



C.L. "Butch" Otter
Governor

Roger W. Chase
Chairman
Pocatello
District 4

Peter Van Der Meulen
Vice-Chairman
Hailey
At Large

Bob Graham
Secretary
Bonners Ferry
District 1

**Charles "Chuck"
Cuddy**
Orofino
At Large

Vince Alberdi
Kimberly
At Large

Jeff Raybould
St. Anthony
At Large

Albert Barker
Boise
District 2

John "Bert" Stevenson
Rupert
District 3

AGENDA

WATER SUPPLY BANK AND MITIGATION BANK COMMITTEE MEETING NO. 1-15

January 7, 2015 at 1:00 pm

Idaho Water Center
Conference Rooms 602C and 602D
322 E. Front St., Boise, ID 83702

.....

1. Interim ground water rental policies for the Wood River Valley
2. Management of leased water rights subject to IDWR administrative curtailment orders
3. Management of water rights that are indefinitely leased to the Bank
4. Filing fees for applications proposing to lease water to the Board's Bank
5. Adjourn

Committee Members – Vince Alberdi (Chairman), Bert Stevenson, Jeff Raybould, Albert Barker, Roger Chase

Americans with Disabilities

The meeting will be held in facilities that meet the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations to attend, participate in, or understand the meeting, please make advance arrangements by contacting Department staff by email Mandi.Pearson@idwr.idaho.gov or by phone at (208) 287-4800.

Memorandum



To: IWRB Water Supply Bank and Mitigation Bank Subcommittee
From: Water Supply Bank Coordinator
Date: January 7, 2015
Re: Water Supply Bank and Mitigation Bank Subcommittee Meeting 1-15

Members of the Water Supply Bank and Mitigation Bank Subcommittee are called upon to deliberate, discuss and offer procedural guidance regarding the following items:

- 1) Interim ground water rental policies for the Wood River Valley,
- 2) Management of leased water rights subject to IDWR administrative curtailment orders,
- 3) Management of water rights that are indefinitely leased to the Bank,
- 4) Filing fees for applications proposing to lease water to the Board's Bank

1) Interim ground water rental policies for the Wood River Valley

The Water Supply Bank cannot approve a request to rent water where the use of rental water would injure established water users. Wood River Valley water users could be injured if depletions of the Big Wood River and its tributaries occur for extended periods of time, due to ground water rental transactions. Localized technological tools to support water administration, such as the Wood River Valley Hydrologic Model, are not yet available. In the absence of pending tools, the Bank desires to implement an interim ground water rental policy for the Wood River Valley so that rental requests can continue to be evaluated while current water users can be reasonably protected against injury.

The interim rental policy includes:

- Delineating the Big Wood River aquifer into 19 ground water transaction zones;
- Keeping lease and rental transactions within the same transaction zones;
- Requiring stream depletion analyses for all rental transactions;
- Limiting all new rental agreements to one year durations; and,
- Restricting some rental agreements with curtailment conditions that begin once the IWRB's minimum stream flow water right are no longer being satisfied.

Under the interim policy outlined above, lease and rental points of diversion will be transacted within their respective areas of impact and any actual impacts of surface water depletions caused by the diversion of ground water will not be allowed to propagate through the valley. Stream depletion analyses will be required for almost all rental requests, with an exception provided for renters who request to rent water rights that are less than 600 feet from the point of diversion of the leased water right.

A draft public service announcement from the Water Supply Bank explaining the interim ground water rental policy for the Wood River Valley is attached to this memo and it includes a map showing the aquifer boundaries and all transaction zones. This public service announcement will be publicly shared once IWRB Water Supply Bank Committee members have had the opportunity to consider and discuss the 2015 interim ground water rental policy.

2) Management of leased water rights subject to IDWR administrative curtailment orders

As a matter of water administration, junior priority water rights may be curtailed to satisfy the use of water under senior priority water rights. The decision to curtail a water right may be made by a Water District Watermaster or a curtailment order may be issued by the Director of the Department of Water Resources. Curtailment decisions made by Watermasters are most often common, localized and temporary acts of water administration while curtailment orders issued by the Director are specific, long-term, regional acts of state water administration.

