

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE BEAR RIVER BASIN

RESOLUTION FOR APPROVAL OF
FUNDING FOR THE BEAR RIVER BASIN
SETTLEMENT FACILIATION

1 WHEREAS, the Bear River flows through the states of Idaho, Wyoming, and Utah. It begins
2 in the Uinta Mountains of Utah, meanders back and forth between Utah and Wyoming before
3 entering Idaho near Montpelier and flowing through Idaho to Utah before discharging into the
4 Great Salt Lake; and

5
6 WHEREAS, the Bear River is subject to an interstate compact dated February 8, 1980 and
7 codified by Idaho Code 42-3402 ("Bear River Compact"); and

8
9 WHEREAS, State Water Plan Policy 5B provides that "Water use and management in the
10 Bear River Basin shall conform to the allocations agreed to in the Bear River Compact"; and

11
12 WHEREAS, State Water Plan Policy 5B provides that "The Idaho Water Resource Board
13 supports enhancing water supplies, increasing water use efficiency, and implementing water
14 supply bank mechanisms to help meet future needs in the Bear River Basin"; and

15
16 WHEREAS, the Idaho Water Resource Board (IWRB) hold a minimum lake level water right
17 from the bottom of Bear Lake to elevation 5902 feet; and

18
19 WHEREAS, PacifiCorp owns the facilities used to store water in Bear lake and operates the
20 water storage reservoir portion of the lake between elevations 5902 feet and 5923.56 feet; and

21
22 WHEREAS, under normal conditions, Bear Lake operations by PacifiCorp sets a March 31
23 lake level target elevation of 5918 feet, known as the PTE, which is set to maintain space in the
24 lake for flood control during high runoff periods while meeting contract requirements for Bear
25 Lake storage water; and

26
27 WHEREAS, the Joint Bear River Planning Model, conducted by the IWRB, the state of Utah,
28 PacificCorp, and the Center for Advanced Decision Support for Water and Environmental
29 Systems, found that additional water could be stored in Bear Lake; and

30
31 WHEREAS, there appears to be opportunity to utilize the space in Bear Lake between the
32 elevations of 5918 and 5923.65 feet to store water that is otherwise released from the lake or
33 bypassed past the lake to maintain the March 31 target elevation of 5918 feet; and

34 WHEREAS, the ability to store additional water in Bear Lake will include the need to
35 acquire or develop downstream flood and flow easements in the Gentile Valley of the Bear River;
36 and
37

38 WHEREAS, IWRB negotiations with Utah, Wyoming, PacificCorp, Bear River Basin Water
39 Users, and Bear Lake Watch are ongoing, and the parties have agreed to work with a facilitator
40 to resolve the complex issues associated with raising the elevation of Bear Lake and increasing
41 flows in the Gentile Valley; and
42

43 WHEREAS, the purpose of the facilitation process is to assist the parties in reaching a Bear
44 River Basin Settlement Agreement; and
45

46 WHEREAS, PacificCorp has identified a facilitator and has requested that the parties cost
47 share the facilitator services; and
48

49 WHEREAS, on May 20, 2023, the IWRB adopted Resolution No. 20-2022 for the Secondary
50 Aquifer Fund Fiscal Year 2023 Budget, which included \$250,000 for the Bear River Basin; and
51

52 NOW, THEREFORE BE IT RESOLVED that the IWRB authorizes up to \$50,000 to enter into
53 an equitable agreement with PacificCorp to cost share a facilitator for the Bear River Basin
54 Facilitation Process Agreement.
55

56 NOW THEREFORE BE IT FURTHER RESOLVED that the IWRB authorizes its chairman or
57 designee, to execute the necessary agreements or contracts for the purpose of this resolution.
58

DATED this 31st day of March 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST 

DEAN STEVENSON, Secretary

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE LEMHI RIVER BASIN
COMPREHENSIVE SETTLEMENT

RESOLUTION FOR APPROVAL OF THE
LEMHI RIVER BASIN COMPREHENSIVE
SETTLEMENT AGREEMENT
IMPLEMENTATION COMMITTEE CHARTER
AND MEMBERS

1 WHEREAS, Lemhi irrigators historically diverted natural flow in the Lemhi River Basin
2 ("Basin") in excess of their decreed rights for their shared benefit when natural flow exceeded
3 the amount of water required to satisfy all existing water rights; and
4

5 WHEREAS, the "high flow practice" serves to "hold or reservoir" the water in the soil to
6 augment and to sustain stream flows in the Lemhi River Basin; and
7

8 WHEREAS, the practice of diverting high flow was recognized in the 1982 Lemhi Basin
9 Adjudication and reaffirmed in the Snake River Basin Adjudication; and
10

11 WHEREAS, the Lemhi River and its tributaries are important habitat for the Snake River's
12 fall-run Chinook salmon, Snake River Basin's steelhead, and Columbia River's bull trout, as well
13 as rainbow, redband, and westslope cutthroat trout; and
14

15 WHEREAS, stream flows are essential to maintaining passage, spawning, and rearing
16 habitat for anadromous and resident fisheries in the Lemhi River Basin; and
17

18 WHEREAS, irrigation diversions in the Lemhi River Basin contributed to the decline of
19 anadromous fisheries in the Basin, however, from the early 1990s Lemhi irrigators have been
20 working collaboratively with other stakeholders to develop a unified plan to preserve and protect
21 the anadromous fisheries while preserving and protecting the farming and ranching lifestyle of
22 the basin; and
23

24 WHEREAS, the stakeholders developed biological and business goals for the Basin that
25 seek to conserve, restore, and enhance sufficient habitat to sustain viable fish populations in the
26 Lemhi River Basin while protecting private property rights and preserving and enhancing the
27 farming and ranching lifestyle and economy of the Lemhi River Basin; and
28

29 WHEREAS, at the request of Lemhi irrigators, the 2001 Idaho Legislature enacted Section
30 42-1506, Idaho Code, which authorized the Idaho Water Resource Board ("Board") to appropriate
31 a minimum stream flow in the lower reach of the Lemhi River to provide fish passage and protect
32 Lemhi water users from Endangered Species Act ("ESA") Enforcement actions; and
33

34 WHEREAS, the Board has been working collaboratively with Lemhi irrigators and other
35 stakeholders to implement additional passage and habitat projects in the Lemhi Basin consistent
36 with the Lemhi Basin biological and business goals; and
37

38 WHEREAS, recent applications for water right permits to appropriate high flow were
39 protested by Lemhi water users because of concerns about the potential impact of new
40 appropriations on existing high flow use, and by the Idaho Department of Fish and Game and the
41 Board due to concerns that new appropriations would negatively impact efforts to improve fish
42 passage and spawning and rearing habitat; and
43

44 WHEREAS, at the request of Lemhi irrigators, the 2020 Idaho Legislature adopted Senate
45 Concurrent Resolution No. 137, which directed the Board, with technical support from IDWR, to
46 work expeditiously with local water users in the Lemhi River Basin to develop a comprehensive
47 settlement that resolves current tensions and conflicts that are the result of competing water
48 demands in the Lemhi River Basin; and
49

50 WHEREAS, the 2021 Idaho Legislature adopted House Concurrent Resolution 21, which
51 directed the Board to continue to work expeditiously with local water users to complete a
52 comprehensive settlement that resolves current tensions and conflicts over the use of Lemhi
53 Basin high flows that, to the best of the abilities of the participating parties and in the spirit of
54 compromise and resolution, is consistent with past practices, future needs, and Idaho law; and
55

56 WHEREAS, the parties met seven times during 2021 to convert the settlement framework,
57 with the assistance of the mediators, into the Lemhi River Basin Comprehensive Settlement
58 Agreement between the Idaho Water Resource Board, Idaho Department of Fish and Game,
59 Idaho Office of Species Conservation, and Various Lemhi Basin Water Users (Agreement); and
60

61 WHEREAS, the Agreement creates a comprehensive process for 1) resolving protests to
62 pending applications for permits, 2) appropriating water rights to establish protectable water
63 rights for the existing high flow practice; and 3) appropriating instream flow water rights on
64 certain streams for fish passage, spawning and rearing; and
65

