

Memorandum



To: IWRB – Streamflow Enhancement and Minimum Streamflow Committee
From: Morgan Case
Date: May 3, 2013
Re: Water Transactions Program – Lower Lemhi Parmenter Subordination Agreement

The Lemhi River Basin is an important basin for the spawning, migration and rearing of Chinook salmon, summer steelhead, westslope cutthroat trout, and bull trout. During the irrigation season, low flows at the L-6 diversion can cause migration barriers for out-migrating juvenile Chinook salmon and in-migrating adult Chinook salmon and steelhead. The State of Idaho committed to maintaining flows between 25 and 35 cfs at the L-6 diversion (map below) in the Lemhi Framework which was developed as part of the 2004 Snake River Water Rights (Nez Perce) Agreement. The draft “Section 6” Lemhi Conservation Plan that is being developed also identifies a flow target of 35 cfs in the Lower Lemhi River. Both the agreement and the draft plan carry forward target goals which were included in earlier conservation agreements developed and approved by local water users, and state and federal agencies. The 35 cfs flows are needed for out-migration in the spring and 25 cfs is needed for in-migrating adults in the mid- to late-summer.

Through enacting Idaho Code 42-1506 and 42-1765A, the Idaho Legislature directed the Board to establish a minimum streamflow water right of 35 cfs in the Lower Lemhi River to be met through water right rentals or other appropriate methods under state law.

For the past several years, the Board has been working to meet the 35 cfs target. Efforts have led to the following:

Flow Target:	35 cfs
Currently Protected:	
Perpetual Subordination Agreements	(14.93)
Thomas Agreement	(1.14)
TNC Donation	(0.30)
City of Salmon Source Switch	(2.42)
Annual Subordination Agreements	(16.21)

The annual subordination agreements and agreements in perpetuity allow water users to irrigate their full irrigated acreage, unless the Board’s minimum stream flow water right is not being met. As flows approach 35 cfs, participants rotate use to maintain the minimum flow. After July 1, flows are allowed to drop to 25 cfs. There are limited times when all participants are not diverting, but when flows increase, they can divert and irrigate. In some years, the participants have full access to their water rights throughout the irrigation season. In the early 2000s, lease agreements required the water users to dry up their irrigated ground for the majority of the irrigation season to maintain flows. The subordination agreement allows maximum use of water whenever flows are above the minimum 25-35 cfs, while providing a minimum flow to protect movement of ESA-listed species.

In order to move towards the goal of protecting 35 cfs instream in perpetuity, staff proposes entering into a perpetual subordination agreement with Parmenter, on the 0.6 cfs right from the L-6 diversion (Water

Right No. 74-320). The agreement would allow irrigation when flows are above 25-35 cfs. To date, the average number of days without diversion is 19. The Parmenter family has been participating in the annual agreements to date, and has expressed an interest in pursuing a long-term/perpetual agreement.

Funds are available for the agreement from the Idaho Fish Accord Water Transactions Fund. Payment is based on appraisals and the previous purchase price of \$86,000 per cfs plus an additional \$11,500 per cfs to go towards contracts with WD-74 to administer the subordination (to be placed in the water transaction sub-account of the Revolving Development Account), for a total of \$58,500.

If recommended by the committee, staff will prepare an expenditure of funds resolution to enter into a perpetual subordination agreement on Water Right No. 74-320. The cost will be **\$51,600** and the administration fee will be **\$6,900**.



Memorandum



To: IWRB – Streamflow Enhancement and Minimum Streamflow Committee

From: Morgan Case

Date: May 3, 2013

Re: Water Transactions Program –Lower Lemhi Dallas Olson Subordination Agreement

The Lemhi River Basin is an important basin for the spawning, migration and rearing of Chinook salmon, summer steelhead, westslope cutthroat trout, and bull trout. During the irrigation season, low flows at the L-6 diversion can cause migration barriers for out-migrating juvenile Chinook salmon and in-migrating adult Chinook salmon and steelhead. The State of Idaho has committed to maintaining flows between 25 and 35 cfs at the L-6 diversion (map below) in the Lemhi Framework which was developed as part of 2004 Snake River Water Rights (Nez Perce) Agreement.

