

# LEMHI HIGH FLOW ALLOCATION SETTLEMENT

WORK IN PROGRESS

PRESENTATION BY

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FACILITATORS FOR IDAHO WATER RESOURCE  
BOARD

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# “HIGH FLOW PRACTICE”

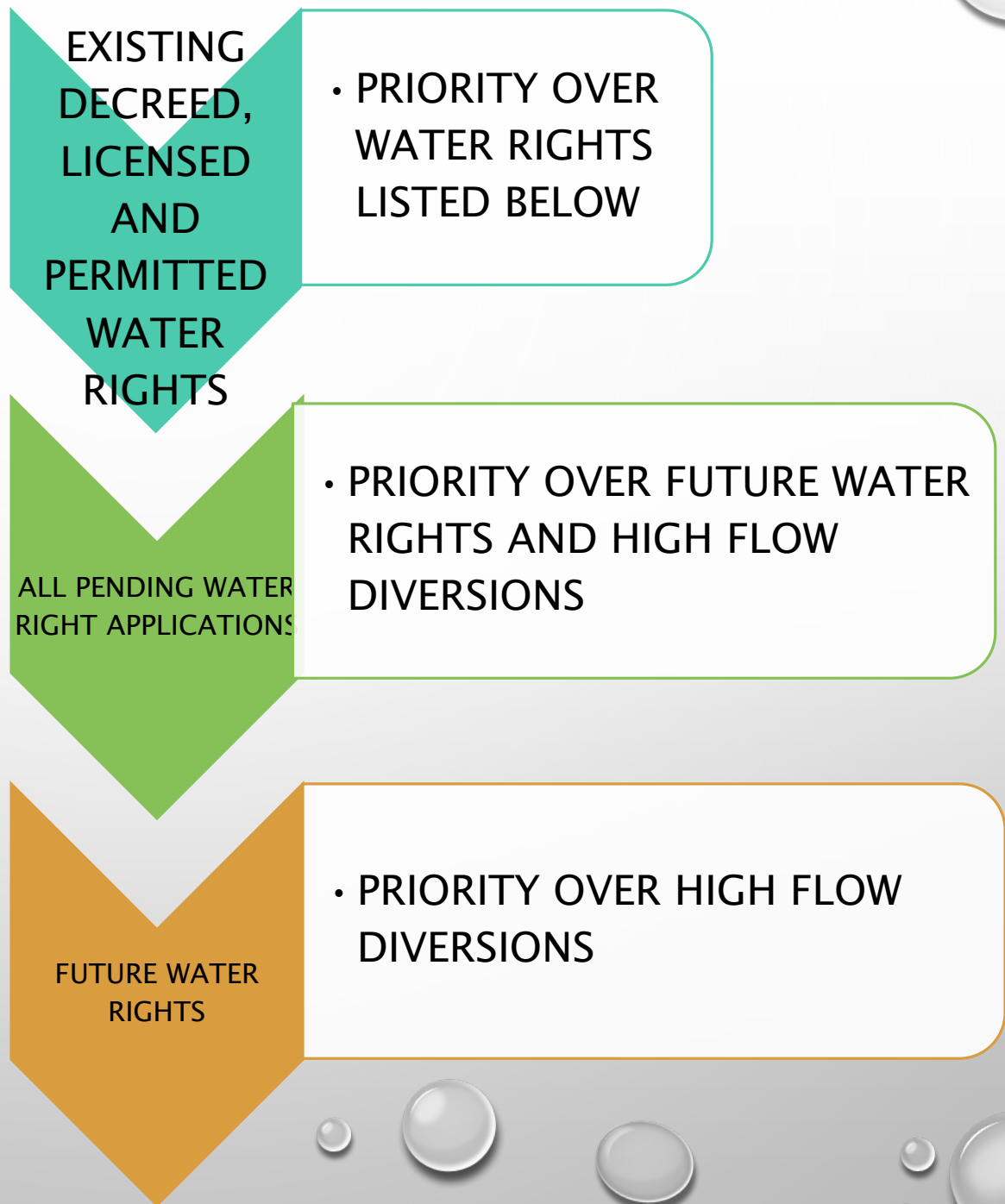
THE FOLLOWING GENERAL PROVISION SHALL GOVERN THE USE OF "HIGH FLOW" SURFACE WATER FOR IRRIGATION USE WITHIN THE LEMHI BASIN:

