

MINUTES OF THE REGULAR MEETING
OF THE WATERUSERS OF THE BLACKFOOT RIVER WATER DISTRICT #27
OF THE STATE OF IDAHO
HELD AT THE BINGHAM COUNTY COURTHOUSE
BLACKFOOT, IDAHO
JANUARY 9, 2012

Advisory committee chairman Rob Reid called the annual meeting of Water District 27 to order at 1:03 p.m. January 9, 2012.

Layne Hamilton nominated Bob Reid as meeting chairman, and Marvin Yancey nominated Wendy Murphy as meeting secretary. The motions were seconded and were unanimously approved.

Minutes of the meeting held January 10, 2011 were presented. Mark Pratt moved to accept the minutes as written; Gary Wright seconded, and the minutes were approved as written.

Robert Keller, Water District 27 Deputy Watermaster, provided a brief overview of the last season. The spring and winter of 2011 were wet and cold, but the summer months were dry and hot. Snotel graphs for Somsen Ranch and Slug Creek represented a slightly above normal snowpack. Fort Hall diversions totaled 171,000 acre-feet and the North Side Users diverted 55,435 acre-feet. The Management Plan used in 2011 indicates a process to determine "Basin 27 Primary Volume", water usage allowed to divert ahead of the Tribes' water right 27-11375. After adjustments are made to remove Corbett Slough return flows, Snake River Water, Flood Water, and diversions when Fort Hall is not diverting (4.i of the Management Plan), the "Primary Volume" was calculated to be 12,542 acre-feet for 2011. This was the second year Interim Administration occurred based on the adjudicated water rights. This was a high water year and the reductions for Corbett Slough Snake River return flows were higher than other years. Improvements made this year included the installation of pressure transducers. Rob brought information to the water users regarding a new permit requirement from EPA. Rob also mentioned there are a couple of water users who have yet to comply with the Headgate Order. They are in violation and the attorney general's office will be involved with bringing them into compliance.

Lyle Swank stated 2011 was the most unusual runoff year we have ever had. It was a record year for late season runoff largely attributed to the La Nina year. The NRCS is showing the Willow Creek, Blackfoot, and Portneuf area for snow water equivalent at 55% of normal. The Blackfoot Reservoir content as of December 2011 was 273,700 acre-feet which is about 78.5% full. The NRCS is going to update the 30 year average shortly. The wetter 1970's decade of data will be dropped and the more recent drier 2000 decade year's data will be added.

Wendy presented the 2011 financial report for Water District 27. The checking account balance as of December 31, 2011 totaled \$14,017. The Accounts Receivable balance was a credit of \$157 to be credited to water users for their 2012 assessment. Liabilities include IDWR of \$218.96, and a credit from WD1 of \$8.94. The profit and loss budget comparison was also presented. The 2011 income budget was \$42,325; actual income from assessments was \$42,325. Additional

income was received from interest of \$37. The Water District 1 contract was budgeted for \$36,000; actual expenditures were \$35,950. Measurement Equipment was purchased this year for \$678, which was budgeted at \$2,000. Mileage was budgeted at \$4,000 and expenditures totaled \$4,102. The total expenses of the district were \$40,731. The net income for the year was \$1,631. Wendy also presented the proposed budget in resolution 2. Tom Blotter motioned to approve the financial report as presented. Layne Hamilton seconded the motion and the motion carried.

Bob Reid read the names of those advisory members who served this last year. It was noted that David Bollinger is the advisory member to represent BIA for Water District 27. Bob Reid opened the floor for nominations for the lower end of the Blackfoot River advisory member. Layne Hamilton nominated Marvin Yancey for the lower end and moved to cease nominations. Harvey Coffman seconded the motion, hearing no objections or further nominations Marvin Yancey was elected by acclamation.

Bob Reid opened the floor for nominations for an advisory member for the middle of the lower end of the Blackfoot River. Layne Hamilton nominated Mark Pratt. Marvin Yancey moved to cease nominations; the motion was seconded and Mark Pratt was elected by acclamation.