The draft “Section 6” Lemhi Conservation Plan that is being developed also identifies a flow target of 35 cfs in the Lower Lemhi River. Both the agreement and the draft plan carry forward target goals which were included in earlier conservation agreements developed and approved by local water users, and state and federal agencies. The 35 cfs flows are needed for out-migration in the spring and 25 cfs is needed for in-migrating adults in the mid- to late-summer.

Through enacting Idaho Code 42-1506 and 42-1765A, the Idaho Legislature directed the Board to establish a minimum streamflow water right of 35 cfs in the Lower Lemhi River to be met through water right rentals or other appropriate methods under state law.

For the past several years, the Board has been working to meet the 35 cfs target. Efforts have led to the following:

Flow Target:	35 cfs
Currently Protected:	
Perpetual Subordination Easements	(14.93)
Thomas Agreement	(1.14)
TNC Donation	(0.30)
City of Salmon Source Switch	(2.42)
Annual Subordination Agreements	(16.21)

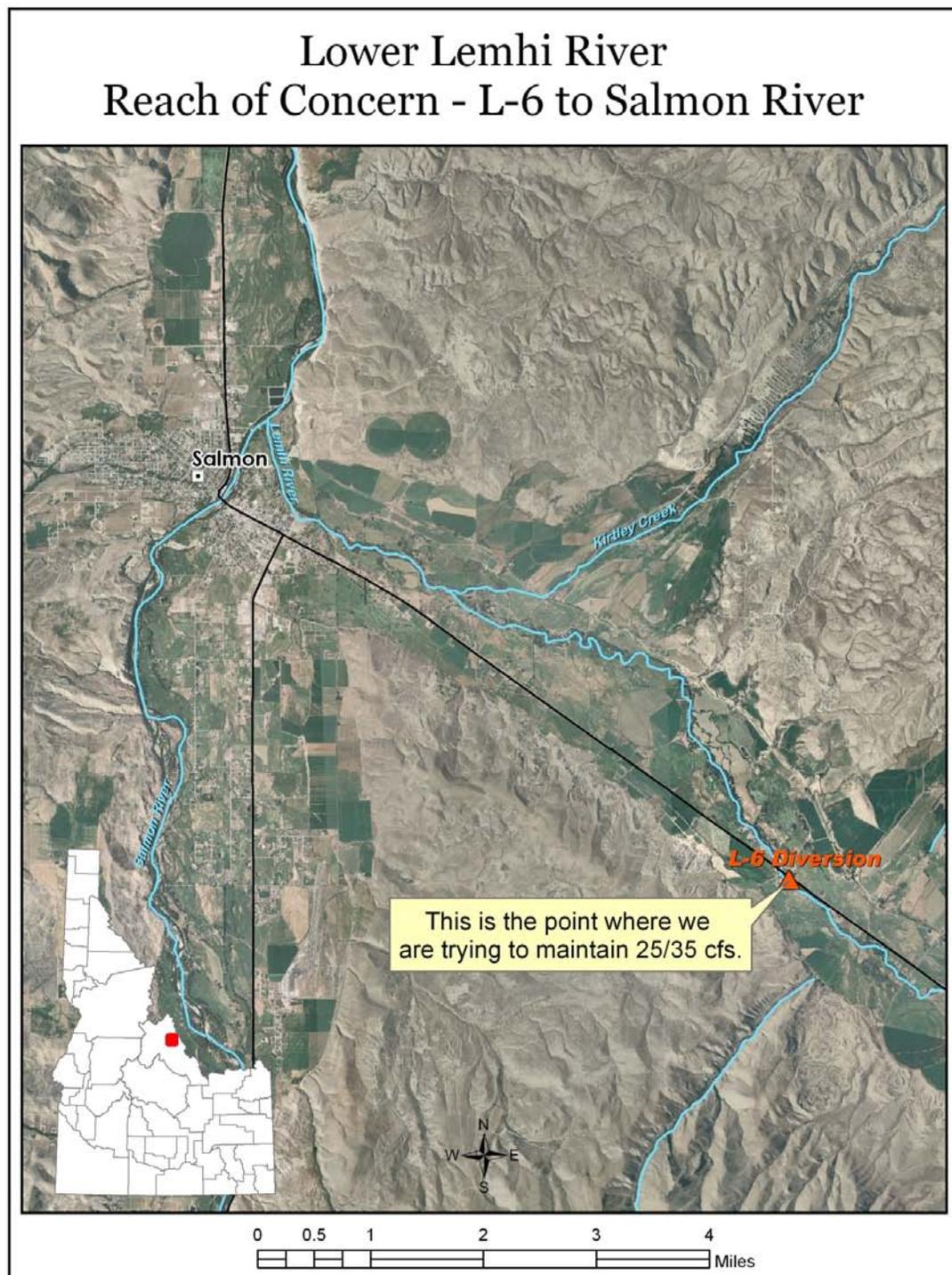
The annual subordination agreements and agreements in perpetuity allow water users to irrigate their full irrigated acreage, unless the Board’s minimum stream flow water right is not being met. As flows approach 35 cfs, participants rotate use to maintain the minimum flow. After July 1, flows are allowed to drop to 25 cfs. There are limited times when all participants are not diverting, but when flows increase, they can divert and irrigate. In some years, the participants have full access to their water rights throughout the irrigation season. In the early 2000s, lease agreements required the water users to dry up their irrigated ground for the majority of the irrigation season to maintain flows. The subordination agreement allows maximum use of water whenever flows are above the minimum 25/35 cfs, while providing a minimum flow to protect movement of ESA-listed species.