The practice of diverting high flows in the Lemhi Basin, in addition to diverting decreed and future water rights that may be established pursuant to statutory procedures of the State of Idaho, is allowed provided:

- (a) the waters so diverted are applied to beneficial use.
- (b) existing decreed rights and future appropriations of water are first satisfied.

# HIGH FLOW PRACTICE IS NOT A PROTECTABLE WATER RIGHT.

- HIGH FLOW PRACTICE IS SUBORDINATE TO ALL EXISTING AND FUTURE USES.
- HIGH FLOWS ARE UNAPPROPRIATED WATER.



# SOURCE OF HIGH FLOW CONFLICT

- SRBA HIGH FLOWS CLAIMS WERE DISALLOWED
- SALMON RIVER WILD AND SCENIC RIVER WATER RIGHT PROVIDED FOR NEW DEVELOPMENT
- APPLICATIONS FOR NEW IRRIGATION WATER RIGHTS ON TRIBUTARY STREAMS
- THREAT OF ENDANGERED SPECIES ACT ENFORCEMENT

# IN MATTER OF APPLICATION FOR PERMIT NO. 74-16187 (BIRD).

- HIGH FLOWS ARE UNAPPROPRIATED FLOW SUBJECT TO APPROPRIATION
- DIRECTOR HELD IT IS IN “THE LOCAL PUBLIC INTEREST TO MAINTAIN THE ANADROMOUS FISHERIES”
- DIRECTOR IMPOSED BYPASS FLOW CONDITION BASED ON BOR INSTREAM FLOW STUDIES
- DIRECTOR HELD RESOURCE AGENCIES FAILED TO PROVE AMOUNT OF FLOW REQUIRED FOR CHANNEL MAINTENANCE
- FIRST TIER OF WILD AND SCENIC SUBORDINATION SHOULD ONLY BE ALLOCATED TO WATER RIGHTS THAT WILL ACTUALLY BENEFIT FROM ADDITIONAL SUBORDINATION