The Water Supply Bank Subcommittee previously discussed the administration of water rights that are subject to curtailment and it was communicated to staff that water rights subject to curtailment should not be rented through the Bank. The previous discussion did not specify between the two types of curtailment, which is important, as the Bank depends upon the ability to rent natural flow water rights (that may be subject to curtailment) to satisfy some rental activities for critical activities, such as meeting natural flow requirements for the Lemhi River Basin Rental Pool.

In light of the distinction between the two types of curtailment actions, the Water Supply Bank Subcommittee is asked to reaffirm its position on the matter of renting a water right subject to a Departmental curtailment order. If the Committee intends that water rights subject to a special, IDWR curtailment order should not be rented through the Water Supply Bank, a resolution establishing such a policy will be prepared and presented to the full IWRB at the next Board meeting.

3) Management of water rights that are indefinitely leased to the Bank

Approximately two hundred water rights are currently leased into the Bank on contracts of indefinite duration. Indefinite leases become difficult to administer when they are split, sold and transferred. Many indefinite leases have been split numerous times since they were originally leased into the Bank. Migrating all indefinite leases to new, finite lease contracts will address this problem and Water Supply Bank rule 25.08 authorizes the IWRB to remove a water right from the Bank by means of a Board resolution.

The Water Supply Bank desires to address all indefinite leases in the following manner:

- 1) Jan 2015 – Obtain Committee recommendation of support to update all indefinite leases;
- 2) Jan 2015 – Seek an IWRB resolution to announce the pending, future release of all indefinite water rights currently leased to the Water Supply Bank;
- 3) Feb 2015 – Lessors with indefinite leases will be contacted (in waves) and notified of the pending release of their water right from the Bank. New, updated lease contracts (of five year duration) will be sent to all lessors or new lease applications will be provided if information is insufficient to generate a lease contract. Lessors can sign and return the lease contract, thus remaining in the Bank, or they may request to have their right released from the Bank.
- 4) Nov 2015 – Once all lessors have been contacted and the option for contract conversions have been offered, the IWRB will be briefed on the status of contract conversions and a resolution will be sought to remove all unconverted, indefinite leases remaining in the Bank.
- 5) Dec 2015 – All indefinite leases will be released from the Bank as of the date specified in the Board's resolution.

Committee members are called upon to provide guidance on this matter. The Bank desires to move forward with the contract conversion project in 2015 and is requesting Committee support for a resolution supporting the plan, to be issued at the next meeting of the IWRB.

4) Filing fees for applications proposing to lease water to the Board's Bank

Water Supply Bank rules authorize the collection of “a lease application filing fee of two hundred fifty dollars (\$250) per water right up to a maximum total of five hundred dollars (\$500.00) for overlapping water rights which have a common place of use or common diversion rate or diversion volume” (IDAPA 37.02.03:25.02.f). The current application filing fee structure is sufficient, however there is some confusion regarding when and how multiple water rights may qualify for the joint filing fee.

IDWR's current application of the fee rule is that it applies only to water rights that either overlap at a common place of use, or that share a common diversion rate or diversion volume. IDWR considers such water rights to be “stacked,” meaning their common use of water is achieved in unison. The Department does not allow stacked water rights to be separated from one another. The joint filing fee thus helps water right owners avoid additional costs that would be associated with the leasing to the Water Supply Bank of multiple water rights that cannot be leased in separately. The application of the filing fee rule to stacked water rights is supported by the original IWRB resolution that authorized amending the Water Supply Bank rules to include the lease application filing fee and that recommend a cap of \$500 for “lease applications involving stacked water rights on the same parcel” (IWRB Resolution November 19, 2010).