In order to move towards the goal of protecting 35 cfs instream in perpetuity, staff proposes entering into a perpetual subordination agreement from Dallas Olson on his 1.86 cfs right from the L-6 diversion (Water Right No. 74-319B). The agreement would allow irrigation when flows are above 25/35 cfs. To

date, the average number of days without diversion is 19. The Olson family has expressed an interest in pursuing a long-term/perpetual agreement.

Funds are available for the agreement from the Idaho Fish Accord Water Transactions Fund. Payment is based on appraisals and the previous purchase price of \$86,000 per cfs plus an additional \$11,500 per cfs to go towards contracts with WD-74 to administer the subordination (to be placed in the water transaction sub-account of the Revolving Development Account), for a total of \$181,350.

If recommended by the committee, staff will prepare an expenditure of funds resolution to enter into a perpetual subordination agreement on Water Right No. 74-319B. The cost will be **\$159,960** and the administration fee will be **\$21,390**.



DRAFT
BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE)	A RESOLUTION TO MAKE
LOWER LEMHI RIVER)	A FUNDING COMMITMENT
_____)	

WHEREAS, Chinook salmon, steelhead, and bull trout habitat in the Lemhi River Basin is limited by low flow in the Lower Lemhi River; and

WHEREAS, it is in the interest of the State of Idaho to permanently reconnect the Lower Lemhi River to encourage recovery of ESA-listed Chinook salmon, steelhead, and bull trout; and

WHEREAS, the State of Idaho committed to maintaining flows of 25 cfs to 35cfs at the L-6 Diversion on the Lower Lemhi River in the Lemhi Framework which was developed as part of the 2004 Snake River Water Rights Agreement; and

WHEREAS, the Lemhi Framework carries forward target goals which were included in earlier conservation agreements developed and approved by local water users, and state and federal agencies; and

WHEREAS, though enacting Idaho Code 42-1506 and 42-1765A, the Idaho Legislature directed the Board to establish a minimum streamflow water right of 35 cfs in the Lower Lemhi River to be met through water right rentals or other appropriate methods under state law; and

WHEREAS, the Idaho Water Resource Board has the authority to enter into water right agreements and undertake water projects; and

WHEREAS, the Idaho Water Resource Board is authorized to expend Bonneville Power Administration funds for flow restoration through the Columbia Basin Water Transaction Program and the Bonneville Fish Accord Water Transaction Fund; and

WHEREAS, the Idaho Water Resource Board promotes water rights agreements and water projects that maintain the local agricultural economy by retaining irrigated agriculture while providing flows necessary for recovery of ESA-listed fish species; and

WHEREAS, staff has developed draft perpetual subordination agreements to improve stream flow for anadromous and resident fish with owners of water rights 74-319B and 74-320; and

WHEREAS, for these agreements, the water users have agreed to limit their diversions during times of low flow; and

WHEREAS, for these agreements, the water users will continue to irrigate to their full extent when flows exceed the flow targets; and

WHEREAS, \$211,560 is available through the Idaho Fish Accord – Idaho Water transactions Fund or the Columbia Basin Water Transaction Program to fund the cost of said agreements; and

WHEREAS, \$28,290 is available through the Idaho Fish Accord – Idaho Water transactions Fund or the Columbia Basin Water Transaction Program to fund the administration of said agreements by Water District 74; and

WHEREAS, the Lemhi Subordination Agreements are in the public interest and in compliance with the State Water Plan.