66 WHEREAS, participation in the Agreement is voluntary; and
67

68 WHEREAS, the Agreement was signed by the Idaho Department of Fish and Game, the
69 Office of Species Conservation, and various water users; and
70

71 WHEREAS, on February 24, 2022, the Board approved the Agreement by resolution, a
72 copy of which is attached hereto as Attachment A; and
73

74 WHEREAS, the Agreement states that the Parties to the Agreement establish an
75 committee to oversee the implementation of the Agreement that shall consist of two (2)

76 representatives of the Lemhi Irrigation District, two (2) representatives of the Upper Lemhi Basin
77 Water Users, one (1) representative of the IDFG, one (1) representative of the Office of Species
78 Conservation, and one (1) representative of the IWRB; and
79

80 WHEREAS, the Basin 74 watermaster or an IDWR employee shall serve as an ex officio
81 member of the committee; and
82

83 WHEREAS, a Lemhi River Basin Comprehensive Settlement Agreement Implementation
84 Committee Charter, a copy of which is attached hereto as Attachment B, details the purpose and
85 scope of the Agreement's Implementation Committee, membership qualifications, designation
86 of the Chair, roles and responsibilities of members, and meeting rules; and
87

88 WHEREAS, the Board posted notice of the opportunity for water users to serve on the
89 Implementation Committee on the Board's Lemhi River Basin Settlement webpage; and
90

91 WHEREAS, Parties to the Agreement who expressed interest in becoming members of the
92 Agreement's Implementation Committee and met the representation requirements of the
93 Agreement are identified in the Lemhi Comprehensive Settlement Agreement Implementation
94 Committee Members List, a copy of which is attached hereto as Attachment C; and
95


96 NOW, THEREFORE BE IT RESOLVED that the Board approves the Lemhi River Basin
97 Comprehensive Settlement Agreement Implementation Committee Charter, Attachment B; and
98

99 NOW, BE IT FUTHER RESOLVED that the Board approves the attached Lemhi River Basin
100 Comprehensive Settlement Agreement Implementation Committee Members List, Attachment
101 C.
102

DATED this 31st day of March 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST 

DEAN STEVENSON, Secretary

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE LEMHI RIVER BASIN

RESOLUTION FOR APPROVAL OF LEMHI
BASIN COMPREHENSIVE SETTLEMENT
AGREEMENT

1 WHEREAS, Lemhi irrigators historically diverted natural flow in the Lemhi River Basin in
2 excess of their decreed rights for their shared benefit when natural flow exceeded the amount
3 of water required to satisfy all existing water rights; and
4

5 WHEREAS, the “high flow practice” serves to “hold or reservoir” the water in the soil to
6 augment and to sustain stream flows in the Lemhi River Basin; and
7

8 WHEREAS, the practice of diverting high flow was recognized in the 1982 Lemhi Basin
9 Adjudication and reaffirmed in the Snake River Basin Adjudication; and
10

11 WHEREAS, the Lemhi River and its tributaries are important habitat for the Snake
12 River’s fall-run Chinook salmon, Snake River Basin’s steelhead, and Columbia River’s bull
13 trout, as well as rainbow, redband, and westslope cutthroat trout; and
14

15 WHEREAS, stream flows are essential to maintaining passage, spawning, and rearing
16 habitat for anadromous and resident fisheries in the Lemhi River Basin; and
17

18 WHEREAS, irrigation diversions in the Lemhi Basin contributed to the decline of
19 anadromous fisheries in the Lemhi Basin; and
20

21 WHEREAS, from the early 1990s Lemhi irrigators have been working collaboratively
22 with other stakeholders to develop a unified plan to preserve and protect the anadromous
23 fisheries while preserving and protecting the farming and ranching lifestyle of the basin;
24 and
25

26 WHEREAS, the stakeholders developed biological and business goals for the Lemhi River
27 Basin that seek to conserve, restore, and enhance sufficient habitat to sustain viable fish
28 populations in the Lemhi River Basin while protecting private property rights and preserving and
29 enhancing the farming and ranching lifestyle and economy of the Lemhi River Basin; and
30

31 WHEREAS, at the request of Lemhi irrigators, the 2001 Idaho Legislature enacted Section
32 42-1506, Idaho Code, which authorized the Idaho Water Resource Board (“Board”) to
33 appropriate a minimum stream flow in the lower reach of the Lemhi River to provide fish passage
34 and protect Lemhi water users from Endangered Species Act (“ESA”) Enforcement actions; and
35

36 WHEREAS, the Board has been working collaboratively with Lemhi irrigators and other
37 stakeholders to implement additional passage and habitat projects in the Lemhi Basin consistent
38 with the Lemhi Basin biological and business goals; and

39
40 WHEREAS, recent applications for permits to appropriate high flow were protested by
41 Lemhi water users because of concerns about the impact of the appropriations on their existing
42 high flow use, and by the Idaho Department of Fish and Game and the Board because of concerns
43 regarding the impact of the appropriations on their efforts to improve fish passage and spawning
44 and rearing habitat; and
45

46 WHEREAS, at the request of Lemhi irrigators, the 2020 Idaho Legislature adopted Senate
47 Concurrent Resolution No. 137, a copy of which is attached hereto as **Attachment A**; and
48

49 WHEREAS, Senate Concurrent Resolution No. 137, directed the Board, with technical
50 support from IDWR, to work expeditiously with local water users in the Lemhi River Basin to
51 develop a comprehensive settlement that resolves current tensions and conflicts that are the
52 result of competing water demands in the Lemhi River Basin and to report back to the First
53 Regular Session of the Sixty-sixth Idaho Legislature on the implementation of the resolution; and
54

55 WHEREAS, the Board retained mediators to facilitate discussions between Lemhi
56 irrigators and other stakeholders; and
57

58 WHEREAS, the Board reported back to the First Regular Session of the Sixty-sixth Idaho
59 Legislature that the mediators conducted nine meetings and engaged in extensive shuttle
60 diplomacy with the participating parties since June 2020; and
61

62 WHEREAS, the Board reported that significant progress had been made in the Lemhi River
63 Basin settlement discussions, including the development of a framework for resolving the
64 tensions over the use of Lemhi high flows consistent with past practices, future needs, and Idaho
65 law, and in the resolution of one major contested case in the basin, consistent with the
66 framework; and
67

68 WHEREAS, the First Regular Session of the Sixty-sixth Idaho Legislature adopted House
69 Concurrent Resolution 21, a copy of which is attached hereto as **Attachment B**, which directed
70 the Board to continue to work expeditiously with local water users to complete a comprehensive
71 settlement that resolves current tensions and conflicts over the use of Lemhi Basin high flows
72 that, to the best of the abilities of the participating parties and in the spirit of compromise and
73 resolution, is consistent with past practices, future needs, and Idaho law; and
74

75 WHEREAS, the parties met seven times during 2021 to convert the settlement framework,
76 with the assistance of the mediators, into the Lemhi River Comprehensive Settlement Agreement
77 Between the Idaho Water Resource Board, Idaho Department of Fish and Game, Idaho Office of
78 Species Conservation, and Various Lemhi Basin Water Users ("Lemhi Comprehensive Settlement
79 Agreement"), a copy of which is attached hereto as **Attachment C**; and
80

81 WHEREAS, the Board conducted three public meetings to present the Lemhi
82 Comprehensive Settlement Agreement; and

83
84 WHEREAS, the Board mailed a notice of the public meeting to all holders of irrigation
85 water rights in the Lemhi Basin; and

86
87 WHEREAS, the Lemhi Comprehensive Settlement Agreement creates a comprehensive
88 process for 1) resolving protests to pending applications for permits, 2) appropriating water rights
89 to establish protectable water rights for the existing high flow practice; and 3) appropriating
90 instream flow water rights on certain streams for fish passage, spawning and rearing; and

91
92 WHEREAS, participation in the Lemhi Comprehensive Settlement Agreement is voluntary;
93 and

94
95 WHEREAS, the Lemhi Comprehensive Settlement Agreement has been signed by the
96 Idaho Department of Fish and Game, the Office of Species Conservation, and various water users;
97 and

98
99 WHEREAS, the Lemhi Comprehensive Settlement Agreement is consistent with Idaho law;
100 and

101
102 WHEREAS, the Lemhi Comprehensive Settlement Agreement will not injure any existing
103 water rights; and

104
105 WHEREAS, after reviewing the Lemhi Comprehensive Settlement Agreement, the Board
106 finds it is a reasonable and equitable resolution of the competing interests in the use of high
107 flows in the Lemhi River Basin and is consistent with Lemhi biological and business goals; and

108
109 WHEREAS, the Board finds that the Lemhi Comprehensive Settlement Agreement
110 harmonizes the State of Idaho's competing duties to protect existing water rights, to safeguard
111 the provisions of the Forest Service Wild and Scenic Rivers Settlement, to allocate additional
112 water rights, to conserve, restore, and enhance sufficient habitat to sustain viable fish
113 populations, and to enhance the farming and ranching lifestyle and economy of the Lemhi River
114 Basin.

