



AGENDA

IDAHO WATER RESOURCE BOARD

Friday, April 3, 2020

(At this time the office location is closed to the public in accordance with Governor Little's Stay at Home Order issued March 25, 2020 in response to the public health emergency caused by the COVID-19 pandemic.)

Brad Little
Governor

Roger W. Chase
Chairman
Pocatello
District 4

Jeff Raybould
Vice-Chairman
St. Anthony
At Large

Vince Alberdi
Secretary
Kimberly
At Large

Peter Van Der Meulen
Hailey
At Large

Albert Barker
Boise
District 2

John "Bert" Stevenson
Rupert
District 3

Dale Van Stone
Hope
District 1

Jo Ann Cole-Hansen
Lewiston
At Large

Special Board Meeting No. 3-20 **1:30 p.m.**

Board Members & the Public may participate via Go-To Meeting
Please join the meeting from your computer, tablet or smartphone.

<https://www.gotomeet.me/IWRB>

You can also dial in using your phone.

United States: [+1 \(571\) 317-3122](tel:+15713173122)

Access Code: 673-626-773

In the event of questions, email: Jennifer.strange@idwr.idaho.gov

1. Roll Call
2. Agenda & Approval of Minutes*
3. Loan Interest Rate*
4. River Land Terrace Loan*
5. Upper Salmon and Teton Transactions*
6. Water District 01 Rental Pool Procedures*
7. Flood Management Grant Program*
8. Non-Action Items for Discussion
9. Next Meeting & Adjourn

* 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 or by phone at (208) 287-4800.



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MINUTES MEETING NO. 2-20

Idaho Water Center
Conference Rooms 648A
322 East Front Street, 6th Floor
BOISE

February 19, 2020

At 8:30 a.m. Chairman Chase called the meeting to order.

Agenda Item No. 1: Roll Call

Board Members Present

Roger Chase, Chairman
Jeff Raybould, Vice-Chairman
Vince Alberdi, Secretary via phone
Pete Van Der Meulen via phone
Bert Stevenson via phone
Dale Van Stone via phone
Jo Ann Cole-Hansen via phone

Staff Members Present

Brian Patton, Executive Officer
Mat Weaver, Deputy Director
Cynthia Bridge Clark, Water Projects Section Manager
Sean Costello, Deputy Attorney General
Jennifer Strange, Admin. Assistant

Agenda Item No. 2: Administrative Rules

Mr. Weaver provided an update on the Administrative Rules process for the Department and presented a resolution for consideration. There was discussion about the difference between adoption of administrative non-fee rules and administrative fee rules. The resolution presented to the Board was meant to adopt the Board's current pending rules as temporary rules and to authorize their publication.

Further, Mr. Weaver discussed the future processes expected for rulemaking, which included ongoing examination of rules and Executive Order No. 2020-01 called “Zero-based Regulations.”

Mr. Raybould moved to adopt a resolution to publish the IWRB’s current pending administrative rules as temporary rules in the event the 2020 Legislative Session adjourns without authorization of current pending administrative rules. Mr. Stevenson seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, absent; Ms. Cole-Hansen, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; and Chairman Chase, aye. 7 ayes. The motion passed.

Agenda Item No. 3 Non-Action Items for Discussion

Mr. Raybould provided an update to the Board members related to the Committee of Nine. Mr. Alberdi asked about an upcoming meeting with the Upper Snake River Advisory Committee. Chairman Chase told the members that he and Mr. Raybould would be attending a meeting with Idaho Power and Speaker Bedke.

Agenda Item No. 4 Next Meeting and Adjourn

Mr. Raybould moved to adjourn. Mr. Stevenson seconded. Voice vote. All ayes. Meeting adjourned.

Respectfully submitted this _____ day of March, 2020.

Vince Alberdi, *Secretary*

Jennifer Strange, *Administrative Assistant II*

Board Actions:

1. Mr. Raybould moved to adopt a resolution to publish the IWRB’s current pending administrative rules as temporary rules in the event the 2020 Legislative Session adjourns without authorization of current pending administrative rules. Mr. Stevenson seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, absent; Ms. Cole-Hansen, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; and Chairman Chase, aye. 7 ayes. The motion passed.



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MINUTES MEETING NO. 1-20

Idaho Water Center
Conference Rooms 602 B, C, D
322 East Front Street, 6th Floor
BOISE

January 23, 2020
Work Session

Chairman Chase called the work session meeting to order at 2:35 p.m. All Board members were present. IDWR staff members present were: Brian Patton, Cynthia Clark Bridge, Neeley Miller, Wesley Hipke, Rick Collingwood, Sean Emily Skoro, Vincent, Craig Tesch, Matt Anders, David Hoekema, Dennis Owsey, Ethan Geisler, Kara Ferguson, Jennifer Strange, and Gary Spackman. Guests present were: Michael Orr, Darrell Early, Ann Vonde, Steve Stuebner, Dan Stanaway, Brandon McLean, Abbi Dorn, Nate Runyan, John Roldan, Tyson Glock, Ethan Geisler, Ashley Newbry, Steve Hannula, and Christian Petrich.

During the Work Session the following items were discussed:

- Emily Skoro introduced the Brown and Caldwell representatives who presented the Treasure Valley Managed Recharge Study. Dan Stanaway discussed water availability along the Boise River, the Payette River, and the Snake River in the Treasure Valley. Brandon McLean discussed favorable vs. unfavorable locations for managed aquifer recharge based on various criteria. Abbi Dorn provided infrastructure requirements and costs.
- Executive Session to discuss topics: Northern Idaho Adjudication and Lemhi River. Mr. Alberdi moved to resolve into executive session; Ms. Cole-Hansen seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Ms. Cole-Hansen, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; and Chairman Chase, aye. Closed to the public. No action was taken.

Mr. Barker moved to adjourn. Mr. Van Der Muelen seconded. Voice vote. All ayes. No action was taken by the Board during the Work Session. The session adjourned at 5:30 p.m.

January 24, 2020
Board Meeting No. 1-20

At 8:30 a.m. Chairman Chase called the meeting to order. All members were present.

Agenda Item No. 1: Roll Call

Board Members Present

Roger Chase, Chairman
Vince Alberdi, Secretary
Bert Stevenson
Jo Ann Cole-Hansen

Jeff Raybould, Vice-Chairman
Pete Van Der Meulen
Dale Van Stone
Albert Barker

Staff Members Present

Gary Spackman, Director
Garrick Baxter
Cynthia Bridge Clark, Water Projects Manager
Sean Vincent
Wesley Hipke
Rick Collingwood

Brian Patton, Executive Officer
Mat Weaver, Deputy Director
Neeley Miller, Water Resource Sr. Planner
Sascha Marston
Emily Skoro
Jennifer Strange Steve Stuebner

Guests Present

Ann Vonde
Scott Campbell
Keith Esplin
Cathy Cooper
Ron Fehringer

Bryan Horsburgh Mark Limbaugh
Hal Anderson Peter Anderson
Claudia Cottle David Cottle
Paul Kimmell John Williams
Kresta Davis-Butts Kevin Fagan

Agenda Item No. 2: Public Comment

David Cottle, Executive Director with the Bear Lake Watch made comments to the Board about protecting Idaho's interests in water from Bear Lake and for a joint solution. Keith Esplin from Eastern Idaho Water Rights Coalition mentioned a letter delivered to the Board members. He also provided an update on some projects with Eastern Snake Plain Aquifer Recharge. John Williams provided three updates from Bonneville Power Administration (BPA) related to cost allocations; BPA's strategic plan; and resource adequacy.

Agenda Item No. 3: Agenda and Approval of Minutes 10-19 & 11-19

Mr. Raybould suggested an edit for meeting minutes 10-19. Mr. Stevenson moved to adopt the minutes for 10-19 with the suggested edit. Mr. Van Der Meulen seconded. Voice vote. All ayes. Mr. Van Der Meulen moved to adopt the meeting minutes for 11-19. Mr. Barker seconded. Voice vote. All ayes.

Agenda Item No. 4: Financial Report

Mr. Miller provided a report of the Board's finances. He provided account balances.

Agenda Item No. 5 Boise River Feasibility Study

Bryan Horsburgh from Bureau of Reclamation provided an update on the Boise River Feasibility Study. A third alternative will be needed to complete the study. He stated the study is experiencing a delay, but that they are committed to completion to meet the WIIN Act deadline. Project costs were discussed, and the Chairman emphasized the importance of keeping the deadline.

Agenda Item No. 6 ESPA Recharge

Mr. Hipke discussed ESPA recharge operations and capacity development efforts. Natural flow volumes were presented including an update on reservoir operations influencing available recharge water Updates on completed projects and projects under development were provided.

Agenda Item No. 7 Priest Lake

Mr. Miller had a brief update on the Priest Lake Water Management Project. Background on the project was provided. Then the next steps related to the project schedule and the funding status were presented. There was some discussion about Board funding limitations and the need for stakeholders to seek alternative funding sources.

Agenda Item No. 8 Bear Lake Update

Vice Chairman Raybould stated there was a joint meeting with stakeholders to review the draft of the modelling team. The team completed a revision and will present their findings at an upcoming meeting in Logan. Additionally, Mr. Raybould stated the Bear River adjudication seems to be moving forward in the Legislature.

Agenda Item No. 9 Update from Mark Limbaugh of the Ferguson Group

Mr. Limbaugh had several updates related to Federal affairs, including: fiscal year 2020/2021 appropriations; WaterSMART—WIIN Act Funding; water infrastructure bills; and Board accomplishments and priorities for 2020.

Agenda Item No. 10 Palouse Basin Aquifer Committee Update

Paul Kimmell from the Palouse Basin Aquifer Committee had information on recent surveys to assist in strategic long-term water supply solutions. Current projects listed were LEAP analysis; seismometers for quantifying recharge; Palouse water alternatives data gaps; and an updated groundwater model.

Agenda Item No. 11 Update on Potential Legislation of Interest

Mr. Baxter presented potential legislation of interest. He discussed the proposed legislation from the Department related to filing of statutory claims and water districts. Municipal legislation by the City of Twin Falls was proposed. Bear River Basin adjudication legislation was discussed. There was some discussion about rulemaking and related to stream channel alteration rules.

Agenda Item No. 12 Director's Report

Director Spackman had a few comments for the Board. He congratulated the Board and the department staff on the accomplishments of the recharge efforts. He had comments related to the rulemaking processes, the potential for Bear River adjudication, and financing for the Water Center.

Agenda Item No. 13 Non-Action Items for Discussion

Mr. Barker stated the water users in the Big Wood are interested in setting up a local water rental committee. Director Spackman stated he has reviewed drafts of the proposal and is supportive of the efforts. Mr. Stevenson asked if dye test results from the Wilson Canyon area could be presented at a future meeting.

Agenda Item No. 14 Next Meeting and Adjourn

Mr. Patton stated the next scheduled meetings are March 19 and 20, 2020 in Boise. Mr. Barker moved to adjourn. Mr. Stevenson seconded. Voice vote. Meeting adjourned.

Respectfully submitted this _____ day of March, 2020.

Vince Alberdi, *Secretary*

Jennifer Strange, *Administrative Assistant II*

Board Actions:

1. Mr. Stevenson moved to adopt the minutes for 10-19 with the suggested edit. Mr. Van Der Meulen seconded. Voice vote. All ayes. Motion adopted.
2. Mr. Van Der Meulen moved to adopt the meeting minutes for 11-19. Mr. Barker seconded. Voice vote. All ayes. Motion adopted.



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MINUTES MEETING NO. 6-19

Idaho Water Center
Conference Rooms 602 C, D
322 East Front Street, 6th Floor
BOISE

July 9, 2019

At 12:00 p.m. Chairman Chase called the meeting to order. All members were present.

Agenda Item No. 1: Roll Call

Board Members Present

Roger Chase, Chairman
Vince Alberdi, Secretary
Bert Stevenson
Albert Barker

Jeff Raybould, Vice-Chairman
Pete Van Der Meulen
Dale Van Stone
Jo Ann Cole-Hansen

Staff Members Present

Gary Spackman, Director
Cynthia Bridge Clark, Water Projects Section Manager
Neeley Miller, Senior Planner

Brian Patton, Bureau Chief
Nikki Regent, Admin. Assistant

Guests Present

Michael Orr
Darrell Early

Agenda Item No. 2: Executive Session

Mr. Alberdi made a motion to move into Executive Session to communicate with legal counsel regarding legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Mr. Raybould seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Ms. Cole-Hansen, aye; and Chairman Chase, aye. Motion carried. The topic discussed by Michael Orr was the water right applications filed in the Lemhi River basin.

Mr. Alberdi made a motion to move out of Executive Session, seconded by Mr. Barker and agreed upon by voice vote in favor.

Agenda Item No. 3: Non-Action Items for Discussion

No other items were discussed.

Agenda Item No. 4: Adjourn

Mr. Alberdi made a motion to adjourn. Mr. Van Der Meulen seconded. Meeting adjourned.

Respectfully submitted this _____ day of April, 2020.

Vince Alberdi, *Secretary*

Jennifer Strange, *Administrative Assistant II*

Board Actions:

No actions were taken by the board.



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MINUTES MEETING NO. 4-19

Idaho Water Center
Conference Room 648A
322 East Front Street, 6th Floor
BOISE

May 7, 2019

At 1:00 p.m. Chairman Chase called the meeting to order.

Agenda Item No. 1: Roll Call

Board Members Present

Roger Chase, Chairman (via phone)
Jeff Raybould, Vice-Chairman (via phone)
Vince Alberdi, Secretary (via phone)
Al Barker (via phone)
Pete Van Der Meulen (via phone)
Bert Stevenson (via phone)
Jo Ann Cole-Hansen (via phone)
Dale Van Stone (via phone)

Staff Members Present

Brian Patton, Executive Officer
Mat Weaver, Deputy Director
Garrick Baxter, Deputy Attorney General
Nikki Regent, Admin Assistant

Agenda Item No. 2: Administrative Rules

Mr. Patton reviewed the steps that led to the need for a resolution to republish select administrative rules as temporary and proposed rules. Mr. Weaver discussed the process involved in the Red Tape Reduction Act. There was some discussion on which rules were included and which will be left out. Mr. Baxter provided clarity on the reduction process. Mr. Patton discussed each section that staff has recommended not be republished.

Mr. Baxter suggested the addition of a paragraph in the draft resolution, starting on line 39 to read as follows: "WHEREAS, pursuant to Idaho Code §§ 67-

5226(1) and 67-5226(2), the Governor has found that the temporary adoption of these rules is appropriate because “[t]hese temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens” and the governor has found that “failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho’s constitutional requirement that it balance its budget”; and”

Mr. Raybould moved to adopt a resolution, with the previously suggested edits. Mr. Stevenson seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Ms. Cole-Hansen, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, absent; and Chairman Chase, aye. 7 ayes. The motion passed.

Agenda Item No. 3 Non-Action Items for Discussion

No other items were discussed.

Agenda Item No. 4 Next Meeting and Adjourn

Next meeting was May 9-10, 2019 in Lewiston. Chairman Chase adjourned the meeting at 2 p.m.

Respectfully submitted this _____ day of April, 2020.

Vince Alberdi, *Secretary*

Jennifer Strange, *Administrative Assistant II*

Board Actions:

1. A resolution to republish select Idaho Water Resource Board administrative rules as temporary and proposed rules was passed.



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MINUTES MEETING NO. 3-19

Idaho Water Center
Conference Rooms 648A
322 East Front Street, 6th Floor
BOISE

April 18, 2019

At 11:30 a.m. Chairman Chase called the meeting to order.

Agenda Item No. 1: Roll Call

Board Members Present

Roger Chase, Chairman (via phone)
Jeff Raybould, Vice-Chairman (via phone)
Vince Alberdi, Secretary (via phone)
Pete Van Der Meulen (via phone)
Bert Stevenson (via phone)
Jo Ann Cole-Hansen (via phone)

Staff Members Present

Brian Patton, Executive Officer
Neeley Miller
Rick Collingwood
Nikki Regent
Steve Stuebner

Agenda Item No. 2: Flood Management Grant Program

Mr. Patton explained the purpose for this special board meeting. The legislature appropriated \$800,000 for the Flood Management Grant Program. Mr. Miller discussed the proposed criteria to receive funding through the program with the IWRB. It was suggested that first time applicants receive five additional points.

Mr. Raybould moved to adopt the draft resolution and attached criteria with the changes agreed upon in the matter of flood management grants. Mr. Barker seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Ms. Cole-Hansen, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, absent; and Chairman Chase, aye. 7 ayes. The motion passed.

Agenda Item No. 3 Non-Action Items for Discussion

Mr. Barker shared information about an EPA guidance document.

Agenda Item No. 4 Next Meeting and Adjourn

The next meeting was announced as May 9-10, 2019 in Lewiston. Mr. Barker moved to adjourn. Ms. Cole-Hansen seconded. Voice vote. All in favor. Meeting adjourned at 11:57 a.m.

Respectfully submitted this _____ day of April, 2020.

Vince Alberdi, *Secretary*

Jennifer Strange, *Administrative Assistant II*

Board Actions:

1. A motion to adopt the draft resolution and attached criteria with the changes agreed upon in the matter of flood management grants.



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MINUTES MEETING NO. 12-17

Idaho Water Center
Conference Rooms 602 B, C, D
322 East Front Street, 6th Floor
BOISE

November 7, 2017
Work Session

Chairman Chase called the work session meeting to order at 1:30 p.m. All Board members were present, except for Mr. Rusche. IDWR staff members present were: Brian Patton, Cynthia Bridge Clark, Wesley Hipke, Rick Collingwood, Nikki Regent, and Gary Spackman. Guests present were: Ann Vonde, Katrine Franks, Jon Bowling, John Simpson, Bill Richey, Shaun Parkinson, Jeremiah Thomas, Peter Anderson, Doug McAlvain, Johanna Bell, and Evan Miller.

During the Work Session the following items were discussed:

- An ESPA Recharge update by Mr. Hipke.
- A presentation by Doug McAlvain of Idaho Water Engineering on the Lost Valley Reservoir Project.
- An update on the MHAFB Water Supply Project by Randy Broesch.
- A draft of the Annual Water Sustainability Report was provided by Mr. Patton, Ms. Bridge Clark, and Mr. Hipke.

No action was taken by the Board during the Work Session.

November 8, 2017
Board Meeting No. 12-17

At 8:00 a.m. Chairman Chase called the meeting to order. All members were present.

Agenda Item No. 1: Roll Call

Board Members Present

Roger Chase, Chairman
Vince Alberdi, Secretary
Bert Stevenson
Albert Barker

Jeff Raybould, Vice-Chairman
Pete Van Der Meulen
Dale Van Stone

Staff Members Present

Gary Spackman, Director
Mat Weaver, Deputy Director
Cynthia Bridge Clark, Water Projects Section Mgr
Amy Cassell
Rick Collingwood
Tanna Fullenkamp
Steve Stuebner
Remington Buyer

Brian Patton, Executive Officer
Garrick Baxter
Neeley Miller, Water Resource Sr. Planner
Wesley Hipke
Randy Broesch
Nikki Regent
Rick Collingwood

Guests Present

Ann Vonde
Clive Strong

Darrell Early

Agenda Item No. 2: Executive Session

Mr. Alberdi made a motion to move into Executive Session pursuant to Idaho Code §74-206(1) subsection (f) for the purpose of communicating with legal counsel regarding legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Mr. Barker seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Rusche, absent; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. 7 ayes. The topics discussed were Snake River and Lemhi water rights and Idaho adjudication tribal claims.

Mr. Alberdi made a motion to move out of Executive Session, seconded by Mr. Raybould and agreed upon by voice vote in favor. No actions were taken during executive session.

Agenda Item No. 3: Public Comment

No public comments available.

Agenda Item No. 4: Agenda and Approval of Minutes

No minutes were provided for approval.

Agenda Item No. 5: Financial Update

Mr. Patton provided a financial update that provided the Board's available and committed balances as of September 30, 2017 for: the Secondary Aquifer fund; the Revolving Development account; and the Water

Management account. He listed the loan applications that were being tracked. Clarification was provided related to the ESPA Ground Water Districts loan.