# SENATE CONCURRENT RESOLUTION 137

PURPOSE: TO HARMONIZE IDAHO'S COMPETING DUTIES

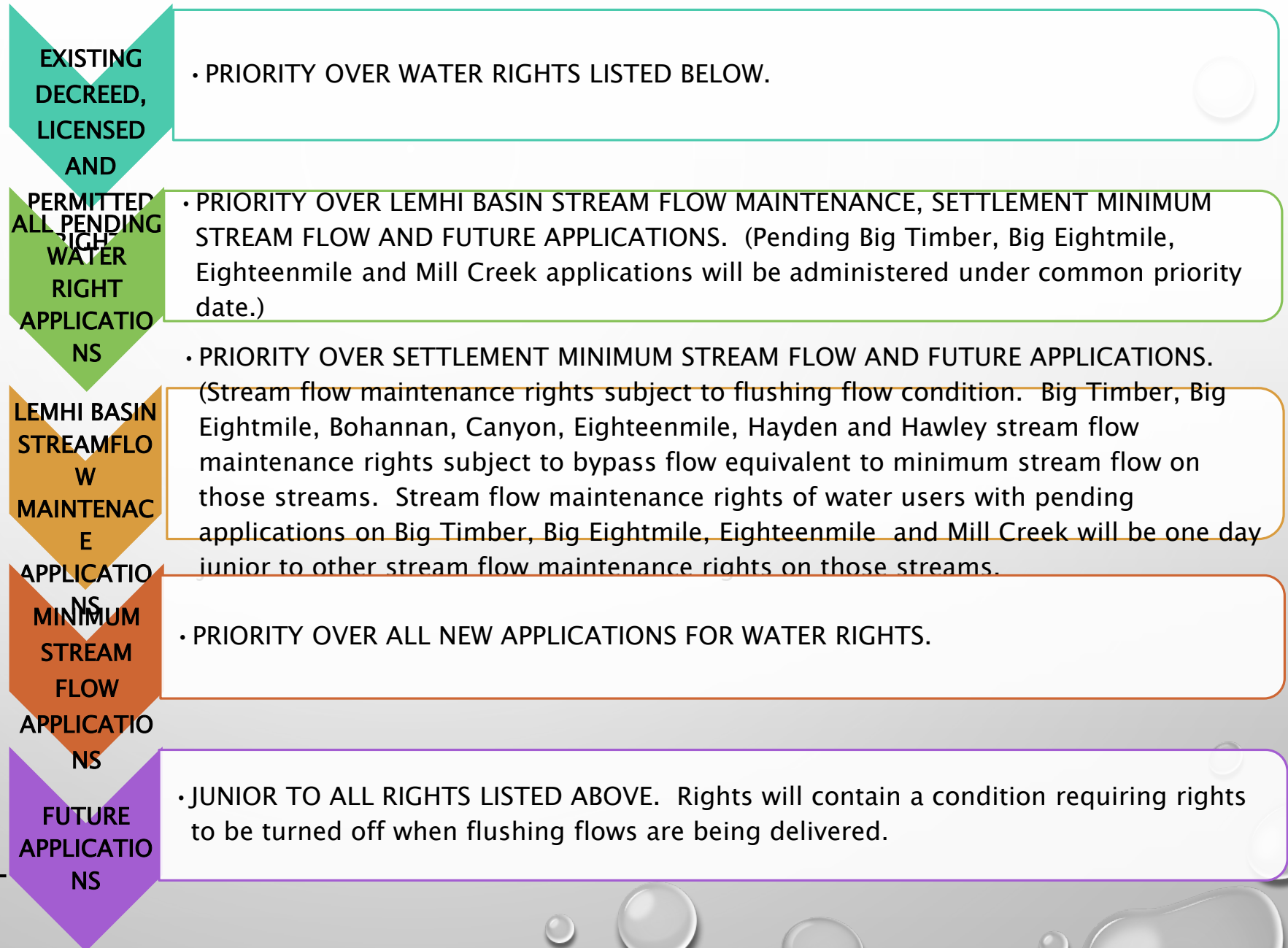
- TO PROTECT EXISTING WATER RIGHTS,
- TO SAFEGUARD THE PROVISIONS OF THE FOREST SERVICE [WILD AND SCENIC] SETTLEMENT,
- TO ALLOCATE ADDITIONAL WATER RIGHTS,
- TO CONSERVE, RESTORE, AND ENHANCE SUFFICIENT HABITAT TO SUSTAIN VIABLE FISH POPULATIONS, AND
- TO ENHANCE THE FARMING AND RANCHING LIFESTYLE AND ECONOMY OF THE LEMHI RIVER BASIN.

# **LONG TERM CONSERVATION PLAN GOAL**

**CONSERVE, RESTORE, AND ENHANCE SUFFICIENT HABITAT  
TO SUSTAIN VIABLE FISH POPULATIONS WHILE  
PROTECTING PRIVATE PROPERTY RIGHTS AND PRESERVING  
AND ENHANCING THE FARMING AND RANCHING LIFESTYLE  
AND ECONOMY OF THE LEMHI RIVER BASIN.**

# SETTLEMENT PRINCIPLES

1. PROTECT EXISTING USES
2. RESOLVE PROTESTS TO PENDING APPLICATIONS
3. CONVERT HIGH FLOW PRACTICE INTO PROTECTED WATER RIGHTS
4. PROTECT FISH HABITAT
5. PROVIDE FOR FUTURE DEVELOPMENT





# 1. PROTECT EXISTING USES

- SETTLEMENT WILL NOT ALTER OR CHANGE IN ANY WAY WATER RIGHTS EXISTING ON THE DATE OF SETTLEMENT.
- ALL EXISTING WATER RIGHTS WILL HAVE PRIORITY OVER ANY WATER RIGHTS PROPOSED TO BE RECOGNIZED BY THE SETTLEMENT.