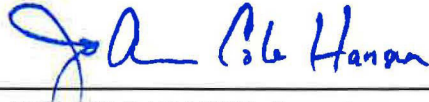
115
116 NOW, THEREFORE BE IT RESOLVED that the Board approves the Lemhi Comprehensive
117 Settlement Agreement and authorizes its chairman to execute.

118
119 NOW, BE IT FUTHER RESOLVED that the Board provide to the Second Regular Session of
120 the Idaho Legislature a copy of the Lemhi Comprehensive Settlement Agreement and request
121 enactment of the proposed legislation upon approval of the Agreement by the named parties.

DATED this 24th day of February 2022.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board



ATTEST

JO ANN COLE-HANSEN, Secretary

LEMHI RIVER BASIN COMPREHENSIVE SETTLEMENT AGREEMENT IMPLEMENTATION COMMITTEE CHARTER

On February 24, 2022, the Lemhi River Basin Comprehensive Settlement Agreement Between the Idaho Water Resource Board (“IWRB”), Idaho Department of Fish and Game, Idaho Office of Species Conservation, and Various Lemhi Basin Water Users (“Agreement”) became effective. The Agreement is attached to this Charter.

The goals of the Parties are “to conserve, restore, and enhance sufficient habitat to sustain viable fish populations within the Lemhi River Basin while protecting private property rights and preserving and enhancing the farming and ranching lifestyle and economy of the Lemhi River Basin. The Parties agreed to work together to achieve the goals of the Agreement by establishing a Steering Committee to assist IWRB in the implementation of the Agreement.

Purpose and Scope of Charter

The purpose and scope of this Charter is to establish the Steering Committee provided for in Section VII. of the Agreement, which shall be known as the Lemhi Basin Steering Committee (“LBSC”). The LBSC will facilitate cooperation between the IWRB and the water users in the implementation of the Agreement.

LBSC Members

The LBSC shall consist of two (2) members of the Lemhi Irrigation District, two (2) representatives of the Upper Lemhi Basin Water Users, one (1) representative of the Idaho Department of Fish and Game, one (1) representative of the Office of Species Conservation, and one (1) representative of the Idaho Water Resource Board (“IWRB Representative”). The watermaster for Water District 74 or an IDWR employee shall serve as an ex officio member of the LBSC.

The IWRB shall appoint four water user representatives to serve as members on the LBSC, and an alternate water user to serve for each member in the event of the absence of the member. The Board will post notice of the opportunity for water users to serve on the LBSC on the Lemhi Basin Settlement webpage: <https://idwr.idaho.gov/iwrp/water-planning/lemhi-settlement/>. Only water users who are Parties to the Agreement may serve on the LBSC. Two water user LBSC members shall be members of the Lemhi Irrigation District. Two water user LBSC members shall be water users who divert water from sources outside of the Lemhi Irrigation District upstream of the McFarland Campground minimum stream flow water right.

The IWRB shall appoint a state agency employee recommended by their respective state agency to serve as a member of the LBSC, and an alternate to serve in the event of the absence of the member.

Members of the LBSC serve at the pleasure of the IWRB. The IWRB may declare a member's position vacant if the member:

- 1) Resigns from the LBSC;
- 2) A member no longer meets the qualification criteria for the member's position; or
- 3) A member fails to attend more than two meetings without notice.

In the event a member's position is declared vacant, the alternate member shall fill the vacant position, and a new alternate will be chosen as outlined above.

Chair of LBSC

A IWRB member shall serve as the Chair of the LBSC.

Meetings

The LBSC shall agree on a regular meeting schedule that shall include at a minimum one meeting on or about May 16th and one meeting on or before November 30th of each year. The May 16th meeting shall include, but not be limited to, coordinating on the exercise of the McFarland Campground minimum stream flow water right. The fall meeting shall include, but not be limited to, a review of the implementation of the Agreement.

The LBSC may schedule such additional meetings as it deems necessary.

All meetings will be open to all interested parties. Meetings will be held at the time and place chosen by the Chair. Meetings may be held by video conference.

Members will be notified of meetings and provided with an agenda through email and/or direct mail at least two weeks prior to the meeting; provided, however, in the event of an emergency declared by the Chair, a meeting may be scheduled upon 24-hour notice. The Chair shall be responsible for posting notice of the LBSC meetings and the meeting agenda on the Lemhi Basin Settlement website.

Roles and Responsibilities of Members

Chair

The Chair is expected to: 1) keep LBSC members informed of matters related to the implementation of the Agreement; 2) manage logistics for meeting; 3) manage the meetings to ensure an open and constructive dialogue; 4) brief the IWRB at its regularly scheduled meeting of progress on implementation of the Agreement; and 5) ensure the Lemhi Basin Settlement

webpage is updated on a regular basis. The Chair may assign these and other responsibilities to Idaho Department of Water Resources staff or others as appropriate.

Members Responsibilities

Members are expected: 1) to share their respective expertise on matters related to implementation of the Agreement; 2) attend all meetings; 3) relay information to their constituents and gather information/feedback from their constituents as practical; and 4) identify and communicate to the LBSC emerging issues.

Meeting Rules

All participants in LBSC meetings are expected to share information openly, promptly, and respectfully.

All documents provided to the LBSC will be posted on the Lemhi Basin Settlement website.

Nothing herein shall preclude informal discussions between the signatories to the Agreement.

Disclaimer

The LBSC acts in an advisory role. Decision-making authority for exercise of the McFarland Minimum streamflow or other matters within the IWRB's statutory authority remain with the IWRB.

**LEMHI RIVER BASIN
COMPREHENSIVE SETTLEMENT AGREEMENT
IMPLEMENTATION COMMITTEE CHARTER
MEMBERS LIST**

Lemhi Irrigation District (2)

- Carl Ellsworth – Primary
- Carl Lufkin – Primary
- Stephen Shiner – Alternate
- Ed Snook – Alternate

Upper Lemhi Basin Water Users (2)

- Kurt Bird – Primary
- Steven Johnson – Primary
- Merrill Beyeler – Alternate
- Merritt Udy – Alternate

Idaho Department of Fish and Game (1)

- Windy Schoby – Primary
- Stacey Meyer – Alternate

Governor's Office of Species Conservation (1)

- Daniel Bertram – Primary
- Graham Freeman – Alternate

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE LEMHI RIVER AT
MCFARLAND CAMPGROUND MINIMUM
STREAM FLOW WATER RIGHT

RESOLUTION FOR APPROVAL OF THE
PROTOCOL FOR EXERCISE OF THE LEMHI
RIVER AT MCFARLAND CAMPGROUND
MINIMUM STREAM FLOW WATER RIGHT

1 WHEREAS, Lemhi irrigators historically diverted natural flow in the Lemhi River Basin in
2 excess of their decreed rights for their shared benefit when natural flow exceeded the amount
3 of water required to satisfy all existing water rights; and
4

5 WHEREAS, the "high flow practice" serves to "hold or reservoir" the water in the soil to
6 augment and to sustain stream flows in the Lemhi River Basin; and
7

8 WHEREAS, the practice of diverting high flow was recognized in the 1982 Lemhi Basin
9 Adjudication and reaffirmed in the Snake River Basin Adjudication; and
10

