

2013

WATER DISTRICT 65

RENTAL POOL PROCEDURES

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**WATER DISTRICT 65
RENTAL POOL PROCEDURES**

RULE 1.0 LEGAL AUTHORITY

- 1.1 These procedures have been adopted pursuant to Idaho Code § 42-1765 and IDAPA 37.02.03.040 to assure orderly operation of the Payette River Rental Pool.
- 1.2 These procedures shall not be interpreted to limit the authority of the Idaho Department of Water Resources, the Idaho Water Resource Board, Water District No. 65 Advisory Board, or the Watermaster in discharging their duties as prescribed by statute or rule.
- 1.3 These procedures shall be interpreted consistent with Idaho Code, rules promulgated by the Idaho Water Resource Board, relevant provisions of repayment contracts with the United States, and the Snake River Water Rights Agreement of 2004 commonly referred to as the Nez Perce Mediator’s Term Sheet dated April 20, 2004.

RULE 2.0 DEFINITIONS

- 2.1 **Acre-foot:** a volume of water sufficient to cover one acre of land one foot deep and is equal to 43,560 cubic feet.
- 2.2 **Administrative Fee:** a fee of One Dollar (\$1.30) per acre-foot assessed by the District on all storage rented through the Rental Pool.
- 2.3 **Assignment:** a written agreement to convey a specific quantity of storage into the Rental Pool for use during a specified period of time.
- 2.4 **Assignor:** a person who assigns storage to the Rental Pool.
- 2.5 **Board:** the Idaho Water Resource Board (IWRB).
- 2.6 **Board Surcharge:** a surcharge equal to ten percent (10%) of the Net Rental Price assessed on all storage rented from the Rental Pool, which is disbursed to the Board. For purposes of these procedures, the surcharge for in-basin rentals under Rule 6.2.101 is equal to \$0.20 per acre-foot and for out-of-basin rentals under Rule 6.2.102 is equal to \$1.43 per acre-foot
- 2.7 **Committee:** the Advisory Board of Water District No. 65.
- 2.8 **Department:** the Idaho Department of Water Resources (IDWR).
- 2.9 **Director:** the Director of the Idaho Department of Water Resources.
- 2.10 **District:** Water District No. 65 of the State of Idaho.
- 2.11 **Net Rental Price:** The Rental Price less the Administrative Fee and Board Surcharge.
- 2.12 **Person:** an individual, company, association, corporation, partnership, irrigation district, canal company, political subdivision, or governmental agency.

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- 2.13 **Reclamation:** the United States Bureau of Reclamation.
- 2.14 **Rental Agreement:** a written agreement to acquire the right to use a specific quantity of storage from the Rental Pool for a determinate period.
- 2.15 **Rental Pool:** a market for the exchange of storage operated by the Advisory Board of Water District No. 65.
- 2.16 **Rental Price:** the fee for rental of storage from the Rental Pool as set forth in Rule 6.2, which includes the Administrative Fee and Board Surcharge.
- 2.17 **Renter:** a person who rents storage from the Rental Pool.
- 2.18. **Reservoir System:** refers to Cascade Lake, Deadwood Reservoir, Payette Lakes, and the Upper Lakes.
- 2.19 **Space:** all or any portion of the active capacity of a reservoir measured in acre-feet.
- 2.20 **Spaceholder:** the holder of the contractual right to space in the reservoir system, or Reclamation.
- 2.21 **Storage:** water that accrues to reservoir space and is available for use.
- 2.22 **Watermaster:** the watermaster of Water District 65.
- 2.23 **Year:** a calendar year.

RULE 3.0 PURPOSES

- 3.1 To promote the maximum beneficial use of stored water establish a process and provide incentives, consistent with Idaho Code § 42-1765, through which storage supplies may be made available for rental by persons who need additional water for beneficial purposes.
- 3.2 Maintain adequate controls and priorities to ensure that (a) irrigation uses are provided an opportunity to obtain supplemental storage supplies ahead of non-irrigation uses, (b) existing water rights are not injured, and (c) the use of storage water obtained through the Rental Pool is consistent with the protection of the local public interest and the conservation of water resources within the state of Idaho.
- 3.3 Provide a source of revenue for the District to make improvements in distribution of water and aid in increasing the conservation of water in the Payette River Basin.

