



# AGENDA

## IDAHO WATER RESOURCE BOARD

---

**Water Supply Bank Committee Meeting No. 2-22**

**Tuesday, July 12, 2022**

**3:00 p.m. (MT)**

Water Center

Conference Rooms 602 C&D / Online Zoom Meeting

322 E. Front St.

BOISE

**Brad Little**

*Governor*

**Jeff Raybould**

*Chairman*

St. Anthony

At Large

**Roger W. Chase**

*Vice-Chairman*

Pocatello

District 4

**Board Members & the Public may participate via Zoom**

[Click here to join our Zoom Meeting](#)

Dial in Option: 1(253) 215-8782

Meeting ID: 822 3058 0189 Passcode: 659332

---

**Jo Ann Cole-Hansen**

*Secretary*

Lewiston

At Large

**Dale Van Stone**

Hope

District 1

**Albert Barker**

Boise

District 2

**Dean Stevenson**

Paul

District 3

**Peter Van Der Meulen**

Hailey

At Large

**Brian Olmstead**

Twin Falls

At Large

1. Introductions and Attendance
2. Groundwater Rentals Within the ESPA\*
3. Proposed WSB Rule Revisions Edits\*
4. Other Items
5. Adjourn

Committee Members: Chair Pete Van Der Meulen, Al Barker, Jo Ann Cole-Hansen, and Brian Olmstead.

\* Action Item: A vote regarding this item may be made this meeting. Identifying an item as an action item on the agenda does not require a vote to be taken on the item.

### **Americans with Disabilities**

The meeting will be held telephonically. If you require special accommodations to attend, participate in, or understand the meeting, please make advance arrangements by contacting Department staff by email [jennifer.strange@idwr.idaho.gov](mailto:jennifer.strange@idwr.idaho.gov) or by phone at (208) 287-4800.

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

**Phone: (208) 287-4800 Fax: (208) 287-6700 Website: [idwr.idaho.gov/IWRB/](http://idwr.idaho.gov/IWRB/)**

# Memorandum



To: Water Supply Bank Committee  
From: Mary Condon  
Date: July 12, 2022  
Re: Ground Water District Concerns in the ESPA

---

**REQUIRED ACTIONS:** The Board may establish criteria and fees for processing and maintaining applications.

---

The Idaho Water Resource Board (IWRB; Board) is responsible for operation of the Water Supply Bank, inclusive of the Board's Bank. The attached email from TJ Budge poses five concerns with requests for changes in policy and to the Water Supply Bank Rules, under IDAPA 37.02.03. Below, each of the five items are compared to current procedures and policies, followed by a recommendation to address each concern.

1. **Area of Common Ground Water Supply**, or specifically, Subrule 50.1 – Eastern Snake Plain Aquifer, as described within IDAPA 37.03.11 – Rules for Conjunctive Management of Surface and Ground Water Resources. Water Supply Bank review criteria to avoid injury and to consider the local public interest, as well as other considerations the IWRB should require are defined by law under Section 42-1763 Idaho Code, Rentals from the Bank, and through Rule 30, IDAPA 37.02.03 - Rentals from the Bank. Reviews of ground water rentals from the Board's bank with respect to the ESPA boundary are evaluated using the Transfer Processing Memo No. 24 (December 21, 2009); the ESPA Model Transfer tool (ETRAN 3.4); procedural guidance document Use of the ESPA Model Transfer Spreadsheet (ETRAN) for Water Supply Bank Rentals in the Eastern Snake Plain Aquifer (Revised January 14, 2022); and the ESPA Transfer Spreadsheet Version 3.1 - Implementation and Use memo (August 13, 2007), also referenced in the 'Transfer Processing Memo 24,' on page 14.

Under item 2.4, of the Use of the ESPA Model Transfer Spreadsheet (ETRAN) for Water Supply Bank Rentals in the Eastern Snake Plain Aquifer, ".... At some locations, the grid cells extend beyond the model boundary. If the To [or FROM] Well location is farther than a distance of two grid cells from the ESPA boundary, the modeler will need to employ additional modeling tools or methods in conjunction with the ESPA modeling tool to calculate the timing and quantity of the impacts to the Snake River...."

This is further expanded upon under item 5 of the ESPA Transfer Spreadsheet Version 3.1 - Implementation and Use, where "For points of diversion between the ESPA and just outside the ESPA modeled area, it may be reasonable to allow use of the closest cell within the ESPA modeled area for analysis using the transfer spreadsheet and ignore other tributary effects." This item of the memo ends with, "Transfers between the ESPA modeled area and non-modeled tributary aquifers will require separate analysis by other acceptable methods, unless the distance is less than 2 cells outside the modeled area."

The Bank uses the current guidance referenced above along with available modeling tools to evaluate depletions to the ESPA for ground water rentals. The 2 cell buffer described above has been used in the recent past, and repeatedly since at least 2004 with a particular set of rights located just 1.7 miles outside the ESPA boundary, which is within the 2 cell range. The leased diversion points for these set of rights is not overlying a known different, distinct aquifer than the ESPA, and both the lease and proposed rental

diversion could reasonably be expected to be within the same aquifer due to their close proximity. See Attachment 1, ESPA boundary close-up picture.

Rentals of ground water qualify under the GWD assessments, pursuant to Section 42-5414 Idaho Code, and under Rule 43 of IDAPA 37.03.11 - Rules for Conjunctive Management, where mitigation plans must allow for accounting of new appropriators who did not previously participate. It becomes the ground water district's responsibility to assess new uses within their boundaries, even for rentals. It is recommended that WSB staff continue evaluating moves in the ESPA with the guidance already in place to evaluate injury and depletions to the ESPA, and any changes to obligations of a ground water user who is a member of a ground water district be left to the ground water district to assess. If the Board wants WSB staff to no longer consider any moves across the ESPA boundary, regardless of the 2 cell buffer and other evaluation techniques as described in the current guidance for moves in the ESPA to assist in evaluating such moves, this can be done through a WSB guidance memo specific to Bank rentals adopted by the Board and does not require adding words into rule.

2. **Ground Water District Review.** Newly submitted Water Supply Bank applications are listed on the public website under Reports and Resources for the Water Supply Bank, with the requested water right, beneficial use, and the water user details shown. There is adequate time for any person to view the processing spreadsheet and provide their comments or concerns prior to finalization, since nearly all of the applications received for leases and rentals take longer than 30 days to review and recommend for action. The use of this tool, along with the lease and rental map tool on the IDWR site, was made aware to Idaho Ground Water Appropriators (IGWA) back in February of this year, and Mr. Turner agreed that this would be sufficient for ground water districts to have notice. This additional request by TJ Budge allowing ground water districts a notification and comment period by modifying Rule 30, of the Water Supply Bank Rules, is counter-productive to the rule-elimination executive order of the Governor of Idaho and would add into rules text that will not result in any changes in current practices.