11 WHEREAS, the Lemhi River and its tributaries are important habitat for the Snake River's
12 fall-run Chinook salmon, Snake River Basin's steelhead, and Columbia River's bull trout, as well
13 as rainbow, redband, and westslope cutthroat trout; and
14

15 WHEREAS, stream flows are essential to maintaining passage, spawning, and rearing
16 habitat for anadromous and resident fisheries in the Lemhi River Basin; and
17

18 WHEREAS, irrigation diversions in the Lemhi Basin contributed to the decline of
19 anadromous fisheries in the Lemhi Basin, however, from the early 1990s, Lemhi irrigators have
20 been working collaboratively with other stakeholders to develop a unified plan to preserve and
21 protect the anadromous fisheries while preserving and protecting the farming and ranching
22 lifestyle of the basin; and
23

24 WHEREAS, the stakeholders developed biological and business goals for the Lemhi River
25 Basin that seek to conserve, restore, and enhance sufficient habitat to sustain viable fish
26 populations in the Lemhi River Basin while protecting private property rights and preserving and
27 enhancing the farming and ranching lifestyle and economy of the Lemhi River Basin; and
28

29 WHEREAS, at the request of Lemhi irrigators, the 2001 Idaho Legislature enacted Section
30 42-1506, Idaho Code, which authorized the Idaho Water Resource Board ("Board") to appropriate
31 a minimum stream flow in the lower reach of the Lemhi River to provide fish passage and protect
32 Lemhi water users from Endangered Species Act ("ESA") Enforcement actions; and
33

34 WHEREAS, the Board has been working collaboratively with Lemhi irrigators and other
35 stakeholders to implement additional passage and habitat projects in the Lemhi Basin consistent
36 with the Lemhi Basin biological and business goals; and
37

38 WHEREAS, recent applications for permits to appropriate high flow were protested by
39 Lemhi water users because of concerns about the impact of the appropriations on their existing
40 high flow use, and by the Idaho Department of Fish and Game and the Board because of concerns
41 regarding the impact of the appropriations on their efforts to improve fish passage and spawning
42 and rearing habitat; and
43

44 WHEREAS, at the request of Lemhi irrigators, the 2020 Idaho Legislature adopted Senate
45 Concurrent Resolution No. 137, which directed the Board, with technical support from IDWR, to
46 work expeditiously with local water users in the Lemhi River Basin to develop a comprehensive
47 settlement that resolves current tensions and conflicts that are the result of competing water
48 demands in the Lemhi River Basin; and
49

50 WHEREAS, the 2021 Idaho Legislature adopted House Concurrent Resolution 21, which
51 directed the Board to continue to work expeditiously with local water users to complete a
52 comprehensive settlement that resolves current tensions and conflicts over the use of Lemhi
53 Basin high flows; and
54

55 WHEREAS, the parties met seven times during 2021 to convert the settlement framework,
56 with the assistance of the mediators, into the Lemhi River Comprehensive Settlement Agreement
57 between the Idaho Water Resource Board, Idaho Department of Fish and Game, Idaho Office of
58 Species Conservation, and Various Lemhi Basin Water Users (Agreement); and
59

60 WHEREAS, the Agreement creates a comprehensive process for 1) resolving protests to
61 pending applications for permits, 2) appropriating water rights to establish protectable water
62 rights for the existing high flow practice, and 3) appropriating instream flow water rights on
63 certain streams for fish passage, spawning, and rearing; and
64

65 WHEREAS, participation in the Agreement is voluntary; and
66

67 WHEREAS, the Agreement was signed by the Idaho Department of Fish and Game, the
68 Office of Species Conservation, and various water users; and
69

70 WHEREAS, on February 24, 2022, the Board approved the Agreement by resolution, a
71 copy of which is attached hereto as Attachment A; and
72

73 WHEREAS, as part of the Agreement, the 2022 Idaho Legislature enacted 42-1506A, Idaho
74 Code, which authorized the Board to appropriate a minimum stream flow water right on the
75 Lemhi River at the McFarland Campground in the amount of 420 cfs (McFarland MSF); and

76
77 WHEREAS, the IWRB filed a water right application on July 1, 2022, to appropriate the
78 McFarland MSF in accordance with Idaho Code § 42-1503; and
79

80 WHEREAS, the McFarland MSF permit, a copy of which is attached hereto as Attachment
81 B, may be exercised only two out of every five years, and the exercise of the right shall be limited
82 to a duration of three days (72 hours) between March 15th to July 6th; and
83

84 WHEREAS, the McFarland MSF aims to 1) flush the overlying fine sediment of the armored
85 Lemhi River streambed and 2) mobilize streambed materials to restore and enhance fish habitat;
86 and
87

88 WHEREAS, using historic precipitation data from the Natural Resources Conservation
89 Service Snow Telemetry (SNOTEL) sites in the Lemhi River Basin, a flow protocol was developed
90 and contains criteria and indicators for exercising the McFarland MSF; and
91


92 WHEREAS, the criteria and indicators are contained in a flow chart and table and are
93 collectively known as the Protocol for Exercise of the Lemhi River at McFarland Campground
94 Minimum Stream Flow (McFarland MSF Protocol), a copy of which is attached hereto as
95 Attachment C; and
96

97 WHEREAS, the McFarland MSF Protocol will be used by the Board to determine when to
98 exercise the McFarland MSF; and
99

100 WHEREAS, decision-making authority for the exercise of the McFarland MSF remains with
101 the Board, and if necessary, the McFarland MSF Protocol may be amended through future
102 resolutions; and
103

104 NOW, THEREFORE BE IT RESOLVED that the Board approves the Protocol for Exercise of
105 the Lemhi River at McFarland Campground Minimum Stream Flow water right subject to approval
106 under Idaho Code § 42-1503.
107

DATED this 31st day of March 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST



DEAN STEVENSON, Secretary

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE LEMHI RIVER BASIN

RESOLUTION FOR APPROVAL OF LEMHI
BASIN COMPREHENSIVE SETTLEMENT
AGREEMENT

1 WHEREAS, Lemhi irrigators historically diverted natural flow in the Lemhi River Basin in
2 excess of their decreed rights for their shared benefit when natural flow exceeded the amount
3 of water required to satisfy all existing water rights; and
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5 WHEREAS, the “high flow practice” serves to “hold or reservoir” the water in the soil to
6 augment and to sustain stream flows in the Lemhi River Basin; and
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8 WHEREAS, the practice of diverting high flow was recognized in the 1982 Lemhi Basin
9 Adjudication and reaffirmed in the Snake River Basin Adjudication; and
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12 River’s fall-run Chinook salmon, Snake River Basin’s steelhead, and Columbia River’s bull
13 trout, as well as rainbow, redband, and westslope cutthroat trout; and
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15 WHEREAS, stream flows are essential to maintaining passage, spawning, and rearing
16 habitat for anadromous and resident fisheries in the Lemhi River Basin; and
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18 WHEREAS, irrigation diversions in the Lemhi Basin contributed to the decline of
19 anadromous fisheries in the Lemhi Basin; and
20

21 WHEREAS, from the early 1990s Lemhi irrigators have been working collaboratively
22 with other stakeholders to develop a unified plan to preserve and protect the anadromous
23 fisheries while preserving and protecting the farming and ranching lifestyle of the basin;
24 and
25

26 WHEREAS, the stakeholders developed biological and business goals for the Lemhi River
27 Basin that seek to conserve, restore, and enhance sufficient habitat to sustain viable fish
28 populations in the Lemhi River Basin while protecting private property rights and preserving and
29 enhancing the farming and ranching lifestyle and economy of the Lemhi River Basin; and
30

31 WHEREAS, at the request of Lemhi irrigators, the 2001 Idaho Legislature enacted Section
32 42-1506, Idaho Code, which authorized the Idaho Water Resource Board (“Board”) to
33 appropriate a minimum stream flow in the lower reach of the Lemhi River to provide fish passage
34 and protect Lemhi water users from Endangered Species Act (“ESA”) Enforcement actions; and
35

36 WHEREAS, the Board has been working collaboratively with Lemhi irrigators and other
37 stakeholders to implement additional passage and habitat projects in the Lemhi Basin consistent
38 with the Lemhi Basin biological and business goals; and

