

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
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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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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
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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 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
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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
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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
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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
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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
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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
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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
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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
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66 WHEREAS, participation in the Agreement is voluntary; and
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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
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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
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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

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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

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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.

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DATED this 31st day of March 2023.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST 

DEAN STEVENSON, Secretary