NOW THEREFORE BE IT RESOLVED that the IWRB authorizes the Chairman to enter into perpetual Agreements with the current or subsequent owners of water rights 74-319B and 74-320 to subordinate their diversions from the Lemhi River to the IWRB's Lemhi River minimum streamflow water right,, using an amount not to exceed \$211,560 (\$51,600 water right 74-320; \$159,960 water right 74-319B).

NOW THEREFORE BE IT RESOLVED that the IWRB authorizes the Chairman to enter into Contracts with Water District 74 using administration funds in the amount of \$28,290 (\$6,900 water right 74-320 and \$21,390 water right 74-319B), plus any interest gained in the Revolving Development Account.

NOW THEREFORE BE IT FURTHER RESOLVED that this resolution is subject to the condition that the IWRB receives the requested funding from the Bonneville Power Administration through the Idaho Fish Accord – Idaho Water Transactions Fund or the Columbia Basin Water Transaction Program in the amount of \$239,850.

DATED this 17th day of May, 2013.

ROGER CHASE, Chairman
Idaho Water Resource Board

ATTEST: _____
BOB GRAHAM, Secretary

Memorandum



To: IWRB – Streamflow Enhancement and Minimum Streamflow Committee
From: Morgan Case
Date: May 3, 2013
Re: Water Transactions Program – Bohannon Creek Source Switch

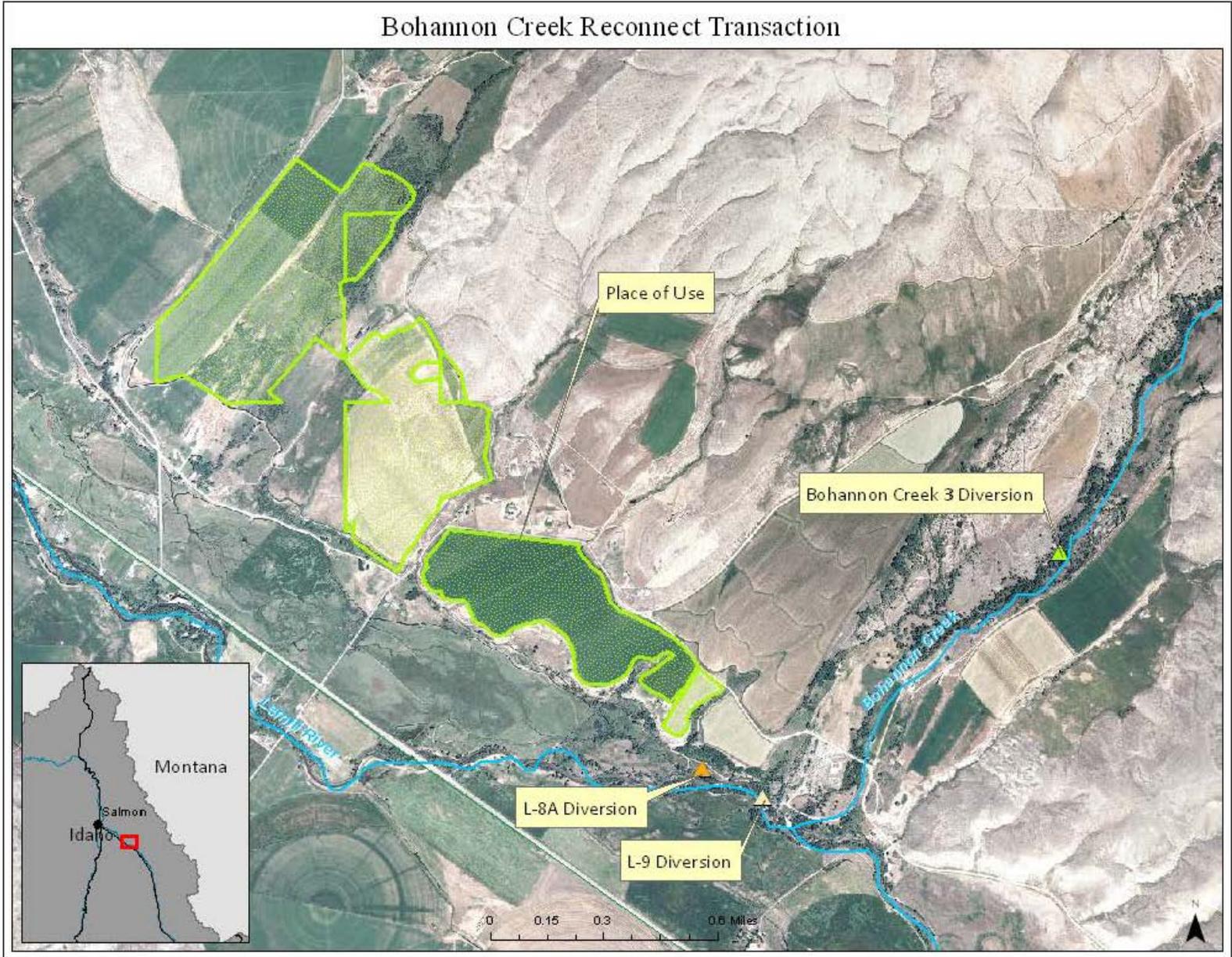
Bohannon Creek is a Lower Lemhi River tributary that is seasonally de-watered due to irrigation withdrawals. It has been identified as a high priority reconnect stream for Lemhi River Basin restoration efforts. In the Lemhi Framework which was developed as part of 2004 Snake River Water Rights (Nez Perce) Agreement, the State of Idaho has committed to a goal of reconnecting at least 10 tributaries with the mainstem Lemhi River by 2024.