Additionally, as part of an earlier email from TJ Budge following the last WSB Committee meeting but was left out of this email to the WSB Rulemaking, was a concern of leased acres to the Bank also being made as part of a ground water districts mitigation plan. Leased acres to the Bank should not be used as part of a mitigation plan since they are made available for rental. If a leased right is rented, it cannot be terminated without other suitable rights for the rental as substitution. Any ground water district accepting acres as part of a mitigation plan should check to make sure the portion for mitigation is not already leased to the Bank. A question on the lease application form for the Water Supply Bank already asks the applicant if the acres offered are part of a mitigation plan or federal set aside program for this purpose. It becomes the responsibility of the ground water district to check leased acres after a right has been accepted in the Bank.

3. **Rentals between ground water districts.** This request is counter-productive to the rule-elimination executive order of the Governor of Idaho. The Director can already add any conditions to the terms of a rental through Section 42-1763, Idaho Code. Additionally, adding a blanket condition to ground water rentals within ground water districts is unnecessary since each ground water district has the authority to enforce reductions and increase obligations through their own rules, a ground water user within the boundaries of a ground water district is not obligated to be a member of the ground water district, and the boundaries of each ground water district can be modified, reduced, or expanded. The ground water districts should continue to communicate with their members and with the watermaster to ensure user obligations are met.

4. **Substitute different terms for "lease" and "rental."** The terms "lease," "lessor," and "lessee" are established under law, through Section 42-1762, Idaho Code for the acquisition of rights, and the term and "rental" through Section 42-1763, Idaho Code for the rental of rights. A change to rule would be inconsistent with the terms set by law.

5. **Signing of Water Supply Bank applications.** The requirement for wet signatures by the Department and the IWRB was established under Rule 53 of IDAPA 37.01.01 - Rules of Procedure of the Idaho Department of Water Resources. This rule was changed earlier this year to allow electronic filings, including e-signatures. Including this request in the WSB rulemaking is redundant, and counter-productive to the rule-elimination executive order of the Governor of Idaho to add into rules text that will not result in any changes in current practices.

## Attachment 1

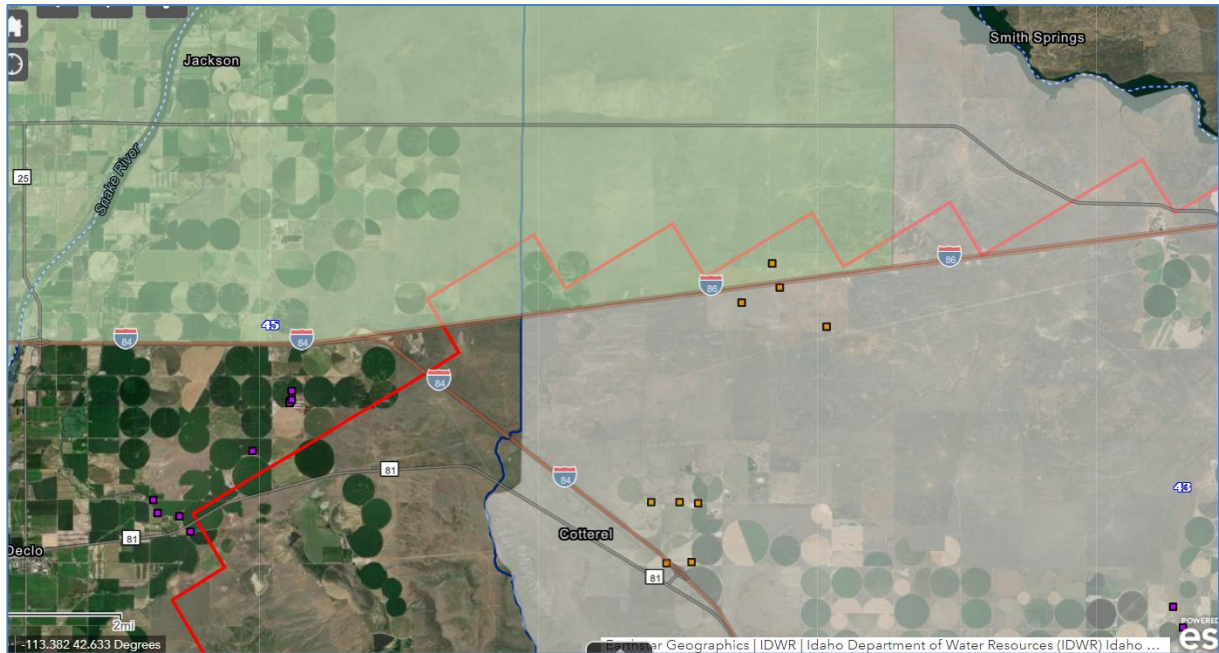


Figure 1

The picture above is a close-up of the ESPA boundary, between Magic Valley Ground Water District and Raft River Ground Water District. The ESPA boundary shape is the red zigzag line, and the shaded boundaries are two different ground water districts, overlaying the ESPA boundary. The shape of the ESPA boundary is not exact to the natural shape of an aquifer. It was created using 1x1 grid cells for the modeled area.

July 6, 2022

Mary Condon  
Water Supply Bank Coordinator  
Idaho Department of Water Resources  
mary.condon@idwr.idaho.gov

*Sent Via Email*

**Re: Comments on Version 1 of the redlined Water Supply Bank Rules**

Dear Mary:

Thank you for the opportunity to review and submit comments on proposed amendments to rules 25, 30, and 40 of the Water Supply Bank Rules (the “Rules”). The following comments are submitted on behalf of Idaho Ground Water Appropriators, Inc. (IGWA).

IGWA is made up of nine ground water districts and one irrigation district whose members collectively irrigate nearly one million acres of farmland on the Eastern Snake River Plain. IGWA’s member districts measure and report groundwater diversions from the Eastern Snake Plain Aquifer (ESPA) and develop and implement mitigation plans to protect their members from curtailment.

As you know, groundwater rights from the ESPA are frequently leased into and rented from the Bank. The ability to rent water from the Bank is a valuable tool for water users to meet short-term needs but it can present challenges for IGWA’s members in terms of water right accounting and implementation of mitigation plans. IGWA appreciates the Board’s effort to revisit and improve the Rules, and offers the following suggestions for your consideration:

1. **Area of Common Ground Water Supply (ACGWS).** Rentals of groundwater from a point of diversion outside the ACGWS to a point of diversion inside the ACGWS effectively create new withdrawals from the ESPA, even if the point of diversion moves a relatively short distance. Given the moratorium on new groundwater rights from the ESPA, new groundwater withdrawals should not be permitted within the ESPA. Therefore, we kindly request that either the Rules or IWRB processing policies be amended so that no groundwater rights with a point of diversion outside the ACGWS be rented to a point of diversion inside the ACGWS.
2. **Ground Water District review.** Rule 30.04 currently requires the Director to give notice of an intended rental as he or she deems necessary. A number of rentals have been approved that create problems for ground water districts because the rental results in an enlargement in use, causes water to be moved between districts, or otherwise. We kindly request that rule 30.04 be amended to require the Bank to give notice of a proposed rental of groundwater to the district within which the rented water will be diverted, and to request comment from the district like the Bank does with the watermaster. The district can then advise the Bank know if there are issues that should be considered in processing the application.
3. **Rentals between ground water districts.** Rentals between ground water districts may require changes to accounting of mitigation obligations of the affected districts, and may cause problems

for the water user and the district of those obligations are not understood. We kindly request that the Bank include the following or a similar condition on rental agreements for groundwater rights located within a ground water district: "At the time of this agreement, the water rental is within \*\*\* Ground Water District. This Agreement does not determine Ground Water District mitigation obligations associated with the rented water. Renter must contact the District and comply with all mitigation obligations associated with the rented water."

