Bingham Ground Water District
  - 3) Bonneville-Jefferson Ground Water District
  - 4) Falls Irrigation
7. These districts designated above may have employees who measure and report diversions to the water master of Water District 120 and IDWR. The water master of Water District 120 may therefore appoint employees or agents of these districts as assistant watermasters for purposes of measuring and reporting water use to the watermaster of Water District 120. The water district watermaster and the Director of IDWR will provide direction and guidance to assistant watermasters for measuring and reporting of diversions in these districts, including but not limited to the following:
- a) Each district responsible for data collection shall provide an annual report of diversion data to the water district watermaster in accordance with Idaho Code § 42-606, § 42-708, § 42-709, and the direction provided by the Director of IDWR.
  - b) Assistant watermasters shall cooperate and coordinate with the water district watermaster and IDWR in sharing water use information.
  - c) The regulation of diversions, including curtailment of diversions and other water right enforcement actions, shall be the primary responsibility of the water district watermaster and IDWR.
  - d) The designated districts will first be given the opportunity to resolve unauthorized diversions, or other enforcement matters before action is taken by the watermaster or IDWR.

- e) To the extent that assistant watermasters may otherwise be involved in the regulation or enforcement of diversions, such involvement will be under the instruction of the watermaster and the Director of IDWR.

8. WHEREAS, the water district meets in regular annual session, as provided by state law, and;

WHEREAS, an advisory committee shall be elected at each regular annual session to represent the interests of the water users and to provide input to the watermaster and the Director of IDWR, and;

WHEREAS Idaho Code 42-605 provides for voting by water users and election of an advisory committee,

BE IT RESOLVED that the credentials for voting in any district meeting and for serving on the district advisory committee will be as follows:

- a) The advisory committee shall consist of 11 members, of which no more than 3 of these shall represent non-irrigation water users. And be it further resolved that when available there shall be at least three committee members from both the Aberdeen-American Falls Ground Water District and the Bingham Ground Water District and at least two committee members from the Bonneville-Jefferson Ground Water District.
- b) Must be a water user of the district as evidenced by a valid water right or an assessment for water delivery the previous year.
- c) Must have paid all assessments owed to the water district.

9. BE IT RESOLVED that the Water District 120 budget will be approved for a fiscal year that begins November 1 and ends October 31.

BE IT FURTHER RESOLVED that the Water District 120 advisory committee shall hereby be authorized to adapt an interim water district budget for the period between November 1 and the next annual meeting.

10. WHEREAS, Water District 120 is self-sufficient and responsible for all costs incurred,

BE IT RESOLVED that the budget for fiscal year 2012 be set at this annual meeting as follows: See **Attached**

BE IT FURTHER RESOVLED that the stated budget represents an assessment of \$0.05 per acre-foot for the average yearly water use for the period between 2006 and 2010. Also included is the measurement assessment as stated in resolution 5 and a \$25.00 per diversion minimum assessment for those diversions that are in

the water district, not measured by the water district or any other entity, and have an allowed diversion rate below 0.24 cfs but not including domestic water rights as described in Idaho Code §42-111.

All payments for assessments not received by May 1, 2012 shall accrue penalties in the amount of 10% of the charge and interest in the amount of 1% per month, as provided pursuant to Idaho Code § 42-617.

11. The annual Water District 120 meeting shall hereafter be held on the second Monday of February, of each year unless the Director of IDWR or the Water District 120 advisory committee should find it necessary to change the meeting date or unless changed by resolution of the district at any annual meeting.
12. 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 in accordance with Idaho Code § 42-617.
13. The watermaster of Water District 120 shall be responsible for submitting to IDWR annual reports showing water use and such other information that may be deemed necessary by the Director of IDWR in accordance with Idaho Code § 42-606, § 42-708, and § 42-709.
14. The watermaster and assistant watermasters are authorized under Idaho Code § 42-1701(5) to make reasonable entry on lands within the district to carry out the duties of the watermaster as instructed by IDWR. These duties include but are not limited to:
  - a) Monitoring diversion and measuring rate and volume of water diverted from ground water and other public water sources.
  - b) Measuring the depth to water in wells.
  - c) Monitoring the place, period, and nature of use of water to identify unauthorized diversion and use and to determine compliance with mitigation provisions required by agreement or order of IDWR.
15. WHEREAS some small diversions would have regular assessments less than the amount required by the Water District to maintain their account,

WHEREAS many of these small diversions are not currently measured by the Water District, ground water districts, or the irrigation district,

WHEREAS measurement of diversions smaller than 0.24 cfs that irrigate 5 or less acres is cost prohibitive and the water use for many of these diversions can be estimated.

BE IT RESOLVED that Water District 120 will have a minimum charge of \$25.00.