Confusion about the joint filing fee has occurred infrequently, often when a water right owner proposes to lease into the Bank multiple, individual water rights that exist within a common permissible place of use (PPU). Water rights within a PPU may be utilized together to achieve a common beneficial use of water at a common place of use, however they may also be used separately and independently within the larger area without overlapping. IDWR does not consider water rights within a PPU to be stacked and, as such, they do not qualify for the joint filing fee.

Due to confusion regarding the distinction between overlapping water rights within a common place of use, and water rights that may (but need not always) overlap within a permissible place of use, the Bank has amended our lease application form to clarify that the joint filing fee applies only to stacked water rights, not water rights within a permissible place of use. A copy of the new lease application form is provided for your review.

This information is being shared with the Committee so that Committee members may ask additional questions about the application of the fee rule. If the Committee supports the current application of the fee rule, the Bank is seeking a recommendation of support to pursue an IWRB resolution to affirm that the joint filing fee will continue to be applied to stacked water rights that overlap at a common place of use, and that it does not apply to individual rights within a permissible place of use.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

1/6/2015

RE: Avoiding injury to water users through Water Supply Bank rentals of ground water in the Wood River Valley

The Water Supply Bank (Bank) cannot approve a request to rent water where the use of rental water would injure established water users. The surface and ground waters of the Big Wood River drainage are interconnected and diversions of ground water from wells can deplete the surface water flow in streams and rivers. Wood River Valley water users could be injured if extended depletions of the Big Wood River and its tributaries are caused by new, additional diversions of ground water authorized under rental agreements. To ensure that the Water Supply Bank can continue accepting rental requests for new and additional uses of water, while simultaneously protecting water users against injury, an interim ground water rental policy for the Wood River Valley has been established.

The interim rental policy includes:

- Delineating the Big Wood River aquifer into 19 ground water transaction zones;
- Keeping lease and rental transactions within the same transaction zones;
- Requiring stream depletion analyses for all rental transactions;
- Limiting all new rental agreements to one year durations; and,
- Conditioning some rental agreements such that the use of water will be curtailed once the flow of the Big Wood River drops below 189 cfs.

This interim rental policy applies to ground water rental requests only. Surface water rental requests are not impacted. All rental requests for ground water in the Wood River Valley should consider this rental policy carefully prior to submitting any rental application.

Wood River Valley transaction zones

To protect the health of the Big Wood River ground water aquifer, nineteen zones have been delineated. Eleven zones have been created for each of the eleven major tributaries of the Big Wood River: Croy Creek, Deer Creek, Eagle Creek, East Fork, Greenhorn Creek, Indian Creek, Lake Creek, Quigley Creek, Seamen's Creek, Trail Creek and Warm Springs Creek. Three zones cover the valley itself, from the Sawtooth National Recreation Area in the north to Ohio Gulch Road (the Ketchum zone), from Ohio Gulch Rd to the city of Bellevue (the Hailey zone) and from Bellevue to the top of Bellevue Triangle at Glendale Road (the Bellevue zone). The remaining stretch of the valley is covered by four zones which correspond to the eastern and western halves of the confined and unconfined aquifers of the Bellevue Triangle. Finally, a single, two hundred foot wide zone runs the length of the valley and covers the Big Wood River channel itself, buffered on both sides by one hundred feet (the river zone).

Keeping lease and rental points of diversion within transaction zones

The nineteen transaction zones cover all Big Wood River tributaries, as well as segments of the valley that are separated by significant points of diversion (PODs). To ensure already existing, localized impacts to surface and ground water are not allowed to propagate and cause injury elsewhere in the valley, ground water rentals within a specific zone should be satisfied from water rights leased into the Bank from within that same zone.