4. **Substitute different terms for "lease" and "rental."** In general parlance, the terms "lease" and "rental" are synonymous. However, the Rules assign different meanings to these terms. Rule 10.05 defines "lease" as a conveyance of water *to* the Bank, whereas Rule 10.08 defines "rent" as a conveyance of water *from* the Bank. While these definitions eventually become familiar to those who deal frequently with the Rules, they are a common source of confusion for those who do not. This confusion could be avoided by using the word "deposit" to refer to placing water into the Bank, using the word "lease" to refer to the lease of water from the Bank to a lessee, and using the word "rent" to refer to compensation paid by the lessee for use of the leased water.
5. **Signing of Water Supply Bank applications.** The Bank has historically required that applicants mail original signatures to the Bank for filing. There is no legal need for original signatures, it is often inconvenient, and it slows down the approval process considerably. I would very much appreciate the Rules allowing scanned, photographed, or facsimile copies of signatures, and to allow applications to be submitted via email or online.

Thank you again for the opportunity to submit comments. Should you have any questions about these comments, please feel free to give me a call.

Sincerely,



T. J. BUDGE

c: Bob Turner  
Jaxon Higgs  
Alan Jackson



## **Water Supply Bank Report:**

**Analysis of Processing Costs & Revenue,**

**with Alternative Rental Fee Scenarios**

**for the Board's Bank**

July 12th, 2022



This page intentionally left blank

## Introduction

Each year, an analysis of the costs for operating versus the revenue generated by the Board's Water Supply Bank (Bank) has been submitted within an annual report for the Board's Bank. A reoccurring focal point since 2010 is that the cost of processing and maintaining applications and approved transactions annually exceeds the revenue generated. In 2011, lease application fees were introduced to assist in offsetting the operational costs of the Bank. Figure 1, below, depicts the revenue vs cost from 2013-2019, as it was published in the 2019 Annual Report.

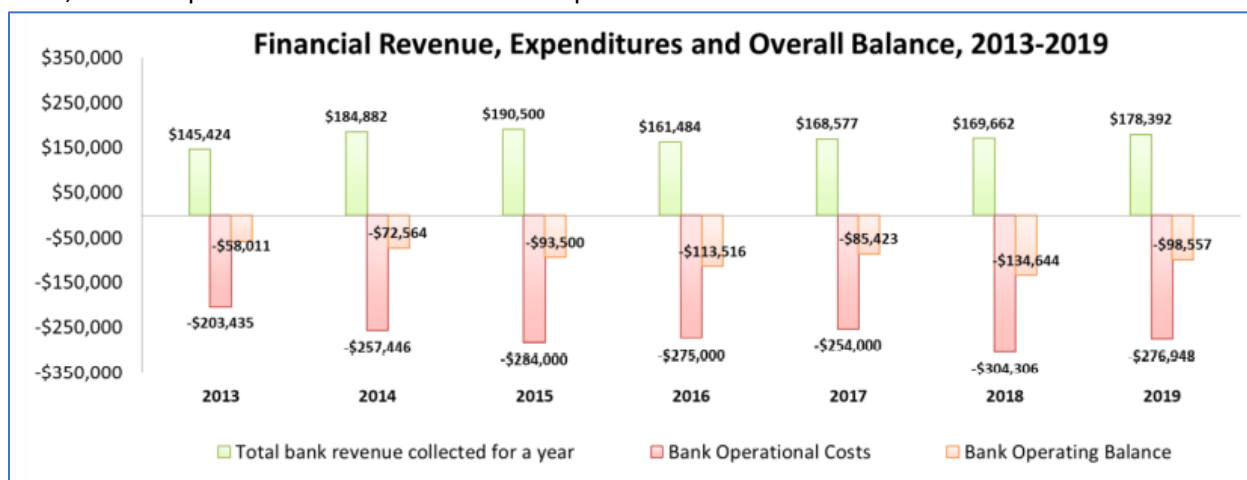


Figure 1

Revenue for the Board's Bank is currently received in two forms: the lease application filing fees, of \$250 per application, with a maximum of \$500 for stacked rights; and the Rental Administrative Fees, equal to 10% of the total Rental Fee, which was priced at \$17 per acre foot from 2014 through 2017, and \$20 per acre foot, from 2018 through 2022. Pricing in 2023 increases to \$23 per acre foot until 2030.

The Board's Bank operating costs include processing applications, maintaining records of current contracts and agreements, concluding transactions at the end of the term, payments to owners each year, and research and development for improving processes for the Bank. There are more than 750 WSB specific documents generated annually, resulting in: 1,700+ document upload entries to individual water rights, 550+ document upload entries to the WSB software for specific leases and rentals, and 90% of these documents are generated from October through March each year. These numbers do not include cancellations and changes to contracts. Reduction of the deficit requires improving efficiencies for processing and maintaining transactions in the Bank, as well as increasing application and maintenance fees sufficient to cover the cost of processing, maintaining, and improving the program.

Service Function	2015	2016	2017	2018	2019	Average
<b>Annual Applications Processed:</b>						
Leases	*446	*338	176	152	198	**175
Rentals	131	117	122	103	88	112
<b>Average Annual Cost per Application:</b>						
Leases	-\$201.48	-\$206.70	-\$244.18	-\$275.21	-\$351.90	-\$255.89
Rentals	-\$597.90	-\$627.34	-\$613.48	-\$773.42	-\$933.19	-\$709.07

Figure 2

## Application Processing

The average cost to process a lease application from 2015 to 2019 was \$255 per application. The average cost to process a rental application during the same period was \$710 per application. The number of hours to complete a review for a lease application is approximately 6 hours each. The number of hours to complete a review for a rental application is approximately 15.3 hours each, or two and a half times longer, as shown previously in Figure 2.

Of the 100 rental applications reviewed in 2018, 84 resulted in an approved rental, and 54% of those generated an administrative fee of less than \$250. Not all rental applications take the same amount of time to process, because the reason for rental and the location in the state, as well as timing for the application received, all impact the complexity of the request. Cost variations to processing rental applications by purpose, requests for changes in nature of use of the leased right(s) for the rental purpose, and locations of rental applications are examined below.