39
40 WHEREAS, recent applications for permits to appropriate high flow were protested by
41 Lemhi water users because of concerns about the impact of the appropriations on their existing
42 high flow use, and by the Idaho Department of Fish and Game and the Board because of concerns
43 regarding the impact of the appropriations on their efforts to improve fish passage and spawning
44 and rearing habitat; and
45

46 WHEREAS, at the request of Lemhi irrigators, the 2020 Idaho Legislature adopted Senate
47 Concurrent Resolution No. 137, a copy of which is attached hereto as **Attachment A**; and
48

49 WHEREAS, Senate Concurrent Resolution No. 137, directed the Board, with technical
50 support from IDWR, to work expeditiously with local water users in the Lemhi River Basin to
51 develop a comprehensive settlement that resolves current tensions and conflicts that are the
52 result of competing water demands in the Lemhi River Basin and to report back to the First
53 Regular Session of the Sixty-sixth Idaho Legislature on the implementation of the resolution; and
54

55 WHEREAS, the Board retained mediators to facilitate discussions between Lemhi
56 irrigators and other stakeholders; and
57

58 WHEREAS, the Board reported back to the First Regular Session of the Sixty-sixth Idaho
59 Legislature that the mediators conducted nine meetings and engaged in extensive shuttle
60 diplomacy with the participating parties since June 2020; and
61

62 WHEREAS, the Board reported that significant progress had been made in the Lemhi River
63 Basin settlement discussions, including the development of a framework for resolving the
64 tensions over the use of Lemhi high flows consistent with past practices, future needs, and Idaho
65 law, and in the resolution of one major contested case in the basin, consistent with the
66 framework; and
67

68 WHEREAS, the First Regular Session of the Sixty-sixth Idaho Legislature adopted House
69 Concurrent Resolution 21, a copy of which is attached hereto as **Attachment B**, which directed
70 the Board to continue to work expeditiously with local water users to complete a comprehensive
71 settlement that resolves current tensions and conflicts over the use of Lemhi Basin high flows
72 that, to the best of the abilities of the participating parties and in the spirit of compromise and
73 resolution, is consistent with past practices, future needs, and Idaho law; and
74

75 WHEREAS, the parties met seven times during 2021 to convert the settlement framework,
76 with the assistance of the mediators, into the Lemhi River Comprehensive Settlement Agreement
77 Between the Idaho Water Resource Board, Idaho Department of Fish and Game, Idaho Office of
78 Species Conservation, and Various Lemhi Basin Water Users ("Lemhi Comprehensive Settlement
79 Agreement"), a copy of which is attached hereto as **Attachment C**; and
80

81 WHEREAS, the Board conducted three public meetings to present the Lemhi
82 Comprehensive Settlement Agreement; and

83
84 WHEREAS, the Board mailed a notice of the public meeting to all holders of irrigation
85 water rights in the Lemhi Basin; and

86
87 WHEREAS, the Lemhi Comprehensive Settlement Agreement creates a comprehensive
88 process for 1) resolving protests to pending applications for permits, 2) appropriating water rights
89 to establish protectable water rights for the existing high flow practice; and 3) appropriating
90 instream flow water rights on certain streams for fish passage, spawning and rearing; and

91
92 WHEREAS, participation in the Lemhi Comprehensive Settlement Agreement is voluntary;
93 and

94
95 WHEREAS, the Lemhi Comprehensive Settlement Agreement has been signed by the
96 Idaho Department of Fish and Game, the Office of Species Conservation, and various water users;
97 and

98
99 WHEREAS, the Lemhi Comprehensive Settlement Agreement is consistent with Idaho law;
100 and

101
102 WHEREAS, the Lemhi Comprehensive Settlement Agreement will not injure any existing
103 water rights; and

104
105 WHEREAS, after reviewing the Lemhi Comprehensive Settlement Agreement, the Board
106 finds it is a reasonable and equitable resolution of the competing interests in the use of high
107 flows in the Lemhi River Basin and is consistent with Lemhi biological and business goals; and

108
109 WHEREAS, the Board finds that the Lemhi Comprehensive Settlement Agreement
110 harmonizes the State of Idaho's competing duties to protect existing water rights, to safeguard
111 the provisions of the Forest Service Wild and Scenic Rivers Settlement, to allocate additional
112 water rights, to conserve, restore, and enhance sufficient habitat to sustain viable fish
113 populations, and to enhance the farming and ranching lifestyle and economy of the Lemhi River
114 Basin.

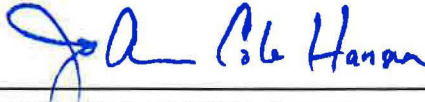
115
116 NOW, THEREFORE BE IT RESOLVED that the Board approves the Lemhi Comprehensive
117 Settlement Agreement and authorizes its chairman to execute.

118
119 NOW, BE IT FUTHER RESOLVED that the Board provide to the Second Regular Session of
120 the Idaho Legislature a copy of the Lemhi Comprehensive Settlement Agreement and request
121 enactment of the proposed legislation upon approval of the Agreement by the named parties.

DATED this 24th day of February 2022.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board



ATTEST

JO ANN COLE-HANSEN, Secretary

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 74-16265

Priority: July 01, 2022

Maximum Diversion Rate: 420 CFS

This is to certify that

STATE OF IDAHO IDAHO WATER RESOURCE BOARD
322 E FRONT ST
PO BOX 83720 BOISE ID 83720-0098

has applied for a permit to appropriate water from:

Source : LEMHI RIVER

Tributary: SALMON RIVER

and a permit is APPROVED for development of water as follows:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>
MINIMUM STREAM FLOW	03/15 to 07/06	420 CFS

Location of Point(s) of Diversion

LEMHI RIVER NW¼ SE¼, Sec. 14, Twp 17N, Rge 24E, B.M. LEMHI County (Ending of Stream Flow)

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2027**.
2. Subject to all prior water rights.
3. Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.
4. This water right shall be measured at the Lemhi River at McFarland Campground gage, located within the NWSE, Section 14, T17N, R24E, Lemhi County. Upon further finding and order of the Director that gaging stations are required to maintain the approved minimum flows under the water right, such measuring devices shall be permanently installed and maintained as specified by the Director.
5. There are no diversions associated with this minimum stream flow water right. The quantification point for this instream flow water right is at the above location.
6. The place of use for this water right is at the quantification point.
7. This water right may be exercised only two (2) years out of every five (5) years. The five (5) year period shall be a rolling period.
8. The exercise of the right shall be limited to a duration of three (3) days, during the March 15 to July 6 period of use. The three (3) day period shall be timed to occur as near as possible to the peak of Lemhi runoff.
9. This right may not call against water rights with points of diversion from streams administered as

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 74-16265

separate streams pursuant to the Partial Decree pursuant to I.R.C.P. 54(b) of the Basin 74 High Flow General Provision approved by the SRBA District Court on January 2, 2006, except as to Lemhi Basin stream flow maintenance water rights appropriated pursuant to section 42-251, Idaho Code.

10. Use of water under this right shall be non-consumptive.
11. This minimum stream flow is to preserve and protect habitat for fish.
12. The minimum stream flow may be satisfied and maintained through conditions on water rights acquired pursuant to Idaho Code § 42-251, and by other available methods consistent with Idaho law.
13. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No.170 and sub-district 74.

