



# AGENDA

## IDAHO WATER RESOURCE BOARD

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**Streamflow Enhancement & Minimum Streamflow  
Committee Meeting No. 2-23  
Monday, December 18, 2023  
1:00 p.m. (MT) / noon (PT)**

**Brad Little**  
*Governor*

**Jeff Raybould**  
*Chairman*  
St. Anthony  
At Large

**Jo Ann Cole-Hansen**  
*Vice Chair*  
Lewiston  
At Large

**Dean Stevenson**  
*Secretary*  
Paul  
District 3

**Dale Van Stone**  
Hope  
District 1

**Albert Barker**  
Boise  
District 2

**Brian Olmstead**  
Twin Falls  
At Large

**Marcus Gibbs**  
Grace  
District 4

**Patrick McMahon**  
Sun Valley  
At Large

Water Center  
Conference Room 602 C & D  
322 E. Front St.  
BOISE

**Livestream available at <https://www.youtube.com/@iwrb>**

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1. Introductions and Attendance
2. City of Hagerman / Billingsley Creek\*
3. Lemhi River Settlement / McFarland Minimum Streamflow Water Right\*
4. Other Items
5. Adjourn

Committee Members: Chair Patrick McMahon, Dean Stevenson, Brian Olmstead, and Dale Van Stone.

\* Action Item: A vote regarding this item may be made at 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 in person and online. If you require special accommodations to attend, participate in, or understand the meeting, please make advance arrangements by contacting Department staff by email [jennifer.strange@idwr.idaho.gov](mailto:jennifer.strange@idwr.idaho.gov) or by phone at (208) 287-4800.

# Memorandum



To: IWRB Streamflow Committee

From: Brian Patton

Date: 12/15/2023

Re: City of Hagerman and Billingsley Creek Minimum Streamflow Water Right

Through an agreement with the Idaho Department of Parks and Recreation, the City of Hagerman received a portion (1.4 cfs out of 5.16 cfs) of Water Right 36-0049 from Florence Livestock Spring. Water Right 36-0049 is an irrigation right with a 1900 priority date. Florence Livestock Spring is tributary to Billingsley Creek in the Hagerman Valley.

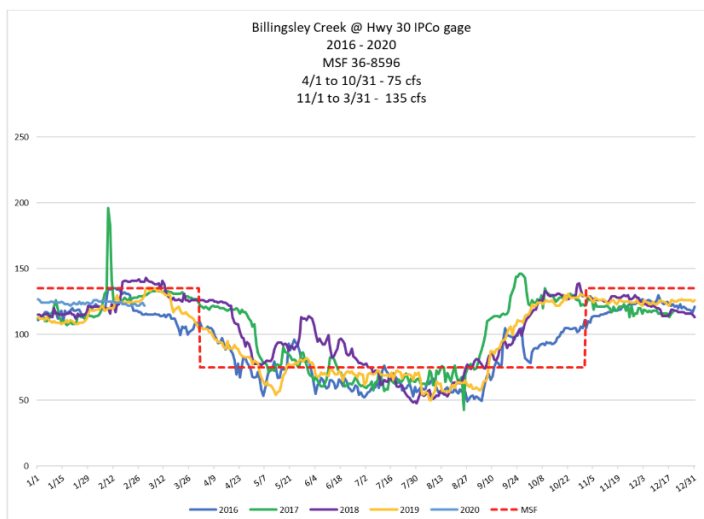
In 2021 the City applied to IDWR to transfer 1 cfs of 36-0047 to year-round municipal use. In February of 2022, IDWR issued a preliminary order approving the transfer for 1 cfs for irrigation season use only. The City requested a hearing on the approval and has been participating in an informal settlement process with IDWR, attempting to change the period of use to year-round. IDWR's primary concern is changing the irrigation right from irrigation season to year-round use and potential injury to existing downstream water rights on Billingsley Creek, including the IWRB's minimum streamflow water rights. The IWRB did not protest City's proposed transfer.

The Idaho Water Resource Board holds two minimum streamflow water rights on Billingsley Creek, both of which would be potentially impacted by the City's proposal. They are summarized as follows upstream to downstream:

36-08793 -- Reach B*	100 cfs year round	1999	Permit
36-08596 – Reach 1	75 cfs Apr 1 – Sep 30 135 cfs Oct 1 – Mar 31	1991	Permit
36-08596 – Reach 2	50 cfs Apr 1 – Sep 30 100 cfs Oct 1 – Mar 31		
36-08596 – Reach 3	30 cfs year round		

\*Reach A of 36-08793 is upstream of where Florence Livestock Spring enters Billingsley Creek.

