



Meeting Minutes - July 19, 2023

The meeting of the commission was called to order by Chairman Lew Pence at 1:01 pm.

Present:

Commissioners

Brent Reinke – Twin Falls County
Ron Buhler – Gooding County

Commission Members

Lew Pence – Chair - Gooding
Gale Kleincopf – Vice Chair – Twin Falls
Bethany Muffley – Acting Ex Director
Dan Suhr - Jerome
Arlen Morgan – Jerome P&Z
Kerry McMurray - Cassia

Agency

Nicholas Howell – DEQ – Twin Falls
Steve Hines – UofI Extension - Gooding

Prospective Member

Jason Parker – Tri Counties Nox Weed Dept

Lew Pence began the meeting at 1pm and asked if there were any changes or corrections to the minutes of the previous meeting. The minutes were approved with a motion made by Dan Suhr and seconded by Gale Kleincopf.

Lew asked Bethany Muffley for the bills since the last meeting. Bethany indicated that bills include her compensation of \$550.00 and milage along with mileage reimbursements for members who are present. Bethany also requested reimbursement for the hearing notice in the Times News (\$112.03) and Courier (\$120.00). A motion was made by Gale and seconded by Arlen Morgan to approve.

Lew asked if there had been any correspondence since the previous meeting and Bethany relayed interactions with Michelle Capps (Superintendent of Murtaugh Joint School District) and the advice she gave on reaching out to schools with an offer to deliver presentations as outreach. She suggested producing something that could be delivered to students at the fourth-grade level when they take part in Idaho History, as well as students in ag-based classes. Lew mentioned working with DEQ and NRCS in the past to develop outreach materials and suggested reaching out to agencies to help create a professional look. Nic Howell (DEQ) indicated that we could reach out to him with thoughts and collaboration. He also mentioned that they do have a graphic design team in Boise, but he would need to reach out to upper management to get the ok on assisting with content generation. Steve Hines suggested reaching out to water resources faculty with CSI to help develop a curriculum in the form of a Train the Trainer type of course that could be presented to teachers who are required to attend courses for recertification credits. He mentioned that if we could put a program together during the summer for the Magic Valley, and invite all the Ag and Fourth Grade Teachers in the valley, that it may be a good way to introduce them to the topic, and get them teaching it within their classrooms. He also explained that when teachers take recertification courses, they must generate a write-up of how they will incorporate the topics they learned into their curriculums. He indicated that this could be a way to directly market ourselves to the people we are trying to reach. Steve explained that teachers have to get recertified every 5 years, and

within that time frame, they need to earn a certain amount of credits. He also indicated that teachers want to find local credit offerings so it may be a desirable training for many to attend.

Additional correspondence received was from Garth Taylor (U of I - Retired). Bethany reported that he had originally been scheduled to present for the group in March and she asked him if he would be available to present at an upcoming meeting. Garth requested that the commission cover his flight expense since he is now retired from the university. Steve relayed that Garth is an economist and has a presentation that looks at the overall water picture within the Western US. Steve indicated that it will also look at Idaho more specifically in the economics associated with water. Steve also mentioned that even though Garth is retired, he wants to stay involved in the research, as well as continue to assist in updates to our economic section. Dan made a motion to cover the cost of the flight, Arlen seconded. Arlen recommends that we push to get commissioner attendance when Garth comes down to present.

Bethany also had correspondence with Wesley Hipke (IDWR Water Projects Section Supervisor) and Deborah Wilson (Magic Valley Land Trust). Both indicated a willingness to interact with the commission as well as come in to speak with us later in the year. Bethany also sent out reminders to Cassia and Jerome County executive committee members that 2022-23 assessments have still not been received, and worked with Lincoln County on the refund of an over payment amount of \$1,392. A motion to refund this amount was made by Dan, seconded by Kerry McMurray.