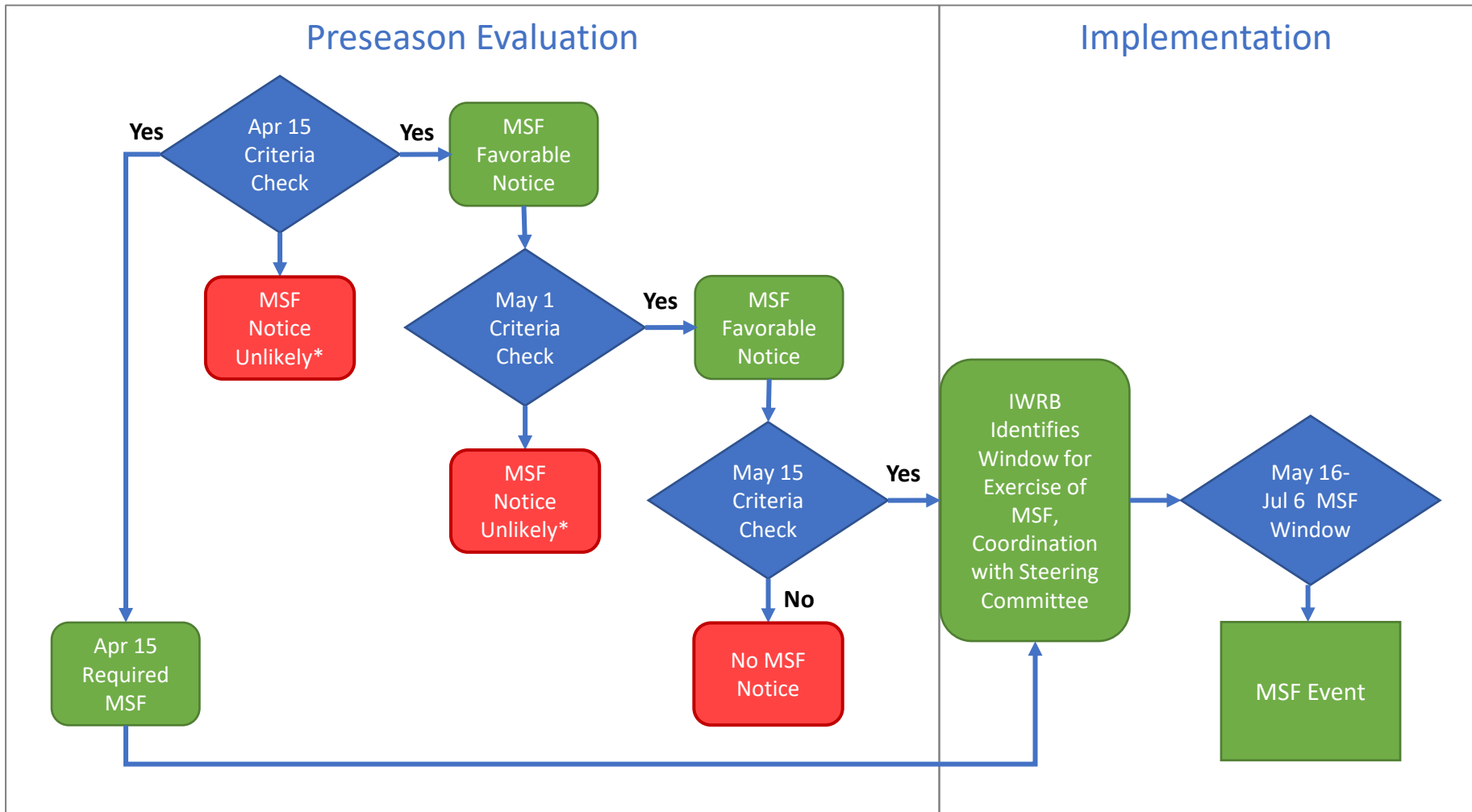
This water right is established pursuant to Chapter 15, Title 42, Idaho Code.

Signed this 7th day of November, 2022.



NICK MILLER
Hearing Officer

Lemhi River at McFarland Campground MSF Implementation Protocol



*If runoff forecasts change to a favorable status, then the IWRB can exercise the McFarland MSF

STEPS FOR DETERMINING WHETHER TO EXERCISE MCFARLAND MSF

Date	Task	Action
<i>Preseason Conditions</i>		
April 15	IWRB: Monitors natural flow prior to April 15.	<ul style="list-style-type: none"> • If LR-MC gauge records show discharge of at least 420 ft³/s for 3 days, MSF water right is satisfied. • If MSF water right is not satisfied, IWRB will review preseason indicators.
	IWRB: Assesses 2 in 5-year requirement	<ul style="list-style-type: none"> • Determine if it is required to exercise MSF water right to comply with the 2 in 5-year criteria. If mandatory, notification that the exercise of MSF water right will occur this year
	IWRB: Review preseason indicators.	<ul style="list-style-type: none"> • Download Beagle Springs SNOTEL: SWE, accumulated precipitation on April 15. • If accumulated precipitation is less than 9 inches, conditions for exercise of the MSF water right are not favorable, and the MSF will only be exercised to meet the 2 in 5-year criteria. • If accumulated precipitation is greater than 9 inches, then favorable conditions may exist for exercise of the MSF water right.
	IWRB: Status notification.	<ul style="list-style-type: none"> • Inform SC of whether favorable conditions for exercise of the MSF water right may exist. • Post status of exercise of MSF water right on MSF website.
May 1	IWRB: Monitors natural flow from April 15 th to May 1 st	<ul style="list-style-type: none"> • If LR-MC gauge records show discharges of at least 420 ft³/s for 3 days, MSF water right is satisfied. • If MSF water right is not satisfied, IWRB will review preseason indicators.
	IWRB: Review preseason indicators.	<ul style="list-style-type: none"> • Download Beagle Springs SNOTEL: accumulated precipitation on May 1 • If accumulated precipitation is less than 9.5 inches, conditions for exercise of the MSF water right are not favorable, and the MSF will only be exercised to meet the 2 in 5-year criteria. • If accumulated precipitation is greater than 9.5 inches, then favorable conditions may exist for exercise of the MSF water right.
	IWRB: Status notification	<ul style="list-style-type: none"> • Inform SC of whether favorable conditions for exercise of the MSF water right may exist. • Post status of exercise of MSF water right on MSF website.

Date	Task	Action
May 16	IWRB: Monitors natural flow from May 1 st to May 15 th .	<ul style="list-style-type: none"> • If LR-MC gauge records show discharges of at least 420 ft³/s for 3 days, MSF water right is satisfied. • If MSF water right is not satisfied, IWRB will review preseason indicators.
	IWRB: check preseason indicators	<ul style="list-style-type: none"> • Download Beagle Springs SNOTEL: accumulated precipitation on May 15 • If accumulated precipitation is less than 11 inches, conditions for exercise of the MSF water right are not favorable, and the MSF will only be exercised to meet the 2 in 5-year criteria. • If accumulated precipitation is greater than 11 inches, favorable conditions exist for exercise of the MSF water right.
	IWRB: Status notification	<ul style="list-style-type: none"> • IWRB will schedule a SC meeting to inform SC of whether the MSF water right will be exercised. • If the MSF water right will be exercised, the IWRB will take input from the SC on the timing of the exercise of the MSF water right and then will set a window for the exercise of the right. • Post status on MSF website
	SC: Status notification	<ul style="list-style-type: none"> • SC disseminates status to Lemhi irrigators, WM

Exercise MSF

May 16 - July 6	IWRB: Adjusting exercise date.	<ul style="list-style-type: none"> • Coordinate with SC to adjust date for exercise of the MSF water right if warranted by changed conditions.
	IWRB: Monitors forecasted conditions.	<ul style="list-style-type: none"> • Download the forecasted temperature and precipitation. • Compare to the forecast chart.
	IWRB: Check stream flow	<ul style="list-style-type: none"> • Check the LR-MC gage record. • Compare to flow chart.
	SC: date notification	<ul style="list-style-type: none"> • Notification sent to irrigators and WMs three (3) days in advance of exercise of the MSF water right.
	WM, IR: MSFE	<ul style="list-style-type: none"> • Execution of MSFE

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF STATE WATER PLAN

RESOLUTION TO APPROVE FUNDS FOR
CONSULTING SERVICES FOR THE STATE
WATER PLAN REVIEW AND UPDATE

1 WHEREAS, the Idaho Water Resource Board (Board), pursuant to its planning authorities
2 in Article XV, Section 7 of the Idaho Constitution, and Idaho Code 42-1734, plans to undertake a
3 review and update of the Idaho State Water Plan that was adopted on November 28, 2012; and
4


5 WHEREAS, the IWRB has identified Clive Strong to assist with this effort due to his
6 extensive institutional knowledge in water issues throughout Idaho over the last 40 years; and
7