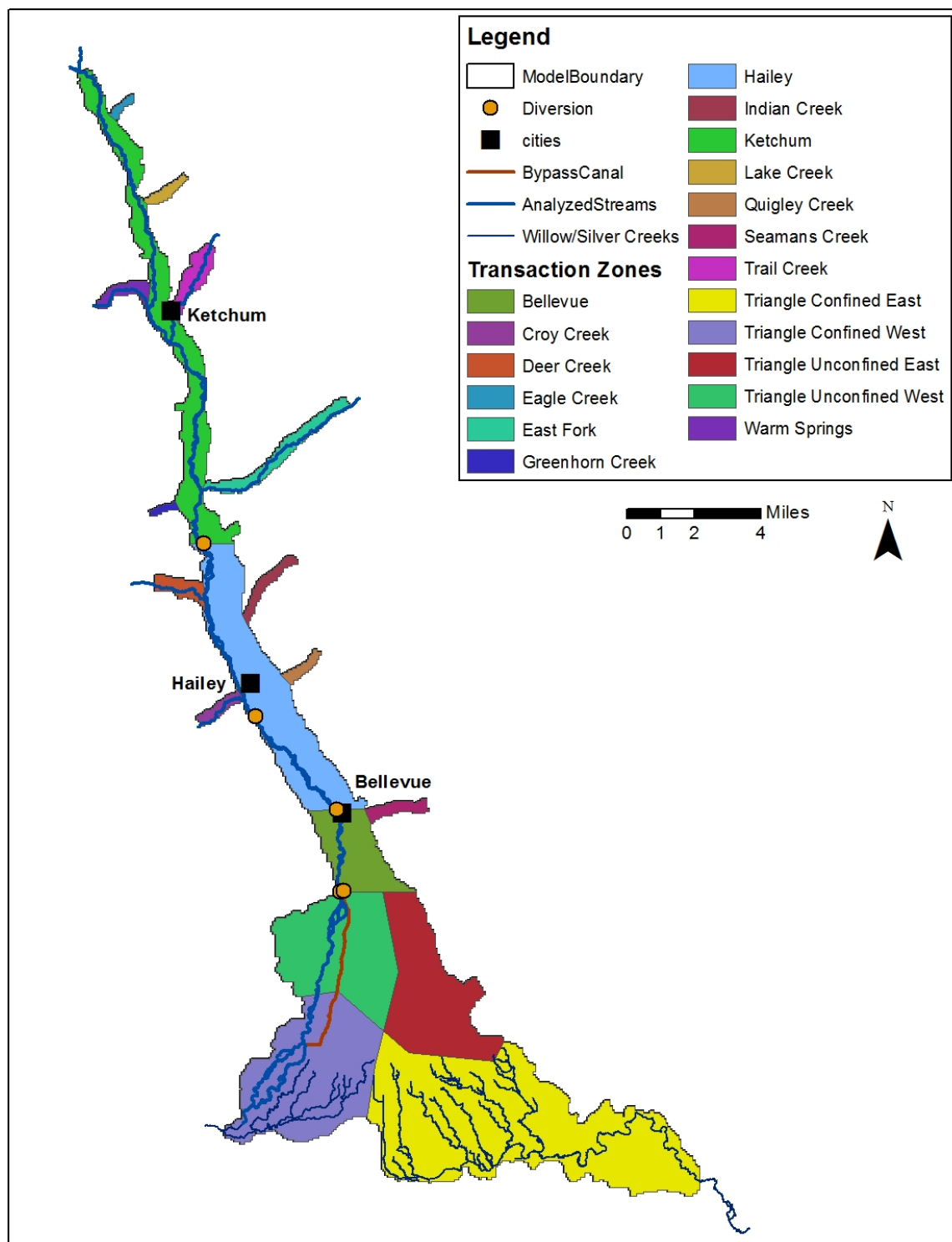


Figure 1. Map of the Water Supply Bank Transaction Zones within the Wood River Valley

Stream depletion analyses for rental transactions

The Wood River Valley is bounded by mountain highlands, composed of impermeable crystalline rocks, between which permeable valley-fill sediments have been deposited, creating the ground water aquifer. Water flows well through the transmissive Wood River Valley aquifer and it is therefore important that the impacts of new or additional ground water rentals evaluate the impact of pumping on depletions of surface waters. To account for the impacts of ground water rental requests, stream depletion analyses (SDAs) are required for all rental transactions, with two important exception: 1) SDAs are not required if the lease and rental points of diversion are both within the two hundred foot wide river zone; and, 2) SDAs are not required if the distance between a lease POD and rental POD is less than 657 feet (200 meters). SDAs are not required within the river zone because IDWR has determined that water diverted from the ground is directly and immediately hydraulically connected to surface waters. Alternatively, SDAs are not required if the lease and rental zones are separated by less than 657 feet because IDWR accepts that such PODs would have an identical impact on ground water flows.