Lew brought up the topic of the ICL letter and asked if the group was in agreement to send the response, and also if anyone wanted to add or take out content. Gale indicated that he thought it was fine and didn't have a problem sending it as is. He also went on to express that ICL spends their money in a way that presents information for the purpose of causing concern, but they don't acknowledge current research when they are doing this. Bethany asked if that means they are presenting problems as finger pointing and not offering solutions? Dan suggested that they have no vehicle to offer solutions, but they can put pressure on different government agencies, however, they do not have clout as far as enacting a plan. Arlen expressed that they are primarily a media influencer. Lew expressed the thought of adding something to the letter that points them to the website and indicates what we have accomplished over the years to improve water quality. Arlen mentioned that what he doesn't like from this group is that they haven't recognized all the new regulations that have been put in place by the department of Ag in the last 10 years, and how hard people have worked at improving things like installing settling ponds in different irrigation districts and the conversion to pivots to decrease the amount of waste going into the Snake River. Lew also added to that thought that these actions by farmers did take money out of their pockets, and programs like cost shares helped with that. Lew asked the group if we need to talk about this letter further or just send it. Gale expressed that the only thing ICL is trying to gain with the letter they sent out was creating a public outburst to collect funding, so he doesn't think we will hear anything from them anyway. The group indicated that we send it out with a motion by Arlen and second by Gale.

Lew asked for a follow-up on the status of Plan printing. Bethany indicated that she has been having to reformat the plan and it has been taking quite a bit of time. She would like to do one more final edit for grammar and would finish that up shortly. She did ask if the commission wanted to keep the same style of print and asked if we could make it two sided instead of one. Lew suggested we make it two sided and that it might make it cheaper. Bethany was instructed to reach out to Minidoka to see if they are planning to make a commitment to rejoin the commission and add them back into the plan before print. Bethany also indicated that she sent ballots for 2023-24 budget approval and commitments to all

executive members (including Minidoka) and has only received responses from Gooding and Lincoln at this time. Kerry reported that this information doesn't always make it to the people it should so he asked to be CC'd on those emails so he can make sure they get a response. Arlen reported that he did reach out to his county about past due assessments, but reminders are beneficial.

Lew introduced the next topic on feedback for the strawman document by Paul Arrington which Commissioner Brent Reinke introduced to the group. Brent indicated that there is going to be a lot of work on the document between now and when it will be presented to legislature, and that he would like to see our group participate in the development of it with the valuable input we would be able to provide. Brent reported that he was in a meeting yesterday discussing this legislation, and he presented a handout to commission members with a summary of comments that came from the counties who participated in this meeting (included at the end of this document). He indicated the comments were drafted last night by Seth Briggs (Administrator for the Idaho Association of Counties) and that it provides a fresh look at areas which intersect with planning and zoning, the Land Use Act, and the responsibility of the county commissioner versus the Director of the Dept of Water Resources. He reported that there is a section in it which gives a significant amount of authority to the Director of Water Resources and there are a lot of counties that don't want that to happen. He indicated that in a meeting yesterday, it was discussed that they were in agreement that none of them have the scope or ability to try to determine how a particular action in one area will affect the outcome in another, which indicates a tremendous need for input from as many people as possible to help provide the level of expertise needed to help form those decisions. He also indicated that they are having a series of meetings where these comments are being generated and discussed in relation to the variety of topics. He mentioned that a lot of these topics will be "flushed" out as we continue to address them moving forward. He reported that at the meeting they looked at the key points previously outlined and the handout was generated that included a summary of what the group felt as pertinent, as far as the counties were concerned. This summary will be sent to Paul Arrington on Friday. Brent went on to describe the strawman as a lump of clay that is being formed into a final product, and that it will take more than one session to develop it because there are areas that are really challenging. He indicated the handout as a useful guide to understand the intent and the goal the legislation is meaning to accomplish. With the comments that Paul will be getting on Friday, he will most likely be generating another draft that will be further discussed. Brent indicated that this document is such a work in progress that as versions of it are generated, the more clear it will become. Brent also expressed that it may not be as important for the commission to have comments yet, but that it is important for the commission to keep expanding our knowledge in its development. Brent reported that there are 10 to 11 other organizations that Paul is trying to get input from to ensure some kind of consensus before going to the legislature. Brent continued to say that there are going to be a lot of things that the Governor's office is not going to like and that will all need to be fleshed out as we move forward. He reported that the strawman has not gone to legislative services yet and that it's an important document to get right because it will need to be sponsored in the senate and house in order for it to start running through legislative services where they will "weed out" sections that could be in conflict with other areas of code. Brent expressed that if we have feedback, he will be able to pass that along in upcoming meetings. Lew agreed that this is important and that as a state, he thinks we are way behind the curve on getting a handle on water quantity issues. Brent offered that from what he has been told, we are still ahead of Arizona, Colorado and Utah in what they are acting on right now because they are in the same situation and still trying to figure out what is next and how it is going to work. Dan indicated that state law would need to change in