Agenda Item No. 6: Evans Water Corporation Loan

Mr. Collingwood provided the Board with information on a resolution for a \$20,000 loan for the Evans Water Corporation and Homeowners Association.

Mr. Van Stone made a motion to accept the resolution. Mr. Van Der Meulen seconded the motion. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Rusche, absent; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. Motion passed. The resolution was adopted.

Agenda Item No. 7: Water Supply Bank

Mr. Buyer provided a brief presentation on the Water Supply Bank.

Agenda Item No. 8: Wood River Valley Minimum Streamflow

A resolution was presented to the Board which stated that the Board would not accept injury to its Big Wood River Basin minimum streamflow water rights by the sale or rental of water through the Board's Water Supply Bank.

Mr. Van Der Meulen made a motion to accept the resolution. Mr. Van Stone seconded the motion. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Rusche, absent; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. Motion passed. The resolution was adopted.

Agenda Item No. 9: ESPA Recharge

Mr. Hipke provided an ESPA Managed Recharge program update.

Agenda Item No. 10: Upper Salmon Water Transactions

A resolution was presented to make a funding commitment to purchase a portion of water rights nos. 71-16, 71-19A, 71-20A, and 71-21A so that the rights may be permanently protected or leased into the WSB and rented out through the Idaho Water Supply Bank for delivery to minimum stream flows.

Mr. Van Stone made a motion to accept the resolution. Mr. Van Der Meulen seconded the motion. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Rusche, absent; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. Motion passed. The resolution was adopted.

Agenda Item No. 11: Priest Lake

A resolution to accept and endorse the recommendations in the Priest Lake Study was presented. It was suggested that "legislative approval" be added to the last sentence.

Mr. Barker made a motion to accept the resolution with the additional wording. Mr. Van Stone seconded the motion. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Rusche, absent; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. Motion passed. The resolution was adopted.

Agenda Item No. 12: Director's Report

Director Spackman provided an update to the Board on the Department's happenings.

Agenda Item No. 13: 2018 Calendar

Upcoming meeting dates for calendar year 2018 were discussed.

Agenda Item No. 14: Non-Action Items for Discussion

No other items for discussion.

Agenda Item No. 15: Next Meeting and Adjourn

The next meetings were announced to coincide with IWUA on January 25-26, 2018. Meeting adjourned.

Respectfully submitted this _____ day of April, 2020.

Vince Alberdi, *Secretary*

Jennifer Strange, *Administrative Assistant II*

Board Actions:

1. A resolution for a \$20,000 loan for the Evans Water Corporation and Homeowners Association was approved.
2. A resolution which stated that the Board will not accept injury to its Big Wood River Basin minimum streamflow water rights by the sale or rental of water through the Board's Water Supply Bank was approved.
3. A resolution to purchase water rights was approved.
4. A resolution to accept and endorse the recommendations in the Priest Lake Study was approved.



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MINUTES MEETING NO. 10-17

Idaho Water Center
Conference Rooms 602 B, C, D
322 East Front Street, 6th Floor
BOISE

September 13, 2017

Work Session

Boise River Flood Operations 2017 Recap

Chairman Chase called the work session meeting to order at 1:00 p.m. All Board members were present. IDWR staff members present were: Brian Patton, Cynthia Bridge Clark, Maureen O'Shea, Rick Collingwood, and Nikki Regent. Guests present were: Mary Mellema, Tim Page, John Heitstuman, Bob Carter, Rex Barrie, Brandon Hobbs, Lanie Paquin, and Doug Hardman.

During the Work Session presentations were provided and the following items were discussed:

- 2017 Flood Operations Review
- Challenges and successes for flood operations
- Water user perspective
- Emergency action activities

No action was taken by the Board during this Work Session.

Hampton Inn
Cottonwood A Meeting Room
3175 Foothills Ave.
MOUNTAIN HOME, ID

September 14, 2017

Work Session

Chairman Chase called the work session meeting to order at 9:00 a.m. All Board members were present, except for Mr. Rusche. IDWR staff members present were: Brian Patton, Cynthia Bridge Clark, Wesley Hipke, Craig Tesch, Tim Luke, Randy Broesch, Mat Weaver, Nikki Regent, and Gary Spackman. Guests present were: Ann Vonde, Senator Brackett, Representative Blanksma, Bud

Corbus, Jack Peterson, Bill Richey, Rich Urguidi, Nathan Rowland, Oscar Evans, Dave Tuthill, Jon Bowling, Braden Jensen, Dave Bergdolt, Steve Anderson, and Colonel Henry.

During the Work Session presentations were provided and the following items were discussed:

- Background on Mountain Home aquifer by Mr. Tesch.
- A discussion on the establishment of Water District 161 and Measurement Order by Tim Luke.
- Water users from the aquifer and economic importance by Mr. Patton.
- History of MHAFB Sustainable Water Project by Jack Peterson and Director Spackman.
- Status of MHAFB Sustainable Water Project by Randy Broesch, Nathan Rowland, Dave Bergdolt
- Comments from the U.S. Air Force by Colonel Henry.
- Comments from elected officials/other dignitaries by Senator Brackett, Elmore County Commissioner Bud Corbus, and the City of Mountain Home Public Works Director Rich Urguidi.

The Board departed for a Field Trip to MHAFB Sustainable Water Project.

No action was taken by the Board during this Work Session.

September 15, 2017
Board Meeting No. 10-17

At 8:00 a.m. Chairman Chase called the meeting to order.

Agenda Item No. 1: Roll Call

Board Members Present

Roger Chase, Chairman
Vince Alberdi, Secretary
Bert Stevenson
Albert Barker

Jeff Raybould, Vice-Chairman
Pete Van Der Meulen
Dale Van Stone

Staff Members Present

Gary Spackman, Director
Cynthia Bridge Clark, Water Projects Section Mgr
Craig Tesch
Rick Collingwood
Tanna Fullenkamp
Steve Stuebner
Remington Buyer

Brian Patton, Executive Officer
Neeley Miller, Water Resource Sr. Planner
Wesley Hipke
Randy Broesch
Nikki Regent
Rick Collingwood

Guests Present

Walt Poole
Racquel Rancier
Dave Tuthill
Scott Campbell
Terry Scanlan

Mark Solomon
Jon Bowling
Ann Vonde
Bud Corbus

Agenda Item No. 2: Public Comment

Mr. Tuthill addressed the Board about some ongoing projects.

Agenda Item No. 3: Agenda & Approval of Minutes

No meeting minutes were presented for approval.

Agenda Item No. 4: Finance Report

Mr. Patton provided an update on the Board's finances as of July 31, 2017.

Agenda Item No. 5: Presentation by Oregon DWR

Mr. Patton introduced Racquel Rancier, a Senior Policy Coordinator from the Oregon Water Resources Department. She shared an agency overview, some key challenges, and recent water management initiatives in Oregon.

Agenda Item No. 6: Dredge Mining Hearing Requests

Mr. Patton introduced Emmi Blades from the Idaho Attorney General's office to review Joint Application for Permit Nos. S82-20066 and S82-20067 for suction dredge mining within the Red River, a tributary of the South Fork Clearwater River that had been denied by the Department. Ms. Blades stated that requests for a hearing on the denials were received from the applicants and it would be necessary for the Board to appoint a hearing officer to preside over the hearings. Ms. Blades presented a resolution to appoint a hearing officer to preside over the hearings and issue a recommended order(s) in accordance with Idaho Code §§ 67-5243(1)(a) and 67-5248.

Mr. Barker made a motion to accept the resolution. Mr. Raybould seconded the motion. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Rusche, absent; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. Motion passed. The resolution was adopted.

Agenda Item No. 7: Priest Lake Water Management Update

Mr. Miller provided a brief update on the Priest Lake Water Management Study. He provided a flyer for a public information meeting planned later that month, along with a Study handout.

Agenda Item No. 8: Elmore County Water Supply Study

Mr. Miller introduced information related to the Elmore County Water Supply Study which was partially funded by the Board. He stated SPF Water Engineering had submitted a memo and a copy of the study. He introduced Elmore County Commissioner Bud Corbus, Terry Scanlan, an engineer with SPF who was hired by Elmore County to complete the study, and Scott Campbell, legal representative for the County.

Mr. Scanlan discussed the water supply conditions in Elmore County. There were some questions and discussion about groundwater curtailment from Board members. Mr. Scanlan reviewed some water supply alternatives for the county. There was discussion with Commissioner Corbus about study costs.

Agenda Item No. 9: Spokane River Forum

Mr. Miller provided a briefing about a funding request for \$5,000.00 to the Spokane River Forum.

Mr. Barker made a motion to accept the resolution. Mr. Van Der Meulen seconded the motion. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Rusche, absent; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. Motion passed. The resolution was adopted.

Agenda Item No. 10: ESPA Recharge

Mr. Hipke provided a status update for the recharge 2017-18 season. He shared some seasonal projections and preparations for managed recharge. He discussed the program projects and buildout activities. There was some discussion and guidance provided from the Board.

John Simpson addressed the Board on managed recharge on the Eastern Snake Plain and a proposal for the Board to recharge surface water donated by the Surface Water Coalition (SWC). There was some discussion on the proposal. Chairman Chase asked if action could be taken. Mr. Patton explained that a motion would be appropriate since a resolution had not been prepared. The motion would include up to 11,100 acre feet of water received from the SWC.

Mr. Van Der Meulen made a motion to accept the proposal. Mr. Alberdi seconded the motion. Roll call vote: Mr. Alberdi, aye; Mr. Barker, abstain; Mr. Rusche, absent; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. Motion passed.

Agenda Item No. 11: Storage Study Update

Ms. Bridge Clark provided a briefing on storage studies. Her updates included the Weiser-Galloway Project; Boise River Feasibility Studies; and the Island Park Reservoir Enlargement Project. There was discussion about WIIN Act funding and potential partnership with Reclamation in a feasibility study under the WIIN Act authority. She stated the Board has a preliminary permit with FERC for the Weiser-Galloway project which was nearing the end of the 36 month permit timeframe. She stated there was an option to file an extension for an additional 24 months.

Mr. Van Der Meulen made a motion to file the extension. Mr. Alberdi seconded the motion. Voice vote: All ayes. Motion passed.

Agenda Item No. 12: IWWRI Remarks

Mark Solomon informed the Board of an upcoming summit titled: Safeguarding Idaho's Economy in a Changing Climate. He discussed a need for sponsorship to hold the summit.

Agenda Item No. 13: Director's Report

Director Spackman provided an update to the Board on the Department's happenings. He had some comments about the Boise River Flood Operations work session, which he had not attended.

Agenda Item No. 14: Non-Action Items for Discussion

No other items to discuss.

Agenda Item No. 15: Next Meeting and Adjourn

The next meetings were said to be November 7-8, 2017. Mr. Barker moved to adjourn. Mr. Van Der Meulen seconded. Voice vote: all in favor. Meeting adjourned.

Respectfully submitted this _____ day of April, 2020.

Vince Alberdi, *Secretary*

Jennifer Strange, *Administrative Assistant II*

Board Actions:

1. A resolution to authorize the appointment of a hearing officer to preside over a hearing regarding Joint Application for Permit Nos. S82-20066 and S82-20067 and to issue a recommended order for the Board's consideration.
2. A resolution to provide funding for \$5,000.00 to the Spokane River Forum
3. A motion to accept a plan to recharge up to 11,100 acre feet of water donated from the SWC for recharge.
4. A motion to file an extension on a FERC permit.



IDAHO WATER RESOURCE BOARD

C.L. "Butch" Otter
Governor

Roger W. Chase
Chairman
Pocatello
District 4

Jeff Raybould
Vice-Chairman
St. Anthony
At Large

Vince Alberdi
Secretary
Kimberly
At Large

Peter Van Der Meulen
Hailey
At Large

Charles "Chuck" Cuddy
Orofino
At Large

Albert Barker
Boise
District 2

John "Bert" Stevenson
Rupert
District 3

Dale Van Stone
Hope
District 1

MINUTES MEETING NO. 8-17

Hilton Garden Inn
Conference Center
7000 Lindsay Blvd.
IDAHO FALLS

July 27, 2017
Work Session

Chairman Chase called the work session meeting to order at 2:00 p.m. All Board members were present. IDWR staff members present were: Brian Patton, Cynthia Bridge Clark, Neeley Miller, Wesley Hipke, Mike McVay, Lyle Swank, Rick Collingwood, Nikki Regent, and Gary Spackman. Guests present were: Ann Vonde, Lynn Tominaga, and Senator Bair.

During the Work Session the following items were discussed:

- A presentation by the City of Idaho Falls.
- A discussion on the criteria for Ground Water Conservation Grants and Water Sustainability Projects by Mr. Miller

Prior to the meeting from 8:00 a.m. until 1:30 p.m., the Board attended a Field Trip to the Island Park Reservoir.

No action was taken by the Board during the Work Session.

July 28, 2017
Board Meeting

Chairman Chase called the meeting to order at 8:00 a.m.

Agenda Item No. 1: Roll Call

Board Members Present

Roger Chase, Chairman
Vince Alberdi, Secretary
Dale Van Stone
Pete Van Der Meulen

Jeff Raybould, Vice-Chairman
Bert Stevenson
Albert Barker

Staff Members Present

Brian Patton, Bureau Chief
Cynthia Bridge Clark, Water Projects Section Manager
Wesley Hipke, Project Manager
Lyle Swank, Regional Manager

Gary Spackman, Director
Neeley Miller, Senior Planner
Mike McVay
Nikki Regent, Admin Assistant

Guests Present

Ann Vonde
Senator Bair
Albert Lockwood
Nick Schade
Wilder Hatch

Lynn Tominaga
John Williams
Mark Limbaugh
Clint Eells

Agenda Item No. 2: Executive Session

Mr. Alberdi made a motion to move into Executive Session pursuant to Idaho Code §74-206(1) subsection (f) for the purpose of communicating with legal counsel regarding legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Mr. Barker seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. 7 ayes. Motion carried. The topic discussed was recharge water rights.

Mr. Alberdi made a motion to move out of Executive Session, seconded by Mr. Raybould and agreed upon by voice vote in favor.

No actions were taken during executive session. The Board resumed the meeting at 8:18 a.m.

Agenda Item No. 3: Public Comment

Albert Lockwood from the Committee of Nine addressed the Board. There was some discussion among Board members. John Williams provided an update from the Bonneville Power Administration.

Agenda Item No. 4: Agenda & Approval of Minutes

No meeting minutes were provided.

Agenda Item No. 5: IDWR Regional Manager's Report

Lyle Swank provided a manager's report on the IDWR Eastern Region. He reviewed three topics: staffing issues for the region; rental pool rules and the water bank; and flood control management.

Agenda Item No. 6: ESPA Recharge Report

Mr. Hipke reported on the ESPA Recharge Program 2016/2017. He included program priorities and development. Discussion followed. Resolutions for infrastructure were presented.

Mr. Van Stone moved to adopt the resolution to approve funds for construction of the Richfield Site for the Big Wood Canal Company. Mr. Barker seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, abstain; Mr. Van Stone, aye; Chairman Chase, aye. 6 ayes. Motion carried.

Mr. Van Der Meulen moved to adopt the resolution to approve funds \$580,000 for infrastructure improvements for the Egin Bench Canal Inc. Mr. Alberdi seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Raybould, abstain; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. 6 ayes. Motion carried.

Mr. Raybould moved to adopt the resolution in the matter of the U.S. Department of Energy Idaho operations office funding to support ESPA Recharge and modeling efforts. Mr. Barker seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. 7 ayes. Motion carried.

Agenda Item No. 7: ESPA Storage Level Status Report

Mr. McVay reported on the ESPA storage levels. Discussed were: improvements on water-level monitoring and aquifer storage changes for 2016/2017.

Agenda Item No. 8: Financial Status Report

Mr. Patton gave the Board's available and committed balances as of June 30, 2017 for the Secondary Aquifer Fund, the Revolving Development account, and the water management account. Senator Bair asked about monies not disbursed. There was some discussion about long term funding for recharge. A projections spreadsheet was recommended.

Agenda Item No. 9: Ground Water Districts/IGWA Loan

Mr. Patton provided background on the issue of the loan refinancing for the Ground Water Districts on the Eastern Snake Plain.

Mr. Van Der Meulen moved to adopt the resolution to restructure the loan dated December 14, 2015. Mr. Alberdi seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. 7 ayes. Motion carried.

Agenda Item No. 10: Goose Lake Reservoir Company Loan

Mr. Collingwood briefed the Board on the loan request for Goose Lake Reservoir Company to complete a study.

Mr. Raybould moved to adopt the resolution authorizing a loan. Mr. Stevenson seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. 7 ayes. Motion carried.

Agenda Item No. 11: Salmon-Challis Wild & Scenic Rivers Eligibility—Presentation by US Forest Service

Mr. Patton provided some background and introduced Nick Schade, the Recreation Program Manager for the Salmon-Challis National Forest. Mr. Schade described the eligibility and suitability for streams to be included in the Wild and Scenic Rivers program.

Agenda Item No. 12: Priest Lake Update

Mr. Miller gave a project status for the Priest Lake Water Management Study. He shared the results of the public meetings held.

Agenda Item No. 13: Ground Water Conservation Grants & Water Sustainability Projects

Mr. Collingwood presented two sustainability projects and two conservation projects. There was discussion about the program criteria. Mr. Alberdi suggested the decisions be tabled until the next meeting when program criteria can be completed.

Mr. Stevenson moved to adopt the resolution for FCDC to receive a cost reimbursement of \$19,862.00. Mr. Van Stone seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr.

Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. 7 ayes. Motion carried.

Mr. Collingwood briefed the Board on the Pebble Creek Irrigation project, asking for \$20,000 cost reimbursement. Mr. Hatch of the Caribou Soil Conservation District answered questions pertaining to the project.

Mr. Van Der Meulen moved to adopt the resolution to provide cost reimbursement of \$20,000 for the Pebble Creek Irrigation project. Mr. Raybould seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. 7 ayes. Motion carried.

Mr. Collingwood presented a Ground Water Conservation Grant request from the City of Idaho Falls.

Mr. Raybould moved to adopt the resolution authorizing a conservation grant of \$10,000. Mr. Alberdi seconded. Roll call vote: Mr. Alberdi, aye; Mr. Barker, aye; Mr. Raybould, aye; Mr. Stevenson, aye; Mr. Van Der Meulen, aye; Mr. Van Stone, aye; Chairman Chase, aye. 7 ayes. Motion carried.

City of Ketchum requested a Ground Water Conservation Grant in the amount of \$10,000. There was discussion about tabling this issue until the September meeting.

Mr. Raybould moved to table the request. Voice vote: all ayes. Motion carried.

Agenda Item No. 14: IDWR Director's Report

Director Spackman provided an update on the Department.

Agenda Item No. 15: Non-Action Items for Discussion

Mr. Barker had some updates for the Board. Mr. Raybould asked about the dates of the January board meeting. Mr. Alberdi suggested a Finance Committee meeting to be held. Senator Bair applauded the Board's efforts. Mr. Patton stated Mark Limbaugh informed him of an upcoming Water Issues Workshop.

Agenda Item No. 16: Next Meeting and Adjourn

Mr. Van Stone moved to adjourn the meeting. Mr. Alberdi seconded the motion. Voice vote: all ayes. Meeting was adjourn.

Respectfully submitted this _____ day of April 2020.

Vince Alberdi, *Secretary*

Jennifer Strange, *Administrative Assistant II*

Board Actions:

1. A resolution was adopted to approve funds for construction of the Richfield site for the Big Wood Canal Company.
2. A resolution was adopted to approve funds for infrastructure improvements for the Egin Bench Canal Inc.
3. A resolution was adopted in the matter of the U.S. Dept. of Energy, Idaho operations office funding to support ESPA recharge and modeling efforts.
4. A resolution was adopted in the matter of the Eastern Snake Plain Ground Water Districts and interim loan refinancing.
5. A resolution was adopted to authorize funding for dam structural evaluation for the Goose Lake Reservoir Company.
6. A resolution was adopted to approve funding for the Farmers' Co-Operative Ditch Company project in the amount of \$19,862.00.
7. A resolution was adopted to approve funding for the Pebble Creek Irrigation project in the amount of \$20,000.
8. A resolution was adopted to approve a Ground Water Conservation grant for the City of Idaho Falls in the amount of \$10,000.
9. A voice vote to table a request for a Ground Water Conservation grant for the City of Ketchum.