In addition to flow concerns, passage is limited at several diversions. Habitat in Bohannon Creek is ideal for spawning and rearing Chinook salmon and steelhead. Partner agencies have been working on a project with water users (Stokes and Jolley) who divert from the lowest diversion (BHC3) to move the point of diversion to the Lemhi River (see attached map).

Moving the point of diversion would allow water available at the Bohannon Creek 3 diversion to remain in the creek, providing improved flow in lower Bohannon Creek for ESA-listed species. Flow improvements would complement passage, screening, and irrigation efficiency project implemented by partners. In order to make the proposed changes feasible for the water users, funds from the Bonneville Fish Accord Water Transaction Fund could be used to cover the estimated cost of power for 20 years.

Request for Board Guidance

Staff requests Board guidance whether to pursue a 20-year source switch (agreement not to divert) with Stokes and Jolley.



Memorandum



To: IWRB – Streamflow Enhancement and Minimum Streamflow Committee
From: Morgan Case
Date: May 3, 2013
Re: Water Transactions Program – Carmen Creek Reconnect

Carmen Creek is a tributary that flows into the Salmon River north of Salmon, Idaho. It is seasonally de-watered due to irrigation withdrawals. It has been identified as a high priority stream for flow restoration efforts, to provide high quality habitat for anadromous Chinook salmon and steelhead and resident bull trout. The 2004 Snake River Water Rights (“Nez Perce”) Agreement commits the state to providing incentives for improving fish habitat which includes improving or protecting flow conditions to augment stream flows.

Partner agencies have been working on a project with water users (William and Derrold Slavin) who divert from the Carmen Creek 3 diversion to move the point of diversion downstream in Carmen Creek to a point just above the confluence with the Salmon River (map below).

Moving the point of diversion would allow water available at the Carmen Creek 3 diversion to remain in the creek, providing improved flow in lower Carmen Creek for ESA-listed species. Flow improvements would complement passage, screening, and irrigation efficiency project implemented by partners. In order to make the proposed changes feasible for the water users, funds from Bonneville Power Administration through the Columbia Basin Water Transaction Program could be used to cover the estimated cost of power for 20 years.

Staff has explored the idea with the water users and has been consulting IDWR staff about transfer conditions and administration issues.

Request for Board Guidance

Staff requests Board guidance whether to pursue 20-year source switches (agreements not to divert) with the Slavin families.

Carmen Creek - POD Transfer