Bob Reid opened the floor for nominations for an advisory member upper part of the lower Blackfoot River. Marvin Yancey nominated Bob Reid. Layne Hamilton moved to cease nominations, the motion was seconded and Bob Reid was elected by acclamation.

Nominations opened for the upper Blackfoot River above the reservoir. Mark Pratt nominated Trish Arvey. Layne Hamilton moved nominations ceased, it was seconded and Trish Arvey was elected by acclamation.

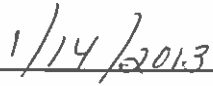
The 2012 Resolutions were presented by Lyle Swank. Question was raised about how the watermaster implements in regards to the investigations referenced in resolution 2. It was stated the watermaster meets with the advisory committee to discuss solutions and obligations. Mark Pratt made a motion to approve the resolutions. Marvin Yancey seconded and the motion passed.

Marvin Yancey provided an adjudication update. He recapped the Committee of Nine proposal offered a year ago, and the Basin 27 North Side Users response. Marvin indicated the adjudication court Judge Wildman issued a Notice of Decision on June 3, 2011. In the decisions the judge stated 1) the 45,000 acre-feet referenced was not intended to be a cap or limit on the qualifying non-Indian water rights, and that the rights are protected; 2) there are genuine issues existing to whether the 45,000 acre-feet had been exceeded but if exceeded, the tribe is entitled to an equitable adjustment; 3) solutions to the equitable adjustment are broader than the 27-11375 rights outlined in the agreement, and the Blackfoot River. The current negotiations involve identifying a solution for the equitable adjustment. The first step is to conclude how the primary volume will be calculated and if averaging can be used, then move toward the equitable adjustment when the volume is exceeded. The court will determine what equitable adjustment means if mitigation efforts can't identify the solution. The Committee of Nine would like to focus on never creating a need for an equitable adjustment. Dave Shaw was present and discussed the domestic and stock issue. The rights are protected but the question is whether they should be counted toward the equitable adjustment. Dave felt negotiations are working toward an

agreement where the domestic and stock rights are not counted toward the equitable adjustment. Layne Hamilton noted that the management plan is agreeable; it has not been signed because of the equitable adjustment issue.

Old Business: The Tribes objections on the water rights for volume limitations have been withdrawn from the adjudication court. There are only a couple of outstanding objections to water rights on the Blackfoot River. With the exception of the basin wide issue of the equitable adjustment most other issues have been resolved and rights are moving toward being adjudicated. There being no further business Layne Hamilton moved to adjourn the Water District 27 Annual Meeting, the motion was seconded and the motion passed. The meeting adjourned at 2:30 pm.


Wendy Murphy, Secretary


Dated

Water District 27 Year 2012 Resolutions

1. BE IT RESOLVED that the annual Water District 27 meeting shall hereafter, or until changed by further resolution of the district, be held on the second Monday of January of each year unless the director and advisory members should find it necessary to change the meeting date. The next annual meeting is to be held January 14, 2013.
2. BE IT RESOLVED, that it is the watermaster's responsibility to apply the best available methods and technology to assure accurate deliveries of natural flow and stored water, consistent with regulatory procedures and the availability of the water supply; that he maintain accurate records of water delivered to each water user.

That, the watermaster shall accurately allocate the expenses of delivering water of the district to each ditch, canal company, irrigation district, or other water user as provided by law; and that he shall prepare the annual watermaster's report required by Idaho Code 42-606 and a proposed budget for the succeeding year as required by Idaho Code 42-615.

BE IT FURTHER RESOLVED that:

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 water users in Water District 27, or assure better and more current data.

The Watermaster will adjust the headgates of all natural flow rights. The Fort Hall Project Manager or his designee will adjust the central gates of the Blackfoot Reservoir, the equalizing reservoir, the Little Indian Canal, and the North and Main Canal headgates. The Watermaster will be duly advised of all changes made in the gates regulated by the Fort Hall Project Manager or his designee.