Memorandum



To: Idaho Water Resource Board Finance Committee
From: Rick Collingwood
Date: March 9, 2020
Re: IWRB Loan Program Interest Rate Adjustment

REQUIRED ACTION: Committee to consider loan interest rate adjustment.

At the January 24, 2020 Finance Committee meeting, the committee agreed to address a possible adjustment of the current IWRB loan interest rate at the next IWRB Finance Committee meeting in March.

The current IWRB Loan Program loan interest rate is 4.5%. This interest rate has been in effect since May 19, 2017 when the IWRB authorized an increase from 3.5% to 4.5%. Staff researched current loan program interest rates for neighboring states and Idaho financial institutions to support the Finance Committee's consideration of a loan interest rate adjustment. Since the majority of IWRB loans are issued to agricultural entities such as irrigation districts and canal companies, and community water systems, the interest rate comparisons below reference only agricultural and municipal project loans:

Idaho Department of Environmental Quality

- 1.5 – 3.0% for 20 – 30 year term loans

Note: Below market rate interest loans for design and construction of drinking water facility projects. Loan process – Submit Letter of Interest, state's priority list, rating and ranking process, final fundable list, fundable projects placed on Intended Use Plan, submit application, loan may be offered.

Colorado Department of Natural Resources

- Agricultural Loans – 1.40%
- Municipal Loans – 1.95 – 2.40%

Note: 1.0% loan service fee charged on the loan amount. Low interest loans for design and construction of agricultural and municipal raw water projects. Municipal loan interest rate based on low, middle, and high income. Interest rates are reduced by 0.25% for 20-year loans, and 0.65% FOR 10-year loans.

Wyoming Water Development Commission – New Development and Rehabilitation Programs

- Program Interest Rate - 4.0% (Legislative approval for interest rate adjustment)

Note: Sponsor shall be a public entity. New applications assigned to Level I Study status (reconnaissance level analyses), Level II status (feasibility and refinement to Level III), and Level III (design, permitting, land acquisition, construction, construction engineering). \$1,000 application fee for each level, with 75% returned if application is denied.

Utah Board of Water Resources – Revolving Loan Programs

- Agricultural Loans – 0 – 1% (Depending on funding source)
- Municipal Loans – 0 - 2.41% (Depending on affordability and funding source)

Note: The 2.41% is revised quarterly and is set at 75% of the Bond Buyers Revenue Index. Loans do not exceed 85% of the total project cost. Board administrative fee for project administration, investigation, engineering, and construction observation added to total project cost. Three step funding process.

An adjustment of the current IWRB Loan Program interest rate appears justified based on the loan program interest rates for adjacent states and the current market and economic conditions. Staff recommends an interest rate adjustment between 1.0 – 1.5%. See attached draft resolution.

Attachments

A draft resolution is attached if the Committee chooses to recommend an interest rate adjustment to the full IWRB on March 20, 2020.

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF IDAHO WATER RESOURCE
BOARD LOAN PROGRAM INTEREST RATE

RESOLUTION TO AUTHORIZE ADJUSTMENT
TO LOAN INTEREST RATE

1 WHEREAS, the Idaho Water Resource Board (IWRB) is authorized to make loans from its
2 Revolving Development Account, and from the Secondary Aquifer Planning, Management, and
3 Implementation Fund for aquifer management projects which are in the public interest and which
4 further implement the State Water Plan; and
5

6 WHEREAS, on April 3, 2020, the IWRB Finance Committee convened by teleconference, and
7 recommended the IWRB's loan interest rate be adjusted from the current loan interest rate of 4.5% to
8 ____% ; and
9

10 WHEREAS, the adjustment in the loan interest rate is based on similar loan programs in adjacent
11 states and current market and economic conditions; and
12

13 NOW THEREFORE BE IT RESOLVED that the IWRB approves a loan interest rate adjustment from
14 the current interest rate of 4.5% to ____% for loans authorized by the IWRB effective today.
15

DATED this 3rd day of April, 2020.

ROGER W. CHASE, Chairman
Idaho Water Resource Board

ATTEST _____
VINCE ALBERDI, Secretary

MEMO



To: Idaho Water Resource Board

From: Rick Collingwood

Date: March 9, 2020

Subject: Riverland Terrace Nonprofit Water Corporation – New Water Supply Project Loan Application

Action Item: \$190,000.00 loan

1.0 INTRODUCTION

The Riverland Terrace Nonprofit Water Corporation (Corporation) is requesting a \$190,000.00 loan from the Idaho Water Resource Board (Board) to abandon the Corporation's three existing ground water wells and connect to the existing Suez domestic water supply system (Project). The Project includes the installation of approximately 100 lineal feet of water main line to connect to the existing Suez water main line in Warm Springs Avenue. The Project will also include the installation of new water meters and fire hydrants in the Riverland Terrace Subdivision.

2.0 BACKGROUND

The Corporation is located in east Boise, Ada County, and supplies domestic water to the 29 residences in the Riverland Terrace Subdivision (See attached map). Currently, two ground water wells serve the development. A third well, Well No.3, was abandoned due to pumping of sand. During water quality testing of the two operating wells, Wells No.1 and No.2, in 2018, Well No.1 exceeded the state water quality standards for arsenic. In March, 2019, the Corporation signed a Compliance Agreement with the Idaho Department of Environmental Quality (DEQ). The Corporation investigated three alternatives to achieve compliance within the deadlines established in the Compliance Agreement. Due to the high cost of two of the alternatives, the lower cost alternative, which was to enter into an agreement with Suez to provide water to the Riverland Terrace Subdivision, was recommended by the Corporation's Board of Directors. On September 25, 2019, the selected alternative to connect to the Suez water system was approved by a vote of the members of the Corporation.

Upon completion of the water system improvements by Suez, the three wells will be abandoned and the infrastructure associated with the well lots will be removed and sold. As noted on the Riverland Terrace Subdivision Plat, the three well lots are designated as utility lots. The Corporation's plan is to amend the plat notes to change the utility lot designation for the three well lots to residential. This plat amendment will allow the Corporation to sell the lots for residential development. The revenue from the sale of the lots and well

infrastructure equipment will be used to repay the IWRB loan, and other associated Project costs.

The project is critical for the Corporation to comply with state water quality standards, and to provide a reliable domestic water supply system to meet the needs of the property owners in the Riverland Terrace Subdivision.

3.0 PROPOSED PIPELINE REPLACEMENT PROJECT

The Project includes the installation of approximately 100 lineal feet of water main line to connect to the existing Suez water main line in Warm Springs Avenue, new water service meters and fire hydrants, and abandonment of the three existing wells owned and operated by the Corporation.

The design of the water system improvements by Suez is anticipated to be completed from April through June, 2020. Construction of the Project is scheduled to commence in October, 2020, and continue through June, 2021.

4.0 BENEFITS

The water supply line connection and water system improvements for the Riverland Terrace Subdivision will provide a reliable, long-term domestic water supply system for residents of the development that complies with the state water quality standards.

5.0 FINANCIAL ANALYSIS

The Corporation is requesting a loan of \$190,000.00 at 4.5% interest for a 20-year term. The following analysis reflects the Board's current interest rate of 4.5% for this type of project. In December, 2019, the Corporation's Board of Directors directed the Corporation's President to seek a loan from the IWRB to fund the project.

Currently, the Corporation's members are assessed an annual water user rate of \$573.31 per residence. At a scheduled Corporation meeting on March 3, 2020, the members approved an annual assessment increase of \$106.76, or \$666.21 per residence for the 20-year term of the loan beginning in April, 2020.

Payment Analysis

Term (Years)	Estimated Annual Payment-Revolving Account Loan	Current Assessment Cost/Residence/Year	After Assessment Cost/Residence/Year
5	\$43,280.41	\$573.31	\$666.21
10	\$24,011.98	\$573.31	\$666.21
15	\$17,691.62	\$573.31	\$666.21
20	\$14,606.47	\$573.31	\$666.21

6.0 WATER RIGHTS

Riverland Terrace Nonprofit Water Corporation water rights are as follows:

WATER RIGHT	SOURCE	FLOW/ STORAGE	WATER USE	BASIS	PRIORITY DATE
63-8379	Ground Water	0.60 cfs	Domestic	Decreed	11/17/1976

7.0 SECURITY

The IWRB is authorized to hold the Corporation's water rights, facilities, equipment, well lots, and all materials associated with this project as collateral for the loan.

Appraisals for the three well lots, which will be converted to residential lots at the completion of the Project, were completed and submitted to staff. The total appraised residential value for the three well lots is \$510,000, which significantly exceeds the requested loan amount of \$190,000. The value of the three lots, along with the Corporation's water right, provides more than adequate security for the Corporation's loan request.

8.0 CONCLUSION AND RECOMMENDATION

This loan will be used to connect to the Suez water system as stated in the DEQ Compliance Agreement to comply with state water quality standards. Staff recommends approval of the \$190,000 loan request by the Corporation.



Riverland Terrace Nonprofit Water Corporation



0 250 500 1,000 Feet

Map Date: 2.19.2020

Imagery: 2017 NAIP

- Stream/River
- Township/Range
- Sections
- QQ

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF RIVERLAND TERRACE
NONPROFIT WATER CORPORATION FUNDING
REQUEST

RESOLUTION TO AUTHORIZE FUNDING FOR
NEW WATER MAIN LINE CONNECTION AND
WELL ABANDONMENT

1 WHEREAS, the Riverland Terrace Nonprofit Water Corporation (Corporation) submitted a loan
2 application to the Idaho Water Resource Board (IWRB) in the amount of \$190,000.00 for constructing a
3 new main line water connection to the existing Suez water system, installation of water meters and fire
4 hydrants, and abandoning the three existing ground water wells currently supplying domestic water to
5 the residents of the Riverland Terrace Subdivision; and
6

7 WHEREAS, the Corporation operates and maintains a delivery system to convey potable water
8 to members in Boise, Ada County, for domestic use to the 29 residences in the Riverland Terrace
9 Subdivision; and
10

11 WHEREAS, based on quarterly water samples collected from Well No.1 in March, June,
12 September, and December, 2018, tests revealed exceedance of the arsenic maximum contaminant level
13 per the state's water quality standards; and
14

15 WHEREAS, in March, 2019, the Corporation executed a Compliance Agreement with the Idaho
16 Department of Environmental Quality (DEQ) that outlines the schedule and requirements that the
17 Corporation will need to meet to achieve compliance with the arsenic maximum contaminant level as
18 presented in the Idaho Rules for Public Drinking Water Systems; and
19

20 WHEREAS, the proposed new water main connection to the Suez water system will benefit the
21 Corporation and their members by providing a long-term, reliable domestic water supply system that
22 will comply with the state's water quality standards; and
23

24 WHEREAS, the total estimated cost for the Corporation's domestic water system project is
25 \$200,000.00; and
26

27 WHEREAS, the Corporation is a qualified applicant and the proposed project qualifies for a loan
28 from the IWRB'S Revolving Development Account; and
29

30 WHEREAS, the proposed project is in the public interest and is in compliance with the State
31 Water Plan.
32

33 NOW THEREFORE BE IT RESOLVED that the IWRB approves a loan not to exceed \$190,000 from
34 the Revolving Development Account at _____% interest with a 20-year repayment term and provides
35 authority to the Chairman of the Idaho Water Resource Board, or his designee, to enter into contracts

36 with the Corporation on behalf of the IWRB. The 20-year term of the loan will commence in April 2020,
37 with obligation of funds and payment requirements as outlined in Condition No.3 below.
38

39 NOW THEREFORE BE IT FURTHER RESOLVED that this resolution and the approval of the loan are
40 subject to the following conditions:
41

- 42 1) The Corporation shall comply with all applicable rules and regulations that apply to the
43 proposed project.
- 44 2) The Corporation will provide acceptable security for the loan to the IWRB including, but not
45 limited to, the Corporation's water rights and facilities.
- 46 3) The Company shall establish a reserve account in an amount equal to one annual payment.
- 47 4) The Company shall obtain members approval of the loan request and an increase in the
48 annual assessment at the March 3, 2020 members meeting.
49

DATED this 3rd day of April, 2020.

ROGER W. CHASE, Chairman
Idaho Water Resource Board

ATTEST _____
VINCE ALBERDI, Secretary

Memorandum

To: Idaho Water Resource Board
From: Amy Cassel
Date: March 31, 2020
Re: Water Transaction Program –Morgan Creek Long-Term Transaction and Morgan Creek 2020



REQUIRED ACTION: Consideration of the attached draft resolution.

Background:

The 2004 Snake River Water Rights (“Nez Perce”) Agreement commits the state to providing incentives for improving fish habitat which includes improving or protecting flow conditions to augment stream flows. Morgan Creek, a tributary to the Salmon River near Challis, is important for the spawning, migration and rearing of ESA-listed steelhead and bull trout. It also supports the rearing of ESA-listed juvenile Chinook salmon. Morgan Creek typically becomes dewatered below the lowest two diversions (SMC 2-4 and SMC 1) during the irrigation season, blocking access to those fish species. For the past 13 years, the IWRB has held agreements not to divert with the two water users on those diversions from Morgan Creek. Rather than divert from Morgan Creek they have spilled at least 2 cfs in the creek during the low flow periods (August-September) to maintain adequate flows in Morgan Creek to the confluence with the Salmon River. The water was instead pumped out of a Salmon River ditch that carries existing Salmon River water rights appurtenant to the same ground. In return, the irrigators were compensated based on the cost of pumping water from the Salmon River ditch.

Over the past few years, Board staff as well as other partners have worked to come up with a long-term solution on Morgan Creek. Board staff is working with the Custer Soil and Water Conservation District (CSWCD), NRCS, Idaho Department of Fish and Game (IDFG), and the Bureau of Reclamation (BOR) to propose a long-term solution that will work for both water users. BOR is designing a new cement structure and head gate at the current point of diversion on the Salmon River. The current structure is not controllable or lockable, and the ditch does not convey the full water rights to the place of use. The project will include modifying the ditch to improve conveyance.

The Salmon River ditch that conveys water to the place of use co-mingles with Morgan Creek taking additional Morgan Creek water down the ditch. To keep the water in Morgan Creek and ensure the creek does not become disconnected to the mouth, an operable cement structure and measuring device will be installed. BOR is currently designing a structure to control and convey the comingled water. CSWCD and NRCS are assisting with the design and implementation of the irrigation infrastructure (pump, pipe, control structure, head gates, and irrigation pods), fencing off the stream corridor, and off-stream stock water.

IWRB staff is proposing to enter into a 20-year Agreement Not to Divert with one of the water users to spill 1 cfs in Morgan Creek to help contribute to the full season, long-term flow connectivity to the Salmon River. The transaction is contingent upon approval of a point of diversion exchange by the Idaho Department of Water Resources. The water user will agree not to divert the Morgan Creek water and will then pump Salmon River Ditch water to their 36.6 acre place of use.

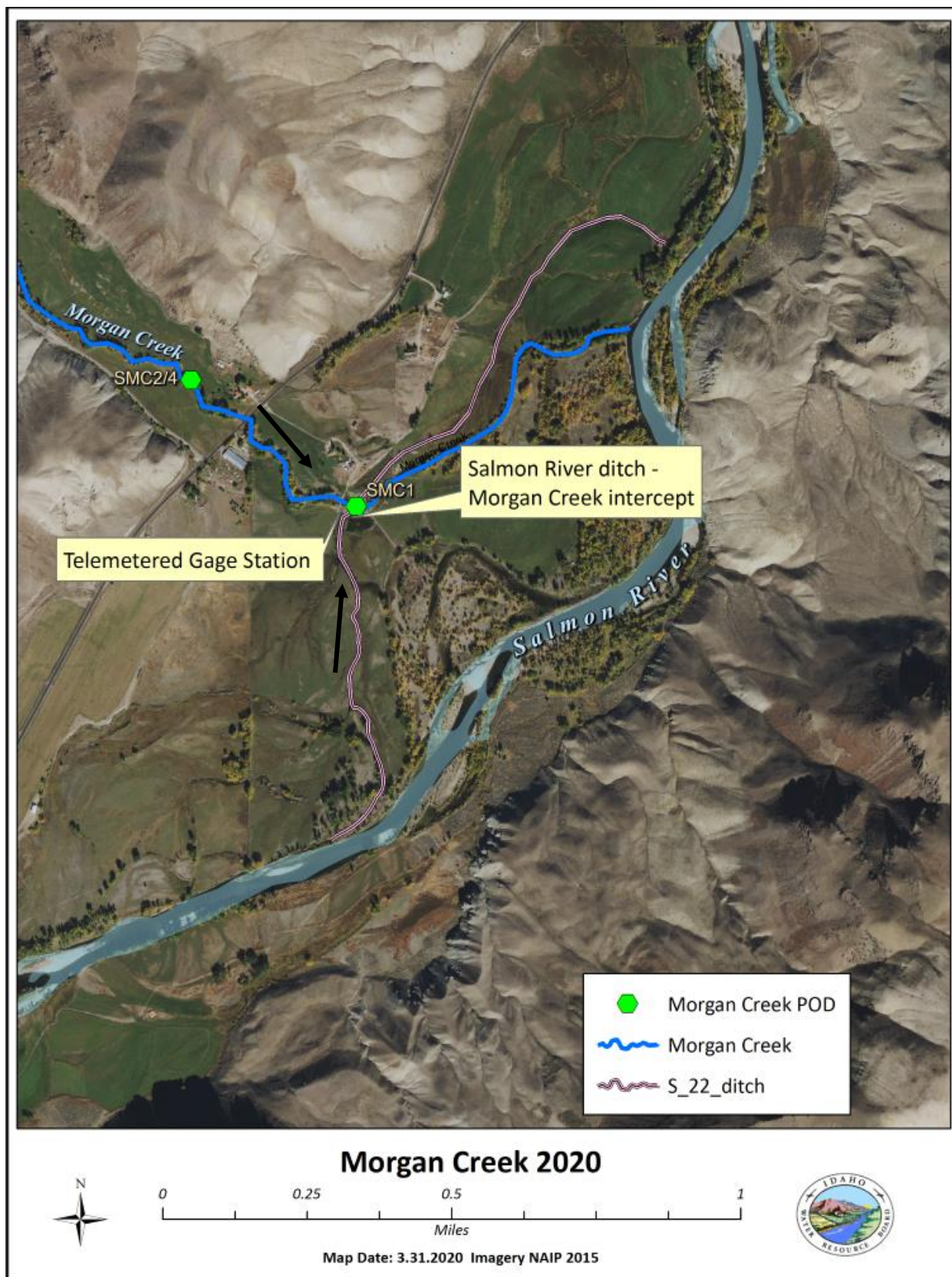
At this point, the other water user has agreed to a 10-year Minimum Flow Agreement but Board staff is continuing to negotiate a 20-year term. Starting July 1st of each irrigation season, the water user will cease using their Morgan Creek water and switch to their Salmon River water rights to pump to flood, leaving 2 cfs (161 acres) of water in Morgan Creek.

Approximately 3 cfs will remain in Morgan Creek and connect the tributary throughout the irrigation season for approximately 1 mile to the mouth allowing passage for fish.

The pumping will increase on-farm costs and the transaction seeks to compensate the water users for this additional financial burden. Total cost for the 20-year agreement and the 10-year agreement is estimated to be \$170,258.73. Funding will be requested through the Columbia Basin Water Transaction Fund.

Currently, BOR is planning and designing the new control structures for implementation in 2021. Because it is important to secure the gains that have been made on Morgan Creek for the past 13 years, Board staff is proposing a one-year agreement for 2020 to keep Morgan Creek connected until the long-term solution is implemented.

The proposed one-year agreement not to divert will compensate the water users for the days when they spill Morgan Creek water and pump Salmon River water to maintain the 2 cfs flow. Total cost is based on a maximum of 60 days. Compensation is \$80.00 per cfs per day, with a maximum payment amount of \$13,404.00. Funding for the transaction will come from the Columbia Basin Water Transaction Fund.



BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE 2020 MORGAN
CREEK WATER TRANSACTION CONTRACTS

RESOLUTION TO MAKE A FUNDING
COMMITMENT

WHEREAS, steelhead, bull trout, and juvenile Chinook salmon habitat in Morgan Creek is limited by low flow in the lower reaches of Morgan Creek; and

WHEREAS, Morgan Creek provides steelhead, bull trout, and juvenile Chinook salmon habitat and the 2004 Snake River Water Rights ("Nez Perce") Agreement commits the state to providing incentives for improving fish habitat which includes improving or protecting flow conditions to augment stream flows; and

WHEREAS, it is in the interest of the State of Idaho to reconnect Morgan Creek to encourage recovery of ESA-listed steelhead, bull trout, and Chinook Salmon; and

WHEREAS, Idaho Department of Water Resources staff has developed a series of agreements not to divert water from Morgan Creek at the SMC-2/4 and SMC-1 diversions to improve stream flow for anadromous and resident fish; and

WHEREAS, staff has now negotiated one-year agreements with the Morgan Creek water users not to divert water at the SMC2/4 and SMC 1 diversions; and

WHEREAS, a proposal for \$13,404.00 has been submitted to the Columbia Basin Water Transactions Program to be used to fund said agreements; and

WHEREAS, instead of diverting from Morgan Creek, the water users have agreed to pump from Salmon River sources that are not flow-limited and the funds paid under these agreements will offset the power expenses incurred by changing the points of diversion; and

WHEREAS, the Morgan Creek transactions are in the public interest and in compliance with the State Water Plan.

NOW THEREFORE BE IT RESOLVED that the IWRB authorizes the Chairman to enter into contracts with Ronald Jones and Donna Hughes, or their successors, for agreements not to divert out of Morgan Creek in an amount not to exceed \$13,404.00.

NOW THEREFORE BE IT FURTHER RESOLVED that this resolution is subject to the condition that the IWRB receives the requested funding from the Bonneville Power Administration through the Columbia Basin Water Transaction Program in the amount of \$13,404.00.

DATED this 3rd day of April, 2020.

ROGER W. CHASE, Chairman
Idaho Water Resource Board

ATTEST _____
VINCE ALBERDI, Secretary



MEMORANDUM

To: Idaho Water Resource Board

From: Sarah Lien, Friends of the Teton River

Date: March 31, 2020

Re: Teton River Basin Water Transactions Program – Canyon Creek

Action Requested: Consideration of the attached funding resolution.

I. Transaction Summary:

Canyon Creek is a tributary to the Teton River and is one of the few Yellowstone cutthroat trout (YCT) strongholds with an intact fluvial spawning run. Canyon Creek Canal Company (CCCC) operates a large unlined canal system located ~10.25 miles upstream from the mouth of Canyon Creek. During this two-year source switch pilot project, CCCC will shut down the unlined canal and enter into a water management agreement whereby its water rights will be diverted at four downstream points of diversion. The transaction is expected to increase flow between the months of April 15 - July 31 by as much as 60 cfs, with benefit decreasing as base flow decreases and demand increases in the summer.

II. Transaction Overview:

Canyon Creek is a wild and remote tributary to the Teton River Canyon, with its headwaters and the majority of its 45 stream miles lying within the Caribou-Targhee National Forest. Among the prioritized tributaries in the Teton River Watershed, Canyon Creek ranks at the top due to its valuable high-elevation habitat, historic productivity, importance as a YCT spawning tributary, lack of hybridization, and the ability to comprehensively address limiting factors in the drainage. Significantly, it is one of the few YCT strongholds with an intact fluvial spawning run (Schrader 2002; Mabey 2009) in the Teton River Watershed and within the Greater Yellowstone Ecosystem. As a result, FTR and partners IDFG, USFS, US Fish and Wildlife Service, the Idaho Governor's Office of Species Conservation, National Forest Foundation, and the Western Native Trout Initiative, have made Canyon Creek a high-priority stream for watershed restoration.

FTR has been working to address limiting factors on Canyon Creek for nearly a decade. From 2010 to 2015 FTR worked to address several conservation goals, including passage, connectivity, habitat, and function. Specifically, through a series of stream restoration projects,

fish passage was re-established at three locations serving to reopening 35 miles of upstream habitat to fish and rehabilitate and stabilize 1,400 feet of eroding bank/altered habitat that existed in a 2.5 mile reach, between the completed fish passage projects and pristine spawning reaches that lie within the National Forest upstream. Having addressed fish passage, habitat, and stream function constraints, it is now appropriate to work on stream flow and fish entrainment issues.

CCCC operates a large unlined canal system located ~10.25 miles upstream from the mouth of Canyon Creek. Historically, 60 cfs of water was diverted into the canal to provide water for over 10,000 acres of high value farm ground. Since the mid-1970's, in addition to the unlined canal, the water rights owned by CCCC have been diverted at four other locations. Three of these points of diversion are located on Canyon Creek, one located ~7.75 miles upstream of from the mouth and two located ~6.75 miles upstream from the mouth. The fourth point of diversion is located on the Teton River. *See*, attached map.

FTR and CCCC have been working to identify a means by which to move all points of diversion off Canyon Creek and instead divert water at pump sites located on the Teton River, with the goal of completely restoring the natural hydrograph to Canyon Creek. However, preliminary cost estimates for such a project are quite high, pushing the need to determine precisely how much water is needed to address the tributary flow and temperature constraints currently impacting YCT. As such, CCCC has proposed a two-year agreement which will improve flow and temperature conditions and provide an opportunity to develop and refine the long-term flow restoration strategy. (Note: CCCC shall have the ability to terminate the agreement after the first year if CCCC determines that continuation of the agreement is not in the best interest of its shareholders due to an inability to divert sufficient water to satisfy water demand.)

During the two-year term, CCCC will shut down the unlined canal and, instead, divert water at the other four points of diversion associated with its water rights. This will have a positive two-fold impact on the fishery: (1) address the entrainment issues associated with the large, unlined canal system; and (2) increase the quantity of water in Canyon Creek between April 15 - July 31, with benefit decreasing as base flow decreases and demand increases in the summer.

Through the project period FTR will collect stream and water use data which will be used to develop a cost-effective, long-term, flow restoration strategy that achieves the desired ecological outcomes while maintaining water supply to support agricultural needs.

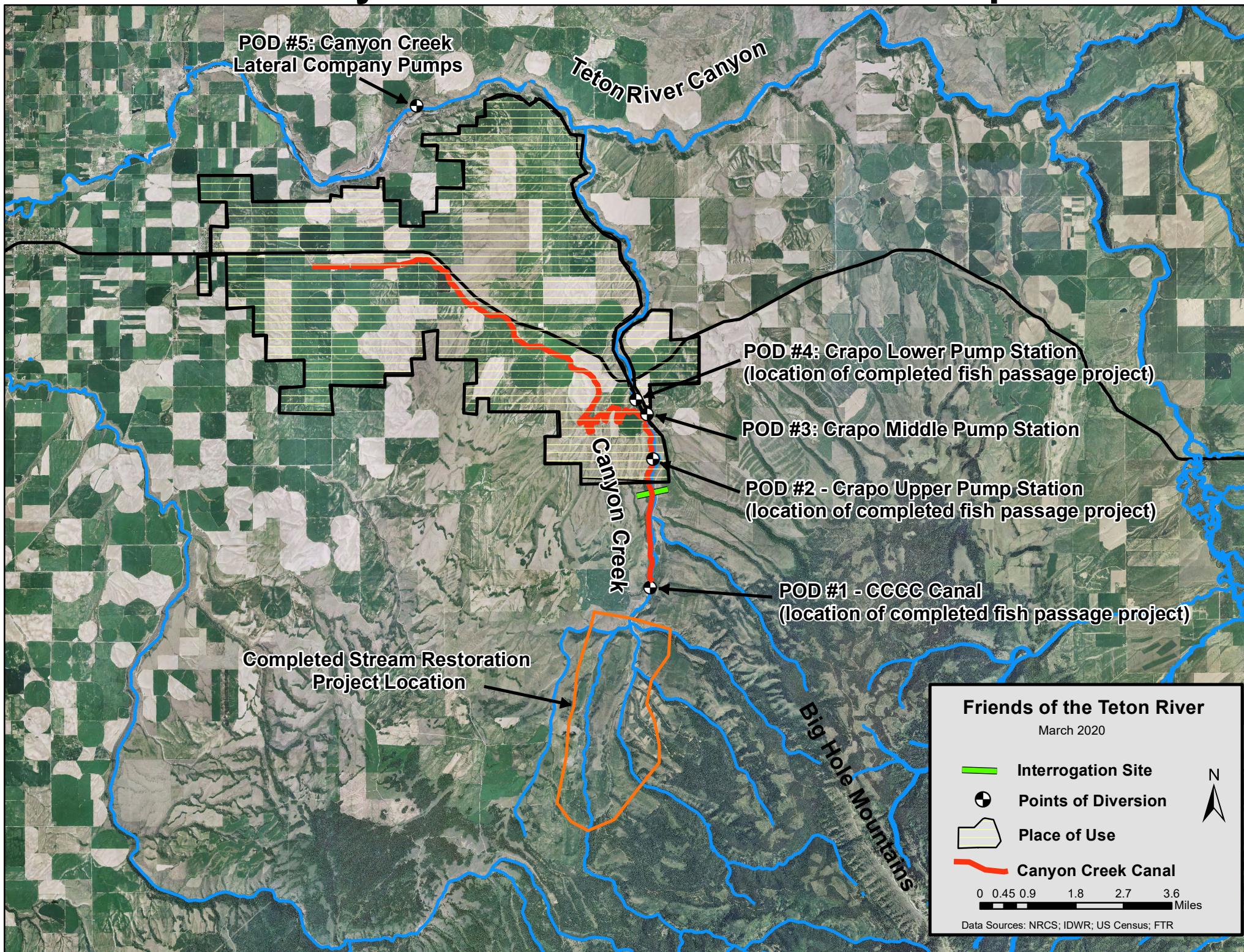
III. Transaction Cost and Pricing Information:

Seventy-seven thousand two hundred dollars (\$77,200) is available through the Columbia Basin Water Transaction Program to support this transaction.

The cost of this transaction aims to compensate CCCC members for increased pumping costs associated with closing the unlined canal through the project period, thereby requiring water to be pumped (rather than gravity fed) from the other points of diversion. Throughout the project period all shareholders will experience increased pumping costs, some greater than others due to the location and lift associated with each point of diversion. As such, each year of the project a

payment in the amount of thirty-eight thousand six hundred dollars (\$38,600) will be paid to CCCC, to be divided equitably among the shareholders.

Canyon Creek Flow Restoration Map



BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE
CANYON CREEK WATER
TRANSACTION AGREEMENT

RESOLUTION TO MAKE A FUNDING
COMMITMENT

1 WHEREAS, Canyon Creek, tributary to the Teton River provides quality habitat for fluvial
2 and resident Yellowstone cutthroat trout, but is flow and temperature limited at certain times of
3 the year; and
4

5 WHEREAS, it is in the interest of the State of Idaho to increase stream flow and decrease
6 temperature in the Teton River and its tributaries, including Canyon Creek, to encourage the
7 recovery of Yellowstone cutthroat trout, which are managed as an Idaho Species of Greatest
8 Conservation Need; and
9

10 WHEREAS, the Idaho Water Resource Board (IWRB) is authorized to expend Bonneville
11 Power Administration funds for flow restoration through the Columbia Basin Water Transaction
12 Program; and
13

14 WHEREAS, IWRB staff (staff) has developed a two-year source switch agreement to
15 improve flow and temperature conditions for Yellowstone cutthroat trout in Canyon Creek; and
16

17 WHEREAS, a proposal in the amount of \$77,200.00 has been submitted to the Columbia
18 Basin Water Transaction Program to be used to fund the source switch agreement; and
19

20 WHEREAS, staff anticipates the funds being placed into the IWRB's Revolving
21 Development Account for annual payment to support the source switch agreement; and
22

23 WHEREAS, the source switch agreement is in the public interest and in compliance with
24 the State Water Plan.
25

26 NOW THEREFORE BE IT RESOLVED that the IWRB authorizes the Chairman to enter into a
27 two-year source switch agreement for the purpose of improving flow in Canyon Creek, tributary
28 to the Teton River, using an amount not to exceed \$77,200.
29

30 NOW THEREFORE BE IT FURTHER RESOLVED that this resolution is subject to the
31 conditions that the IWRB receives the requested funding from the Columbia Basin Water
32 Transaction Program in the amount of \$77,200.

DATED this 3rd day of April, 2020.

ROGER W. CHASE, Chairman
Idaho Water Resource Board

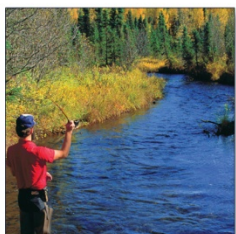
ATTEST _____
VINCE ALBERDI, Secretary



Upper Snake Reservoir Rental Pool Procedures for 2020 IWRB Meeting 3-20

Remington Buyer
Water Supply Bank Coordinator
April 3, 2020





Upper Snake Rental Pool Procedures

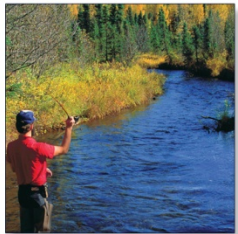
The Water District 01 Advisory Committee (Committee of Nine; Co9) has adopted amended procedures for the Upper Snake River Reservoir System rental pool, to commence in 2020.

Key changes to the procedures include:

Provision 3.5.1: an indefinite moratorium on many rentals to ‘new’ lands*; ‘New’ lands appear to be locations outside of US Bureau of Reclamation project boundaries, where no lawful water use occurred, prior to 2019, or, where a water right was transferred off the land, after 2019.

Allowable exceptions to the moratorium include:

- 1) rentals under 100 af;
- 2) lands where a new DCMI water right is approved after 2019; and
- 3) lands incorporated into the boundaries of a water organization’s already existing water right portfolio, after 2019.



Upper Snake Rental Pool Procedures

The Water District 01 Advisory Committee (Committee of Nine; Co9) has adopted amended procedures for the Upper Snake River Reservoir System rental pool, to commence in 2020.

Key changes to the procedures include:

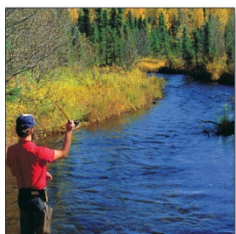
Provision 4.6: a prohibition on many out-of-basin rentals;**

**** Exceptions granted for rentals by USBOR, Idaho Power and the IWRB.**

Provision 5.6.102: a prohibition on out-of-basin common pool rentals*;**

***** Exceptions granted for rentals to/on behalf of the Shoshone Bannock Tribes.**

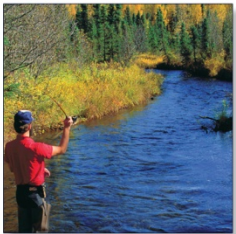
Exceptions will also likely be required for out-of-basin water users in Water Districts 35, 36 and 37, who can legally divert reservoir storage water under basin 1 water rights.



Upper Snake Rental Pool Procedures

The IWRB may approve the procedures. However,

- because provision 3.5.1 applies a blanket moratorium on new rentals, while carving out exceptions for certain water users and water uses, the IWRB should establish that the basis for the exclusions are logical and reasonable. And,
- insofar as a provisions 4.6 and 5.6.102 prohibit some out of basin rentals, while still allowing for other out of basin rentals, the IWRB should establish that the basis for the exclusions are logical and reasonable.



Upper Snake Rental Pool Procedures

The IWRB may approve the procedures. However,

The IWRB may by resolution affirm that the procedures are approved for one additional year only; and

Prior to approving any future rental pool procedures in which exclusions are applied, the IWRB will first require that an analysis be conducted, and a report be made, on the utility of and the need for exclusionary practices in the Upper Snake Rental Pool.

From: Remington Buyer, Department of Water Resources
To: Idaho Water Resource Board, Water Supply Bank & Mitigation Bank Committee Members
Re: Amendments to the Upper Snake River Rental Pool Procedures for 2020
Date: March 9th, 2020

The Water District 1 Advisory Committee (also known as the Committee of Nine, Co9) is the Idaho Water Resource Board (IWRB) appointed local committee for the Upper Snake River Rental Pool, and is authorized to facilitate the lease and rental of stored water in Upper Snake River reservoirs, per state laws and rules specific to the Water Supply Bank.¹ Rental pool committees may also adopt rental pool procedures to govern rental pool operations. Rental pool procedures must be approved by the IWRB. The Idaho Water Resource Board has approved rental pool procedures for the Upper Snake River rental pool.

The Co9 met on March 3rd 2020, concurrent with the Water District 1 annual meeting, to discuss approving changes to the rental pool procedures for 2020. This memo is a summary of the rental pool procedures for 2020, which were approved by the Co9 at their March 3rd meeting, in Pocatello.

This memo is divided into two sections to address:

- 1) a comparison of the Rental Pool Procedures and the Water Supply Bank Rules; and
- 2) specific comments about the amended procedures for 2020.

A Comparison of Rental Pool Procedures and Water Supply Bank Rules

Water Supply Bank rules require that rental pool procedures adopted by local committees should provide for twelve rental pool elements.² Included below are the twelve required rental pool elements and references to Upper Snake River Rental Pool procedural text that pertain to the twelve rental pool elements.

Rule 40.1.a - Determination of priority among competing applicants to lease stored water to the rental pool and to rent stored water from the rental pool

Sections 3.1, 3.2 and 3.5 of the amended procedures (“purposes”) articulate intended priorities and constraints for lease and rental applications, while sections 4.3 (“applications”) and 5.3 (“assignments”) outline when and how rental pool applications should be submitted. Section 5.4 (“priorities for renting storage”) provides details on how competing rental applications should be prioritized.

With a few exceptions (defined in Section 3.5.2), Section 3.5.1 proposes a prohibition on processing new private leases for the irrigation of lands that, prior to 2019, did not receive rental pool storage water, or were not associated with a water right. Through the authorities of rule 40.1.a, a local committee may prioritize certain types of rentals over others, however it is not certain that the Water Supply Bank rules allows for the prohibition of certain types of rentals. However, insofar as the Director of the Department of Water Resources and the Idaho Water Resource Board do not object to the moratorium, the Board may approve of the amended procedures that includes the moratorium language of section 3.5.

Rule 40.1.b - Determination of the reimbursement schedule for those leasing stored water into the rental pool

Section 5.2.110 (“timing of payments”) and 7.3.103 (“payments to impacted participants”) pertain to lessor payments for the rental of stored water from the ‘common pool’ in a given year, while section 8.6 (“notice of contract approval and payment to lessors”) provides that water users who lease stored water for “supplemental pool” purposes shall receive compensation within thirty days of execution of a supplemental pool contract.

¹ Idaho Code, sections 42-1761 through 42-1765, and IDAPA Rules 37.02.03

² Water Supply Bank Rules 40.1.a through 40.1.k and Rule 40.2

Rule 40.1.c - Determination of the rental price charge to those renting stored water from the rental pool

The means of determining the rental price is somewhat complicated, as the procedures allow for volumetric (\$/acre foot) “rental prices”, along with various other “fees” and “charges”. Inasmuch as charges and fees are contained within an overall rental price, such charges and fees may be permissible.

Section 5.5 of the procedures prescribe prices for rentals from the “common pool”, while section 6.0 acknowledges that private lease-rental transactions may be established at negotiated rental prices. Additionally, sections 2.17 and 2.19 acknowledge that rental prices may include “fees” which might be levied if a renter is not a spaceholder within the Upper Snake River reservoir system, or if their rental intends to use of water is below Milner Dam.

Specifically, sections 2.3 (“administrative fee”), 2.9 (“Board Surcharge”), 2.17 (“impact fee”), 2.26 (“net price”) and 2.34 (“rental price”) define different aspects of the rental price framework for the Upper Snake River Rental Pool. Section 5.5.106 summarizes common pool tiered prices, while 5.5.107 acknowledges common pool rental prices may include an additional “impact fee”, calculated based on a prior year’s common pool rental price, in the year following a rental use of rental water (once the “impact” of the rental is known).

