

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE LEMHI RIVER BASIN

RESOLUTION FOR STEPS NEEDED TO
EXERCISE THE LEMHI AT MCFARLAND
MINIMUM STREAM FLOW

1 WHEREAS, the 2021 Idaho Legislature adopted House Concurrent Resolution 21, which
2 directed the Board to continue to work expeditiously with local water users to complete a
3 comprehensive settlement that resolves current tensions and conflicts over the use of Lemhi
4 Basin high flows; and

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6 WHEREAS, in 2021, the Idaho Water Resource Board, Idaho Department of Fish and
7 Game, Idaho Office of Species Conservation, and Various Lemhi Basin Water Users signed the
8 Lemhi River Comprehensive Settlement Agreement (Agreement); and

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10 WHEREAS, the Agreement creates a comprehensive process for 1) resolving protests to
11 pending applications for permits, 2) appropriating water rights to establish protectable water
12 rights for the existing high flow practice, and 3) appropriating instream flow water rights on
13 certain streams for fish passage, spawning, and rearing; and

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15 WHEREAS, on February 24, 2022, the Board approved the Agreement by resolution; and

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17 WHEREAS, participation in the Agreement is voluntary; and

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19 WHEREAS, as part of the Agreement, the 2022 Idaho Legislature enacted 42-251(2)
20 Idaho Code, which allows Lemhi irrigators who hold irrigation rights decreed in the SRBA and
21 who use Lemhi Basin “high flow” to file an application for permit with the department of water
22 resources to convert such use into a protectable water right on or before July 1, 2024, and
23 these protectable water rights are known as streamflow maintenance water rights; and

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25 WHEREAS, as part of the Agreement, the 2022 Idaho Legislature enacted 42-1506A,
26 Idaho Code, which authorized the Board to appropriate a minimum stream flow water right on
27 the Lemhi River at the McFarland Campground (McFarland MSF) in the amount of 420 cfs; and

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29 WHEREAS, the McFarland MSF may be exercised two out of every five years, and the
30 exercise of the right shall be limited to a duration of three days (72 hours) between March 15th
31 to July 6th. The five-year period shall be a rolling period; and

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33 WHEREAS, the McFarland MSF aims to 1) flush the overlying fine sediment of the
34 armored Lemhi River streambed and 2) mobilize streambed materials to restore and enhance
35 fish habitat; and

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WHEREAS, the board needs to develop an effectiveness monitoring program for the McFarland MSF; and

WHEREAS, as a condition of obtaining a streamflow maintenance water right, the applicant agrees to the inclusion of a condition on the streamflow maintenance water right that requires the applicant to cease diversions under the right while the McFarland MSF is being exercised; and

WHEREAS, the deadline for filing a streamflow maintenance water right application is July 1, 2024, and therefore, there is no current mechanism to require streamflow maintenance water right holders to cease diversion while the McFarland MSF is being exercised because the rights do not yet exist; and

WHEREAS, the exercise of the McFarland MSF will increase flow in the Lemhi River and the Board needs to assess the extent and potential effects of that increased flow; and

NOW, THEREFORE BE IT RESOLVED, the following steps need to be completed to exercise the McFarland MSF: 1) the permitting and accounting of streamflow maintenance water rights by the department; 2) the establishment of a McFarland MSF effectiveness monitoring program; and 3) an assessment of increased flow during the McFarland MSF exercise; and

NOW, THEREFORE BE IT FURTHER RESOLVED, water users that are party to the settlement and who divert water upstream of the McFarland Campground may voluntarily agree to cease diversion of their high flow to meet the McFarland MSF; and

NOW, THEREFORE BE IT FURTHER RESOLVED, that voluntary exercise may occur prior to the completion of the steps listed in lines 53-57; and

NOW, THEREFORE BE IT FURTHER RESOLVED, the voluntary exercise should be counted towards the two in every five-year rolling period.

DATED this 19th day of January 2024.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST 

DEAN STEVENSON, Secretary