



**IDAHO DEPARTMENT OF FISH AND GAME**

600 S. Walnut/P.O. Box 25  
Boise, Idaho 83707

C.L. "Butch" Otter/Governor  
Cal Groen/Director

December 11, 2008

Ms. Helen Harrington  
Manager, Water Planning Section  
Idaho Department of Water Resources  
322 East Front Street  
PO Box 83720  
Boise, Idaho 83720

Dear Ms. Harrington:

Thank you for the opportunity to review and provide comments to the Idaho Water Resource Board State Water Plan Subcommittee regarding revisions to the Idaho's State Water Plan. Our comments focused primarily on the sections dealing with the Minimum Stream Flows, State Protected River System, Riparian Habitat and Wetlands, and Stream Channel Rehabilitation.

Our comments are provided as an enclosure to this letter of transmittal. If you have any questions about these comments, please contact Walt Poole (208 287 2714 or [wpoole@idfg.idaho.gov](mailto:wpoole@idfg.idaho.gov)) for any clarification or assistance.

Sincerely,

A handwritten signature in cursive script that reads "Sharon W. Kiefer".

Sharon W. Kiefer  
Assistant Director -Policy

SK:WP:mb

Enclosure

cc: Bonnie Butler, Governor's Office  
Environmental Staff Biologists, IDFG

### 3 B - STATE PROTECTED RIVER SYSTEM

**It is the policy of Idaho that a state protected river system be maintained to meet the desires of the citizens of Idaho. The system should provide for the protection of the unique features that exist on various rivers within the state, and should provide the necessary authority and funding to protect such rivers and related lands for recreational, scenic, and natural values.**

**Comment:** Idahoans have expressed a desire to retain some rivers or river reaches in a free-flowing condition. Idaho Code 42-1734A(1) authorizes the Idaho Water Resource Board to protect highly-valued waterways as State protected rivers. The authority to designate “protected rivers” derives from the State’s power to regulate the beds of navigable streams and the waters within the state. In 1991 the Idaho Legislature approved the first stream reaches for state protection.

Because of the comprehensive scope of state water planning, the Idaho Water Resource Board encourages the federal government to work within the state water planning process to ensure coordinated water planning between the state and federal agencies rather than independently pursuing federal protection of waters within Idaho. Without this coordination, Federal federal protection adds another layer of bureaucracy to water planning and may limit limits planning and state management flexibility. State water planning provides a means for ensuring coordinated water planning by both federal and state governments.

#### **Implementation Strategies:**

IDWR will review comprehensive water plans to establish validity of water rights and stream alterations requests before considering permitting for protected rivers.

Activities seeking stream channel alteration permits or water rights in protected rivers or river reaches, if allowed, must demonstrate how the proposed development will protect, restore or enhance those waters.

### 3 C - RIPARIAN HABITAT AND WETLANDS

It is the policy of Idaho to protect the ecological viability of riparian habitat and wetlands within the state in the public interest.

**Comment:** Riparian lands and wetlands are important components of a healthy and properly functioning watershed. The State of Idaho encourages protection of public riparian lands and wetlands, and the practice of good stewardship in managing private lands. Riparian and wetland protection above the mean high water elevation should be implemented at the watershed level. The authority to control land use and opportunities to facilitate the protection of riparian lands and wetlands above the mean high water elevation are set out in the Local Planning Act of 1975, as amended. The Idaho Stream

Channel Protection Act [Idaho Code 42-3801 thru 3812] regulates alteration of stream bed below the mean high water elevation.

**Implementation Strategies:**

Modify the definition of stream protected under Stream Channel Protection Act to include ephemeral and intermittent streams.

With support and consultation of appropriate agencies and stakeholders, develop definitions/designations for riparian areas. Develop and implement suitable protection guidelines and strategies, which could include enhancing the Stream Channel Protection Act to include delineated wetlands and riparian areas..

Seek funding to provide support to individuals or organizations to protect, restore, and enhance wetlands and riparian areas, consistent with the stated policy.

**Milestones:**

Funding requests and action plans to support the policy.

**3 D- STREAM CHANNEL REHABILITATION**

**It is the policy of Idaho that the costs and benefits of stream channel rehabilitation be evaluated where past activities currently or potentially affect the water yield or and quality, and other state protected resource values of the state's watersheds.**

**Comment:** Catastrophic flooding is often the outcome of heavy run-off combined with human disturbances, and may result in the destruction of stream channels. The functional loss of impacted channels may threaten public safety, private property, and the overall quality and quantity of water produced in the affected watershed. It is appropriate for the State to take action to rehabilitate impacted stream channels where public safety may be threatened, or where the remedial costs are less than the potential damages.

~~Many early mining projects have been built and later abandoned. Some of these projects have deteriorated to the extent that public safety and water resources values are threatened. Where liability cannot be established, and public safety may be threatened, Where current practices or legacy effects of past activities have adverse impacts on stream channel integrity or function and threaten public safety and water resource values, and where liability cannot be established, the State should take remedial action.~~

**Implementation Strategies:**

Complete a statewide inventory of streams where natural events or human activities have altered channels that threaten public safety, private property, or other water resource values.

Complete a cost/benefit analysis for rehabilitation of affected streams.

Prioritize projects.

Obtain funding to conduct rehabilitation for identified streams.

**Milestones:**

Inventory completed

Cost benefit analysis

Prioritization of projects

Funding obtained

**2E - INSTREAM FLOW**

**When it is in the public interest, the Idaho Water Resource Board should seek to appropriate waters in the state for instream flow purposes.**

**Comment:** Instream flows protect many nonconsumptive uses such as fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation, navigation, hydropower and water quality. Many of these uses have direct effects on the economy while others represent intangible values and the public interest. Chapter 15, Title 42, Idaho Code, provides the authority and spells out procedures for the Idaho Water Resource Board to appropriate water for minimum stream flows.

The Idaho Water Resource Board supports efforts to obtain storage and natural flow rights to improve and maintain instream flows when in the public interest. By law [Idaho Code 42-108 and 42-222], provision is made to protect other water users and the agricultural base of an area.

The State Water Supply Bank and local rental pools are tools ~~which~~ that can be used to improve stream flows through voluntary cooperation and to meet local needs. The Lemhi River Natural Flow rental pool and the Big Wood River Water Supply Bank are examples of locally managed programs ~~which~~ that are used to supply stream flow during critical times while working to meet local traditions and concerns.

**Implementation Strategies:**

Establish local rental pools to meet instream flow needs as requested

Identify and apply for minimum stream flow water rights as necessary

Coordinate Coordination with other agencies to identify potential minimum stream flow needs

**Milestones:**

Finalization of minimum instream flow water rights

Annual summary of instream flow water rights established.

**Recommendations:**

Statutory authority to establish local natural flow rental pools for basins as needed

Chapter 15, Title 42, Idaho Code, should be expanded to enable the Idaho Water Resource Board to transfer acquired water rights to minimum instream flow water rights