### Beneficial use

Figure 3 shows that in 2020, 88 of the rental applications were for Irrigation. Figure 4 breaks down the purpose of the irrigation use, by actual application. While 73% of the irrigation applications were for growing a crop, 27% were for other uses, with commercial and residential grass making up 12% of the Irrigation use rental requests. Growing a crop, is by far, the highest requested use for a rental, accounting for 64% of the rental requests in 2020.

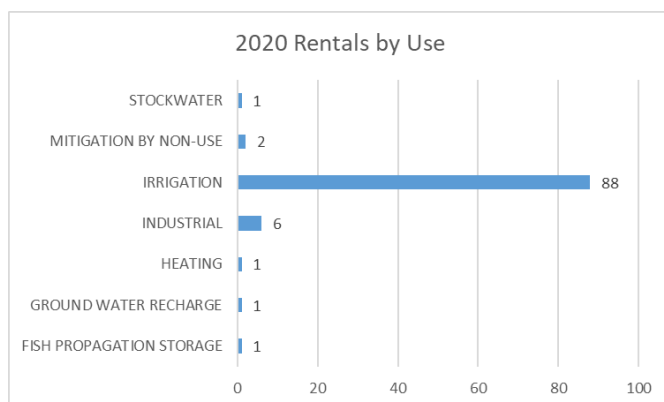


Figure 3

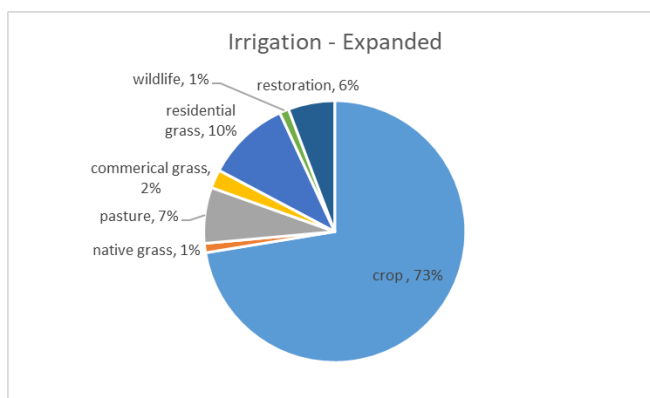


Figure 4

### Change in Nature of Use

A review of the rental applications received for 2021, found 21% had a Change in Nature of Use request. Using Section 42-221, Idaho Code, as an example fee structure for applications for transfer, a change in nature of use would require an additional \$250 filing fee. A change in nature of use requires more time to evaluate historic use, typically through Evapotranspiration Data and diversion records, to avoid enlargement through the rental. Implementing this same requirement would have generated an additional \$6,000 in 2021.

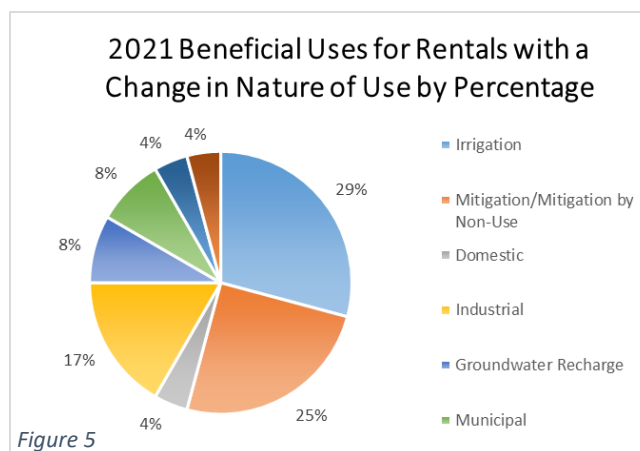


Figure 5

## Location of Rental

Rental applications within a Ground Water Management Area or Critical Ground Water Area, accounted for 65-70% of the rental applications received in 2020 and 2021. Figure 6 below, shows the number of applications per management area. More than half of these are within the Eastern Snake Plain Aquifer (ESPA), accounting for nearly 40% of all rental applications received in both years. ESPA rental requests

are increasing each year and providing applicants with real-time accounting for available rights is tedious and complex.

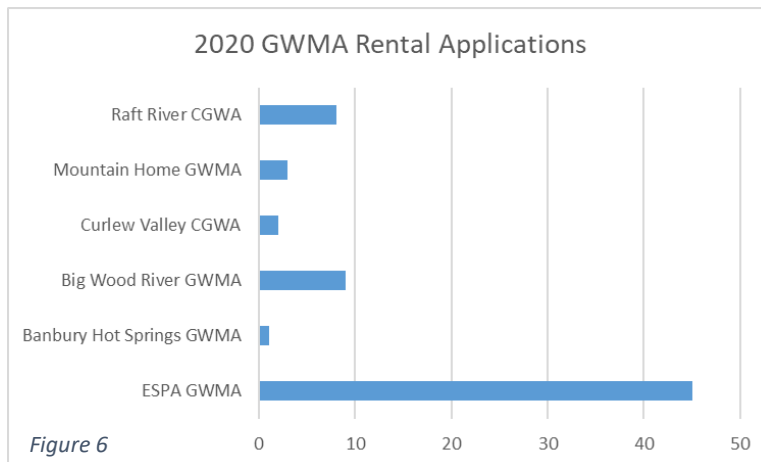
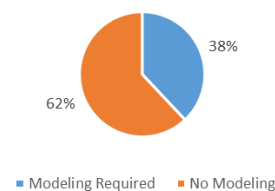


Figure 6

Percentage of Rental Applications Requiring ESPA Modeling



Additionally, verifying the water modeling required for ESPA and other certain rentals increases the review time for the agent processing the application. Pricing on availability and by region has been discussed as a method for rentals from the Bank. Leased water within a GWMA/CGWAs is in high demand, and it takes considerable review time to ensure there will be no injury. Reporting on leased and rented rights is commonly requested for ground water management areas, especially in the ESPA and Big Wood areas. Introducing a \$50 rental processing fee for ground water diversions within a GWMA/CGWA would have generated \$3,400 in 2020 and \$3,950 in 2021. Adding an additional \$200 rental processing fee for ground water diversions in the ESPA, and/or rentals in which water modeling is required, would have generated \$9,000 in 2020 and \$9,400 in 2021. Both of these fees would help to cover the actual processing and maintenance costs of rentals within areas of ground water concern.

Rentals within Ground Water Districts were also examined as part of this analysis. Rental requests within a GWD represented 39% of the active applications in 2021, and 53% of new applications in 2021. While Galena rentals, at right, outnumbered other GWDs, with 44 of the 233 active rentals in 2021, the rest of the GWDs at right, have 50% or more of their boundary area within the ESPA.