Finally, sections 6.3 (“payment to lessor”) and 8.3.102 (“price determination”) allow for negotiated rental prices to be approved for rentals of privately leased (i.e. non-common pool) storage, including hydropower rentals from storage specifically leased to the private ‘supplemental pool’.

Rule 40.1.d - Determination of the administrative charge to be assessed by the local committee

Section 2.3 (“administrative fee”) holds that the local committee will levy a fee of \$1.30/acre foot for all rentals, except for where section 8.3.102 (“quantity and price determination”) acknowledges that an administrative fee of \$1.80 may be levied for supplemental pool rentals.

Rule 40.1.e - Allocation of stored water leased to the bank but not rented

Section 4.3.106 (“deadline to designate point of diversion or place of use”) may address rule 40.1.e, by acknowledging that unused storage may “revert back to the common pool and/or lessor, respectively.”

Rule 40.1.f - Notification of the Department and the watermaster of any rentals where stored water will be moved from the place of use authorized by the permit, license, or decree establishing the stored water right

Section 4.3.101 (“applications”) provides a mechanism by which the local committee can make a determination as to whether a proposed rental will move storage water beyond the place of use authorized on the permit, license or decree establishing the stored water right. Although the procedures are silent with respect to a written requirement that the local committee notify the Department and watermaster of rentals contemplated by rule 40.1.f, the fact that the procedures recognize the Watermaster of Water District 1 as the manager of the rental pool (who is responsible for receiving and reviewing all applications), and the fact that the watermaster is typically also an employee of the Department of Water Resources, and the fact that watermaster’s are authorized by the Director of IDWR to perform duties for water districts, functionally allows for rule 40.1.f to be satisfied.

Moreover, the places of use authorized to be irrigated with storage water from Upper Snake River reservoir system includes lands in Madison, Minidoka, Bannock, Bingham, Bonneville, Cassia, Elmore, Fremont, Gooding, Jefferson, Jerome, Lincoln, Minidoka, Power, Teton and Twin Falls counties. As such, rentals of stored water for irrigation don’t typically move from their authorized places of use.

Rule 40.1.g - Submittal of applications to rent water from the rental pool for more than five (5) years to the Board for review and approval as a condition of approval by the local committee

The proposed procedures are silent regarding the need to submit rentals for more than five years to the IWRB for approval. However, because rental pool local committee appointments are only for five year durations, rentals cannot effectively be approved for more than five years.

Rule 40.1.h - Prevention of injury to other water rights

Section 3.2 (“purposes”) acknowledges that the procedures should “*maintain adequate controls, priorities, and safeguards to insure [sic] that existing water rights are not injured...*” however the procedures thereafter are silent on how this policy is to be interpreted and realized. Comments requested from Water District 1 staff on this topic indicated injury is not necessarily considered to be likely through a rental, and only “impacts” (which are not necessarily considered equivalent to injury) should be considered and accounted for.

Rule 40.1.i - Protection of the local public interest, except for applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code

The proposed procedures make no mention of the words “local public interest.” Comments from Water District 1 staff have been interpreted to suggest the content of section 3.0 (“purposes”) and section 5.4.101 (“priorities”) may be sufficient to protect local public interests.

Rule 40.1.j - Consistency with the conservation of water resources within the state of Idaho, except for applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code

There is no mention of the conservation of water resources within the procedures.

Rule 40.1.j - Management of rental pool funds as public funds pursuant to the Public Depository Law, Chapter 1, Title 57, Idaho Code

Rental pool procedure section 4.4.101 (“rental pool account”) acknowledges that rental pool funds are subject to Idaho’s public depository laws.

Rule 40.2 – Local committee procedures shall provide that a surcharge of ten percent (10%) of the rental fee charged per acre foot of stored water rented from the rental pool shall be assessed and credited to the...Board...

Section 2.9 of the procedures (“Board Surcharge”) provides that “*a surcharge equal to ten percent (10%) of the rental price or lease price assessed on the total quantity of storage set forth in any rental or lease application, [shall be] disbursed to the Board at the end of the irrigation season*”.

Rental Pool Procedure Comments

The following summarizes additional aspects of the amended Upper Snake River Rental Pool procedures that should be considered by the Idaho Water Resource Board:

A moratorium on new private leases and rentals of storage water to “new” lands

The 2020 rental pool procedures propose to amend section 3.5 to implement an indefinite *“moratorium on all private leases and rentals that deliver supplemental irrigation storage water to land that does not have a primary irrigation water right...”*. The stated purpose of the moratorium is to *“prevent further declines in the Eastern Snake Plain Aquifer...and to ensure new consumptive uses...do not further impact the storage supply”* of the rental pool.

The section 3.5 prohibition was first adopted by the Co9 (and subsequently approved by the IWRB) in 2019, as a one year moratorium on rentals to “new” lands (which were interpreted to be lands not authorized to be irrigated under non-federal, state-issued water rights). Because the moratorium language of section 3.5 seeks to prohibit the approval of rentals of storage water for new irrigation purposes, it is inconsistent with the mandate of the Water Supply Bank (which requires that the IWRB operate the Bank so as to provide a source of adequate water supplies to benefit new and supplemental uses).

The application of the moratorium also seems to be counter-productive to the stated purpose of the moratorium, as articulated in the procedures, since using storage water to irrigate lands that don’t feature primary water rights might actually improve the health of the ESPA, particularly where gravity-fed and other (non-pressurized) irrigation practices would result in a certain amount of surface water infiltrating down into the aquifer. As such, prohibiting a rental of water to new lands may be counter-productive to the stated objectives of preventing *“further declines to the ESPA”*.

Additionally, the language of new section 3.5.2(c) may be problematic to effective implementation of the moratorium because section 3.5.2(c) provides an exception to the moratorium for *“land that subsequent to the adoption of [the moratorium] is authorized for irrigation purposes under a water organization project’s water right”*. The US Bureau of Reclamation (USBoR) is a water organization, and their Minidoka, Palisades, Ririe and Teton Basin Project water rights authorize the irrigation of lands across southern Idaho. Thus, water stored under water rights from reservoirs associated with the above USBoR projects would arguably not be subject to the moratorium, which would seemingly be most of the storage water in the rental pool.

Notwithstanding the above, if the Co9 believes renting storage water to lands that do not feature primary irrigation water rights is contrary to local public interests of the water users of Idaho, then a moratorium is unnecessary, as the rental pool local committee could affirm the same within the rental pool procedures, and thereafter assert that such rentals will be rejected under the local public interest provisions of Water Supply Bank rule 40.1.1. Alternatively, if the local committee feels that the supply of storage water available to be leased and rented through the rental pool is insufficient to accommodate rentals for new irrigation uses in the future, they could memorialize the same in the procedures and thereafter seek to deny such rental requests under the authorities of Idaho Code 42-1763.

In recognition that the real outcomes of the moratorium may not accomplish the stated objectives of the action, and that section 3.5.2(c) may effectively nullify the effect of the moratorium, and that there may be other ways to authorize a denial of rentals of storage water to “new” lands without implementing a moratorium, it is recommended that the IWRB should further engage the Co9, to assist them in future amendments to the rental pool procedures, so that the procedures may be written in a manner that better addresses local public interest concerns while accomplishing the objectives of water users in Idaho.

Rentals associated with non-Water District 1 points of diversion either require exchanges or are not permitted
Procedure 2.16 defines the boundaries of Water District 1 as “*the Snake River and tributaries with Basins 01, 21, 22, 23, and 25 points of diversion*”. The 2020 procedures also now feature a new provision (section 4.6), which states that rentals of storage water to points of diversion “*in basins not regulated by Water District #1 may interfere with natural flow and storage deliveries*”, and therefore, such rentals “*shall not be permitted*”.

The necessity of this new section seems questionable; section 4.6 implies that rentals of storage water for out of basin uses are not permissible, however, the procedures still allow for out of basin rentals by the US Bureau of Reclamation (for flow augmentation purposes), by Idaho Power (for ‘supplemental pool’ hydro-power generation purposes), and by the IWRB (for minimum streamflow maintenance purposes). It is unclear why these rentals to diversions not regulated by Water District #1 are permissible, while others should not be.

As a matter of equity and procedural fairness, prior to any IWRB approval of rental pool procedures that allow for some but not all out of basin rentals, the IWRB should request that the Co9 articulate in more detail why some rentals should be considered as permissible, while others should not. The IWRB might request that the Co9 conduct an analysis of out of basin rentals, to quantify all known possible and likely impacts to water right administration and/or reservoir operations, and any possible injuries, attributable to out of basin rentals.

Participation Dates

Section 5.2.101 cites that March 15, 2019 is the date by which a storage water user should notify the rental pool of a desire to participate in the rental pool initiative, by leasing storage to the rental pool. This is problematic if interpreted directly, as it could prevent increased future participation in the rental pool. Specifically, if a current or future reservoir spaceholder, who was not a rental pool participant on March 15, 2019, wanted to participate in the rental pool, the language of this section would seem to preclude them from being able to do so. It is advisable that the year be struck from the date in this section, to preserve the ability of eligible non-participants to become participants now, or in the future.

Semantics

Because rental pool procedures are authorized by subsections of Water Supply Bank Rule 40 (IDAPA 37.02.03.40), it is misleading to characterize them as rules. It is advisable that future rental pool procedures replace references to “rules” with language such as “procedure” or “section”.

2020

WATER DISTRICT 1

RENTAL POOL PROCEDURES

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2019

WATER DISTRICT 1 RENTAL POOL PROCEDURES

RULE 1.0 LEGAL AUTHORITY

- 1.1 These procedures have been adopted by the Water District 1 Committee of Nine pursuant to Idaho Code § 42-1765.
- 1.2 These procedures shall not be interpreted to limit the authority of the Idaho Department of Water Resources, the Idaho Water Resource Board, or the Watermaster of Water District 1 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 spaceholder contracts with the United States, and the Mediator's Term Sheet of the 2004 Snake River Water Rights Agreement.
- 1.4 The operation of the rental pool shall in no way recognize any obligation to maintain flows below Milner or to assure minimum stream flows at the United States Geological Survey (USGS) gaging station on the Snake River near Murphy.
- 1.5 These procedures shall not be interpreted in any manner that is inconsistent with or would adversely impact or effect the rights of the Shoshone-Bannock Tribes as set out in the Fort Hall Agreement, the Blackfoot River Equitable Adjustment Settlement Agreement, and the 2015 Settlement Agreement between the Tribes and the Committee of Nine.

RULE 2.0 DEFINITIONS

- 2.1 **Accounting Year:** the Water District 1 accounting year that begins on November 1 and ends on October 31.
- 2.2 **Acre-foot:** a volume of water sufficient to cover one acre of land one foot deep and is equal to 43,560 cubic feet.
- 2.3 **Administrative Fee:** a fee of one dollar and thirty cents (\$1.30) per acre-foot assessed on the total quantity of storage set forth in any rental or lease application, disbursed to the District at the end of the irrigation season.
- 2.4 **Allocation:** the amount of stored water, including carryover that has accrued to a spaceholder's storage space on the date of allocation that is available for the spaceholder's use in the same accounting year.
- 2.5 **Applicant:** a person who files with the Watermaster an application, accompanied by the required fees, to rent or lease storage through the rental pool.
- 2.6 **Assignment:** storage provided by an assignor from the current year's storage allocation for rental through the common pool pursuant to Rule 5.3.
- 2.7 **Assignor:** a participant who assigns storage to the common pool pursuant to Rule 5.3 and subject to Rule 7.5.

- 2.8 **Board:** the Idaho Water Resource Board (IWRB).
- 2.9 **Board Surcharge:** a surcharge equal to ten percent (10%) of the rental price or lease price assessed on the total quantity of storage set forth in any rental or lease application, disbursed to the Board at the end of the irrigation season.
- 2.10 **Bureau:** the United States Bureau of Reclamation (USBR).
- 2.11 **Committee:** the Committee of Nine, which is the advisory committee selected by the members of Water District 1 at their annual meeting and appointed as the local committee by the Board pursuant to Idaho Code § 42-1765.
- 2.12 **Common Pool:** storage made available to the Committee through participant contributions and/or assignments for subsequent rental pursuant to Rule 5.
- 2.13 **Date of Allocation:** the date determined each year by the Watermaster on which the maximum accrual to reservoir spaceholders occurs.
- 2.14 **Date of Publication:** the date on which the Watermaster publishes on the District website the storage allocation for the current accounting year.
- 2.15 **Department:** the Idaho Department of Water Resources (IDWR).
- 2.16 **District:** The District is comprised of the Snake River and tributaries with Basins 01, 21, 22, 23, and 25 points of diversion.
- 2.17 **Impact Fee:** a fee added to the rental price for non-spaceholder rentals pursuant to Rule 5.5.107.
- 2.18 **Impact Fund:** a fund maintained by the Watermaster for the mitigation of computed impacts to participants pursuant to Rule 7.3.
- 2.19 **Infrastructure Fund:** a fund maintained by the Watermaster for the purposes outlined in Rule 4.5.
- 2.20 **Lease:** a written agreement entered into between a lessor and lessee to lease storage through the rental pool pursuant to Rule 6.
- 2.21 **Lease Price:** a price per acre-foot negotiated between a lessor and lessee as set forth in a lease agreement.
- 2.22 **Lessee:** a person who leases storage from a participant under a lease.
- 2.23 **Lessor:** a participant who leases storage to a person under a lease pursuant to Rule 6 and subject to Rule 7.5.
- 2.24 **Milner:** Milner Dam on the Snake River.
- 2.25 **Milner Spill:** water in excess to the amount that can be captured in the reservoir system flowing past Milner dam that is not storage being delivered under Idaho Power's American

- Falls storage water right or other storage that is otherwise authorized pursuant to these rules.
- 2.26 **Net Price:** the average price per acre-foot of all rentals from the common pool, including flow augmentation, but excluding rentals of assigned storage.
- 2.27 **Net Proceeds:** the net price times the number of acre-feet rented from the common pool, excluding rentals of assigned storage.
- 2.28 **Participant:** a spaceholder who contributes storage to the common pool pursuant to Rule 5.2.
- 2.29 **Participant Contributions:** storage made available to the common pool by participants, with computed impacts accounted from next year's reservoir fill, which forms the supply for large rentals, small rentals, and flow augmentation, subject to the limitations in Rule 5.2.
- 2.30 **Person:** an individual, corporation, partnership, irrigation district, canal company, political subdivision, or governmental agency.
- 2.31 **Rent:** the rental of storage from the common pool.
- 2.32 **Rental Pool:** the processes established by these procedures for the rental and/or lease of storage, mitigation of computed impacts to spaceholders, and disposition of revenues.
- 2.33 **Rental Pool Subcommittee:** a subcommittee composed of the Watermaster (advisor), a designated representative from the Bureau (advisor), and three or more members or alternates of the Committee who have been appointed by the chairman of the Committee.
- 2.34 **Rental Price:** the price per acre-foot of storage rented from the common pool, as set forth in Rule 5.5, excluding the administrative fee, the Board surcharge, and the infrastructure fee.
- 2.35 **Renter:** a person who rents storage from the common pool.
- 2.36 **Reservoir System:** refers to American Falls, Grassy Lake, Henrys Lake, Island Park, Jackson Lake, Lake Walcott, Milner Pool, Palisades, and Ririe.
- 2.37 **Space:** the active capacity of a reservoir measured in acre-feet.
- 2.38 **Spaceholder:** the holder of the contractual right to the water stored in the space of a storage facility within the Reservoir System.
- 2.39 **Storage:** the portion of the available space that contains stored water.
- 2.40 **Watermaster:** the watermaster of Water District 1.
- 2.41 **Water Supply Forecast:** the forecasted unregulated runoff for April 1 to September 30 at the Heise USGS gaging station, referred to in Table 1.

RULE 3.0 PURPOSES

- 3.1 The primary purpose of the rental pool is to provide supplemental irrigation water to spaceholders for the irrigation of District land with an existing primary irrigation water right and to maintain a rental pool with sufficient incentives such that spaceholders supply, on a voluntary basis, an adequate quantity of storage for rental or lease pursuant to procedures established by the Committee. These procedures are intended to assure that participants have priority over non-participants and non-spaceholders in renting storage through the rental pool and the use of the storage occurs within the District.
- 3.2 To maintain adequate controls, priorities, and safeguards to insure that existing water rights are not injured and that a spaceholder's allocation is not impacted without his or her consent. To compensate an impacted spaceholder to the extent the impact can be determined by the procedures developed by the District.
- 3.3 To generate revenue to offset the costs of the District to operate the rental pool and to fund projects that fall within the parameters of Rule 4.5.
- 3.4 To provide storage water at no cost under Rule 5.5 for the benefit of the Tribes consistent with the terms of the Blackfoot River Equitable Adjustment Settlement Agreement and the 2015 Settlement Agreement. Discussions are ongoing to identify the party responsible for mitigating impacts to the Tribes. Nothing in these Procedures should be construed as an admission of liability by Water District 1 or the Committee of Nine.
- 3.5 To prevent further declines in the Eastern Snake Plain Aquifer and tributary spring flows and reach gains, and to ensure new consumptive uses within the District do not further impact the storage supply and the primary purpose of the rental pool as described in Rule 3.1, the following shall apply:
 - 3.5.1 A moratorium on all private leases and Common Pool rentals that:
 - a) deliver water to new lands or mitigate for new lands' diversions, which have not
 - i. historically and legally had a water right delivered from any source prior to 2019, or
 - ii. had contracted storage water delivered by the District, or
 - iii. had rented or leased storage water, delivered from the District within the last 5 years;
 - b) deliver to lands or providing mitigation for lands where a water right or storage use was transferred off said lands , inside or outside the District.
 - 3.5.2 The following exceptions apply to the above moratorium:
 - a) Small rentals under Rule 5.2.104;
 - b) Domestic, commercial, municipal, and industrial uses authorized pursuant to a decreed or licensed storage water right and spaceholder contract; and
 - c) Land that subsequent to the adoption of Rule 3.5, is authorized for irrigation purposes under a water organization project's owned water right and other provisions of state law.
 - 3.5.3 All private lessees or rental pool applicants shall certify that the respective private lease or rental pool application complies with the requirements set forth above. Lessees and Applicants that have had prior leases or rentals approved prior to 2019 that would otherwise be prohibited by this rule may present such information to the

Watermaster and Committee to show why such lease or application should be approved. Further, the Watermaster and any spaceholder may raise any issues derived from this moratorium in regards to any private lease or rental application which shall be resolved by the Committee.

RULE 4.0 MANAGEMENT

- 4.1 **Manager.** 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, but are not limited to:
- (a) Determining impacts pursuant to Rule 7;
 - (b) Calculating payments to participating spaceholders as prescribed by Rules 5.2 and 7.3;
 - (c) Accepting storage into the common pool and executing rental agreements on behalf of the Committee;
 - (d) Disbursing and investing rental pool monies with the advice and consent of the Rental Pool Subcommittee; and
 - (e) Taking such additional actions as may be directed by the Committee.
- 4.2 **Rental Pool Subcommittee.** The Rental Pool Subcommittee shall exercise the following general responsibilities:
- (a) Review these procedures and, as appropriate, make recommendations to the Committee for needed changes;
 - (b) Review reports from the Watermaster regarding rental applications, storage assignments to the common pool, and leases of storage through private leases;
 - (c) Advise the Committee regarding rental pool activities;
 - (d) Develop recommendations for annual common pool storage supplies and rental rates;
 - (e) Assist the Watermaster in resolving disputes that may arise from the diversion of excess storage; and
 - (f) Assume such additional responsibilities as may be assigned by the Committee.
- 4.3 **Applications**
- 4.3.101 Applications to rent or lease storage through the rental pool shall be made each year upon forms approved by the Watermaster and shall include:
- (a) The amount of storage sought to be rented or leased;
 - (b) The purpose(s) for which the storage will be put to beneficial use; (c) The lease price (for private leases); and
 - (d) To the extent practicable at the time of filing the application, the point of diversion identified by legal description and common name; and a description of the place of use.
 - (e) Certification that the lease is not subject to moratorium under Rule 3.5 above.
- 4.3.102 *Application Acceptance.* Applications are not deemed accepted until received by the Watermaster together with the appropriate fees required under Rules 5.5 (rentals) or 6.4 (leases).
- 4.3.103 *Application Approval.* An application accepted under Rule 4.3.102 shall be approved after the Watermaster has determined that the application is in compliance with these procedures and sufficient storage will be available from the common pool and/or lessor to provide the quantity requested in the application. Upon approval of the application, the Watermaster shall send notice

to the renter/lessor/lessee and entity owning the point-of-diversion designated in the application of such approval and allocation of storage; provided, however, no allocation of storage shall be made until the applicant designates the point of diversion and place of use of the rented and/or leased storage in the application or pursuant to Rule 4.3.106.