Lyle Swank be elected watermaster for the ensuing year, and be authorized to appoint deputies and hire 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.

Alan Kelsch be elected Water District 27 Treasurer.

The duties of the watermaster and treasurer shall continue until the next annual meeting.

The budget for Water District 27 for the 2012 year beginning January 01, 2012, and continuing until the annual meeting in 2013, shall be as follows:

Water District 27 2012 Budget

Expenses	Budget	Notes
Water District 1 Contract	\$38,000.00	
Travel	\$4,200.00 ¹	
Total WD1 Expenses	\$42,200.00	
Website	\$ 325.00	
Measurement & Reporting Equipment	\$1,500.00	
Total to Assess	44,025.00	

3. WHEREAS, it is the watermaster's responsibility to assure the proper delivery of water to all water users, and

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

NOW, THEREFORE, BE IT RESOLVED that the watermaster of Water District 27 is hereby authorized to assess a \$42.00 minimum charge for every point of diversion within his jurisdiction.

4. WHEREAS, the water users of Water District 27 meeting in regular annual session find it necessary to confirm the continuation of the following "on-going" resolutions which direct the watermaster and the treasurer of the district in certain aspects of Water District 27 operations;

NOW, THEREFORE, BE IT RESOLVED that the budget of Water District 27 adopted at the annual meeting shall become the basis for the aggregate amount to be collected from all water users in the district for the current year based upon historical average delivery to each user. Debits and credits for the preceding year will be added to the current approved budget before assessments for the irrigation season are made.

It is hereby agreed that the natural flow users shall pay 40% of Water District 27 Budget, and that the Fort Hall Project shall pay 60% of said expense. The rate of assessment per 24 hour second feet shall be computed in accordance with the above proportions.

No water shall be delivered to any delinquent water user until all delinquencies have been paid, and no water shall be delivered after the first day of June, 2012, until the current year's assessment has been paid: Provided that assessments in excess of \$100.00 may be paid in installment of 1/3 of the total assessment, less any credit due previous years, on the first of May 2012, and 1/3 of the total assessment on the first of July 2012. The balance of the assessment shall become due and payable upon approval of the Watermaster's report by the Director of the Department of Water Resources for the state of Idaho, as provided in Section 42-614 of the Idaho Code.

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

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

That copies of the minutes of the annual meeting, the approved budget, and related resolutions, shall be filed with the Director of the Department of Water Resources in accordance with Idaho Code 42-612 and 42-617.

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

WHEREAS, there are, from time to time, decisions related to water district contracts, or policies that may not have been specifically addressed by resolution at the annual meeting;

NOW THEREFORE BE IT RESOLVED that the advisory committee of Water District 27 is authorized to take such actions as they, by consensus deem necessary and appropriate to fulfill the duties for which the district was created.

6. WHEREAS Idaho Code 42-605 provides for voting by water users and election of an advisory committee, the water users of Water District 27 hereby resolve that the credentials for voting in any district meeting and for serving on the district advisory committee will be as follows:

- 1) The advisory committee is to consist of 5 members, geographically distributed to represent the interests within the district.
- 2) Each advisor must be a landowner and water user within the boundaries of Water District 27; except for the Designated Representative from Fort Hall.
- 3) Must have paid all assessments owed Water District 27.

IT IS FURTHER RESOLVED that this resolution shall continue from year to year

until repealed or changed by the water users.

7. ACCEPTANCE BY THE UNITED STATES INDIAN SERVICE

BE IT RESOLVED that adoption of all resolutions become effective with respect to the Fort Hall Project and all water distributed to the Fort Hall Project from any source, when the Fort Hall Irrigation Project Manager has affixed his signature.

Bob Reid, Chairman
Blackfoot River Water User's Association

David Bollinger, Irrigation Project Manager.
Fort Hall Agency

Approved and accepted this 9th day of January, 2012.