8 WHEREAS, there is \$100,000 available in the Secondary Aquifer Fund Fiscal Year 2023
9 Budget to fund these services provided by Clive Strong; and
10

11 NOW, THEREFORE BE IT RESOLVED that the IWRB authorizes expenditure of up to
12 \$100,000 to enter into an agreement with Clive Strong to provide his consulting services for the
13 review and update of the State Water Plan.
14

15 NOW THEREFORE BE IT FURTHER RESOLVED that the IWRB authorizes its chairman or
16 designee, to execute the necessary agreements or contracts for the purpose of this resolution.
17

DATED this 31st day of March 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST 

DEAN STEVENSON, Secretary

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE
LOWER LEMHI 2023–2025 WATER RIGHT
SUBORDINATION AGREEMENTS

RESOLUTION TO MAKE A FUNDING
COMMITMENT

1 WHEREAS, Chinook salmon, steelhead, and bull trout habitat in the Lemhi River Basin is
2 limited by low flow in the Lower Lemhi River; and
3

4 WHEREAS, it is in the interest of the State of Idaho to permanently reconnect the Lower
5 Lemhi River to encourage recovery of ESA-listed Chinook salmon, steelhead, and bull trout; and
6

7 WHEREAS, the State of Idaho committed to maintaining flows of 25 cfs to 35 cfs at the L-
8 6 Diversion on the Lower Lemhi River in the Lemhi Framework which was developed as part of
9 the 2004 Snake River Water Rights Agreement; and
10

11 WHEREAS, the Lemhi Framework carries forward target goals which were included in
12 earlier conservation agreements developed and approved by local water users, and state and
13 federal agencies; and
14

15 WHEREAS, through enacting Idaho Code 42-1506 and 42-1765A, the Idaho Legislature
16 directed the Idaho Water Resource Board (Board) to establish a minimum streamflow water right
17 of 35 cfs in the Lower Lemhi River to be met through water right rentals or other appropriate
18 methods under state law; and WHEREAS, the Board has the authority to enter into agreements
19 to improve flow for anadromous and resident fish; and
20

21 WHEREAS, the Board is authorized to expend Bonneville Power Administration funds for
22 flow restoration through the Columbia Basin Water Transaction Program and the Bonneville Fish
23 Accord Water Transaction Fund; and
24

25 WHEREAS, the Board promotes water transactions that maintain the local agricultural
26 economy by retaining irrigated agriculture; and
27

28 WHEREAS, Board staff has developed short-term subordination agreements, also known
29 as the Lemhi Subordination Agreements (agreements) with local water users to improve stream
30 flow for anadromous and resident fish; and
31

32 WHEREAS, for all agreements with water users owning the following water rights: 74-
33 318B, 74-318C, 74-820, 74-826, 74-843, 74-15956, 74-15957, and 74-16014, the water users have
34 agreed to limit their diversions during times of low flow for a maximum of 100 days per year; and
35

36 WHEREAS, for agreement with water user owning the following water rights: 74-605C,
37 74-837, and 74-840, the water user has agreed to limit their diversions during times of low flow
38 for a maximum of 20 days per year; and
39

40 WHEREAS, for agreement with water user owning the following water rights: 74-324B,
41 74-324F, 74-325B, 74-325H, 74-325J, and 74-325L, the water user has agreed to limit their
42 diversions during times of low flow for a maximum of 30 days per year; and
43

44 WHEREAS, funding is available through the Idaho MOA/Fish Accord Water Transaction
45 Program to fund the cost of said agreements; and
46

47 NOW THEREFORE BE IT RESOLVED that the Board authorizes the Chairman or designee to
48 enter into agreements with lower Lemhi River irrigators to not divert out of the Lemhi River, using
49 a total amount not to exceed \$528,360; and
50

51 NOW THEREFORE BE IT FURTHER RESOLVED that this resolution is subject to the condition
52 that the Board receives the requested funding from the Bonneville Power Administration through
53 the Idaho MOA/Fish Accord Water Transaction Program or the Columbia Basin Water Transaction
54 Fund in an amount up to \$528,360.
55

DATED this 31st day of March 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST



DEAN STEVENSON, Secretary

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF FLOOD
MANAGEMENT GRANTS

RESOLUTION TO ADOPT CRITERIA

1 WHEREAS, House Bill 769 passed and approved by the 2022 Legislature authorized the
2 Idaho Water Resource Board (IWRB) to administer \$1,000,000 for the Flood Management Grant
3 Program; and
4


5 WHEREAS, House Bill 769 directs the IWRB to prioritize projects on a competitive
6 statewide basis; and
7

8 WHEREAS, the IWRB developed this criteria in cooperation with program partners; and
9

10 WHEREAS, on March 23, 2023, the IWRB Finance Committee reviewed the criteria and
11 recommended the IWRB adopt the attached criteria for the Flood Management Grant Program;
12 and
13


14 NOW, THEREFORE BE IT RESOLVED that the IWRB adopts the attached criteria for the
15 award of Flood Management.

DATED this 31st day of March 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST



DEAN STEVENSON, Secretary

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

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:

- No more than 50% 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 may be reallocated unless Flood Management work begins prior to November 1 following funding award.
- 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: Projects that are determined to not be flood-related by staff will be declared ineligible and not scored. To maximize the effective and efficient use of available funds, the applications will be evaluated, scored (*135-point scale*), and ranked according to the following criteria:

Effectiveness of Project (65 points)

- First time applicant (*5 points*)
- What is the urgency of the project and anticipated costs? (*30 points*)
- What are the benefits of the project and how will success be measured? (*20 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? (*10 points*)

Readiness of Project (70 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. (20 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. (20 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).

Application Process:

Application Deadline: Due on the first Friday of June

Project Funding Recommendations: June/July Finance Committee

Funding Awarded: July 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.
- Invoices should be sent to IdwrPayable@idwr.idaho.gov

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% 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 THE 55TH ROAD RECHARGE
SITE DEVELOPMENT

RESOLUTION TO APPROVE FUNDS FROM THE
ARPA STATE FISCAL RECOVERY FUND AND
PROVIDE SIGNATORY AUTHORITY

1 WHEREAS, about one-third of Idaho's population resides on the Eastern Snake Plain and the
2 Eastern Snake Plain Aquifer (ESPA) is the sole source of drinking water for both cities and most rural
3 residents of the Eastern Snake Plain; and
4

5 WHEREAS, due to numerous factors, including drought, the ESPA has been losing approximately
6 216,000 acre-feet annually from aquifer storage since the 1950's resulting in declining ground water levels
7 in the aquifer and reduced spring flows to the Snake River; and
8

9 WHEREAS, the State Water Plan includes a goal to accomplish managed recharge in the ESPA
10 averaging 250,000 acre-feet annually; and
11

12 WHEREAS, the 2016 Idaho Legislature passed and approved Senate Concurrent Resolution 136
13 directing the IWRB to develop the capacity to achieve 250,000 acre-feet of annual average managed
14 recharge to the ESPA by December 31, 2024; and
15

16 WHEREAS, implementation of managed recharge on the ESPA will meet the goals and objectives
17 of stabilizing and improving aquifer levels for, among other things, protecting municipal and domestic
18 drinking water supplies and addressing variability in climatic conditions, including drought; and
19

20 WHEREAS, the American Rescue Plan Act (ARPA), Pub. L. 117-2 subtitle M (2021), appropriated
21 \$219,800,000,000 to the Coronavirus State and Local Fiscal Recovery Fund (SLFRF) for making payments
22 to the States to mitigate the fiscal effects stemming from the public health emergency with response to
23 the Coronavirus disease; and
24

25 WHEREAS, the SLFRF funds may be used to, among other things, make necessary investments in
26 water, sewer, or broadband infrastructure. Pub L. 117-2 sec. 602(c)(1)(D), 42 U.S.C. § 802(c)(D); and
27

28 WHEREAS, eligible uses of the SLFRF include projects that would be eligible to receive financial
29 assistance through the Clean Water State Revolving Fund (CWSRF), 40 CFR Part 35.3100—35.3170, and
30 the Drinking Water State Revolving Fund (DWSRF), 40 CFR 35.3520; and
31