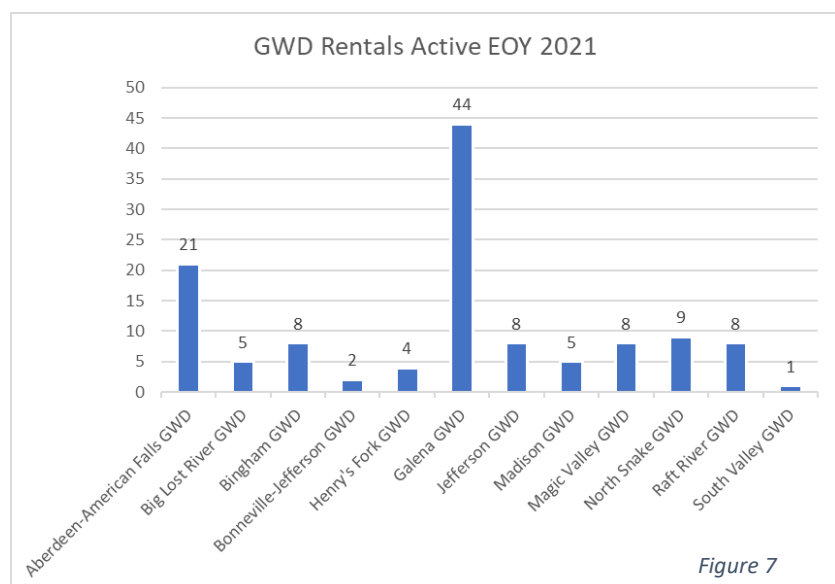


Figure 7

At right, is a snapshot of the current ground water rentals in Idaho, marked as purple squares. Each marker represents a diversion point; the shaded shapes are GWDs, and the large red outline is the ESPA. This helps to illustrate the roughly 70% of rentals in an area of concern. This mapping tool is available on our public site, under WSB Resources.

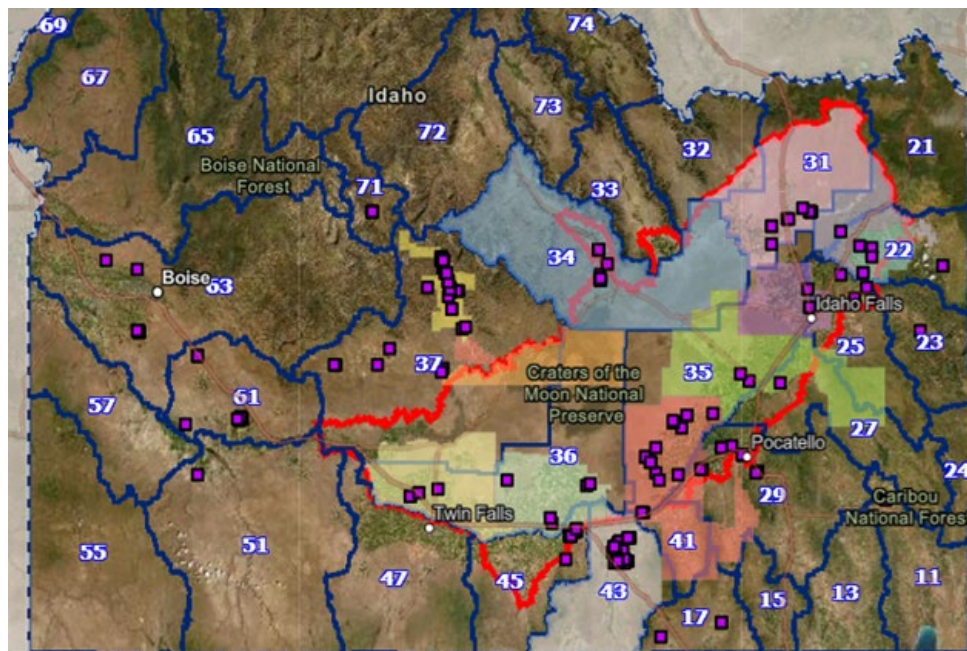


Figure 8

### Timing of Applications

Rental application processing begins on November 1<sup>st</sup>, with staff from the Water Rights section assisting with processing applications. After March 31<sup>st</sup>, the number of persons dedicated to assisting with application processing is normally reduced to two FTP's. Rental applications received on or prior to November 1<sup>st</sup> have a November 1 priority for review, and any received after November 1<sup>st</sup> are reviewed in the order they are received. See Figure 9, below, where most applications are received during and after additional staff are assigned to assist with processing.

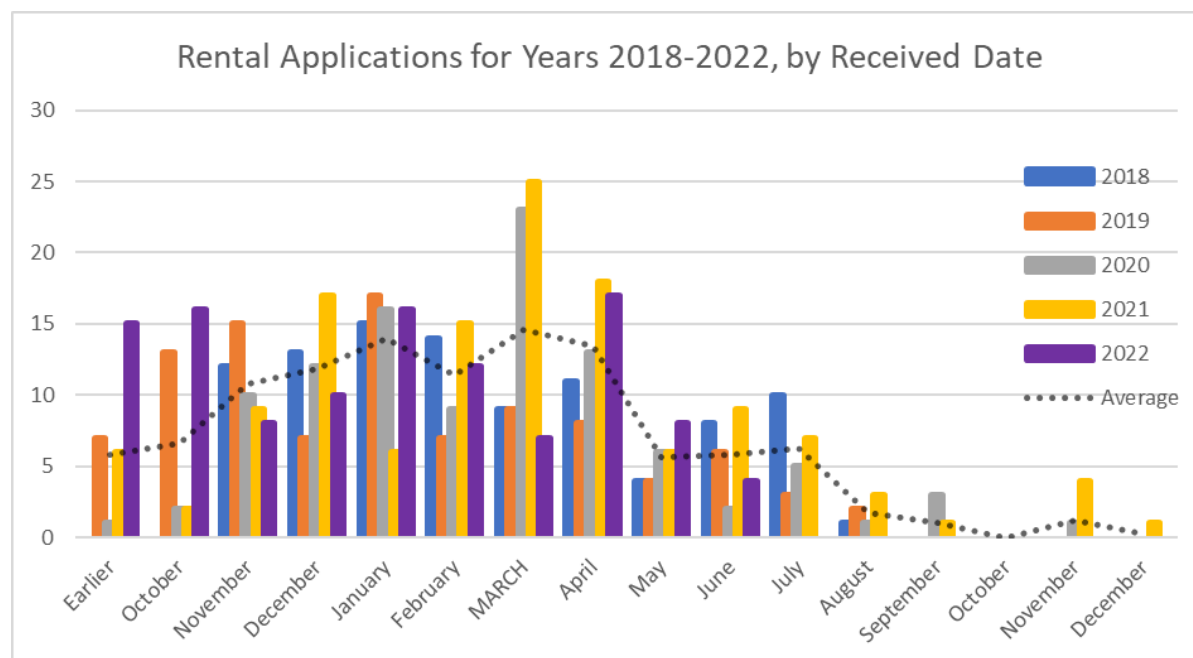


Figure 9, As of July 1, 2022

In 2021, 90% of the rental applications were received after November 1<sup>st</sup>, 25 rental applications were received during the month of March with an immediate start date request, and four were received as late as November for the same year rental. Based on the proposed \$300 fixed filing fee, or \$250 for applications received by November 1, the \$50 increase after November 1 filing would have generated an additional \$5,700 based on 2021 data. The number of late filings after February 1, represents 60% in 2020, 70% in 2021 and 42% of the rental applications received for 2022 so far. Proposing a late filing fee of \$50 for applications received after February 1 for the same year of the requested season of use would have generated an additional \$4,350, with 70% of applicants paying the full \$350 per application.