SDAs should calculate the accretion to surface water flows (caused by the suspension of ground water pumping at the leased POD) compared against depletions of surface water flows (attributable to ground water pumping at the rental POD). SDAs can be completed using the Integrated Decision Support Alluvial Water Accounting System (IDS AWAS), which is free software from Colorado State University, available for download from: <http://www.ids.colostate.edu/projects.php?project=awas/awas.html>.

AWAS software can be utilized to run either a Jenkins stream depletion factor analysis, or a Glover analytical stream depletion analysis, however aquifer boundary conditions should be set to **alluvial aquifer** with an **storage coefficient of 0.2**. SDAs also require a measurement of the radial distance from the lease and rental PODs to the Big Wood River (or relevant tributary streams), along with ground water pumping rate and the transmissivity of the aquifer in the area within which the transaction is proposed. To assist with SDAs, IDWR may accept the following default transmissivity values for transaction zones:

Zone	Transmissivity Value	Zone	Transmissivity Value
Deer Creek, Eagle Creek, Greenhorn Creek, Indian Creek, and Warm Springs Creek,	3,000	East Fork and Ketchum Zone	3,500
Croy Creek and Trail Creek	5,500	Hailey Zone and Quigley Creek	8,500
Bellevue and Seaman's Creek	12,500		

*More detailed transmissivity values are provided in Figure 2

Additional requirements are required for ground water rentals within the confined aquifer of the Bellevue Triangle; within the eastern and western confined aquifer zones, an analysis of the ground water impacts that result from the accretion of water not diverted at the lease POD and a depletion of water diverted through the rental POD must be provided, along with stream depletion analyses for the Big Wood River. Within the eastern and western unconfined aquifer zones, stream depletion analyses are not required, only ground water impact analyses will be required.

