

July 6, 2022

Mary Condon
Water Supply Bank Coordinator
Idaho Department of Water Resources
mary.condon@idwr.idaho.gov

Sent Via Email

Re: Comments on Version 1 of the redlined Water Supply Bank Rules

Dear Mary:

Thank you for the opportunity to review and submit comments on proposed amendments to rules 25, 30, and 40 of the Water Supply Bank Rules (the “Rules”). The following comments are submitted on behalf of Idaho Ground Water Appropriators, Inc. (IGWA).

IGWA is made up of nine ground water districts and one irrigation district whose members collectively irrigate nearly one million acres of farmland on the Eastern Snake River Plain. IGWA’s member districts measure and report groundwater diversions from the Eastern Snake Plain Aquifer (ESPA) and develop and implement mitigation plans to protect their members from curtailment.

As you know, groundwater rights from the ESPA are frequently leased into and rented from the Bank. The ability to rent water from the Bank is a valuable tool for water users to meet short-term needs but it can present challenges for IGWA’s members in terms of water right accounting and implementation of mitigation plans. IGWA appreciates the Board’s effort to revisit and improve the Rules, and offers the following suggestions for your consideration:

1. **Area of Common Ground Water Supply (ACGWS).** Rentals of groundwater from a point of diversion outside the ACGWS to a point of diversion inside the ACGWS effectively create new withdrawals from the ESPA, even if the point of diversion moves a relatively short distance. Given the moratorium on new groundwater rights from the ESPA, new groundwater withdrawals should not be permitted within the ESPA. Therefore, we kindly request that either the Rules or IWRB processing policies be amended so that no groundwater rights with a point of diversion outside the ACGWS be rented to a point of diversion inside the ACGWS.
2. **Ground Water District review.** Rule 30.04 currently requires the Director to give notice of an intended rental as he or she deems necessary. A number of rentals have been approved that create problems for ground water districts because the rental results in an enlargement in use, causes water to be moved between districts, or otherwise. We kindly request that rule 30.04 be amended to require the Bank to give notice of a proposed rental of groundwater to the district within which the rented water will be diverted, and to request comment from the district like the Bank does with the watermaster. The district can then advise the Bank know if there are issues that should be considered in processing the application.
3. **Rentals between ground water districts.** Rentals between ground water districts may require changes to accounting of mitigation obligations of the affected districts, and may cause problems

for the water user and the district of those obligations are not understood. We kindly request that the Bank include the following or a similar condition on rental agreements for groundwater rights located within a ground water district: “At the time of this agreement, the water rental is within *** Ground Water District. This Agreement does not determine Ground Water District mitigation obligations associated with the rented water. Renter must contact the District and comply with all mitigation obligations associated with the rented water.”

4. **Substitute different terms for “lease” and “rental.”** In general parlance, the terms “lease” and “rental” are synonymous. However, the Rules assign different meanings to these terms. Rule 10.05 defines “lease” as a conveyance of water *to* the Bank, whereas Rule 10.08 defines “rent” as a conveyance of water *from* the Bank. While these definitions eventually become familiar to those who deal frequently with the Rules, they are a common source of confusion for those who do not. This confusion could be avoided by using the word “deposit” to refer to placing water into the Bank, using the word “lease” to refer to the lease of water from the Bank to a lessee, and using the word “rent” to refer to compensation paid by the lessee for use of the leased water.
5. **Signing of Water Supply Bank applications.** The Bank has historically required that applicants mail original signatures to the Bank for filing. There is no legal need for original signatures, it is often inconvenient, and it slows down the approval process considerably. I would very much appreciate the Rules allowing scanned, photographed, or facsimile copies of signatures, and to allow applications to be submitted via email or online.

Thank you again for the opportunity to submit comments. Should you have any questions about these comments, please feel free to give me a call.

Sincerely,



T. J. BUDGE

c: Bob Turner
Jaxon Higgs
Alan Jackson