### Withdrawn Applications

The number of rental applications which were withdrawn after an agreement was drafted, but before a rental fee could be collected represents 16% of the total applications received in 2021. The time spent reviewing and finalizing these rental applications to agreements ranges from one to five months, with a three-month average. Should paying renters be burdened with the additional cost to offset withdrawn and cancelled rental agreements? Non-refundable application filing fees should help to reduce the number of applications received and subsequently withdrawn, and if it does not at least the associated cost with partial administration of the application is recouped via the filing fee schedule. Applying the rental application fees discussed in this report thus far to applications withdrawn by the applicant in 2021, would have resulted in approximately \$8,500 recovered for the review and administrative work accomplished, or \$425 per application.

### Stakeholder Sentiment

In 2018, the WSB program began an outreach initiative, through the Continuous Improvement Framework. As part of this initiative, a survey was created and sent to stakeholders in 2018, 2019 and 2020, based on stakeholder group, for their opinions on various questions pertaining to five core resources: Human, Knowledge, Technology, Water Supply, and Financial Resources.

<b><i>Financial</i></b>	<b>Watermasters &amp; Water District Staff</b>	<b>Water Users &amp; Representatives</b>
<i>The Water Supply Bank should maintain a list of water rights that are available for purchase (Q25)</i>	65%	100% agree, or do not disagree
<i>The Water Supply Bank should actively seek to purchase water rights that can be sold by the Bank (Q26)</i>	55%	62% agree, or do not disagree
<i>The annual operational costs of the Water Supply Bank program should be fully and completely offset through the collection of fees from leases and rentals (Q28)</i>	75%	62%
<i>I support instituting a rental application filing fee to meet operational costs (Q32)</i>	65%	75% agree, or do not disagree
<i>A rental application filing fee of \$250 seems: TOO HIGH (Q33)</i>	60%	50% too high, 38% acceptable
<i>I support variable rental prices, based on different water use considerations, such as diversion rate, irrigable acres, diversion volumes, location, priority date, etc (Q34)</i>	85%	78% agree, or do not disagree

Figure 10



Figure 10 shows responses to certain questions about Water Supply and Financial Resources by water users and watermasters. Some important findings include: the Bank should maintain a list of available rights, 75% did not disagree with a rental filing fee, and 50% said \$250 would be too high. However, 78% did not disagree with variable rental pricing.

## Cost accounting

The rental administrative fee currently in place should be recognized as part of the annual maintenance cost of each rental agreement, where each year: a rental fee is due, a notice of rental fee due letter is issued, a receipt of funds received for rental is generated, late notice of rental fees is issued, a comprehensive review of rental fees received is used to calculate the amount payable to each water right holder, and notices of conclusions are sent three months prior to the end of the rental agreement, as well as a final conclusion letter after the term has ended. In Figure 11 below, active and newly approved rental applications will require recording rental fees, and each of the rights rented will then require payment to the owner of the right at the end of the year.

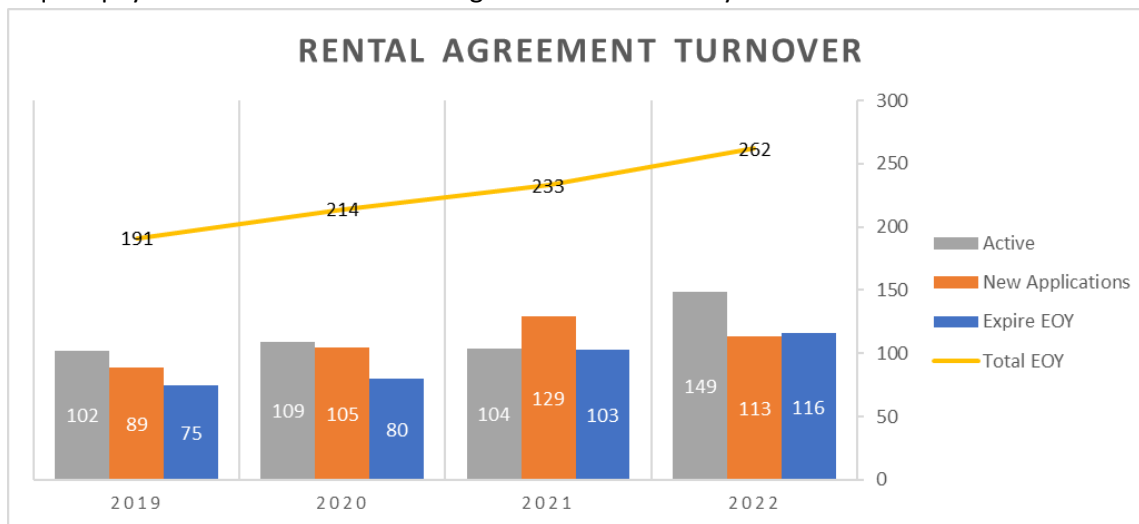


Figure 71, 2022 numbers as of July 1, 2022

## Rental Administrative Fee

The minimum administrative fee, equal to 10% of the rental rate, received on a 2020 rental approval was \$4.00 for fish propagation storage offset, and nearly 33% of all rental applications approved in 2020, generated under \$100 per approval. The maximum administrative fee received on a 2020 rental approval was \$8,542.00, for crop irrigation. Of all the rental applications approved in 2020 and shown in Figure 12, about 70% generated less than \$700 in administrative fees each. Due to the high number of rental

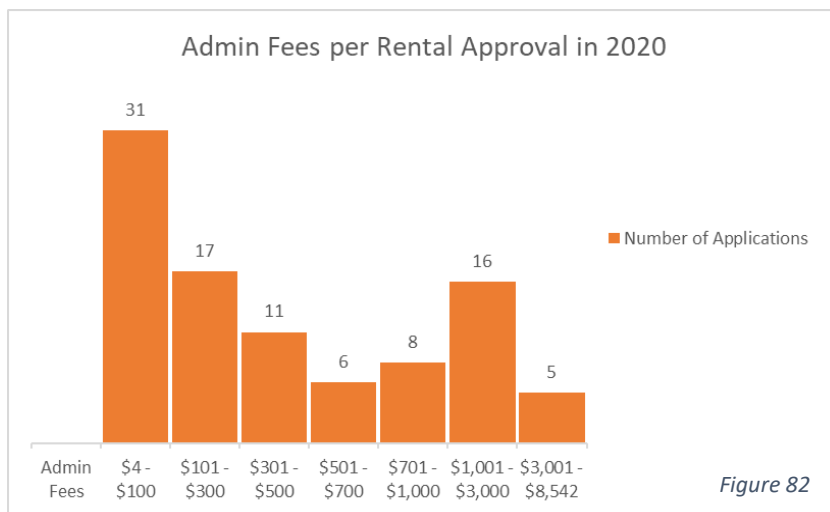


Figure 82

applications returning less than the cost to process and maintain them, alternative measures to recoup costs need to be implemented. In 2021, 51 of the approved rentals resulted in an administrative fee of less than \$200, and 73 generated less than \$500. Applying a minimum administrative fee in 2021 for the 51 rentals of \$200 would have generated an additional \$7,760 and applying a \$500 minimum to the 73 rentals would have generated an additional \$38,350 in revenue.