relation to location of rural subdivisions and the use of groundwater for domestic purposes because one wouldn't have the authority put those regulations in place. Brent agreed and indicated that all these issues are part of the challenges they are facing right now from a landuse perspective and in understanding who has the authority to do what. Brent expressed that if we don't have the legal authority to deny an approval for a subdivision, that could open the county to litigation, and that is a challenge he expressed facing in the last 4 subdivisions they had to approve. Dan indicated that counties are trying to push for these subdivisions to use central water systems but expressed that they aren't going to use any less water than if they had private wells. Brent explained that the goal is be able to monitor the use. Dan offered that a simpler solution would be to monitor each individual well by installing meters and requiring them to report, just like they currently do with irrigation. Dan indicated that he sees the other as a means to take away property rights and that he has always had an issue with that. Gale added that he hopes one of the goals in the process is to clarify all the situations that need to be addressed before it goes to the legislature because this could be something that could be taken to court, and he worries that it would stop the discussion at the local level. Lew finished with a comment that this piece of legislation is going to be interesting as it develops and that we will need to keep current on it.

Bethany introduced a video the Wesley Hipke (IDWR) indicated as one that could be shown to give an overview of recharge activities in the Eastern Snake River Plain Aquifer. She indicated it was from 5 years ago, so many may have watched it already. Video Title: New Era in Water Management in the Eastern Snake River Plain <https://youtu.be/T15SK-A3erg>. After watching the video it was agreed that much of the information was already dated. Bethany mentioned that Wes had indicated he or another staff member at IDWR would be willing to present on any topics the commission is interested in. Lew indicated that he does have questions and he is certain that all would like to hear an update.

Lew asked for any other business, hearing none, Dan Suhr gave the motion to adjourn, and Arlen seconded it. The meeting was adjourned at 2:23pm.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Bethany Muffley', written in a cursive style.

Bethany Muffley, Executive Director (Acting)

Handout presented at meeting by Commissioner Reinke

42-111: No Comments

42-227(4): IAC is concerned about the new language in (4) preempting the planning and zoning authority of county commissioners who ultimately bear responsibility for approving developments/making land use decisions. In lieu of the proposed language in paragraph (4), we propose requiring IDWR to provide information related to availability of water for a proposed subdivision or well site to county planning and zoning staff and county commissioners which would enable them to make a better land use decision for the local site.

42-1805(7): Same concern as with 42-227(4) related to the authority of the director of IDWR over the planning and zoning decision making authority of county commissioners.

42-XXXX: IAC understands the need to establish a mitigation framework to enable development of community water systems to provide a tool to enable development of rural subdivisions with water systems. That being said, the proposed language does not provide enough clarity as to the authority of the water board to accept mitigation fees, the framework for determining the amount of such fees, the use of such fees, and the administrative costs to the department for administering such fees and mitigation efforts.

31-805 and 67-6537: IAC is concerned about potential conflicts between 31-805 and 67-6537. While 67-6537 provides intent language, it establishes no direct requirement for surface water from an irrigation district, canal company, or other irrigation water provider to continuing being used on the applicable land for irrigation purposes; whereas, the amendments to 31-805 appear to establish the requirement. If the amendments to 31-805 are adopted, is 67-6537 still necessary?

67-6508(3)(c): Cities do not have jurisdiction within the area of city impact (See Ada County v Blaha). The entire paragraph (ic) should be deleted. There should be two processes only. One for subdivisions within city limits and one for subdivisions outside of city limits.

67-6508(f): The purpose of the proposed addition is to ensure that domestic water availability are front and center in the planning and zoning process. Counties would oppose adding the language to 67-6508(h) as suggested by the comment from Radek. The reason placing the language under 67-6508(h) is inappropriate is because that paragraph speaks to publicly provided facilities and utilities. Counties are not public water providers. Counties are concerned that if the language is included within 67-6508(h) it could create an expectation that counties operate rural water system which counties are not equipped to administer. We would be open to including a new paragraph title "Water Use" as Mr. Steensen has proposed as long as it doesn't establish the requirement for counties to become a domestic water provider.