RULE 4.0 MANAGEMENT & APPLICATION PROCESS

- 4.1 **Committee.** The Committee, which shall decide all matters by majority vote, will exercise the following responsibilities:
- (a) Adopt, and amend as necessary, procedures for operation of the Rental Pool;
 - (b) Provide direction to the Watermaster in the operation of the Rental Pool within the framework of the these procedures;
 - (c) Set policies for the investment and disbursement of funds generated by the Rental Pool in conformity with the Public Depository Law, Chapter 1, Title 57, Idaho Code; and
 - (d) Notify the Director and Watermaster of rentals where storage will be moved from the place of use authorized by the permit, license or decree establishing the storage water right.
- 4.2 **Watermaster.** The Watermaster shall serve as the manager of the Rental Pool and shall take all reasonable actions necessary to administer the Rental Pool consistent with these procedures, which include:
- (a) accepting assignments of storage into the Rental Pool;
 - (b) executing rental agreements on behalf of the Committee;
 - (c) distributing storage rented through the Rental Pool;
 - (d) accepting and disbursing funds generated through the rental of storage; and
 - (e) taking such additional actions as may be directed by the Committee.
- 4.3 **Application to Assign Storage to the Rental Pool.**
- 4.3.101 *Contents.* Applications to assign storage to the Rental Pool shall be made upon forms approved by the Watermaster, which shall include:
- (a) the quantity of storage sought to be assigned to the Rental Pool;
 - (b) an indication of whether the storage may be rented for use below the mouth of the Payette River; and
 - (c) the date received in the Watermaster’s office.
- 4.3.102 *Acceptance.* For purposes of determining the priority of assigned storage under Rule 5.4, applications shall be deemed conditionally accepted on the date received in the Watermaster’s office subject to acceptance by the Committee pursuant to Rule 5.2.
- 4.4 **Application to Rent Storage from the Rental Pool.**
- 4.4.101 *Contents.* Applications to rent storage from the Rental Pool shall be made upon forms approved by the Watermaster, which shall include:
- (a) the amount of storage sought to be rented;
 - (b) the purpose(s) for which the storage will be put to beneficial use;
 - (c) the point of diversion identified by legal description and common name;

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- (d) a description of the place of use; and
- (e) the date received in the Watermaster's office.

4.4.102 *Acceptance*. For purposes of determining a rental applicant's priority under Rule 6.1, applications are not deemed accepted until received by the Watermaster together with the appropriate rental fee.

4.5 **Rental Pool Account.**

4.5.101. *Account*. All monies submitted by rental applicants shall be deposited in the Rental Pool Account, which shall be an interest-bearing account maintained by the Watermaster on behalf of the Committee. Rental Pool funds shall be considered public funds for investment purposes and subject to the Public Depository Law, Chapter 1, Title 57, Idaho Code.

4.5.102. *Disbursement of Monies*. Monies in the Rental Pool Account will be disbursed to the District, the Board, and the Assignors in the proportions set forth in these procedures. Accrued interest to the Rental Pool Account shall be disbursed pro-rata to the Assignors at the time payments are made under Rule 5.6.

4.5.103 *Contingency Fund*. Administrative fees received by the District in excess of actual costs required to operate the Rental Pool shall be maintained by the Watermaster in a separate interest-bearing account to serve as a contingency fund for use by the Committee for the benefit of the District; provided, however, that such use does not conflict with the Idaho Public Depository Law, Chapter 1, Title 57, Idaho code.

RULE 5.0 ASSIGNMENT OF STORAGE TO THE RENTAL POOL

- 5.1 **Assignment of Storage.** Any spaceholder may assign storage to the Rental Pool subject to acceptance by the Committee.
- 5.2 **Acceptance by Committee.** The Committee may accept or reject, in whole or in part, an application to assign storage to the Rental Pool and may impose conditions necessary to satisfy the purposes set out under Rule 3.2. All storage assigned and accepted into the Rental Pool shall be under the control of the Committee and Watermaster during the term of the assignment.
- 5.3 **Reservoir Designation.** When an assignor has space in more than one reservoir the assignment shall designate the reservoir from which the storage is assigned.
- 5.4 **Priority of Assigned Storage**
- 5.4.101 *Assignments Made On or Before July 1st*. All storage assigned to the Rental Pool on or before July 1 shall be rented on a pro-rata basis.
- 5.4.102 *Assignments Made After July 1st*. All storage assigned to the Rental Pool after July 1 will be rented on a first-in-first-out basis, but only after all storage assigned under Rule 5.4.101 has been rented.
- 5.5 **Term of Assignment**
- 5.5.101 *Unrented Storage*. All storage assigned to the rental pool, but not rented by December 31, shall revert to the assignor, unless the assignor executes a written

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extension.