### Lease Maintenance Cost

Rental agreements are not the only transactions with maintenance costs; changes to ownership and splits through transfers, warrant payments to the owner of each right leased, and conclusion notices are all associated with lease contracts. Typical lease contracts are five years in length, and as you can see in the graph at right, there were about 500 active lease contracts for a five-year term in 2021. In total, there were 634 active lease contracts in 2021, and 555 active lease contracts in 2020.



Figure 13

Multiple lease contracts are often combined to fulfil a single rental request. Some lease contracts have multiple water rights, which could be owned by different people, and some individual water rights are split between multiple owners, or request 50/50 payment to joint owners of a right. Calculating and consolidating payments made to each individual water right from multiple rental agreements, and then dividing into each owner of that particular right, is a complex accounting practice. There were over 420 credits to individual water rights for rentals in 2021, which resulted in warrant payments to 108 individual water right owners. Additionally, 140 of the 634 leases expired at the end of 2021. Figure 14, below, as taken from the 2019 WSB Annual Report, shows in 2019 that 890 hours were spent on transaction management, of which more than half of those hours are for lease management.

Service Function	Hours Logged	Percent of All Hours
Processing lease applications	1,400	25.2 %
Processing rental applications	1,650	29.6 %
<b>Processing applications, total</b>	<b>3,050</b>	<b>54.8 %</b>
Managing lease contracts	490	8.8 %
Managing rental agreements	400	7.2 %
<b>Managing transactions, total</b>	<b>890</b>	<b>16.0 %</b>
Communications & coordination	575	10.3 %
Research & development	1050	18.9 %
<b>All services</b>	<b>5,565</b>	<b>100.0 %</b>

Figure 14



Applying a \$50 annual maintenance fee per lease contract to cover the cost of managing leases in 2021, would have returned \$31,700. This fee would help cover costs associated with calculating and issuing payments, concluding contracts, ownership changes for changing or adding new owners, amendments to contracts for transfers which split water rights under contract, and all document processing and electronic filing.

## Rental Application Fees

The WSB Committee requested a follow-up proposal, which addressed: a minimum administrative fee, a rental application fee allowing a discount for earlier filings, and calculations of all associated costs of the Bank, in order to reduce the deficit to as close to zero as possible. Two alternative rental application filing fees were introduced in the previous version of this report, and this report includes additional processing and maintenance fees to fulfil the committee's request, bringing the deficit to zero.

The first approach offered was a rental application filing fee of \$300, unless the application is received prior to the filing date, then it would be \$250. This approach was also compared in years 2020 and 2021, and was applied to all rental applications, regardless of whether it was later withdrawn or approved. This approach would have generated \$30,750 in 2021 and \$25,000 in 2020. A late filing fee is now proposed for applications received after February 1, for \$50 per application, equal to \$4,350 for 2021.

The second approach offered is the fee schedule of the Department, for permanent transfers of rights, under Section 42-221, Idaho Code. Application fees are calculated on the requested diversion rate or storage volume, which is set up in a 6-tier table where the price per CFS reduces as the diversion rate requested gets higher. This sliding scale approach would have generated an additional \$48,960 per year, with a minimum fee of \$200 per application for 30 of the rentals approved in 2020, \$500 per application for 45 of the approvals in 2020, and between \$600 to \$2,310 per application for the remaining 19 rentals approved in 2020. Three of the approved rentals would have cost more than \$1,000 per application to file using the sliding scale for an application fee. This method does not have an option for earlier filing, and renters are already paying a rental price per acre-foot. A different tier approach would be to set a minimum application fee and add additional fees for scenarios that are known to increase processing review times due to timing, location, water modeling requirements, and changes in nature of use.

Below, is a table based on a "build a package" design, with the amount of revenue possible for each fee based on historic receipt of applications in 2021. The percent of applicants the fee would have applied to in 2021 is included under the processing fee description, top row.

2021 Rentals - Application and Processing Fee Options - Return on 123 Applications	Application Fee 100%	After Nov 1 \$50 90%	After Feb 1 \$50 70%	CWMA/GWMA \$50 64%	ESPA \$200 38%	Change in Nature of Use \$250 20%	Min * Admin Fee \$100 34%	Min * Admin Fee \$200 41%
Processing fee		\$5,700	\$4,350	\$3,950	\$9,400	\$6,000	\$3,103	\$7,757
Application Fee \$250	\$30,750							
Application Fee \$350	\$43,050							
Application Fee \$500	\$61,500							
42-221 Application Fee	\$64,920							
* Admin Fee is 10% of the calculated total Rental Fee, or the minimum suggested, and is part of the annual rental fees due.								
% equals the percent of applicants this would have affected in 2021								

Figure 15

Using the same data, the table below shows for each row the addition of the row and corresponding column, where in the first data row, an Application Filing fee of \$250 applied to all 123 rental applications received in 2021 plus a Nature of Use Change from the second data column, would have generated an additional \$36,750 in revenue. While only 20% of applicants in 2021 had a change in nature of use, these applications take considerably more time and resources to review and approve.

2021 Rentals - Max Combination of Possible Application Fees for 123 applications	Application Fee 100%	GWMA & ESPA \$50 + \$200	Nature of Use Change \$250	Average cost per 123 applications	Max Cost per Application	After Nov 1 \$50 After Feb 1 + \$50	Min * Admin Fee \$200 41%	Total additional for 2021
Processing fee		\$13,350	\$6,000			\$10,050	\$7,757	
Application Fee \$250	\$30,750	\$44,100	\$36,750	<b>\$407.00</b>	<b>\$750.00</b>	\$850.00		\$67,907
Application Fee \$350	\$43,050	\$56,400	\$49,050	<b>\$507.00</b>	<b>\$850.00</b>	\$950.00		\$80,207
Application Fee \$500	\$61,500	\$74,850	\$67,500	<b>\$657.00</b>	<b>\$1,000.00</b>	\$1,100.00		\$98,657
42-221 Application Fee	\$64,920	\$78,270	\$70,920	<b>\$685.00</b>	<b>\$500 + Variable fee</b>	\$500+\$50+\$50+ Variable fee		\$102,077
*Admin Fee is 10% of the calculated total Rental Fee, or the minimum suggested, and is part of the annual rental fees due.								
% equals the percent of applicants this would have affected in 2021								

Figure 16

The first data column for GWMA & ESPA, calculates the revenue for all 2021 applications which also met the criteria of being in a GWMA or the ESPA. On the previous table, these two are separate, whereas in this table they are combined. Of the 123 rental applications received in 2021, 68% were within a GWMA/CWMA and another 40% were also within the ESPA.