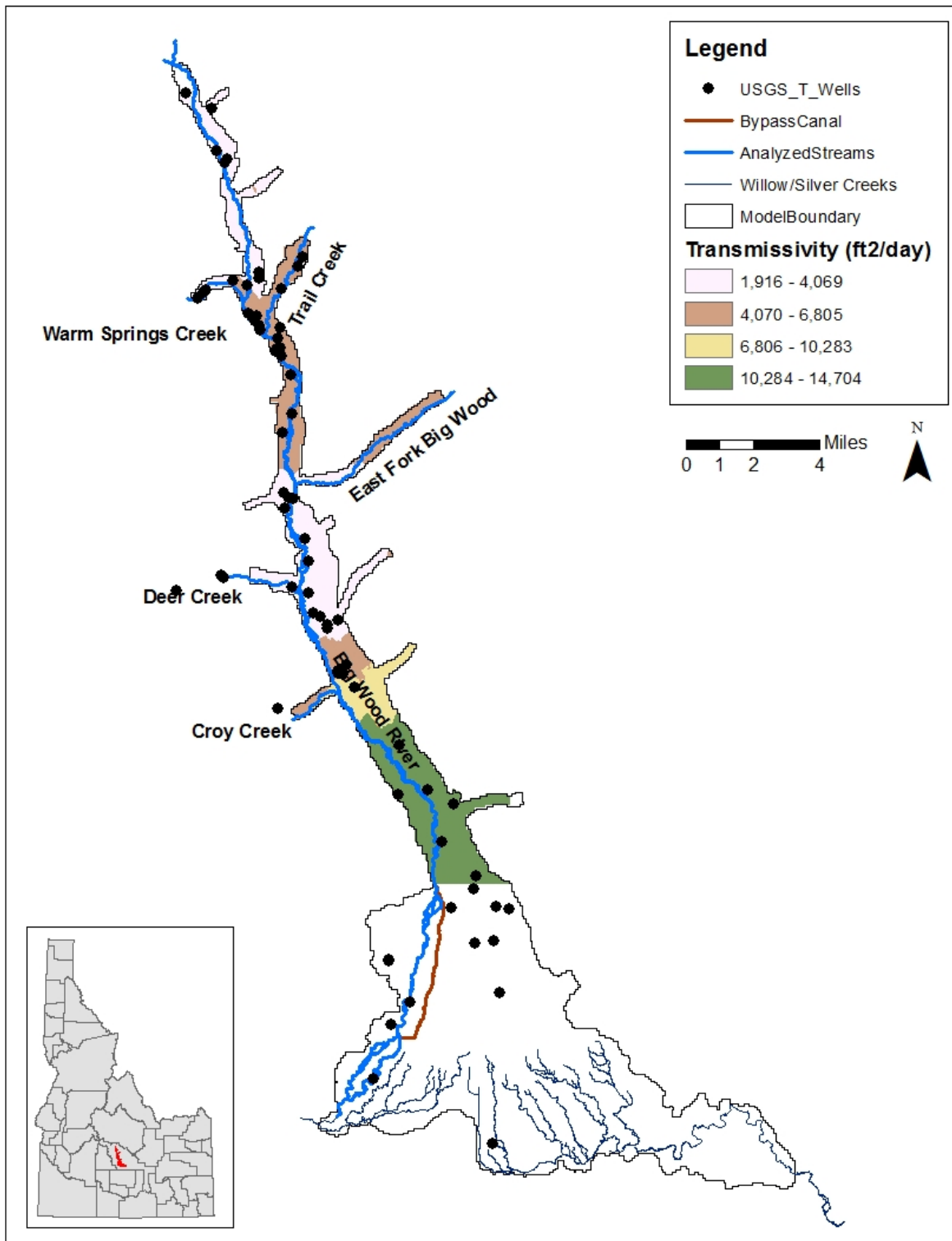


Figure 2. Transmissivity ratings for the Wood River Valley

Rental agreements of one year duration

Ground water rentals approved in the Wood River Valley for 2015 will be authorized for a period of no more than one year, to allow for a revaluation of this interim rental policy in 2016.


Additional conditional restrictions


The Idaho Water Resource Board holds minimum stream flow (MSF) water rights for the Big Wood River. New or additional ground water usage authorized under a rental agreement may adversely impact the Board's MSF rights. Some rentals may be conditioned such that they must curtail their diversion of ground water once the Board's MSF rights for 189 cfs (as measured at the Hailey gage) is no longer being met.

Acceptability of ground water modeling alternatives

IDWR is implementing this interim policy regarding ground water rentals in the Wood River Valley so that ground water users seeking rental water can better understand the data requirements necessary to review their rental request. All ground water rentals submitted to the Water Supply Bank with stream depletion analyses completed using the default parameters described herein will receive standard processing consideration. Though IDWR may consider alternative ground water modeling information in conjunction with rental requests, such requests will be subject to additional review by IDWR Hydrology staff and will require additional time and information to complete an analysis.

IN THE MATTER OF AMENDING) A RESOLUTION
THE WATER SUPPLY BANK RULES)
_____)


TERRY CHLING, Chairman
Idaho Water Resource Board


ATTEST
BOB GRAHAM, Secretary

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

An application to lease or sell a water right into the Water Supply Bank must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Use this checklist to ensure all necessary documentation has been provided. This checklist is part of the lease application and must be included with the lease application. **Incomplete applications will be returned to applicants for completion.**

Designated Applicant _____
(Select one owner – see item 1A on the application)

Water Right No. _____
(One water right per application)

