

**From:** [Brett Bovee](#)  
**To:** [Condon, Mary](#)  
**Cc:** [RulesInfo](#); [Gail Martin](#)  
**Subject:** RE: Second Public Meeting - June 23, 2025 - Shoshone Bannock Water Bank Rules - IDAPA 37.02.04  
**Date:** Tuesday, July 8, 2025 11:26:31 AM  
**Attachments:** [image001.png](#)

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Hi Mary,

I am submitting the following comments on behalf of the Shoshone Bannock Tribes in response to the draft “strawman” Tribal Water Bank rules dated 6/18/2025 and provided on the following website

These comments are provided for: Tribal Water Supply Bank Rules. IDAPA 37.02.04

In general, the Tribes appreciate the time that IDWR has taken to revise and improve upon the past Tribal Water Supply Bank Rules and the current draft represents an improved rule set.

Comments:

1. **Section 040.01. Rental Priorities** – this section refers to a priority for Fort Hall water users to have a right of first refusal to any Tribal storage rentals as provided in the Agreement. This organization existed at the time of the Agreement but is no longer an active organization and therefore the Tribes do not really have an ability to notify this group as a right of first refusal. The existing language is fine but wanted to flag this in case there is additional language needed.
2. **Section 040.03. Content of Approved Rental Agreements.** Item (e) states “The legal description of the point of diversion and place of use”. This definition is likely to be challenging for some rental agreements that are providing water for mitigation purposes. Suggest revising this item to “A description of the intended use of the rented water” or something like that. Many of our existing water lease agreements do not define a specific POD / POU but they do describe the nature of use.
3. **Section 055. Term of Rentals.** The Agreement does not include any limitation on the term of Tribal storage rentals and the Tribes would like to have the ability to evaluate rental agreements longer than five years without having to receive specific approval from the Idaho Water Resources Board. The five year limitation on storage rentals is found in the Water Supply Bank Rules which are not directly referenced in the Agreement (but are referenced in 42-1762 as stated in the Agreement) and it appears that IDWR has adopted the 5-year limit as part of Rental Pool policies in relation to potential forfeiture stated in 42-222. The Tribal water rights, including the storage rights, are not subject to same forfeiture risks as other state water rights per the terms of the Agreement. The Tribe is willing to provide notification to IWRB of any lease that exceeds

a 5-year term but is formally requesting that the requirement for IWRB approval be removed from the Tribal Water Bank rules. Suggested change to text: "The Committee may rent tribal stored water for any period of time. Any request to rent water for a period in excess of five (5) years will require that the Tribes provide notice to the Idaho Water Resource Board 30 days prior to a rental application being submitted to the Committee for consideration."

Thank you for consideration. I believe that Gail plans to attend the IWRB meeting on July 24-25 in Idaho Falls to present these comments as well.

Please let Gail (copied) and me know if you have any questions or clarifications on the comments listed above.

Thanks,  
Brett

**Brett Bovee**  
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**From:** Condon, Mary <Mary.Condon@idwr.idaho.gov>

**Sent:** Tuesday, June 17, 2025 11:20 AM

**To:** Margaret Major <margaret.major@dfm.idaho.gov>; bob.igwa@gmail.com; watermaster29d@gmail.com; Kristin Evans <watermaster29h@gmail.com>; watermaster129@gmail.com; The American Falls Aberdeen GWD <americanfalls.aberdeen.gwd@gmail.com>; iwpg.ltominaga@gmail.com; gail.martin@sbtribes.com; Brett Bovee <bovee@waterexchange.com>; TJ Budge <tj@racineolson.com>; Michael Hilliard <mhilliard@usbr.gov>; EMcgarry@usbr.gov; ralcorn@usbr.gov; Chandler, Craig <Craig.Chandler@idwr.idaho.gov>; mvgwd@hotmail.com; nsgwd@safelink.net; Jaxon Higgs <jaxon@waterwellconsultants.com>; wparsons@magicvalley.law

**Subject:** Second Public Meeting - June 23, 2025 - Shoshone Bannock Water Bank Rules - IDAPA 37.02.04

Good morning,

We will be hosting a public meeting for a second revision to the strawman rule for the Shoshone Bannock Water Bank on Monday, June 23, 2025, at 3:00 pm (MT). I have attached the agenda, which includes the MS Teams meeting link information. In-person participation will be in the IDWR State Office in Boise. We will make every attempt to have the second revision of the Strawman on our [IDWR Rulemaking 2025/2026 webpage](#) no later than noon on Thursday, June 19<sup>th</sup>.

Please let me know if you are planning on attending next Monday NLT Friday, June 20,

2025, and if your attendance will be in-person or virtual.

Thank you,  
Mary

Mary Condon  
Project Manager I  
Planning & Projects Bureau



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