32 WHEREAS, the CWSRF may be used for groundwater projects that protect and restore aquifers,
33 including aquifer recharge projects; and
34

35 WHEREAS, the DWSRF can fund aquifer recharge projects such as aquifer storage and recover
36 wells and water reuse and recycling projects which can replace and offset potable water use and to
37 develop new sources of water to increase drought resilience; and
38

39 WHEREAS, in 2022 the Idaho Legislature passed House Bill 769 in which it expressed its intent to
40 set aside approximately \$250,000,000 of ARPA funding to support projects managed by the IWRB,

41 including for the continued identification, study, construction, or enlargement of managed aquifer
42 recharge sites above Milner Dam; and
43

44 WHEREAS, House Bill 769 appropriated \$100,000,000 for Fiscal Year 2023 to support projects
45 managed by the IWRB, including for the continued identification, study, construction, or enlargement of
46 managed aquifer recharge sites above Milner Dam; and
47

48 WHEREAS, Idaho Code § 42-1760 authorizes the IWRB to expend, loan, or grant moneys from the
49 water management account for water projects that conserve or increase water supply, improve drought
50 resiliency, address water sustainability, or support flood management, including the identification, study,
51 and construction of managed aquifer recharge sites above Milner dam; and
52

53 WHEREAS, in 2017 the IWRB completed the South Fork Managed Recharge Feasibility Evaluation
54 demonstrating the feasibility and potential of managed recharge sites in the area of the proposed 55th
55 Road Recharge Site ; and
56


57 WHEREAS, the 55TH Road Recharge Project will contribute to the IWRB goal of achieving 250,000
58 acre-feet of annual average managed recharge to the ESPA by December 31, 2024 and will meet the goals
59 and objectives of stabilizing and improving aquifer levels for, among other things, protecting municipal
60 and domestic drinking water supplies and addressing variability in climatic conditions, including drought;
61 and
62

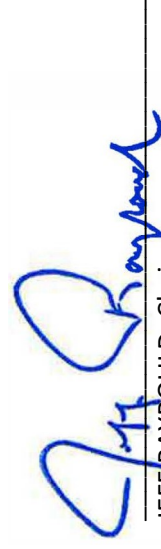
63 WHEREAS, cost estimates provided by ECC for the construction of the proposed ECC's 55th Road
64 recharge site plus associated monitoring infrastructure is \$1,700,000.
65

66 NOW THEREFORE BE IT RESOLVED that the IWRB authorizes expenditures up to \$1,700,000 from
67 the ARPA State Fiscal Recovery Fund for the development of the 55th Road Recharge Site; and
68

69 NOW THEREFORE BE IT FURTHER RESOLVED that the IWRB authorizes its chairman or designee,
70 to execute the necessary agreements or contracts for the purpose of this resolution.

DATED this 31st day of March 2023.

ATTEST 
DEAN STEVENSON, Secretary


JEFF RAYBOULD, Chairman
Idaho Water Resource Board

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF APPROVAL OF AMENDED
RENTAL POOL PROCEDURES FOR THE UPPER
SNAKE RIVER RENTAL POOL

RESOLUTION TO APPROVE AMENDED RENTAL
POOL PROCEDURES FOR 2023

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, also known as the Committee of
6 Nine, is the local committee appointed by the Idaho Water Resource Board to facilitate the lease
7 and rental of stored water within the Upper Snake River Rental Pool; and
8

9 WHEREAS, the Water District 01 Advisory Committee has adopted amended procedures
10 for the calendar year 2023, pursuant to which they intend to facilitate the lease and rental of
11 rental pool stored water; and
12

13 WHEREAS, the Director of the Department of Water Resources has reviewed the local
14 committee procedures and may recommend that the Idaho Water Resource Board approve the
15 rental pool procedures; and
16

17 NOW, THEREFORE BE IT RESOLVED that the amended Upper Snake River Rental Pool
18 procedures are approved by the Idaho Water Resource Board.

DATED this 31st day of March 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST


DEAN STEVENSON, Secretary

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF APPROVAL OF AMENDED
RENTAL POOL PROCEDURES FOR THE BOISE
RIVER RENTAL POOL

RESOLUTION TO APPROVE AMENDED RENTAL
POOL PROCEDURES FOR 2023

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 63 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 Boise
7 River Rental Pool; and
8

9 WHEREAS, the Water District 63 Advisory Committee has adopted amended procedures
10 for the calendar year 2023, pursuant to which they intend to facilitate the lease and rental of
11 rental pool stored water; and
12

13 WHEREAS, the Director of the Department of Water Resources has reviewed the local
14 committee procedures and may recommend that the Idaho Water Resource Board approve the
15 rental pool procedures; and
16

17 NOW, THEREFORE BE IT RESOLVED that the amended Boise River Rental Pool procedures are
18 approved by the Idaho Water Resource Board.

DATED this 31st day of March 2023.


JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST 
DEAN STEVENSON, Secretary

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF APPROVAL OF AMENDED
RENTAL POOL PROCEDURES FOR THE PAYETTE
RIVER RENTAL POOL

RESOLUTION TO APPROVE AMENDED RENTAL
POOL PROCEDURES FOR 2023

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 65 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 Payette River Rental Pool; and
8

9 WHEREAS, the Water District 65 Advisory Committee has adopted amended procedures
10 for the calendar year 2023, pursuant to which they intend to facilitate the lease and rental of
11 rental pool stored water; and
12

13 WHEREAS, the Director of the Department of Water Resources has reviewed the local
14 committee procedures and may recommend that the Idaho Water Resource Board approve the
15 rental pool procedures; and
16

17 NOW, THEREFORE BE IT RESOLVED that the amended Payette River Rental Pool procedures
18 are approved by the Idaho Water Resource Board.

DATED this 31st day of March 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST


DEAN STEVENSON, Secretary

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE BOISE CITY CANAL
COMPANY LOAN REQUEST

RESOLUTION TO AUTHORIZE LOAN FUNDING
FOR COSTS RELATED TO DELIVERY SYSTEM
INFRASTRUCTURE REPAIRS AND
IMPROVEMENTS

1 WHEREAS, Boise City Canal Company (Company) submitted a loan application to the Idaho
2 Water Resource Board (IWRB) in the amount of \$200,000.00 to cover costs associated with the repair
3 and improvement of existing delivery infrastructure; and
4

5 WHEREAS, the Company was established in 1869 during the consolidation of several existing
6 irrigation companies within Ada county; and
7

8 WHEREAS, the Company delivers water for approximately 750 small-acreage urban shareholders
9 along with various other public works within Ada county; and
10

11 WHEREAS, to remain sustainable for future use and mitigate for seasons with below average
12 flows, the Company will need to make improvements to existing infrastructure; and
13

14 WHEREAS, the total estimated cost for the Project is approximately \$422,000, and the Company
15 has secured additional funding in the amount of \$122,000 from the Board's Aging Infrastructure grant
16 program; and
17

18 WHEREAS, the Company is a qualified applicant, and the proposed Project is eligible for a loan
19 from the Board's Revolving Development Account; and
20

21 WHEREAS, the proposed Project is in the public interest and is in compliance with the State
22 Water Plan.
23

24 NOW THEREFORE BE IT RESOLVED that the IWRB approves a loan not to exceed \$200,000 from
25 the Revolving Development Account at 7.5 % interest with a 5-year repayment term.
26

27 NOW THEREFORE BE IT FURTHER RESOLVED that the IWRB provides authority to the Chairman
28 of the Idaho Water Resource Board, or his designee, to enter into contracts, to effectuate the loan, with
29 the District on behalf of the IWRB.
30

31 NOW THEREFORE BE IT FURTHER RESOLVED that this resolution and the approval of the loan are
32 subject to the following conditions:
33

- 34 1) The Company shall comply with all applicable rules and regulations that apply to the
35 proposed Project.
36 2) Prior to the disbursement of any funds, the Company shall comply with all statutory
37 requirements for incurring debt.

38 3) Prior to the disbursement of any funds, the Company will provide acceptable security for the
39 loan to the IWRB, including its assessment income which the Company collects from its
40 members.
41

DATED this 31st day of March, 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST



DEAN STEVENSON, Secretary