- 4.3.104 *Timeframe for having Rental Application Accepted to Preserve Rental Priority.* Applications to rent storage will not be accepted until April 5 of the year in which the storage will be used. Applications must be accepted by the Watermaster within 15 days following the date of publication to preserve the applicant's priority under Rule 5.4.101.
- 4.3.105 *Deadline for Accepting Applications to Rent or Lease Storage.* All applications to rent or lease storage must be accepted by the Watermaster pursuant to Rule 4.3.102 on or before November 30 in order for the storage identified in such applications to be accounted for as having been diverted prior to October 31 of the same year. Applications accepted after November 30 will be accounted for from storage supplies in the following calendar year, unless an exception is granted by the Rental Pool Subcommittee.
- 4.3.106 *Deadline to Designate Point of Diversion and Place of Use.* If the point of diversion and/or place of use of the rented and/or leased storage was not previously designated in the application, the renter and/or lessee must make such designation in writing to the Watermaster on or before November 30 of the same year, unless an extension is granted by the Rental Pool Subcommittee. Failure to comply with this provision shall cause any unused storage to automatically revert back to the common pool and/or lessor, respectively.
- 4.3.107 *Deadline to Use Rental or Lease Storage.* Approved applications pursuant to Rule 4.3 or water leased through a private lease, must be used and diverted on or before November 30 of the same year.
- 4.4 **Rental Pool Account**
 - 4.4.101 All monies submitted by applicants shall be deposited in an interest-bearing account known as the "Rental Pool Account" and maintained by the Watermaster on behalf of the Committee. Monies in the Rental Pool Account will be disbursed to participants, the District, the Board, the Impact Fund, and the Infrastructure Fund in the proportions set forth in these Rules. Accrued interest to the Rental Pool Account shall be used to maintain the Impact Fund. Rental Pool Funds shall be considered public funds for investment purposes and subject to the Public Depository Law, Chapter 1, Title 57, Idaho Code.
 - 4.4.102 Monies deposited in the Rental Pool Account are non-refundable to the extent the rental and/or lease application is approved pursuant to Rule 4.3.103, regardless of whether the storage is used.
- 4.5 **Infrastructure Fund**
 - 4.5.101 Monies in the Infrastructure Fund may only be used to fund District costs of projects relating to improvements to the District's distribution, monitoring, and gaging facilities, and other District projects designed to assist in the adjudication,

which includes the cost of Blackfoot River Equitable Adjustment Settlement Water, if any is required, conservation, or efficient distribution of water.

4.5.102 Disbursements from the Infrastructure Fund are subject to two-thirds (2/3) Committee approval.

4.5.103 Monies in the Infrastructure Fund may be carried over from year to year.

4.6 **Rentals and Leases Requiring Approved Exchanges from the Department**

4.6.101 Rental and lease deliveries to diversions in basins not regulated by Water District #1 may interfere with natural flow and storage deliveries to diversions. Therefore, rental and lease applications for delivery and/or exchange with natural flow to other diversions not regulated by Water District #1 shall not be permitted.

RULE 5.0 COMMON POOL

5.1 **Scope.** The common pool consists of storage made available to the Committee through participant contributions and assignments. Participants make all of their storage available to the common pool pursuant to the terms of Rule 5.2, with computed impacts accounted from next year's reservoir fill. Assignors provide storage to the common pool, pursuant to Rule 5.3, by assigning a portion of their current year's storage allocation. Rentals from the common pool are subject to the priorities and prices established under this Rule.

5.2 **Participant Contributions**

5.2.101 *Participants.* Any spaceholder may, upon submitting written notice to the Watermaster prior to March 15, 2019, elect to contribute storage to the common pool. Any spaceholder making such election shall be deemed a "participant" for the current year and every year thereafter until the spaceholder provides written notice to the Watermaster prior to March 15, 2019 rescinding its participation. Upon election to participate, a spaceholder is eligible for all the benefits of a participant set forth in these procedures, excluding monetary payment for rentals or computed impacts associated with rentals from the prior year. If after March 15, 2019, less than seventy-five percent (75%) of the contracted storage space is committed to the common pool by participants, the Committee shall revise the rental pool procedures as necessary prior to April 1.

5.2.102 *Non-Participants.* Spaceholders who are not participants shall not be entitled to supply storage to, or rent storage from, the common pool, or supply or lease storage through a private lease. Notwithstanding this restriction, the Bureau may rent water from the common pool for flow augmentation pursuant to Rule 5.2.105.

5.2.103 *Large Rentals.* The common pool will make available from participant contributions 50,000 acre-feet of storage for rentals, plus any assigned storage, subject to the priorities and limitations set forth in Rule 5.

5.2.104 *Small Rentals.* The common pool will make available from participant contributions 5,000 acre-feet for rentals of 100 acre-feet or less per point of diversion, subject to the priorities and limitations set forth in Rule 5. Rentals from the small pool shall only be considered for approval following submittal of written consent from the operator of the delivery system. The Committee may

approve on a case-by-case basis the additional rental of storage under this provision to exceed the 100 acre-feet limitation. The 100 acre-feet limitation per point of diversion does not apply if the rental is supplied pursuant to Rule 5.2.103.

5.2.105 *Flow Augmentation*

- (a) *Table 1.* The amount of storage, from participant contributions to the common pool, available for rental for flow augmentation shall be determined by Table 1.
- (b) *Extraordinary Circumstances.* A greater amount of storage may be made available by the Committee, if it determines on or before July 1 that extraordinary circumstances justify a change in the amount of storage made available for flow augmentation. The Bureau and Committee will also consider on years when Milner spill occurs, the preservation of Uncontracted and Powerhead storage for use in subsequent years; provided, the Bureau exercises sole discretion over whether to use storage in its Uncontracted and Powerhead space for flow augmentation, so long as such use is consistent with the Mediator's Term Sheet of the 2004 Snake River Water Rights Agreement and applicable law.

5.2.106 *Shoshone-Bannock Tribes.* The Tribes shall be treated as non-participants unless written notice is provided under 5.2.101.

- (a) *Blackfoot River Equitable Adjustment Settlement Agreement Water.* Storage water not to exceed 20,000 acre-feet shall be made available in accordance with the terms of the Blackfoot River Equitable Adjustment Settlement Agreement. The source and funding of the storage water shall be determined by the Committee at its June meeting. Administrative fees shall be paid by Water District 1.
- (b) *2015 Settlement Agreement.* Storage water not to exceed 10,000 acre-feet (except with the approval of the Committee of Nine) shall be made available in accordance with the terms of the 2015 Settlement Agreement from the current year's Common Pool prior to providing any rental under the priorities of Rule 5.4.101. Administrative fees shall be paid by Water District 1. Discussions are ongoing to identify the party responsible for mitigating impacts to the Tribes. Nothing in these Procedures should be construed as an admission of liability by Water District 1 or the Committee of Nine.

5.2.107 *Additional Quantities.* In the event rental requests from participants impacted from the prior year's rentals exceed 50,000 acre-feet and insufficient storage has been assigned to the common pool to meet such additional requests, the maximum amount of storage that will be available through the common pool will be equivalent to the amount necessary to meet the demand of those shown to have been impacted from the prior year's rentals.

5.2.108 *Participant Payments.* Monies collected through the rental of the participant contribution portion of the common pool, including flow augmentation, shall be disbursed as follows:

- (a) seventy percent (70%) of the Net Proceeds disbursed to participants; and
- (b) thirty percent (30%) of the Net Proceeds disbursed to the Impact Fund.

- 5.2.109 *Participant Payment Formula.* Participants will receive payment for storage rented from the participant contribution portion of the common pool pursuant to the following payment formulas:

$$1^{\text{st}} \text{ Installment} = (R \times SP/TSP) / 2$$

$$2^{\text{nd}} \text{ Installment} = (R \times ST/TST) / 2$$

R = 70% of net proceeds

SP = Space of participants

ST = Storage of participants based on the preliminary storage allocation for the following year

TSP = Total participating space in system

TST = Total participating storage in system based on the preliminary storage allocation for the following year

If a specific reservoir's allocation has been reduced as a result of flood-control operations, the ST and TST values in the above formula for those reservoir spaceholders will reflect the values that otherwise would have occurred without any reductions for flood-control.

- 5.2.110 *Timing of Payments.* Payments to participants will be made in two installments. The first installment will be paid to participants in December of the year in which the proceeds were collected. The second installment will be paid to participants within two weeks of the date of publication for the following irrigation season.

5.3 **Assignments**

- 5.3.101 *Assignors.* Any participant may assign storage to the common pool. An assignment of storage shall be made in writing on forms approved by the Watermaster.

- 5.3.102 *Purposes.* Storage assigned to the common pool may be rented only for purposes above Milner.

- 5.3.103 *Limitations.* Storage assigned to the common pool may be rented only after the participant contributions to the common pool have been rented. A participant may not assign storage and rent storage in the same accounting year unless an exception is granted by the Rental Pool Subcommittee.

- 5.3.104 *Assignor Payment.* The assignor shall receive one-hundred percent (100%) of the rental price per acre-foot of the assigned storage that is rented.

- 5.3.105 *Distribution of Assigned Storage.* Assignments can only be made between April 5 and 15 days after the date of publication in the year in which the storage is to be rented. Assignments shall initially be distributed on a pro-rata basis, with each pro-rata share based on the amount of storage assigned or 10% of the assignor's storage space, whichever is less. If, after this initial distribution, additional rental requests exist, the remaining assigned storage shall be distributed on a pro-rata basis.

5.4 **Priorities for Renting Storage**

5.4.101 *Priorities.* Storage rented from the common pool shall be pursuant to the following priorities:

- (a) *First Priority.* Rentals by participants whose storage is determined to have been impacted by the prior year's rental from the common pool not to exceed the amount of the computed impact.
- (b) *Second Priority.* Rentals by participants for their spaceholder contracted purposes up to the amount of their unfilled space.
- (c) *Third Priority.* Rentals by participants for any purposes above Milner in excess of their unfilled space. Applications for such rentals will be reviewed by the Committee and may be approved on a case-by-case basis.
- (d) *Fourth Priority.* Rentals by non-spaceholders for any purposes within the District.

5.4.102 *Priority for Late Applications.* Applications received after the deadline set forth in Rule 4.3.104 will be deemed last in priority and will be filled in the order they are received, only after all timely applications have been filled.

5.4.103 *Distribution Within Priority Classes.* If rental supplies are not sufficient to satisfy all of the timely applications within a priority class (those received within 15 days of the date of publication), the available rental supplies will be distributed to the applicants within that priority class on a pro-rata basis. Rentals to the fourth priority shall not be approved prior to August 15 of the current irrigation year.

5.4.104 *Priority for Small Rentals.* Small rentals made pursuant to Rule 5.2.104 are not subject to the priorities set forth in Rule 5.4.101 and will be approved in the same order in which the rental applications are received by the Watermaster, so long as the total amount of all such applications does not exceed 5,000 acre-feet.

5.4.105 *Priority for Flow Augmentation.* Rentals for flow augmentation are not subject to the priorities set forth in Rule 5.4.101 and shall be determined pursuant to Rule 5.2.105.

5.5 **Rental Prices**

5.5.101 *Tier 1:* If the storage system fills, the rental price for purposes above Milner shall be \$7.00 per acre-foot.

5.5.102 *Tier 2:* If the storage system does not fill but storage is provided for flow augmentation pursuant to Rule 5.2.105(a), the rental price for purposes above Milner shall be \$17.00 per acre-foot.

5.5.103 *Tier 3:* If the storage system does not fill and no flow augmentation water is provided pursuant to Rule 5.2.105(a), the rental price for purposes above Milner shall be \$25.00 per acre-foot.

5.5.104 *Determination of Tier 1, 2 or 3 Rental Price:* Unless the storage system has filled, the Watermaster shall designate on or before April 5 either Tier 2 or Tier 3 as the rental price for above-Milner rentals. If at any time during the same accounting year, the storage system should subsequently fill, the Watermaster

shall designate Tier 1 as the rental price for above-Milner rentals and refund any excess rental fees within 30 days after the date of publication.

5.5.105 *Tier 4:* The rental price for storage rented for flow augmentation shall be \$17.00 per acre-foot.

5.5.106 *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 common pool rentals for the various tiers described in Rules 5.5.101 through 5.5.105:

- (a) Tier 1: $\$7.00 + \$0.70 + \$1.30 = \9.00
- (b) Tier 2: $\$17.00 + \$1.70 + \$1.30 = \20.00
- (c) Tier 3: $\$25.00 + \$2.50 + \$1.30 = \28.80
- (d) Tier 4: $\$17.00 + \$1.70 + \$1.30 = \20.00

5.5.107 *Impact Fee Added to Previous Year's Non-Spaceholder Rentals When Previous Year's Rentals Impact Current Year's Storage Allocations.* There shall also be added to the rental price those applicable Fees & Surcharges described in Rule 5.5.106(a),(b),(c) for rentals pursuant to fourth priority Rule 5.4.101(d) and rentals to non-spaceholders pursuant to Rule 5.2.104 an impact fee to mitigate the computed impacts under Rule 7 from such rentals, payable as follows: The exact amount which is to be set and paid when the full impacts of such rentals, based upon the following year's Common Pool rental price, are determined under said Rule 7, including all additional fees and surcharges. Payment shall then be due and payable on or before 60 days from the day of allocation. Failure of a non-spaceholder to timely pay the fees identified above, shall result in the non-spaceholder's ineligibility to rent water in the future. Such failure to pay shall also subject the non-spaceholder to such legal actions as allowed under state law in the collection of fees.

5.5.108 *Storage System Fill.* For purposes of Rule 5.5 only, the storage system is considered full when all storage rights are filled in Jackson Lake, Palisades (except for powerhead), American Falls, and Island Park.

5.6 **Limitations**

5.6.101 *Participant Rental:* A participant cannot rent water from the Common Pool if the participant is replacing storage space or water which has been evacuated due to an assignment to or private lease through the Water District 1 Rental Pool, unless an exception is granted by the Committee.

5.6.102 *Diversions and Places-of-use:* Common Pool rentals for uses or diversions in basins outside the District including (but not limited to) the Blackfoot River Basin 27, Portneuf River Basin 29, Raft River Basin 43, Salt River Basin 24, and Wood River Basin 37 are prohibited, excepting rentals pursuant to Rule 5.2.106.

RULE 6.0 PRIVATE LEASES

6.1 **General.** All leases must be transacted through the rental pool. Only participants may lease storage to a Lessee subject to the provisions of these rules.

- 6.2 **Purposes.** Storage may be leased through the rental pool only for beneficial use purposes above Milner. A participant may not lease storage to a lessee and rent storage from the common pool in the same accounting year unless an exception is granted by the Rental Pool Subcommittee.
- 6.3 **Payment to Lessor.** The lessor shall receive one-hundred percent (100%) of the lease price.
- 6.4 **Fees & Surcharges.** There shall be added to the lease price the administrative fee and the Board surcharge.
- 6.5 **Non-Applicability to Common Pool.** Storage leased pursuant to this rule does not count against the participant contribution volumes set forth in Rule 5.2.
- 6.6 **Recharge.** All storage used for the purpose of recharge must be transacted through the rental pool. Unless storage is rented pursuant to Rule 5.0, storage used for recharge, whether diverted by the storage spaceholder or another person, will be treated as a lease of storage.
- 6.7 **Idaho Water Resource Board (IWRB) Storage.** Notwithstanding the limitations set forth in Rules 6.1 and 6.2, the IWRB may lease its existing storage (up to 5,000 acre-feet) to Idaho Power and have it released past Milner for the purpose of mitigating minimum flows at Murphy. The administrative fee must be paid by the IWRB for any storage used for such purpose.
- 6.8 **Lease of Storage from Bureau Uncontracted Space.** Notwithstanding the limitations set forth in Rules 6.1 and 6.2, 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.
- 6.9 **Lease of Storage from Bureau Powerhead Space.** Notwithstanding the limitations set forth in Rules 6.1 and 6.2, the Bureau may lease storage from its powerhead space for flow augmentation as identified in III.C.7 of the Mediator’s Term Sheet of the 2004 Snake River Water Rights Agreement.

RULE 7.0 IMPACTS

- 7.1 **Determination.** In any year in which the storage rights in the reservoir system do not fill, the Watermaster will determine the actual computed impacts to spaceholders, if any, associated with the prior year’s rentals and leases. In making this determination, the Watermaster will use a procedure which identifies the following:
- (a) What each computed reservoir fill would have been had the previous year’s rentals and leases not taken place;
 - (b) The storage space from which rented or leased storage was actually supplied for the previous year’s rental or lease; and
 - (c) The amount of storage each spaceholder’s current allocation was reduced by the previous year’s rental or lease activities.
- 7.2 **Milner Spill.** There are no computed impacts resulting from the previous and current year’s rentals or leases used prior to Milner spill ceasing when the use of those rentals or leases result in reducing the spill from the reservoir system prior to the current year’s Date of Allocation, as determined by the Watermaster.

7.3 **Impacts to Participants due to Rentals from the Common Pool (excluding assignments)**

7.3.101 *Payments to Impacted Participants Using Impact Fees.* Participants whose storage allocation has a computed impact from the prior year's rental of storage from the common pool, excluding assignments, shall first receive payment from impact fees collected pursuant to Rule 5.5.107 from the previous year's fourth priority rentals. The amount of impact fees disbursed to impacted participants will be proportional to the total common pool rental, including flow augmentation rentals that occurred during the prior year:

$$\text{Impact Fee Payment} = (\text{Isp} * \text{RP}) * (\text{Fp/Cp})$$

Isp = Participants computed impacted space in current year

RP = Rental Price in current year

Fp = Fourth priority rentals in prior year

Cp = Total common pool rentals (including flow augmentation) in prior year

Payment to spaceholders for the impacts by non-spaceholders pursuant to 7.3.101 shall be paid from the balance remaining in the impact fund after payments are made pursuant to 7.3.102, which shall then be reimbursed pursuant to Rule 5.5.107.

7.3.102 *Remaining Impact Payment.* Participants whose storage allocation has a computed impact from the prior year's rental of storage from the common pool, excluding assignments, will also receive payment from the Impact Fund (in addition to the Impact Fee Payment pursuant to Rule 7.3.101) equal to the lesser value of the two following formulas:

Remaining Impact Payment = [(Isp*RP) – Impact Fee Payment] or [$\frac{1}{2}$ IF*(Isp/Ispt) – Impact Fee Payment]

Isp = Participant's computed impacted space in acre-feet

RP = Rental Price

IF = Impact Fund

Ispt = Total of all Participants' computed impacted space in acre-feet

7.3.103 *Timing of Payment.* Impact payments, which will be based on preliminary data, will be made to participants on or before July 15.

7.4 **Impacts to Non-Participants due to Rentals from the Common Pool (excluding assignments).** If the prior year's rental of storage from the common pool caused computed impacts to non-participants as determined by the Watermaster, the current year's Common Pool shall be reduced to supply such impacts to non-participants (at no cost to non-participants) prior to providing any rental under the priorities of Rule 5.4.101.