The flows in Billingsley Creek at the Highway 30 stream gage are:



The City's proposed transfer would reduce flows in Billingsley Creek used to meet the minimum streamflow rights by 1 cfs in the winter. The City's proposal would also reduce irrigation season diversions by 0.4 cfs, increasing flows available to meet the minimum streamflow rights in this season.

The City would like to ensure the IWRB does not oppose its proposed transfer, and would like the IWRB's support, during its process with IDWR. Representatives of the City will be at the Streamflow Committee meeting to discuss its proposal.

**Attachments:** *List any attached documentation*

# Memorandum

To: IWRB Streamflow Enhancement and Minimum Streamflow Committee  
From: Amy Cassel  
Date: December 14, 2023  
Re: Lemhi River at McFarland Minimum Stream Flow Exercise



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**REQUIRED ACTION:** Recommendation of attached resolution for approval by the full IWRB

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## Summary

The Lemhi River Basin Comprehensive Settlement Agreement (Agreement), executed on February 24, 2022, set forth a legal process for irrigators in the Lemhi River Basin who divert high flow ancillary to their decreed water rights under a General Provision in the Snake River Basin to perfect a water right for their “high flow” use. Parties to the Agreement include various Lemhi Basin water users, the Idaho Water Resource Board (IWRB), Idaho Department of Fish and Game (IDFG), and the Idaho Office of Species Conservation. Participation in the Agreement is voluntary and allows water users to continue to divert water under the General Provision if they do not choose to obtain a protectable a water right for high flow use.

The Agreement established the Lemhi Settlement Steering Committee (Steering Committee) to oversee the implementation of the Agreement. The IWRB approved the Steering Committee Charter and Members List via resolution on March 31, 2023. The Steering Committee met on December 5, 2023, at the IDWR Salmon Field Office. The following recommendations were discussed:

## Steering Committee Recommendation

The Steering Committee concluded the following steps should be completed prior to IWRB’s exercise of the McFarland MSF: 1) the permitting and accounting of streamflow maintenance water rights by the department; 2) the establishment of a McFarland MSF effectiveness monitoring program; and 3) an assessment of increased flow and potential effects of the McFarland MSF exercise. In the meantime, if natural conditions are favorable for a McFarland MSF exercise, the Steering Committee agrees that the flushing flow benefits all parties and acknowledges the importance of seizing those opportunities in an unpredictable climate. Therefore, water users that are party to the Agreement and who divert water upstream of the McFarland Campground may voluntarily agree to cease diversion of their high flow to meet the McFarland MSF, and that exercise should be counted towards the two in every five-year rolling period.

## Lemhi River at McFarland Minimum Stream Flow

Part of the settlement included the establishment of the Lemhi River at McFarland Campground minimum stream flow (McFarland MSF). Conditions on the McFarland MSF include “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. 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 the Lemhi runoff.”

The McFarland MSF protocol, which was developed by Carter Borden of Centered Consulting, defines the criteria and indicators for exercising the McFarland MSF. The IWRB approved the Lemhi River at McFarland Campground Minimum Stream Flow Protocol resolution at the March 31, 2023, IWRB meeting.

Snowpack and precipitation conditions in May 2023, as defined and quantified in the McFarland MSF protocol, indicated a favorable year to exercise the McFarland MSF. An exercise was planned for June 9 – 12, 2023. A complaint from a landowner located downstream of the Lemhi at McFarland MSF was received on June 8, 2023. The landowner was concerned about potential flooding, and inquired whether the IWRB would

pay for any damage they deemed was a result of the 72-hour MSF exercise. Due to this complaint and uncertainty regarding IWRB's liability, the exercise was cancelled.

### **McFarland MSF Effectiveness Monitoring**

The goal of the McFarland MSF is to 1) flush the overlying fine sediment of the armored Lemhi River streambed and 2) mobilize streambed materials to restore and enhance fish habitat. Determining the effectiveness of the "flushing flow" requires the collection and analysis of baseline conditions in the Lemhi River reach near the McFarland campground. IWRB staff is working with Carter Border of Centered Consulting and IDWR staff hydrologist Ryan McCutcheon to develop a McFarland MSF effectiveness monitoring program. Baseline data collection will begin in spring 2024.

### **"High flow" water rights**

Water users in the Lemhi Basin can now perfect their "high flow" use by filing for a streamflow maintenance water right application. The deadline for filing a streamflow maintenance water right application is July 1, 2024. There is no current mechanism to require streamflow maintenance water right holders to cease diversion while the McFarland MSF is being exercised because the rights do not yet exist.

