

WATER DISTRICT 65

RENTAL POOL PROCEDURES

Approved by the Committee on March 12, 2024 to take effect immediately following approval by Director Weaver and the Idaho Water Resource Board. These procedures will be used for the 2024 season and seasons following or until new changes are approved.

Rental Pool Procedures

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WATER DISTRICT 65 RENTAL POOL PROCEDURES

PROCEDURE 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 Water District 65 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.

PROCEDURE 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 and fifty-five cents (\$1.55) 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 spaceholder who assigns storage to the Common 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 Procedure 6.2.104 (a) and (b) is equal to \$0.49 per acre-foot and for out-of-basin rentals under Procedure 6.2.104 (c) is equal to \$1.95 per acre-foot.
- 2.7 **Committee:** the Advisory Committee of Water District No. 65.
- 2.8 **Common Pool:** storage water made available for rental pursuant to Procedures 5 and 6.
- 2.9 **Department:** the Idaho Department of Water Resources (IDWR).
- 2.10 **Director:** the Director of the Idaho Department of Water Resources.
- 2.11 **District:** Water District No. 65 of the State of Idaho.
- 2.12 **In-Basin Uses:** Beneficial uses with points of diversion above the confluence of the Payette River and the Snake River.

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- 2.13 **Lessee:** a person who leases storage from a spaceholder pursuant to Procedure 7.
- 2.14 **Lessor:** a spaceholder who leases storage to a person pursuant to Procedure 7.
- 2.15 **Net Rental Price:** The Rental Price less the Administrative Fee and Board Surcharge.
- 2.16 **Non spaceholder:** Someone who does not hold any contractual rights to storage space in the Reservoir System.
- 2.17 **Out-of-Basin Uses:** Beneficial uses with points of diversion below the confluence of the Payette River and the Snake River.
- 2.18 **Person:** an individual, company, association, corporation, partnership, irrigation district, canal company, political subdivision, or governmental agency.
- 2.19 **Reclamation:** the United States Bureau of Reclamation.
- 2.20 **Rental Agreement:** a written agreement to acquire the right to use a specific quantity of storage from the Common Pool for a determinate period.
- 2.21 **Rental Pool:** a market for the exchange of storage operated by the Advisory Committee of Water District No. 65.
- 2.22 **Rental Price:** the fee for rental of storage from the Rental Pool as set forth in Procedure 6.2, which includes the Administrative Fee and Board Surcharge.
- 2.23 **Renter:** a person who rents storage from the Rental Pool.
- 2.24 **Reservoir System:** refers to Cascade Lake, Deadwood Reservoir, Payette Lakes, and the Upper Lakes.
- 2.25 **Space:** all or any portion of the active capacity of a reservoir measured in acre-feet.
- 2.26 **Spaceholder:** the holder of the contractual right to space in the reservoir system, or Reclamation.
- 2.27 **Storage:** water that accrues to reservoir space and is available for use.
- 2.28 **Watermaster:** the watermaster of Water District 65.
- 2.29 **Year:** a calendar year.

PROCEDURE 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 on a voluntary basis, for rental by persons who need additional water for beneficial purposes.

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- 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.
- 3.4 To maintain adequate controls, priorities, and safeguards to ensure that existing water rights are not injured and that a spaceholder's allocation is not impacted without his or her consent. To financially compensate an impacted participating spaceholder in the common pool as determined by the procedures developed by the Committee.

PROCEDURE 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 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 point of diversion, place of use, or purpose 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 Common Pool;
 - (b) executing rental agreements on behalf of the Committee;
 - (c) distributing storage rented through the Common 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 Common Pool.**
 - 4.3.101 *Contents.* Applications to assign storage to the Common Pool shall be made upon forms approved by the Watermaster, which shall include:
 - (a) the quantity of storage sought to be assigned to the Common Pool;

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- (b) an indication of whether the storage is to be used only for In-Basin Uses; and
- (c) the date received in the Watermaster's office.

4.3.102 *Acceptance.* For purposes of determining the priority of assigned storage under Procedure 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 Procedure 5.2.

4.4 **Application to Rent Storage from the Common Pool.**

4.4.101 *Contents.* Applications to rent storage from the Common 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;
- (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 Procedure 6.1, applications are not deemed accepted until received by the Watermaster together with the appropriate rental fee.