All items must be checked as either *Attached (Yes)* or *Not Applicable (N/A)*

YES

- ☐ Completed *Water Supply Bank Lease or Sale Application Checklist* (this form).
- ☐ Completed *Application to Sell or Lease a Water Right to the Water Supply Bank* (pages 2-3).
- ☐ Application filing fee of \$250.00 per water right. If you are submitting more than one lease application and the water rights have an overlapping, common place of use, or a common diversion rate or volume, the total fee for all water rights is \$500.00. For places of use, multiple water rights must be used to irrigate the same lands in order to qualify for the joint filing fee. Individual filing fees are required for water rights that share a common permissible place of use but which cover separate acres within the permissible place of use.

Attachment N/A YES

- | | | | |
|-----------|--------------------------|--------------------------|--|
| 1A | <input type="checkbox"/> | <input type="checkbox"/> | Contact information for <i>all owners</i> of the water right that is being leased or sold on this application. |
| 1B | <input type="checkbox"/> | <input type="checkbox"/> | An Internal Revenue Service (IRS) Form W-9 for the Designated Applicant. |
| 1C | <input type="checkbox"/> | <input type="checkbox"/> | <i>Notice of Change in Water Right Ownership</i> form (accessible from www.idwr.idaho.gov). |
| 1D | <input type="checkbox"/> | <input type="checkbox"/> | Written consent from irrigation district or water delivery company. |
| 1E | <input type="checkbox"/> | <input type="checkbox"/> | Contact information for an authorized representative and documentary proof they are authorized to represent the Designated Applicant on this application. If the Designated Applicant is a business, partnership, municipality, organization or association, include documents identifying officers authorized to sign or act on behalf of the entity. |
| 2 | <input type="checkbox"/> | <input type="checkbox"/> | Description of a water right portion offered to the Water Supply Bank. |
| 3E | <input type="checkbox"/> | <input type="checkbox"/> | Evidence demonstrating that a water right has not been lost through abandonment or forfeiture pursuant to Section 42-222(2), Idaho Code . |
| 4 | <input type="checkbox"/> | <input type="checkbox"/> | A map that clearly outlines the specific location where irrigated acres will be dried up, or where a beneficial use of water will be suspended. You have the option of printing a map using the map tool on IDWR's website at: www.idwr.idaho.gov . |

Department Use Only

Fee Amount \$

Received By:

Date Received:

Receipt #

W-9 received? Yes ☐ No ☐

(Route W-9 to Fiscal)

Name on W-9:

APPLICATION TO SELL OR LEASE A WATER RIGHT TO THE WATER SUPPLY BANK

1. CONTACT INFORMATION

- A. An application to sell or lease a water right to the Water Supply Bank must be completed by a Designated Applicant who is a recognized owner of the water right being sold or leased to the Water Supply Bank. If there are additional owners recorded for the property to which the water right is appurtenant, those individuals must authorize the Designated Applicant to represent them on this application by completing and signing Attachment 1A of this application package.

Designated Applicant _____ Email Address _____

Mailing Address _____ Phone Number _____

☐ The Designated Applicant is the sole owner of the water right being sold or leased to the Water Supply Bank.

OR

☐ The Designated Applicant is representing additional water right holders who have completed Attachment 1A.

- B. Has the designated applicant completed an IRS Form W-9 (Attachment 1B)? Yes ☐ No ☐

- C. Are all applicants on this form listed in IDWR's records as the current owners of the water right? Yes ☐ No ☐
If no, attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee (Attachment 1C).

- D. Is the diversion works or system owned or managed by an irrigation district or water delivery company? Yes ☐ No ☐
If yes, provide written consent from the company, corporation or irrigation district authorizing the proposed sale or lease (Attachment 1D).

- E. Is this application being completed by an authorized representative of the Designated Applicant? Yes ☐ No ☐
If yes, representatives (includes employees of Designated Applicant companies) must complete this section and submit documentary proof of their authority to represent the Designated Applicant (Attachment 1E).