7.5 **Impacts to Spaceholders due to all other leases.** To avoid impacts to spaceholders pursuant to leases under Rules 5.3, 6, 8, and 9.3 in years when storage is not spilled past Milner, a lessor's storage allocation shall be reduced to ensure all non-lessor spaceholders receive a 100% fill to their storage allocations ahead of allocations to space evacuated to supply previous year leases. If the amount of storage in the reservoir system exceeds the amount necessary to allocate 100% fill to non-lessor space but is insufficient to allocate

100% fill to all system spaceholders, allocations to lessors' space shall occur in the following priorities:

- (a) Assigned storage under Rule 5.6, private leases above Milner, and IWRB storage used for mitigating minimum flows at Murphy under Rule 6.7. This reallocation will only occur in the year following the lease of storage.
- (b) Bureau uncontracted storage under Rule 6.8 until the lessor's affected space fills.
- (c) Supplemental Pool leases under Rule 8.0 until the lessor's affected space refills.
- (d) Bureau Powerhead storage under Rule 6.9 shall be the last space to refill after all other space in reservoirs in Water District 1 until the lessor's affected space fills as identified in III.C.7.c. of the Mediator's Term Sheet of the 2004 Snake River Water Rights Agreement.

RULE 8.0. SUPPLEMENTAL POOL

8.1 **Purpose.** To provide a voluntary mechanism for the lease of storage water below Milner for hydropower generation within the state of Idaho when storage water supplies, as a result of hydrologic, climate and other conditions, are sufficient to satisfy above Milner uses and Water District 01 commitments for flow augmentation. A supplemental pool shall be created in order to mitigate for computed impacts associated with leases below Milner, consistent with the Idaho Water Resource Board's policy to establish an effective water marketing system consistent with state law and assuring the protection of existing water rights while accommodating the purchase, lease or conveyance of water for use at Idaho Power's hydroelectric facilities, including below Milner Dam.

8.2 **Annual Authorization.** In order to provide the opportunity to lease water to generate funding of aging infrastructure projects without impacting individual spaceholder fill, storage may be leased through the Supplemental Pool for the purposes described herein. However, no storage may be leased through the supplemental pool until the Committee on or after April 1 of each year authorizes use of the pool and the Committee is satisfied that the goals and terms of the Mediator's Term Sheet of the 2004 Snake River Water Rights Agreement are met to provide sufficient flow augmentation supplies for the year or that storage to be released past Milner will count toward flow augmentation.

- (a) Mitigation Inc. shall have the right to lease the first 10,000 ac-ft of supplemental pool water under Rule 8.0, as approved annually by the Committee at the first Committee of Nine meeting in April. Mitigation Inc. shall provide to the Committee a report summarizing the expenditure of revenue from the annual lease(s) by December 31, 2023. If the Committee determines that the preference granted Mitigation Inc. is no longer justified, the Committee may terminate said preference. The preference granted Mitigation Inc. pursuant to this Rule shall sunset on December 31, 2029. The 10,000 ac-ft preference shall only be applied once per year.
- (b) Additional leases of storage in excess of 10,000 ac-ft may be authorized annually by the Committee pursuant to Rule 8.0. If Mitigation Inc. supplies 10,000 ac-ft to the supplemental pool pursuant to 8.2(a), Mitigation Inc. shall be permitted to supply a pro-rata share of any additional amount made available to the supplemental pool exceeding the initial 10,000 ac-ft. If Mitigation Inc. does not supply 10,000 ac-ft pursuant to 8.2(a), Mitigation Inc. shall be permitted to supply a pro-rata share of its storage to the supplemental pool along with other spaceholders supplying storage to the supplemental pool.

8.3 **Quantity and Price Determinations.**

8.3.101 *Quantity Determination.* The maximum quantity of storage authorized to be leased through the supplemental pool shall be determined annually by the Committee taking into account the advice and recommendation of the Rental Pool Subcommittee, together with current and forecasted hydrological conditions and estimated demand on the rental pool for above Milner uses.

8.3.102 *Price Determination.* The Committee shall authorize the leasing of water, including price pursuant to Rule 8 after taking into account spaceholder needs and current market conditions for power generation. There shall be added to the lease price the board surcharge and not to exceed a \$1.80 per acre-foot administrative fee associated with the development and implementation of the supplemental pool, assessed on the total quantity of storage set forth in any lease application approved or conditionally approved under Rule 8.4.

8.3.103 *Subsequent Quantity and Price Determinations.* If within the same accounting year, the Committee subsequently determines based on the criteria set forth in Rule 8.3.101 that additional opportunities exist for utilizing the use of water within Idaho through the supplemental pool consistent with Rule 8.1.it shall designate such additional maximum quantity authorized to be leased through the supplemental pool and identify a separate lease price for such additional quantity pursuant to Rule 8.3.102.

8.4 **Application to Lease Storage from the Supplemental Pool.**

8.4.101 Applications to lease storage from the supplemental pool for hydropower purposes shall be made upon forms approved by the Watermaster and shall include:

- (a) The amount of storage sought to be leased;
- (b) The lease price with associated fees as identified by the Committee under Rule 8.3.102;
- (c) The point of diversion identified by legal description and common name; and
- (d) A description of the place of use.

8.4.102 *Application Acceptance.* Applications are not deemed accepted until received by the Watermaster together with the appropriate fees required under Rule 8.3.102.

8.4.103 *Application Approval.* An application accepted under Rule 8.4.102 shall be approved after the Watermaster has determined that the application is in compliance with these procedures and sufficient storage will be available from the supplemental pool to provide the quantity requested in the application; provided, however, if the date of publication has not yet occurred, approval of the application shall be conditioned on the ability of spaceholders who have contracted to lease storage through the supplemental pool to have a sufficient storage allocation during the accounting year to satisfy their contracts approved under Rule 8.5.104. Upon approval or conditional approval of the application, the fees collected from the applicant shall be non-refundable to the extent of the total quantity of storage approved or conditionally approved in supplemental pool lease contract(s) under Rule 8.5.104. The Watermaster shall provide notice of such approval.

- 8.4.104 *Deadline for Accepting Applications.* All applications to lease storage from the supplemental pool must be accepted by the Watermaster pursuant to Rule 8.4.102 not later than October 31 in order for the storage identified in such applications to be accounted for as having been diverted as of October 31 of the same year. Applications accepted after October 31 will be accounted for from storage supplies in the following calendar year, unless an exception is granted by the Rental Pool Subcommittee.

8.5 Supplemental Pool Supply.

- 8.5.101 *Notice to Spaceholders of Opportunity to Lease Storage through the Supplemental Pool.* The Watermaster shall provide notice of the supplemental pool on the Water District 1 website, which shall include the following information:

- (a) The maximum quantity of storage authorized to be leased through the supplemental pool;
- (b) The lease process, including price and deadlines as authorized by the Committee;
- (c) Instructions for spaceholders interested in leasing storage through the supplemental pool, including instructions for executing a standardized supplemental pool lease contract; and
- (d) The deadline, as set by the Committee, for the Watermaster to receive supplemental pool lease contracts from spaceholders interested in leasing storage through the supplemental pool.

- 8.5.102 *Supplemental Pool Lease Contracts.* Spaceholders interested in leasing storage through the supplemental pool shall execute a standardized supplemental pool lease contract, which shall be provided by the Watermaster and include provisions for the following:

- (a) Limit eligibility to lease storage through the supplemental pool only to spaceholders who qualify as participants under Rule 2.27;
- (b) The quantity sought to be leased by the spaceholder may be any amount, except that the total amount of storage leased pursuant to Rule 8 may not exceed either the maximum quantity set by the Committee under Rule 8.3.101 or 10% of the spaceholder's total reservoir system space, unless an exception is approved by the Rental Pool Subcommittee;
- (c) The 10% limitation described in 8.5.102(b) does not apply to the first 10,000 ac-ft supplied by Mitigation Inc. under Rule 8.2(a);
- (d) The quantity actually leased by the spaceholder may be reduced depending upon the number of spaceholders who elect to lease storage through the supplemental pool as provided in Rule 8.5.103;
- (e) That, in the event the spaceholder elects to sign a standard pool lease contract before the date of publication, the spaceholder assumes the risk that its storage allocation may be less than the spaceholder anticipated; and
- (f) Notice to the spaceholder that if the spaceholder's lease through the supplemental pool causes computed impacts, the mitigation required under Rule 8.7 will result in an amount of the spaceholder's space, not to exceed the quantity of storage leased by the spaceholder, being assigned a junior priority which may not fill for multiple consecutive years, an accounting commonly referred to as "last to fill."

- 8.5.103 *Distribution of Storage to the Supplemental Pool.* If, following the deadline for receipt of executed supplemental pool lease contracts, the Watermaster

determines that the total quantity of storage sought to be leased through the supplemental pool exceeds the quantity limitation established under Rule 8.3, then the Watermaster shall reduce the quantity of each supplemental pool lease contract to a pro rata share based on the amount of storage sought to be leased by each spaceholder. The Watermaster shall amend the supplemental pool lease contract(s) to reflect any reduced quantity required by this provision.

8.5.104 *Lease Contract Approval.* Following receipt of a supplemental pool lease contract, the Watermaster shall determine whether the contract is in compliance with these procedures, and, if so, shall approve the same; provided, however, if the date of publication has not yet occurred, approval of the contract shall be conditioned on the spaceholder having a sufficient storage allocation during the accounting year to satisfy the contract.

8.6 **Notice of Contract Approval and Payment to Lessors.** The lessors shall receive one-hundred percent (100%) of the lease price apportioned according to the quantity of storage each lessor leased through the supplemental pool. The Watermaster shall notify spaceholder(s) who submitted supplemental pool lease contracts of the approved amount and distribute the funds to the lessors within 30 days following approval or conditional approval of an application under Rule 8.4.103.

8.7 **November 1 Carryover Unaffected.** For purposes of determining the amount of storage available for flow augmentation under Rule 5.2.105(a), storage leased through the supplemental pool shall not affect the November 1 carryover quantity on Table 1.

RULE 9.0 STORAGE ALLOCATED TO PALISADES WATER USERS, INC. (PWUI)

9.1 **Background and Purpose.** PWUI is an entity originally organized at the specific request of the Bureau to group, under one entity, all individual water users who applied for an allocation of Palisades Reservoir storage because Reclamation's policy at that time was that it would not enter into repayment contracts with individual water users. PWUI does not own natural flow water rights, has no designated service area, and does not own a water delivery system. Instead, PWUI shareholders call for delivery of water allocated to their shares through their own delivery systems or the systems of other irrigation entities and have historically been able to change the location of PWUI storage deliveries upon simple notification to the District. The shares do not describe specific property where storage allocated to such shares are used. One share of PWUI stock is equivalent to one acre-foot of PWUI space in Palisades Reservoir, and allocations of water to PWUI shareholders are made upon that basis. The provisions of Rule 9.0 are included herein to clarify, between PWUI and the District, how to properly categorize the delivery of PWUI storage to various points of delivery.

9.2 **Delivery of PWUI Storage Water.** Storage allocated to PWUI shares shall not be considered a private lease under Rule 7.6 in the following circumstances:

9.2.101 The delivery of storage to an irrigation delivery system where the PWUI shareholder has an ownership interest or leasehold interest in property capable of receiving delivery of water through such system.

9.2.102 The delivery of storage allocated to a PWUI shareholder which is assigned to another PWUI shareholder for an amount up to the assignee's unfilled PWUI allocation for the Accounting Year.

- 9.2.103 The delivery of storage allocated to PWUI's treasury stock provided to a PWUI shareholder.
- 9.3 **Private Leases of PWUI Storage Water.** Storage allocated to PWUI shares shall be considered a private lease under Rule 7.6 and subject to impacts under Rule 7.6 in the following circumstances:
- 9.3.101 The delivery of storage allocated to PWUI's treasury stock provided to a non-PWUI shareholder for any purpose.
- 9.3.102 The delivery of storage allocated to a PWUI shareholder which is assigned to another PWUI shareholder for an amount more than the assignee's unfilled PWUI allocation for the Accounting Year.
- 9.3.103 The delivery of storage allocated to a PWUI shareholder provided to a non-PWUI shareholder for any purpose.
- 9.3.104 The delivery of storage to a PWUI shareholder which is used for recharge.
- 9.4 **Applicability of Rule 5.6 To PWUI Storage.**
- 9.4.101 Rule 5.6 shall apply to private leases of PWUI storage described in Rule 9.3.101.
- 9.4.102 Subject to Rule 9.4.103, the Committee hereby grants PWUI an exception from the provisions of Rule 5.6 such that PWUI shall not be prohibited from leasing water from the Common Pool because of private leases by PWUI shareholders under Rules 9.3.102 through 9.3.104.
- 9.4.103 Water leased from the Common Pool by PWUI under Rule 9.4.102 shall not be allocated to or used by PWUI shareholders who engage in private leases described under Rules 9.3.102 through 9.3.104.
- 9.5 **Allocation of Impacts to PWUI.** The allocation of impacts described in Rule 7.6 of these procedures for private leases described under Rule 9.3 shall be made to PWUI as the spaceholder. PWUI shall thereafter internally allocate the impacts to the individual PWUI shareholders who participate in private leases described under Rules 9.3.102 through 9.3.104.
- 9.6 **Information Provided to District.** PWUI shall provide sufficient information to the District to allow the District to verify PWUI's characterization of the assignment of PWUI storage under Rule 9.0.
- 9.7 **Assignment of PWUI Shares to Canal Headings.** PWUI shareholders shall assign its shares to the canal heading where such PWUI shareholder is most likely to request delivery of storage. Water District 1 shall only account for the delivery of PWUI storage when (1) notified by the PWUI shareholder that such shareholder is taking delivery of storage through a canal; or (2) the manager of a canal reports the delivery of PWUI storage to Water District 1.

MEMORANDUM

To: Idaho Water Resource Board
From: Gary Spackman
Date: March 24, 2020

Re: Water District 01 Rental Pool Procedures

Idaho Code §§ 42-1761 through 42-1766 authorize the IDWR Water Resource Board (“Board”) to operate and oversee a water supply bank in the State of Idaho. Idaho Code Idaho § 42-1765 authorizes the Board to delegate water supply bank authority over rental of storage water to “local committees.” These storage water components of the water supply bank are referred to as local “rental pools.” The Board delegated its authority to operate a rental pool for storage in the upper Snake River reservoirs to the Committee of Nine.

The Board promulgated Rules governing the operation of the water supply bank. Rule 40 of the Water Supply Bank Rules describes the operation of local rental pools. Rule 40 requires the local committee to develop rental pool procedures. Rule 40.3. of the Water Supply Bank Rules states the following:

Review by Director. The Director will review the local committee procedures and submit them along with the Director’s recommendation to the Board. The lease and rental form must receive the Director’s approval. The Board may designate the applying entity as the local committee for a period not to exceed five (5) years. A Certificate of Appointment will be issued by the Board. The Board may extend the appointment for additional periods up to five (5) years, upon written request of the local committee. The Board may revoke a designation upon request of the local committee, or after a hearing pursuant to the promulgated Rules of Practice and Procedure of the Board, if the Board determines that the local committee is no longer serving a necessary purpose or is not abiding by its own approved procedures, these rules or applicable statutes.

The director of the Idaho Department of Water Resources (“IDWR”) is required to offer recommendations to the Board after the Committee of Nine and Water District 01 adopted the rental pool procedures at the Water District 01 meeting on March 3, 2020. This document is a written form of the director’s recommendations to the Board regarding the 2020 Rental Pool Procedures adopted by Water District 01.

OVERVIEW

The 2020 Rental Pool Procedures adopted by Water District 01 generally prohibit rental of storage water for new uses for which storage water has not been rented in the past. In other words, storage water can only be rented in the future for uses at locations (1) outside Bureau of Reclamation (“BOR”) project lands or (2) outside of BOR contract uses if storage water has been rented in the past at specific points of diversion or places of use, for particular beneficial uses. Any new uses not qualifying above are generally prohibited. Compared to the 2019 Rental Pool

Procedures, this prohibition in the 2020 Rental Pool Procedures is not temporary but is intended to be permanent.

Some have suggested that a moratorium conflicts with the core purpose of the water supply bank. If this reasoning were consistently applied, the Water Supply Bank Rules would not authorize the local committee to establish moratoriums for rental of storage water.

In contrast, the Water Supply Bank Rules authorize the local committee to establish priorities for the rental of storage water, and if there is a limited supply of storage water, perhaps prospective renters in the lowest priorities should not be entitled to rent water. The possible injury to other water users, including ground water users on the ESPA, could be a reason for the prioritization.

The following is a discussion of the procedures by subject.

RENTAL FOR IRRIGATION OF NEW LANDS

Amendments to Procedure 3.5 clearly state an intent to prohibit rental of storage water for irrigation of (1) new lands not previously irrigated; or (2) irrigation of currently irrigated lands with storage water that facilitates the irrigation of new lands with water diverted pursuant to other water rights. Rule 3.5 states:

To prevent further declines in the Eastern Snake Plain Aquifer and tributary spring flows and reach gains, and to ensure new consumptive uses within the District do not further impact the storage supply and the primary purpose of the rental pool as described in Rule 3.1, the following shall apply:

3.5.1 A moratorium on **all private leases and Common Pool rentals** that:

- a) deliver water to new lands or mitigate for new lands' diversions, which have not
 - i. historically and legally had a water right delivered from any source prior to 2019, or
 - ii. had contracted storage water delivered by the District, or
 - iii. had rented or leased storage water, delivered from the District within the last 5 years;
- b) deliver to lands or providing mitigation for lands where a water right or storage use was transferred off said lands, inside or outside the District.

The verbiage is clumsy. In all three subparts above, the pivotal verb language is "which have not had." Looking backwards in the sentence from the pivotal verb, it is difficult to determine which object the "which have not had" language is attached. Here are possibilities:

"A Moratorium on all **private leases and Common Pool rentals** . . . which have not had"

“A Moratorium on all private leases and Common Pool rentals that deliver water to **new lands** . . . which have not had”

A Moratorium on all private leases and Common Pool rentals that . . . **mitigate for new lands’ diversions** . . . which have not had”

All of these interpretations are confusing.

I suggest the language be amended to read as follows:

A moratorium on all private leases and Common Pool rentals that deliver water to new lands or mitigate for diversion of water for beneficial uses on new lands, except when:

- a. a water right was legally delivered to the lands from any source prior to 2019, or
- b. contracted storage water was delivered by the District prior to 2019 for mitigation for the use of water on new lands, or
- c. rented storage water was delivered to the lands from the District within the last 5 years;

Subparagraph b) should be changed to the following:

The moratorium also prohibits rentals for delivery to land or providing mitigation for lands where a water right or storage use was transferred off said lands, inside or outside the District.

Delivery of Storage Water for Mitigation

Procedure 4.6 states:

Rentals and Leases Requiring Approved Exchanges from the Department.

Rental and lease deliveries to diversions in basins not regulated by Water District #1 may interfere with natural flow and storage deliveries to diversions. Therefore, rental and lease applications for delivery and/or exchange with natural flow to other diversions not regulated by Water District #1 shall not be permitted.

Procedure 4.6 also applies to both private rentals and rentals for the Common Pool.

Procedure 4.6 extends the moratorium to (1) direct deliveries of storage water, or (2) indirect deliveries of storage water where the storage water is exchanged with other water diverted, usually via an upstream diversion. Most of these rentals would mitigate for a diversion of water that would be subject to curtailment.

If a water user in a basin has a point of diversion from the Snake River, water can be rented, whether for direct delivery or for an exchange. If there is no point of diversion, a request to rent storage water for mitigation to the Snake River by an existing water user will be refused.

This provision directly targets water users in the Portneuf River Basin who may need to mitigate for their depletions to the Snake River because water users in the Portneuf River Basin do not have a diversion “regulated by Water District #1.”

Water users in the Raft River Basin filed for a water right to divert water from the Snake River and IDWR granted the Raft River water users a permit. The point of diversion is regulated by Water District #1. Ostensibly, the Raft River water users could rent water for mitigation. The Portneuf River water users could not.

Because the Milner Gooding Canal delivers Snake River water to the Little Wood River and the Big Wood River, water users in the Big and Little Wood River Basins might be able to rent water for mitigation for ground water pumping depletions.