### **Attachment**

- 1. Resolution For Steps Needed to Exercise the Lemhi at McFarland Minimum Stream Flow**

**BEFORE THE IDAHO WATER RESOURCE BOARD**

IN THE MATTER OF THE LEMHI RIVER BASIN

RESOLUTION FOR STEPS NEEDED TO  
EXERCISE THE LEMHI AT MCFARLAND  
MINIMUM STREAM FLOW

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

5  
6           WHEREAS, in 2021, the Idaho Water Resource Board, Idaho Department of Fish and  
7 Game, Idaho Office of Species Conservation, and Various Lemhi Basin Water Users signed the  
8 Lemhi River Comprehensive Settlement Agreement (Agreement); and

9  
10           WHEREAS, the Agreement creates a comprehensive process for 1) resolving protests to  
11 pending applications for permits, 2) appropriating water rights to establish protectable water  
12 rights for the existing high flow practice, and 3) appropriating instream flow water rights on  
13 certain streams for fish passage, spawning, and rearing; and

14  
15           WHEREAS, on February 24, 2022, the Board approved the Agreement by resolution; and

16  
17           WHEREAS, participation in the Agreement is voluntary; and

18  
19           WHEREAS, as part of the Agreement, the 2022 Idaho Legislature enacted 42-251(2)  
20 Idaho Code, which allows Lemhi irrigators who hold irrigation rights decreed in the SRBA and  
21 who use Lemhi Basin “high flow” to file an application for permit with the department of water  
22 resources to convert such use into a protectable water right on or before July 1, 2024, and  
23 these protectable water rights are known as streamflow maintenance water rights; and

24  
25           WHEREAS, as part of the Agreement, the 2022 Idaho Legislature enacted 42-1506A,  
26 Idaho Code, which authorized the Board to appropriate a minimum stream flow water right on  
27 the Lemhi River at the McFarland Campground (McFarland MSF) in the amount of 420 cfs; and

28  
29           WHEREAS, the McFarland MSF may be exercised two out of every five years, and the  
30 exercise of the right shall be limited to a duration of three days (72 hours) between March 15<sup>th</sup>  
31 to July 6<sup>th</sup>. The five-year period shall be a rolling period; and

32  
33           WHEREAS, the McFarland MSF aims to 1) flush the overlying fine sediment of the  
34 armored Lemhi River streambed and 2) mobilize streambed materials to restore and enhance  
35 fish habitat; and

36  
37 WHEREAS, the board needs to develop an effectiveness monitoring program for the  
38 McFarland MSF; and

39  
40 WHEREAS, as a condition of obtaining a streamflow maintenance water right, the  
41 applicant agrees to the inclusion of a condition on the streamflow maintenance water right that  
42 requires the applicant to cease diversions under the right while the McFarland MSF is being  
43 exercised; and

44  
45 WHEREAS, the deadline for filing a streamflow maintenance water right application is  
46 July 1, 2024, and therefore, there is no current mechanism to require streamflow maintenance  
47 water right holders to cease diversion while the McFarland MSF is being exercised because the  
48 rights do not yet exist; and

49  
50 WHEREAS, the exercise of the McFarland MSF will increase flow in the Lemhi River and  
51 the Board needs to assess the extent and potential effects of that increased flow; and

52  
53 NOW, THEREFORE BE IT RESOLVED, the following steps need to be completed to  
54 exercise the McFarland MSF: 1) the permitting and accounting of streamflow maintenance  
55 water rights by the department; 2) the establishment of a McFarland MSF effectiveness  
56 monitoring program; and 3) an assessment of increased flow during the McFarland MSF  
57 exercise; and

58  
59 NOW, THEREFORE BE IT FURTHER RESOLVED, water users that are party to the  
60 settlement and who divert water upstream of the McFarland Campground may voluntarily  
61 agree to cease diversion of their high flow to meet the McFarland MSF; and

62  
63 NOW, THEREFORE BE IT FURTHER RESOLVED, that voluntary exercise may occur prior to  
64 the completion of the steps listed in lines 53-57; and

65  
66 NOW, THEREFORE BE IT FURTHER RESOLVED, the voluntary exercise should be counted  
67 towards the two in every five-year rolling period.

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DATED this 19<sup>th</sup> day of January 2024.

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JEFF RAYBOULD, Chairman  
Idaho Water Resource Board

ATTEST \_\_\_\_\_  
DEAN STEVENSON, Secretary

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