The third column, for Average Cost Per is calculated using the total for the row (application fee, GWMA & ESPA, Nature of Use Change), divided by the total number of applications received, equal to 123 for 2021. Using the first row, and beginning with a \$250 rental application fee, if the applicant was also in the ESPA and had a change in nature of use, but applied prior to November 1, their total rental application fee would be \$750. The total at end is inclusive of all columns for that row.

## Conclusion & Recommendation

Introducing a fee schedule for rental applications based on the first row in Figure 16, as a \$250 application fee, \$50 for GWMA/CWMA, \$200 for ESPA ground water rentals, \$50 after Nov 1<sup>st</sup>, a penalty fee of \$50 after February 1, and a minimum administrative fee of \$200, would generate an additional \$67,907 based on 2021 applications and minimums. In 2023, the rental rates are set to increase to \$23/acre-foot, which will generate an additional \$11,000 in administrative fees, annually. It is also recommended that the rental fee per acre-foot in 2026 be increased to \$26/acre-foot, instead of waiting for the next scheduled increase in 2030.

Additionally, implementing a \$50 lease contract maintenance fee would, within five years, generate another \$31,700 annually based on 2021 active contracts, and cover the costs incurred for maintaining and updating lease contracts. Implementing both the lease and rental fee recommendations, would return an additional \$99,607 in revenue for operating costs.

It is further proposed that any application, processing, or maintenance fees adopted by the Board be set in a separate fee schedule rather than in rule, to allow the Board flexibility for future adjustments. Two variations of a WSB fee schedule are attached, using the proposed fees within this report.

## BOARD'S BANK FILING FEE SCHEDULE

Each lease application and rental application submitted must include the applicable application fee(s) to be considered complete and received by the Department.

A maintenance fee for an approved contract and an administrative fee for a rental agreement will be charged upon approval of an application, and annually each year for the term of the contract or agreement, due by December 31 of each year preceding the next term year. Example: a lease contract approved in September and dated back to January 1 of the same year would owe a \$50 maintenance fee upon approval for that year in effect, and a \$50 maintenance fee due by December 31<sup>st</sup> of the same year for the next year under contract.

### **Lease applications and approved contracts:**

The lease application filing fee per water right..... **\$250.00**

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.

Upon approval by the Department of a lease contract, the following maintenance fee will apply annually for the term of the contract, as:

Lease contract maintenance fee, per contract.....**\$50.00**

### **Rental applications and approved agreements:**

The rental application filing fee per application, on or before November 1.....**\$250.00**

The rental application filing fee per application, after November 1.....**\$300.00**

Rental applications will not be accepted by the Department more than 90 days prior to the November 1 filing date. All applications received on or prior to the November 1 filing date are considered equal and first in line, and all others will be processed in the order by which they are received, and only if the water supply is available.

Late filing fee for a rental application received after February 1.....**\$50.00**

A Change in Nature of Use.....**\$250.00**

For rental applications in areas of concern:

Rental point of diversion within a Critical/Ground Water Management Area.....**\$50.00**

Rental application requiring water modeling.....**\$200.00**

The annual rental fee for an approved agreement is calculated according to the following schedule:

Years 2020-2022.....**\$20/Acre-Foot**

Years 2023-2025.....**\$23/Acre-Foot**

Years 2026-2030.....**\$26/Acre-Foot**

The annual rental agreement administrative fee is equal to **10%** of the annual rental fee due, or **\$200.00**, whichever is more.

This fee schedule does not apply to Rental Pools, under IDAPA 37.02.03.40.

## BOARD'S BANK FILING AND MAINTENANCE FEE SCHEDULE

Each lease and rental application submitted must include the applicable application and processing fee to be considered complete and ready for processing.

A maintenance fee for an approved contract and an administrative fee for a rental agreement will be charged upon approval of an application, and annually each year for the term of the contract or agreement, due by December 31 of each year preceding the next term year. Example: a lease contract approved in September and dated back to January 1 of the same year would owe a \$50 maintenance fee upon approval for that year in effect, and a \$50 maintenance fee due by December 31<sup>st</sup> of the same year for the next year under contract.

### **Lease applications and approved contracts:**

The lease application filing fee per water right..... **\$250.00**

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.

The lease application filing fee per water right, (CWRE).....**\$100.00**

For lease applications submitted with a completed examination report prepared by a Certified Water Right Examiner (CWRE), which adequately addresses the requirements for a completed application and criteria for review, as described in IDAPA 37.02.03, Rule 025. 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 \$200.00. 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.

Upon approval by the Department of a lease contract, the following maintenance fee will apply annually for the term of the contract, as:

Lease contract maintenance fee, per contract.....**\$50.00**

### **Rental applications and approved agreements:**

The rental application filing fee per application, on or before November 1.....**\$250.00**

The rental application filing fee per application, after November 1.....**\$300.00**

The rental application filing fee per application, on or before November 1 (CWRE).....**\$150.00**

The rental application filing fee per application, after November 1 (CWRE).....**\$200.00**

For rental applications submitted with a completed examination report prepared by a Certified Water Right Examiner (CWRE), which adequately addresses the requirements for a completed application and criteria for review, as described in IDAPA 37.02.03, Rule 030. The rental application filing fee is \$150.00 per application, unless a completed application is received on or prior to November 1<sup>st</sup> preceding the season of use, then it will be \$100.00 per application. Rental applications will not be accepted by the Department more than 90 days prior to the November 1<sup>st</sup> filing date. All applications received under this filing by a CWRE, will be processed in the order they are received.

Late filing fee for a rental application received after February 1.....**\$50.00**

BOARD'S BANK FILING AND MAINTENANCE FEE SCHEDULE

**Rentals, continued**

A Change in Nature of Use.....**\$250.00**

For rental applications in areas of concern:

Rental point of diversion within a Critical/Ground Water Management Area.....**\$50.00**

Rental application requiring water modeling.....**\$200.00**

The annual rental fee for an approved agreement is calculated according to the following schedule:

Years 2020-2022.....**\$20/Acre-Foot**

Years 2023-2025.....**\$23/Acre-Foot**

Years 2026-2030.....**\$26/Acre-Foot**

The annual rental agreement administrative fee is equal to **10%** of the annual rental fee due, **or \$200.00**, whichever is more.

This fee schedule does not apply to Rental Pools, under IDAPA 37.02.03.40.