## 2. RESOLVE PROTESTS TO PENDING APPLICATIONS

- PARTIES TO THE SETTLEMENT WILL AGREE TO WITHDRAW PROTESTS TO PENDING WATER RIGHT APPLICATIONS ON BIG TIMBER, BIG EIGHTMILE, EIGHTEENMILE AND MILL CREEK
- BIG TIMBER APPLICANTS WILL AGREE TO ACCEPT THE DIRECTOR'S 18 CFS BYPASS FLOW CONDITION FROM THE BIRD ORDER
- BIG EIGHTMILE AND EIGHTEENMILE WILL AGREE TO A BYPASS FLOW CONDITION BASED UPON THE BOR INSTREAM FLOW STUDIES
- SEASON OF USE WILL BE 3/15 TO 7/31
- PARTIES WILL SUPPORT TIER 2 SUBORDINATION FOR APPLICATIONS
- NO USE OF HIGH FLOW ON PLACE OF USE OF NEW WATER RIGHT

# 3. CONVERT HIGH FLOW PRACTICE INTO PROTECTABLE WATER RIGHTS

- LEGISLATION WILL BE ENACTED ALLOWING IRRIGATORS WHO HAVE HISTORICALLY DIVERTED SURFACE WATER HIGH FLOW TO FILE AN APPLICATION FOR A HIGH FLOW STREAM FLOW MAINTENANCE WATER RIGHT.
- IF GRANTED, THE RIGHT WILL BE IN LIEU OF DIVERSION OF WATER UNDER THE BASIN 74 HIGH FLOW GENERAL PROVISION.
- ALL RIGHTS ON A TRIBUTARY STREAM WILL BE ADMINISTERED UNDER A COMMON PRIORITY DATE, EXCEPT HIGH FLOW APPLICATIONS FILED BY APPLICANTS FOR NEW WATER RIGHTS ON BIG TIMBER, BIG EIGHTMILE, EIGHTEENMILE AND MILL CREEK WILL HAVE A PRIORITY DATE ONE DAY LATER THAN OTHER HIGH FLOW APPLICANTS.
- RIGHT WILL BE LIMITED TO THE PLACE OF USE OF THE EXISTING IRRIGATION BASE WATER RIGHT(S) AND CANNOT BE TRANSFERRED.
- SEASON OF USE WILL BE 3/15 TO 7/31.
- RIGHT WILL NOT RECEIVE SUBORDINATION BENEFIT OF WILD AND SCENIC SUBORDINATION.
- PROPOSED FLUSHING FLOW CONDITION.