Name of Representative _____ Organization _____

Professional Title _____ Email Address _____

Mailing Address _____ Phone Number _____

☐ Send all correspondence for this application to the representative and not to the Designated Applicant.

OR

☐ Send original correspondence to the Designated Applicant and copies to the representative.

2. DESCRIPTION OF WATER RIGHT OFFERED TO THE BANK

Water Right Number _____ ☐ The full water right is being offered to the Bank.

OR

☐ A part of the water right is being offered to the Bank.
(If a portion of a water right is being offered, complete Attachment 2)

3. GENERAL INFORMATION

- A. Please provide a description of the current water diversion system.

- B. Describe any other water rights used for the same purpose at the same place of use as the water right being offered to the Bank.

- C. Are any of the water rights identified in question 3B stacked with the water right proposed for lease? Yes ☐ No ☐

Stacked water rights are water rights that are utilized together to achieve a common beneficial use, such as irrigation of the same lands. Stacked water rights cannot be separated and must be jointly leased to the Water Supply Bank. Stacked water rights qualify for the multiple fee payment of \$500."

D. Will the present place of use continue to receive water from any other source?

Yes ☐ No ☐

If yes, describe. _____

E. Has any portion of this water right undergone a period of five or more consecutive years of non-use?

Yes ☐ No ☐

If yes, describe and attach Watermaster records or other evidence to demonstrate that the water right has not been lost through abandonment or forfeiture pursuant to [Section 42-222\(2\), Idaho Code](#). _____

F. Is this water right involved in any other IDWR process such as an application for transfer or a mitigation plan? Yes ☐ No ☐

If yes, describe. _____

4. MAP

Plat map, survey map, or aerial photograph clearly showing the specific acres proposed to be idled by this lease application.

5. SALE/LEASE AGREEMENT

A. Is the water right, or portion thereof, offered to the Idaho Water Resource Board (IWRB) for sale ☐ or lease ☐.

If lease, specify the years when the use of water will be suspended: _____ to _____ (maximum lease period 5 years).
(Year) (Year)

B. Show the minimum payment acceptable to the seller/lessor. The minimum payment may be shown as the "current rental rate" as established by the IWRB. Include the method of determining the minimum payment if other than the current rental rate.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this water right for sale or lease to the Idaho Water Resource Board.

The Designated Applicant acknowledges the following:

1. Payment to the Designated Applicant is contingent upon the sale or rental of the water right from the Bank.
2. While a water right is in the Bank, the seller/lessor of the water right may not use the water right even if the water right is not rented from the Bank.
3. A water right accepted into the Bank stays in the Bank until the Designated Applicant receives written confirmation from the Board or Water Supply Bank that the water right has been released from the Bank.
4. While a water right is in the Bank, forfeiture provisions are stayed.
5. Acceptance of a water right into the Bank does not, in itself, confirm the validity of the water right or any elements of the water right.

Signature of Designated Applicant

Printed Name

Date

Signature of Authorized Representative

Printed Name

Date

Mail to:

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

**STATE OF IDAHO
WATER RESOURCE BOARD**

ATTACHMENT 1A

Additional Water Right Holders Party to the Lease Application

List all individuals or business entities that are owners of the property to which the water right on this application is appurtenant. All water right holders must be signatories to a Water Supply Bank Lease Application however only the Designated Applicant needs to provide a completed IRS Form W-9 (Attachment 1B). **All correspondence and any financial payment associated with the rental of this water right will be directed to the Designated Applicant.** If additional space is needed to list any other water right holders, attach a second copy of Attachment 1A.

If submitting multiple applications, it is only necessary to complete one Attachment 1A for the group of applications. List each water right below.

Water Right No(s). _____

	Designated Applicant	Applicant #2	Applicant #3
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	As Designated Applicant, I submit this lease application on behalf of all other water right holders.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

	Applicant #4	Applicant #5	Applicant #6
Name			
Mailing Address			
Phone Number			
Email Address			
Applicant Declaration	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.	I authorize the Designated Applicant to submit this application on my behalf.
Signature			