Restrictive Rentals from the Common Pool

Procedure 5.6.102 states the following:

Diversions and Places-of-use: Common Pool rentals for uses or diversions in basins outside the District including (but not limited to) the Blackfoot River Basin 27, Portneuf River basin 29, Raft River Basin 43, Salt River Basin 24, and Wood River Basin 37 are prohibited, excepting rentals pursuant to Rule 5.2.106.

The above procedure prohibits rentals from the common pool to **all “uses or diversions** in basins outside the District . . .” The procedure then identifies an incomplete list of river basins as examples. The director assumes the reference to IDWR basin numbers controls the determination of whether a user or diversion is “in basins outside the district.”

The identification of “basins outside the District” will be impossible. Snake River water is delivered within basins 35, 36, and 37. Nonetheless, basin 37 is expressly excluded. Are basins 35 and 36 also excluded? Can storage water still be rented from the common pool to mitigate for ground water pumping in basins 35 and 36 but not in basin 37? On the south side of the river, can common pool storage water be rented by Southwest Irrigation District in Basin 45 (Goose Creek) for mitigating for depletions for ground water pumping outside of Water District #1 boundaries. Some Snake River water is delivered to basin 45, but certainly not to all lands in the Goose Creek drainage.

Recommendations

The director recommends the Board, by resolution, affirm that the procedures are approved for one additional year and that, prior to approving any future rental pool procedures in which certain exclusions are applied, the Board will first require that an analysis be conducted, and a report be made, on the utility of and the need for exclusionary practices in the Upper Snake Rental Pool.

Procedural

The Committee of Nine consistently offers amendments to the Rental Pool Procedures at a meeting in December, where the procedures are discussed and recommended. Nonetheless, at a Committee of Nine meeting the afternoon before the Water District #1 Annual Meeting, typically the first week of March, additional amendments are offered, argued, and negotiated. Often, the director and other IDWR staff cannot preview these proposed amendments until arriving at the March Committee of Nine meeting. The abrupt offering of amendments inhibits a deliberate, thoughtful review of the proposed procedures. These hurriedly adopted procedures are then approved by the water users with limited input from the Board and IDWR staff.

The director recommends that any proposed changes to the Water District 01 Rental Pool Procedures be submitted to the Board and to IDWR staff by the first day of January preceding the upcoming annual meeting, and that any edits to the procedures after the first day of February preceding the upcoming annual meeting can only be proposed through a cooperative dialogue between and agreement by the Committee of Nine, the Board, and IDWR staff.

Substantive

The director recommends that the Committee of Nine evaluate its restrictions on renting storage water, both for private leases and for the Common Pool, on the basis of the following criteria, in priority:

1. Previous leases of storage that have been ongoing and continuous prior to the adoption of the 2020 Rental Pool Procedures.
2. The hydrologic impact of renting storage water. The questions to be answered are: (1) What are the hydrologic impacts to the Snake River of renting water to users in a particular basin, or sub-basin tributary to the Snake River, upstream of Milner Dam? (2) What are the hydrologic impacts to the Snake River of renting water to users in a particular basin, or sub-basin tributary to the Snake River, below Milner Dam?

Whether there is a point of diversion delivering storage water to a portion or all of a particular IDWR basin should be de-emphasized.

Dennis Hill
Water District 29D Advisory Committee
PO Box 173
Downey ID 83234
March 12, 2020

Idaho Water Resource Board IWRB
State Office
322 East Front Street
Boise, Idaho, 83720

Roger W Chase Chairman
Brian Patton Executive Officer
Members of the Idaho Water Resource Board

Last year at the IWRB meeting held in Lewiston ID May 9 -10 2019, Water District 1 (WD1) put forth changes to the Rental Pool Procedures that placed “a moratorium on all leases and rentals that deliver water to new lands, new uses, diversions, or new water rights which have not historically had water delivered from WD1 prior to January 1, 2019”, and at that time IWRB approved the changes with the understanding WD1 would review the moratorium and get back to IWRB. Since then, there have been several meetings of the Resolution 51 sub-committee and the Committee of 9 regarding this issue.

As a result, WD1 has made changes to the Rental Pool Procedures, or if you would new regulations, that would seem to be even more restrictive i.e. Rules 3.5, 4.6, and 5.6.102 more particularly:

3.5.1 A moratorium on all private leases and Common Pool rentals that:

- a) deliver water to new lands or mitigate for new lands’ diversions, which have not
 - i. historically and legally had a water right delivered from any source prior to 2019, or
 - ii. had contracted storage water delivered by the District, or
 - iii. had rented or leased storage water, delivered from the District within the last 5 years;

3.5.2 The following exceptions apply to the above moratorium:

- 1. Small rentals
- 2. Domestic, commercial, municipal, and industrial uses authorized pursuant to a decreed or licensed storage water right and spaceholder contract
- 3. Land that subsequent to the adoption of Rule 3.5, is authorized for irrigation purposes under a water organization project’s owned water right and other provisions of state law

3.5.3.1 All private lessees or rental pool applicants shall certify that the respective private lease or rental pool application complies with the requirements set forth above. Lessees and Applicants that have had prior leases or rentals approved prior to 2019 that would otherwise be prohibited by this rule may present such information to the Watermaster and Committee to show why such lease or application should be approved. Further, the Watermaster and any spaceholder may raise any issues derived from this moratorium in regards to any private lease or rental application which shall be resolved by the Committee.

4.6 Rentals and Leases Requiring Approved Exchanges from the Department. Rental and lease deliveries to diversions in basins not regulated by Water District #1 may interfere with natural flow and storage deliveries to diversions. Therefore, rental and lease applications for delivery and/or exchange with natural flow to other diversions not regulated by Water District #1 shall not be permitted.

5.6.102 Diversions and Places-of-use: Common Pool rentals for uses or diversions in basins outside the District including (but not limited to) the Blackfoot River Basin 27, Portneuf River Basin 29, Raft River Basin 43, Salt River Basin 24, and Wood River Basin 37 are prohibited, excepting rentals pursuant to Rule 5.2.106.

In reaching out to WD1 to clarify how the changes might affect those who would want to utilize these mitigation alternatives, as well as those who want to lease their water as a revenue stream the reply was:

"In the 2020 Rental Pool Procedures, Rule 3.5.1. a.ii. places a moratorium on storage rentals and storage leases for lands that have not had contracted storage water delivered by Water District #1. Therefore, I would not be able to approve a storage rental application or a storage lease application for lands served by the Portneuf River that do not have storage contracted to be used on those lands from American Fall Reservoir, Palisades Reservoir, etc.

Rule 3.5.2 provides an exception to Rule 3.5.1 for small rentals (less than 100 acre-feet under Rule 5.2.104). However, Rule 4.6 says that rentals or leases for deliveries in basins not regulated by Water District #1 are not permitted. Therefore, I can only approve small rentals under Rule 5.2.104 for diversions regulated by Water District #1. Diversions on the Portneuf River upstream from the Ft. Hall Michaud Pumping Plant are not regulated by Water District #1 and therefore I cannot deliver rental storage or leased storage to them.

To further clarify....Rule 5.6.102 says that Common Pool rentals (under Rules 5.2.103 and 5.2.104) are not allowed outside of Water District #1, specifically excluding the Portneuf River Basin from storage rentals from the large and small Common Pool supplies."

Have the changes to the rental pool rules completely eliminated utilizing private leases for mitigation of a curtailment call on the irrigation users of the lower Portneuf River who would like to enter into a private lease, or those who would want to lease there storage water?

These changes seem to be onerous and restrictive to those who would want to utilize these mitigation alternatives, as well as those who want to lease their water as a revenue stream.

In 2017 WD29D was instructed to curtail irrigation users on the lower Portneuf River (McCammon through Pocatello) that were diverting out of priority based on the priority date being delivered downstream on the Snake River, which at that time was 1900. Since that time, the WD29D advisory committee has been looking for mitigation water to alleviate the hardship on the water right holders along that reach of the Portneuf River.

WD29D advisory committee still thinks that the Rental Pool is the most economical alternative and is an already established method for our farmers and ranchers to mitigate a future curtailment. In-leu of the

rental pool we have turned to private leases as an alternative to curtailment. However, is that option to mitigate being prohibited with the proposed changes?

WD29D would like to state that the changes to WD1 Rental Pool Procedures would be new regulations and therefore would shut the door on one more of a short list of mitigation alternatives for water rights holders in WD29D as well as surrounding areas that would be affected by the Purposed Rule changes.

WD29D would like to ask the IWRB to work with WD1 and the other districts that have active water rights to come up with mitigation practices that are sensible and workable for all involved.

WD29D understands that this does not guarantee that water would be available in the rental pool at that time, but that is one of the mitigation solutions the pool was established for.

The lower Portneuf is home to many good farmers and ranchers and enjoys being a good neighbor as well as Idahoans. WD29D will continue to work toward our goal of being good producers of livestock and agriculture in the State of Idaho.

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF APPROVING RENTAL
POOL PROCEDURES FOR THE UPPER SNAKE
RIVER RENTAL POOL

A RESOLUTION TO APPROVE AMENDED
RENTAL POOL PROCEDURES FOR 2020

1 WHEREAS, section 42-1765, Idaho Code and subsections of IDAPA 37.02.030.40, Water
2 Supply Bank Rule 40, authorizes the Idaho Water Resource Board to appoint local committees to
3 facilitate the lease and rental of stored water within rental pools; and
4

5 WHEREAS, the Water District 01 Advisory Committee is the local committee appointed by
6 the Idaho Water Resource Board to facilitate the lease and rental of stored water within the
7 Upper Snake River Rental Pool; and
8

9 WHEREAS, the Water District 01 Advisory Committee has adopted amended procedures
10 for the calendar year 2020, pursuant to which they intend to facilitate the lease and rental of
11 rental pool stored water; and
12

13 WHEREAS, the amended procedures for calendar year 2020 includes language to specify
14 that a moratorium and prohibition exists specific to certain types of rentals of storage water from
15 the rental pool; and
16

17 WHEREAS, Department of Water Resources staff have reviewed the local committee
18 procedures and determined that additional information should be provided by the rental pool
19 local committee to justify the utility of and need for these exclusionary practices; and
20

21 WHEREAS, the Director of the Department of Water Resources has reviewed the local
22 committee procedures and recommends that the Idaho Water Resource Board approve the
23 rental pool procedures for one year, contingent on the local committee reporting back to the
24 Board on the utility of and need for these exclusionary practices in the rental pool procedures;
25

26 NOW THEREFORE BE IT RESOLVED that the amended Upper Snake River Rental Pool
27 procedures are approved by the Idaho Water Resource Board, for one year, effective until
28 December 31, 2020.
29

30 NOW THEREFORE BE IT FURTHER RESOLVED that prior to any future approval of rental
31 pool procedures which include moratoriums, prohibitions and other rental exclusions, the Board
32 will first require that rental pool local committee make a report on the utility of and need for
33 such exclusionary practices in the rental pool procedures.
34

DATED this 3rd day of April, 2020.

ROGER W. CHASE, Chairman
Idaho Water Resource Board

ATTEST _____
VINCE ALBERDI, Secretary

Memorandum

To: Idaho Water Resource Board
From: Neeley Miller, Planning & Projects Bureau
Date: April 1, 2020
Re: 2020 Flood Management Grant Program Criteria



Action: Consider Adoption of Proposed FY 2019 Flood Management Grant Program Criteria

FY 2018 Flood Management Grant Program

House Bill 712 passed and approved by the 2018 Legislature included a FY 2018 transfer of \$1,000,000 from the General Fund to the Water Management Fund in the Department of Water Resources budget. This funding was intended for a grant program administered by the Idaho Water Resource Board to provide competitive grants for flood-damaged stream channel repair, stream channel improvement, flood risk reduction, or flood prevention projects.

Staff received a total of eighteen (18) applications during the two rounds of funding. The applications and sponsor's grant documents were evaluated, scored, and ranked according to criteria adopted by Board. The Board authorized funding for fourteen (14) projects throughout Idaho for a total of \$1,000,000.

FY 2019 Flood Management Grant Program

House Bill 285 passed and approved by the 2019 Legislature included a \$21M legislative appropriation to the IWRB's Water Management Account for the Anderson Reservoir Enlargement and/or MHAFB Water Supply Project (\$20 M), the FY 2019 Flood Management Grant Program (\$800K) and for the Mid-Snake Water Quality Monitoring and Modeling effort (\$200K). The Board authorized funding for ten (10) projects throughout Idaho for a total of \$870K.

FY 2020 Flood Management Grant Program

House Bill 646 passed and approved by the 2020 Legislature included a \$1,000,000 transfer from the General Fund transferred to the Water Management Fund, with \$800K for the Flood Management Grant Program and \$200K for the Mid-Snake Water Quality Monitoring and Modeling effort. The proposed criteria establishes an application due date of Friday June 19, 2020. Staff anticipates a Finance Committee in early July with grant funding awards targeted for July 31 IWRB meeting. Staff anticipates some funds may be available from projects that came in under budget in previous years.

Attachment(s):

Resolution to Adopt 2020 Flood Management Grant Criteria
Proposed 2020 Flood Management Grant Criteria

2020 IWRB Flood Management Grant Program Criteria

The Idaho Water Resource Board (IWRB) Flood Management Grant Funding Program provides financial assistance on a competitive statewide basis to Flood Control Districts, Drainage Districts, Irrigation Districts, Canal Companies, Municipalities, Counties and other public entities interested in pursuing flood damaged stream channel repair, stream channel improvement, flood risk reduction, and flood prevention projects. (See HB 712, HB 285, HB 646; Statutes 42-1760; IDAPA 37.02.02)

Pursuing flood damage repair and improvement projects can help prevent or reduce flood damage in Idaho's streams and rivers. To be considered for grant funding, entities must be able to provide evidence of flood damage, or evidence of conditions that create the risk of flooding in a stream channel and submit a funding request document outlining the proposed repairs and/or improvements to the stream channel.

Eligible Entities: Flood Control Districts, Drainage Districts, Irrigation Districts, Canal Companies, Municipalities, and Counties. Other public entities are eligible to apply.

Eligible Geographic Area: Statewide

Program Budget:

- \$800,000
- No more than 50% (\$500,000) of the total budget may be spent within a single IWRB district. This limit may be waived if there are no competing funding demands.

Funding Amount: up to \$200,000 per project; one project per application

- Funding awards will be reallocated unless Flood Management work begins prior to November 1, 2020.
- Funding will not be distributed unless the project is fully permitted. Sponsor is responsible for providing permit documentation to IWRB staff.

Matching Funds for Projects:

- Entities requesting funding for flood management grant projects must provide at least 50% matching cost-share funding with non-state dollars. Projects that include higher cost share amounts will receive a higher ranking during project evaluations
- In-kind services can be used for 30% of the total projects costs. Legal/Administrative in-kind services are limited to 5% of total project costs.
- EXAMPLE: For a \$100K project, sponsor would have to provide at least \$50K in matching cost share funding. Of the \$50K, the sponsor could provide up to \$30K in in-kind services of which \$5,000 could be in legal/administrative costs and \$20K in cash to meet the matching cost-share requirement)

Evaluation Criteria: To maximize the effective and efficient use of available funds, applications and sponsor's grant document will be evaluated, scored (*130 point scale*), and ranked according to the following criteria:

Effectiveness of Project (60 points)

- What is the urgency of the project and anticipated costs? (*10 points*)
- What are the objectives and benefits of the project? (*10 points*)
- How does the proposed project solution address the objectives? (*10 points*)
- How will the project measure success of its objectives, and describe the proposed monitoring plan. (*5 points*)
- Is the proposed budget and schedule realistic and is the budget appropriate for the scope of work provided? Has the applicant provided detailed construction expenses documenting how money will be spent to complete the project? (*15 points*)

- Are project sponsors using relevant and appropriate information to develop the proposed project? (Sponsor should include references to relevant studies, assessments, reports, management plans, etc.) How will the project account for expected future changes to hydrology, sediment regimes, or water supply? *(10 points)*

Readiness of Project (50 points)

- Lead sponsor of project is identified and there is a description of other affected stakeholders and jurisdictions. *(10 points)*
- Project sponsors will provide documentation that affected local stakeholders and jurisdictions have been consulted. If the project is located within a Flood Control District, the sponsor must provide documentation showing the Flood Control District supports the project, otherwise the project will be declared ineligible. *(10 points)*
- Specify cash matching funds that will be provided for the project, including any in-kind services. Indicate what funding sources are secured or pending. The applicant must provide at least 50% matching cost share funding with non-state dollars. In-kind services can be used for 30% of the total projects costs. Legal/Administrative in-kind services are limited to 5% of total project costs. *(10 points)*
- Projects that propose matching cost-share amounts above 50% will receive additional points in the ranking *(1 point for each additional 1% increase up to 70% to receive up to 20 additional points)*.

Organization Capacity (20 points)

- What is the sponsor's history of successful accomplishments on projects similar to this one? The sponsor shall provide several past project examples, if possible. *(10 points)*
- What level of sponsor and consultant staffing will be directed toward the implementation of the proposed project? Discuss the number of sponsor and consultant staff and amount of time dedicated for each for the project. Will the project utilize volunteers? If so, how? Include brief resumes or list of qualifications for each member of the project team. *(10 points)*

Application Process:

Application Submittal Notice: April 3, 2020

Application Deadline: June 19 2020

Project Funding Recommendations: July 2020 Finance Committee

Funding Awarded: July 31, 2020 Board meeting

Payment Process:

- Funds will be distributed upon sponsor submitting funding reimbursement requests to the IWRB.
- Sponsor funding requests shall include a cover letter which shall include a description of the project activities, dates for performing the project activities, and contractor or supplier invoices.
- A total of 5% shall be retained from each payment request until the project has been completed, and the applicant has fulfilled their deliverable requirements. The 5% award-withholding will be included with the final payment request disbursement.

Project Deliverables:

Entities that receive flood management grant funding will be required to submit monthly progress reports updating the IWRB on project progress, and a final report at the completion of the project. Additionally, entities will be expected to provide completed plans and specifications, bid documents, material testing and sampling reports, and a letter from the sponsor or sponsor's consultant that the project was completed in substantial conformance with the approved plans and specifications. If Flood Management Grant funding is available in the future, sponsor funding requests will not be considered if the sponsor does not comply with the deliverable requirements.

IWRB Districts are as follows:

District No. 1: Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Lewis and Idaho counties.

District No. 2: Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore and Owyhee counties.

District No. 3: Camas, Gooding, Jerome, Twin Falls, Cassia, Blaine, Lincoln, Minidoka, Lemhi, Custer and Butte counties.

District No. 4: Clark, Fremont, Jefferson, Madison, Teton, Bingham, Bonneville, Power, Bannock, Caribou, Oneida, Franklin and Bear Lake counties.

** No more than 50% (\$500,000) of the total budget may be spent within a single IWRB district. This limit may be waived if there are no competing funding demands.*

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF FLOOD
MANAGEMENT GRANTS

RESOLUTION TO ADOPT CRITERIA

1 WHEREAS, House Bill 646 passed and approved by the 2020 Legislature transferred
2 \$800,000 from the General Fund to the Water Management Fund for a Flood Management Grant
3 Program administered by the Idaho Water Resources Board (IWRB) to be used for the purpose
4 of flood-damaged stream channel repair, stream channel improvement, flood risk reduction, or
5 flood prevention projects; and

6
7 WHEREAS, House Bill 646 allows for the award of grants larger than \$50,000 for the Flood
8 Management Program, at the discretion of the IWRB; and

9
10 WHEREAS, House Bill 646 directs the IWRB to require the availability of fifty percent (50%)
11 matching funds for all projects to be considered under the grant program; and

12
13 WHEREAS, House Bill 646 directs the IWRB to prioritize projects on a competitive
14 statewide basis; and

15
16 WHEREAS, the IWRB intends to allocate these funds no later than July 31, 2020, and

17
18 NOW, THEREFORE BE IT RESOLVED that the IWRB adopts the attached criteria for the
19 award of Flood Management Grants and directs staff to issue a statewide solicitation for Flood
20 Management projects.

DATED this 3rd day of April 2020.

ROGER W. CHASE, Chairman
Idaho Water Resource Board

ATTEST _____
VINCE ALBERDI, Secretary