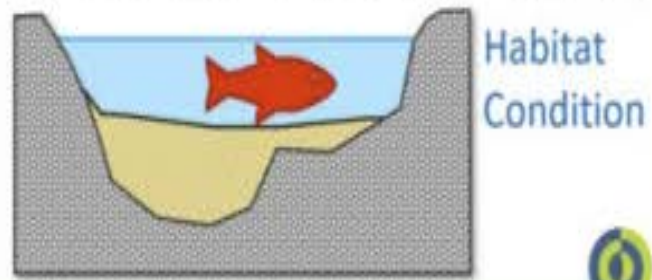
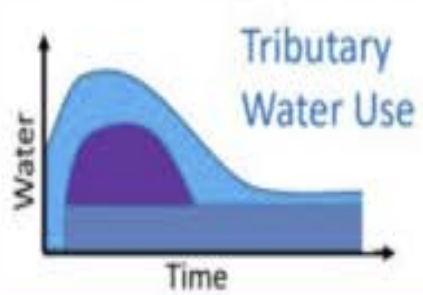
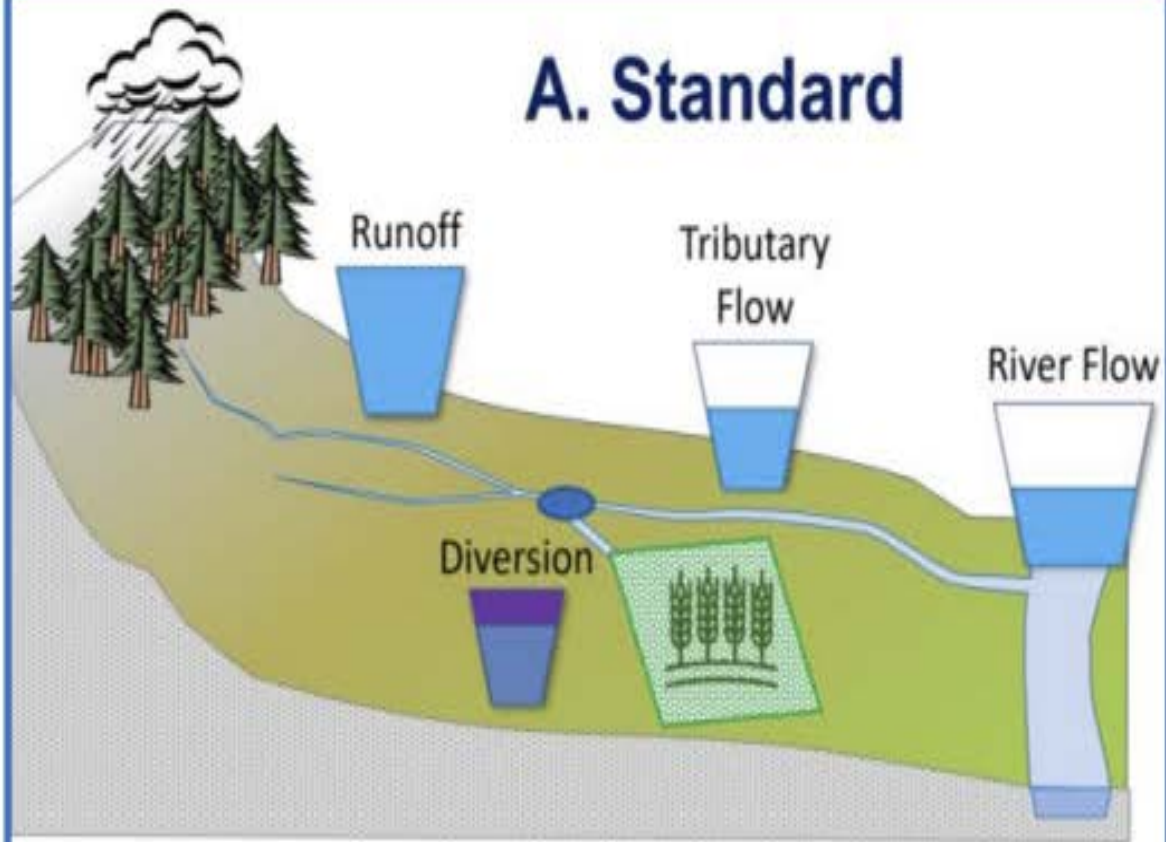
## 4. PROTECT FISH HABITAT

- MINIMUM STREAM FLOWS WILL BE CREATED ON THE FOLLOWING STREAMS:
  - BIG TIMBER
  - BIG EIGHTMILE
  - EIGHTEENMILE
  - BOHANNAN
  - CANYON
  - HAYDEN
- MINIMUM STREAM FLOWS WILL BE JUNIOR TO ALL PREVIOUSLY DECREED, LICENSED AND PERMITTED RIGHTS, ALL PENDING APPLICATIONS AND ALL HIGH FLOW WATER RIGHTS.
- FLUSHING FLOW CONDITION