4.5 **Application for Private Lease**

4.5.101 *Contents.* Applications to enter into a private lease shall be made upon forms approved by the Watermaster, which shall include:

- (a) the amount of storage sought to be leased;
- (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;
- (d) a description of the place of use;
- (e) the date received in the Watermaster's office;
- (f) the agreed upon price (to determine the Board's fee); and
- (g) signature of both Lessee and Lessor and dated

4.5.102 *Acceptance.* Application will be reviewed to determine local public interest. Any leases greater than five years are required to follow Procedure 6.4. All applications are subject to approval by the Committee.

4.6 **Rental Pool Account.**

4.6.101. *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.

4.6.102. *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 Procedure 5.6.

4.6.103 *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

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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.

PROCEDURE 5.0 ASSIGNMENT OF STORAGE TO THE COMMON POOL

- 5.1 **Assignment of Storage.** Any spaceholder may assign storage to the Common 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 Procedure 3.2. All storage assigned and accepted into the Common 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 June 1st.* All storage assigned **to** the Common Pool on or before June 1 shall be rented;
- (a). In-basin first, with the amount determined by the Committee for In-Basin Uses. and,
 - (b). The remainder Out-of-Basin Uses as needed, both on a pro-rata basis.
- 5.4.102 *Assignments Made After June 1st.* All storage assigned **to** the Common Pool after June 1 will be rented;
- (a). In-basin first, with the amount determined by the Committee for In-Basin Uses. and,
 - (b). The remainder Out-of-Basin Uses as needed, on a first-in-first-out basis, but only after all storage assigned under Procedure 5.4.101 has been rented
- 5.5 **Term of Assignment**
- 5.5.101 *Unrented Storage.* All storage assigned to the Common Pool, but not rented by December 31, shall revert to the assignor, unless the assignor executes a written extension.
- 5.5.102 *Unused Storage.* All storage assigned to and rented from the Common 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 Common 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 Common Pool is subsequently rented. Assignors shall be paid for the amount of storage rented on their behalf for the uses determined by 5.4.101, and 5.4.102
- 5.6.102 *Calculation of Payment.* The Watermaster will calculate the payment due each assignor based on the amount of storage rented for each use calculated by the prices in 6.2.104. and data published in the Annual Report of the Watermaster

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showing the actual quantity of storage rented from the Common 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 Common Pool activity for the reporting period.

5.6.103 *Timing of Payment.* Payments that do not rely on final accounting for calculation can be paid as soon as the money is in the rental account if the spaceholder so chooses to accept it at the time. Payments that rely on final accounting shall be due and payable after the Watermaster has calculated the payments under Procedure 5.6.102

PROCEDURE 6.0 RENTAL OF STORAGE FROM THE COMMON POOL

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

6.1.101 *First Priority.* On or before June 1, rental of water by space holders for irrigation purposes for In-Basin Uses.

6.1.102 *Second Priority.* After June 1, rental of water for 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 Procedure 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 Prices.** The Rental Price per acre-foot of storage rented from the Common Pool is as follows:

6.2.101 Tier 1 (*In-Basin*) For uses above the confluence of the Payette River and the Snake River by Spaceholders.

6.2.102 Tier 2 (*In-Basin*) For uses above the confluence of the Payette River and the Snake River by Non-spaceholders.

6.2.103 Tier 3 (*Out-of-Basin*) For uses below the confluence of the Payette River and the Snake River.

6.2.104 **Fees & Surcharges** There shall be added to the rental price for all rentals the Board surcharge and administrative fee, resulting in the following summed amounts charged for rentals for the various tiers described in Procedures 6.2.101 through 6.2.103.

(a) Tier 1: \$4.96+\$0.49+\$1.55= \$7.00

(b) Tier 2: \$4.96+ \$.49+\$1.55= \$7.00

(c) Tier 3: \$19.50+ \$1.95+ \$1.55= \$23.00

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- 6.3 **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 \$2.30 per acre-foot administrative fee.
- 6.4 **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.

PROCEDURE 7.0 PRIVATE LEASES

- 7.1 **Purposes.** Storage may be leased through the Rental Pool only for beneficial use purposes. A person may not lease storage to a lessee and rent storage in the same calendar year unless an exception is granted by the Committee.
- 7.2 **Payments to Lessor.** The lessor shall receive one-hundred percent (100%) of the lease price.
- 7.3 **Fee & Surcharges.** There shall be added to the lease price the administrative fee and the Board surcharge.
- 7.4 **Lease of Storage from the Bureau Uncontracted Space.** Notwithstanding the limitations set forth in Procedure 7.1, the Bureau may lease storage from its uncontracted space for flow augmentation as identified in Appendix III of the – Mediator’s Term Sheet of the 2004 Snake River Water Rights Agreement, in which case only an administrative fee shall be assessed pursuant to Procedure 2.2.