5.5.102 *Unused Storage.* All storage assigned to and rented from the Rental Pool, but not put to beneficial use by March 1 of the year following the calendar year in which the storage was assigned to the Rental Pool, shall revert to the assignor unless the assignor executes a written extension and the extension is granted by the Committee.

5.6 **Payment to Assignors.**

5.6.101 *Amount of Payment.* Payment to assignor will be made only if the storage assigned to the Rental Pool is subsequently rented. Assignors shall share pro-rata in the Net Rental Price from the rental of storage assigned on or before July 1 and shall receive one-hundred percent of the Net Rental Price from the rental of such storage assigned after July 1 based on a first-in-first-out basis. Pursuant to Rule 3.3 purpose; Assignors shall agree to invest 1/3 or more of the payment proceeds into their water delivery systems in an effort to improve efficiency in order to promote the maximum beneficial use of stored water

5.6.102 *Calculation of Payment.* The Watermaster will calculate the payment due each assignor based on data published in the Annual Report of the Watermaster showing the actual quantity of storage rented from the Rental Pool. In the event water is rented after the filing of the Annual Report of the Watermaster; the Watermaster shall file a revised Annual Report to properly represent total Rental Pool activity for the reporting period.

5.6.103 *Timing of Payment.* Payments to assignors shall be due and payable after the Watermaster has calculated the payments under Rule 5.6.102

RULE 6.0 RENTAL OF STORAGE FROM THE RENTAL POOL

6.1 **Priority of Rental Applicants.** Storage rented from the Rental Pool shall be pursuant to the following priorities:

6.1.101 *First Priority.* On or before July 1, rental of water by spaceholders for irrigation purposes within the District.

6.1.102 *Second Priority.* After July 1, rental of water for all any beneficial purpose.

6.1.104 *Sub-priorities.* Priorities among rental applicants within each priority group, identified above, shall be determined based on the date the rental application is accepted by the Watermaster pursuant to Rule 4.4; provided, however, during periods of drought or other extraordinary circumstances, with consideration of the local public interest, the Committee may develop additional or alternative procedures for determining sub-priorities among competing rental applications.

6.2 **Rental Price.** The Rental Price per acre-foot of storage rented from the Rental Pool is as follows:

6.2.101 *In-Basin.* For uses upstream from the mouth of the Payette River the Rental Price is \$3.50 per acre-foot.

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- 6.2.102 *Outside Basin*. For uses downstream from the mouth of the Payette River, the Rental Price is \$17.00 per acre-foot.
- 6.3 **Out-of-Basin Rentals**. Storage rented for use below the mouth of the Payette River shall subject the space from which the storage was rented to last to fill in the ensuing year.
- 6.4 **Arbitrage**. A person may not assign storage and rent storage in the same calendar year, unless an exception is granted by the Committee. In the event an exception is granted by the Committee, the rental price shall equal the amount paid to the person for the prior assignment plus a 10% board surcharge and \$2.00 per acre-foot administrative fee.
- 6.5 **Rentals for Greater than Five (5) Years**. Applications to rent water from the Rental Pool for a period of more than five (5) years shall be submitted to the Board, and separately to Reclamation, for review and approval as a condition of approval by the Committee.
- 6.6 **Flow Augmentation**. Notwithstanding the foregoing provisions, Reclamation may assign and rent storage held in uncontracted space for flow augmentation purposes pursuant to the provisions contained in the Snake River Water Rights Agreement of 2004 (aka the Nez Perce Mediator's Term Sheet dated April 20, 2004) and Idaho Code § 42-1763B, in which case only an administrative fee shall be assessed pursuant to Rule 2.2.