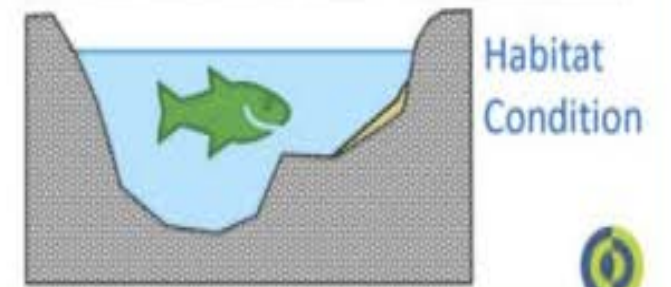
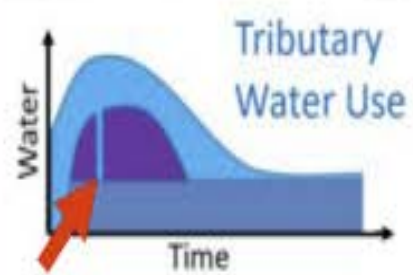
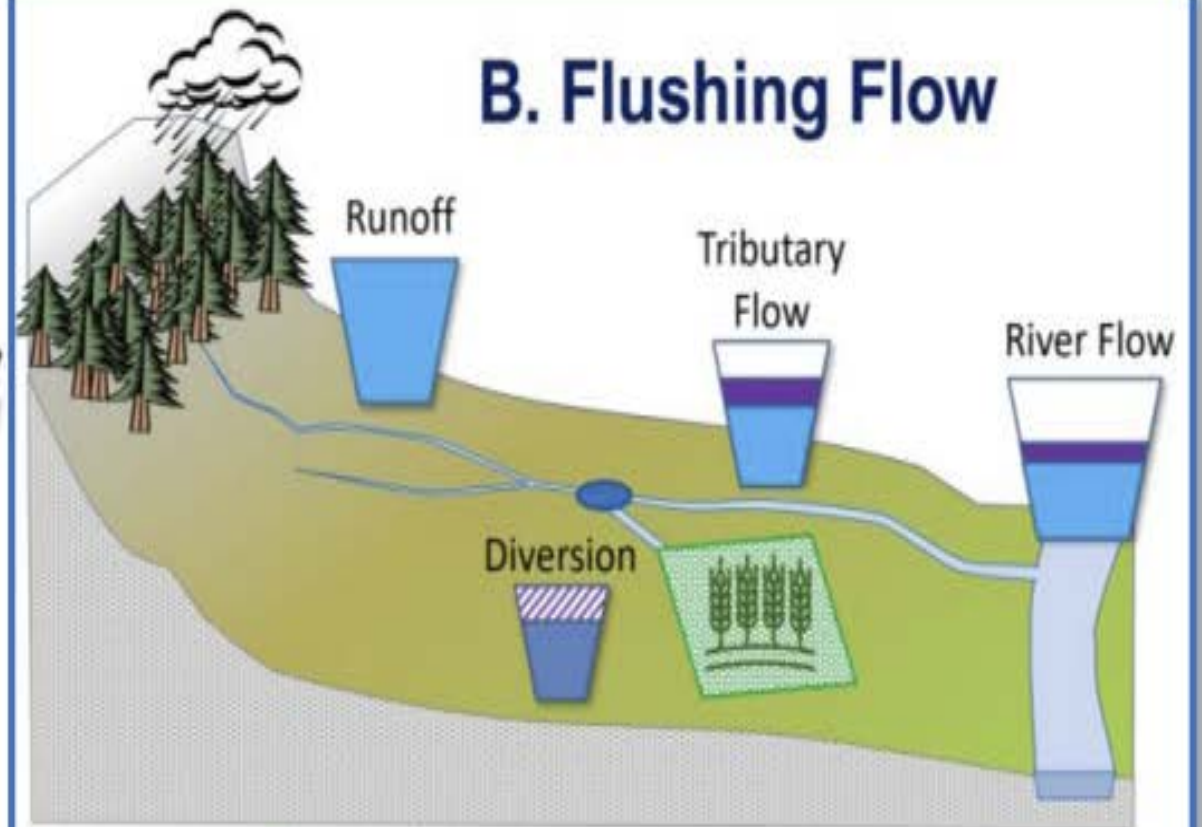
# FLUSHING FLOW CONCEPT