PROCEDURE 8.0 IMPACTS

- 8.1 **Impacts to Spaceholders resulting from all common pool, and private leases.** To avoid impacts to spaceholders caused by rental pool storage provided under Procedures 5, 6, and 7 in years when any storage reservoir in which any spaceholder rented or leased storage the previous year did not fill, the supplying spaceholder’s storage allocation shall be reduced to ensure all other reservoir space receives a 100% fill to its storage allocation ahead of allocations to space evacuated to supply previous year leases, assignments, and rentals. If the amount of storage in the reservoir system exceeds the amount necessary to allocate 100% fill to space that wasn’t evacuated to supply leases, assignments, and rentals but is insufficient to allocate 100% fill to all system spaceholders, allocations to lessors’, assignors’, and other space shall occur in the following priorities:
- (a) Storage supplied under Procedure 5, 6, or 7 for beneficial uses with points of diversion above the confluence of the Payette River and the Snake River shall be second to fill.
 - (b) Storage supplied under Procedure 5, 6, or 7 with points of diversion below the confluence of the Payette River and the Snake River shall be last to fill.

**WATER DISTRICT #65 RENTAL POOL
APPLICATION TO RENT STORAGE FROM THE COMMON POOL**

_____ (applicant) hereby requests to rent _____
(acre-feet) of storage from the Water District #65 Rental Pool with the enclosed rental fees
of \$ _____ for the irrigation season 20____. The acceptance and approval of this
rental request by the Water District #65 Watermaster is subject to the adopted Water District
#65 Rental Pool Procedures pursuant to Idaho Code Section 42-1765.

Description of Point of Diversion: _____

Name of River or Stream from which rental is diverted: _____

Canal or Pump Name & location: _____

Place of Use description: _____

Water Right Appurtenant to Lands: _____

Applicant Signature and Address:

Print Name: _____

Signature: _____

Date: _____

Address: _____

Phone: _____

=====
(official use only)

Date Lease Accepted by Watermaster: _____

Watermaster Signature: _____

**WATER DISTRICT #65 RENTAL POOL
PRIVATE LEASE AGREEMENT**

_____ (lessor) agrees to lease _____
acre-feet of storage to _____ (lessee) for
the 20____ irrigation season at a price of \$_____ according to the rules and
regulations contained in the Water District #65 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: _____
Canal or Pump Name and location: _____
Place of Use description: _____
Water Right Appurtenant to Lands: _____

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a per acre-foot administrative fee set by the Rental Pool Committee for the year listed above must be received by Water District #65 prior to the approval of the storage lease).

If this is an out-of-basin lease and the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #65 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

If the leased storage is diverted by a diversion outside the area regulated by Water District #65, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district must then report to the Water District #65 Watermaster the daily rental diverted by November 15th. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #65's final rental delivery records.

Lessor Signature Date Title, Canal Company

Lessee Signature Date Canal Company or Diversion Name

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**WATER DISTRICT #65 RENTAL POOL
ASSIGNMENT OF STORAGE TO THE COMMON POOL**

2024 IRRIGATION SEASON

Mail or Deliver to: Watermaster, Payette River
Water District No. 65, State of Idaho
102 North Main
Payette, Idaho 83661

Dear Watermaster:

_____ holds a contract for stored water from
(Name of Organization or Individual)

_____. _____ hereby
(Name of Reservoir) (Name of Organization of Individual)

assigns _____ acre-feet of storage space/ water to the Payette River Water District NO. 65 Rental Pool, for the 2024 irrigation season.

This assignment is made pursuant to Rental Pool Rules and procedures approved by the Idaho Water Resource Board. By this assignment you are made agent of this organization / individual for the rental, delivery, and collection of monies for the above-described water. This assignment is made with the understanding that if this water is not rented from the Rental Pool in the above-referenced year, the storage space / water will revert to the assigning organization / individual at the end of the irrigation season in that year.

This space / water is to be made available for out-of-basin use YES _____ NO _____

Dated this _____ day of _____ 2024

_____, by _____
(Name of Organization or Individual) (Signature)

(Address of Organization or Individual) (Title)