

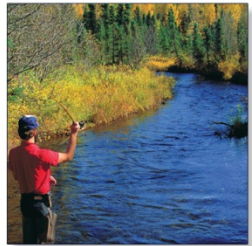


RAFN Municipal WRs – A Follow Up

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Municipal Water Right Act: Title 42 Modified in 1996 to Recognize RAFN

- I.C. §42-202 – Application to Appropriate Water
- I.C. §42-202B – Definitions
- I.C. §42-217 – Proof of Application to Beneficial Use
- I.C. §42-219 – Issuance of License
- I.C. §42-222 – Change in Point of Diversion, Place of Use, Period of Use, or Nature of Use Under Established Rights



I.C. §42-202B (5):

*“**R**easonably **a**nticipated **f**uture **n**eeds” refers to the future uses of water by a municipal provider for municipal purposes within a service area which, on the basis of population and other planning data, are reasonably expected to be required within the **planning horizon** of each municipality within the service area not inconsistent with comprehensive land use plans approved by each municipality. Reasonably anticipated future needs shall not include uses of water within areas overlapped by conflicting comprehensive land use plans.*

Draft Legislation - 2012

- Department Perceived Flaws with Statutes
- Draft Legislation – Department Initiative
- Governor's Office Recommended Working Group To Review Legislation
- No Consensus Could be Found in Working Group so Department Dropped Legislation
- Next Step?

Concerns about Municipal Water Rights Act of 1996

- **Significant and irreconcilable time differences** between when proof of beneficial use is due and the planning horizon

Proof Due vs. Planning Horizon

- Proof due in 5 years + up to 5-10 year extension
- Difficult to require a full 10-15 years before proof is due
- License is final representation of a water right
- Planning horizon may be 20 – 50 years
- No mechanism to adjust following the issuance of a license
- Development period continues after license issuance

Concerns about Municipal Water Rights Act of 1996

I.C. §42-219 (1)

A license may be issued to a municipal provider for an amount up to the full capacity of the system **constructed or used** in accordance with the original permit provided that the director determines that the amount is reasonably necessary to provide for the existing uses and reasonably anticipated future needs within the service...

Concerns about Municipal Water Rights Act of 1996

I.C. §42-202B (5):

*“Reasonably anticipated future needs” refers to the future uses of water by a municipal provider for municipal purposes within a service area which, on the basis of population and other planning data, are reasonably expected to be **required within the planning horizon of each municipality within the service area** not inconsistent with comprehensive land use plans approved by each municipality. Reasonably anticipated future needs shall not include uses of water within areas overlapped by conflicting comprehensive land use plans.*

Municipal Provider



1. A municipality¹ that provides water for municipal purposes to its residents and other users within its service area. **(e.g. incorporated city)**
2. Any corporation or association holding a franchise to supply water for municipal purposes, or a political subdivision of the state of Idaho authorized to supply water for municipal purposes, and which does supply water, for municipal purposes to users within its service area. **(e.g. water and sewer districts, United Water Idaho)**
3. A corporation or association which supplies water for municipal purposes through a water system regulated by the State of Idaho as a “public water supply” as described in section 39-103(12), Idaho Code. **(e.g. Subdivision HOA)**

1 “Municipality” means a city incorporated under section 50-102, Idaho Code, a county, or the state of Idaho acting through a department or institution.

Concerns about Municipal Water Rights Act of 1996

Who is a municipal provider? Is the provider entitled to a RAFN right?

- Developer with no delivery system in place?
- City for irrigation of defined park irrigation when the City does not deliver potable water to its residents?
- State ITD rest area?
- Walmart?
- Ski resort?
- Counties with no delivery system?

Application Processing Memo 74

1. Evaluating RAFN WRs
 - Service Area
 - Planning Horizon
 - Population Projections
 - Water Demand
2. Permitting RAFN WRs
3. Licensing RAFN WRs
4. Transferring RAFN WRs
5. Appendix

Application Processing Memo 74

I.C. §42-219 (1)

A license may be issued to a municipal provider for an amount up to the full capacity of the system **constructed or used** ...

Will Always Include:

- Full Capacity Diversion Works (surface and GW)
- Storage facilities
- Trunk lines (major supply conduits)

Does Not Necessarily Include:

- Service Laterals (i.e. stub outs)
- Main lines
- Water quality treatment for full capacity
- Pumping for full capacity



RAFN Guidance Material

1. Idaho Code

2. Administrative Rules – None, but needed

3. Administrative Memorandums

- a. ~~Application Processing 63 (RAFN)~~
- b. Application Processing 18 (non-RAFN)
- c. Application Processing 74 (Recommendations for RAFN)

Questions & Discussions