- FLUSHING FLOWS ARE USED TO REMOVE FINE SEDIMENT FROM RUNS AND RIFFLES, MOVE GRAVELS AND COBBLES TO CLEAN THEM OF FINE SEDIMENT, AND SCOUR POOLS AND CHANNEL BANKS TO IMPROVE STREAM HABITAT FOR FISH AND THEIR PREY.
- AMONG OTHER THINGS, DIVERTING HIGH WATER REDUCES THE LEMHI RIVER'S POWER TO MOVE SEDIMENT AND "FLUSH" FINE SEDIMENT FROM POOLS AND RIFFLES, THUS LIMITING THE HABITAT FOR FISH AND THEIR PREY.
- THE PROPOSED LEMHI RIVER FLUSHING FLOWS WILL INCREASE RIVER FLOWS BY TURNING OFF THE HIGH-WATER DIVERSIONS FOR A FEW DAYS EVERY FEW YEARS, SENDING A PULSE OF WATER DOWNSTREAM TO PERFORM CHANNEL MAINTENANCE.
- THE FLUSHING FLOW WILL HAVE NO EFFECT ON BASE WATER RIGHTS

## A. Standard



## B. Flushing Flow



## 5. PROVIDE FOR FUTURE DEVELOPMENT

- COMPREHENSIVE SETTLEMENT OF CLAIMS TO HIGH FLOW
- RECHARGE STUDY AND PILOT RECHARGE PROJECTS
- CLOUD SEEDING AND STORAGE STUDY
- WATER DISTRIBUTION

## 6. ENSURE LOCAL CONTROL

- LOCAL WATER USERS ESTABLISH PROCESS FOR ALLOCATION OF HIGH FLOW
- LOCAL COMMITTEE TO IMPLEMENT SETTLEMENT AGREEMENT
- WATER MASTER INSTRUCTIONS
- COMPUTERIZED ACCOUNTING
- NOTICE OF WATER TRANSACTIONS



# OVERVIEW OF PROCESS

- THE WATER RESOURCE BOARD IS FACILITATING LOCAL DISCUSSIONS ON HOW TO RESOLVE THE HIGH FLOW CONTROVERSY.
- THE PROCESS IS DESIGNED TO ENSURE LOCAL PARTICIPATION AND SUPPORT FOR ANY PROPOSED SOLUTIONS.
- THE PROCESS PROVIDES FOR LEGISLATIVE OVERSIGHT OF ANY SETTLEMENT.
- THE PROCESS GIVES YOU THE OPPORTUNITY TO SHAPE YOUR FUTURE RATHER THAN HAVING COURTS AND/OR STATE OR FEDERAL AGENCIES MAKING WATER ALLOCATION AND DISTRIBUTION DECISIONS FOR THE BASIN.

# NEXT STEPS

- WORKING GROUP WILL CONTINUE TO MEET TO DEVELOP A PROPOSED SETTLEMENT DOCUMENT AND IMPLEMENTING LEGISLATION.
- SETTLEMENT PROPOSAL WILL BE VETTED THROUGH PUBLIC MEETINGS.
- IF SETTLEMENT IS REACHED, WATER USERS WILL NEED TO FILE HIGH FLOW CLAIMS WITH THE DEPARTMENT OF WATER RESOURCES.
- SETTLEMENT WILL BE SUBJECT TO LEGISLATIVE REVIEW.

# QUESTIONS

