THE WATER PLANNING PROGRAM

The Idaho State Water Plan was adopted by the Idaho Water Resource Board to guide the development, management, and use of the state's water and related resources. The plan recognizes past actions, addresses present conflicts and opportunities, and seeks to ensure that future water resource planning will best serve the citizens of Idaho. The plan is subject to change so as to be responsive to new opportunities and needs.

Constitutional Authority

Article XV, Section 7 of the Idaho Constitution provides the authority for the preparation of a State Water Plan. This constitutional amendment was adopted in November 1964 following a statewide referendum and states:

> *There shall be constituted a Water Resource Agency, composed as the Legislature may now or hereafter prescribe, which shall have power to formulate and implement a state water plan for optimum development of water resources in the public interest; to construct and operate water projects; to issue bonds, without state obligation, to be repaid from revenues of projects; to generate and wholesale hydroelectric power at the site of production; to appropriate public waters as trustee for Agency projects; to acquire, transfer and encumber title to real property for water projects and to have control and administrative authority over state land required for water projects; all under such laws as may be prescribed by the Legislature.*

Article XV, Section 3 of the Idaho Constitution provides for the appropriation and allocation of water. Section 3 provides that:

> *The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied, except that the state may regulate and limit the use thereof for power purposes.*
>
> *Priority of appropriation shall give the better right as between those using the water; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall (subject to such limitations as may be prescribed by law) have the preference over those claiming for any other purpose; and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes. And in any organized mining district those using the water for mining purposes or milling purposes connected with mining have preference over those using the same for manufacturing or agriculture purposes.*
>
> *But the usage by such subsequent appropriators shall be subject to such provisions of law regulating the taking of private property for public and private use, as referred to in section 14 of article I of this Constitution.*

Although no legal confrontations have occurred, Section 7 probably tempers Section 3 in that future water development must be guided by the State Water Plan.

Legislative Authority

Article XV, Section 7 of the Idaho Constitution called for the creation of a "Water Resource Agency" but did not establish the agency. In 1965, the 38th Legislature established the Idaho Water Resource Board, and directed that (as amended):

> *The Idaho Water Resource Board shall, subject to legislative approval, progressively formulate, adopt and Implement a comprehensive state water plan for conservation, development, management and optimum use of all unappropriated water resources and waterways of this state in the public interest.*

Idaho Code 42-1734A(1)

To assist the Idaho Water Resource Board, the Legislature provided for the director of the Department of Water Resources:

> *To perform administrative duties and such other functions as the Board may from time to time assign to the Director to enable the Board to carry out its powers and duties.*

Idaho Code 42-1805(6)

Article XV, Section 7 was amended by the electorate during the general election of November 6, 1984. This modification provides that:

The Legislature of the State of Idaho shall have the authority to amend or reject the state water plan in a manner provided by law. Thereafter any change in the state water plan shall be submitted to the Legislature of the State of Idaho upon the first day of a regular session following the change and the change shall become effective unless amended or rejected by law within sixty days of its submission to the Legislature.

Legislation in 1988 provided for the development of a "comprehensive state water plan" and authorized designation of highly-valued waterways as state protected rivers. Each comprehensive basin or water body plan is prepared within the policies of and becomes a component of Idaho's State Water Plan.

Chapter 17 of Title 42, Idaho Code, was amended in 1988. In part, the amendments renamed the State Water Plan as the Comprehensive State Water Plan Part A. Plans developed for specific geographic areas became components of the Comprehensive State Water Plan Part B.

The board may develop a comprehensive state water plan in stages based upon waterways, river basins, drainage areas, river reaches, ground-water aquifers, or other geographic considerations.

Idaho Code 42-1734A(2)

As part of the comprehensive state water plan, the board may designate selected waterways as protected rivers as provided in this chapter.

Idaho Code 42-1734A(1)

The authority to designate "protected rivers" derives from the state's power to regulate activities within a stream bed including stream channel alterations, water diversions, the extraction of minerals or other commodities, and the construction of impoundments.

Idaho Water Resource Board Programs

1. Formulate and implement the State Water Plan.

2. Provides financial assistance for water development and conservation projects in the form of revenue bonds, loans, and grants.

2. Implementation of legislative directives such as the aquifer recharge program established by the 1995 Idaho Legislature.

3. Adopts rules for:

* Well Construction
* Well Drillers Licenses
* Construction and Use of Injection Wells
* Drilling for Geothermal Resources
* Mine Tailings Impoundment Structures
* Safety of Dams
* Stream Channel Alterations

The Department of Water Resources administers these programs.

4. Hears appeals of Department of Water Resources administrative decisions regarding programs administered under Idaho Water Resource Board rules.

5. Administers the Idaho Water Supply Bank.

6. At the request of the Governor, appears on behalf of and represents the state in proceedings, negotiations, or hearings involving the federal government, Indian tribes or other states

7. File applications and obtain permits to appropriate, store, or use unappropriated waters, and acquire water rights subject to the provisions of applicable law.

8. Investigate, undertake, or promote water projects deemed to be in the public interest.

9. Cooperate and enter into contracts with federal, state and local governmental agencies for water studies, planning, research, or activities.

10. Study water pollution and advise the state board of environmental quality regarding the establishment of water quality criteria.

11. Formulate and recommend legislation for water resource conservation, development, and utilization.

State Water Plan Formulation

Formulation of a State Water Plan is a dynamic process. Adoption of The State Water Plan - Part One, *The Objectives*, in 1974, and *The State Water Plan* - Part Two in 1976, provided an initial State water policy. Implementing the policies in Part Two required the combined efforts of government agencies, the legislature, private concerns and the public. Consequently, the plan delineated those areas where legislative action was required, identified the programs to be pursued by the Board, and described the areas where cooperation of public and private interests was necessary.

The State Water Plan was updated and readopted in 1982, 1986, 1992, and 1996. This Plan continues to evolve as an instrument in the adoption and implementation of policies, projects, and programs that develop, utilize, conserve, and protect the state's water supplies. Changes were made in 1985 to reconcile any differences created by the Swan Falls agreement entered into by the State and the Idaho Power Company. The 1986 and 1992 updates involved changes in objectives and policy reorganization

PLANNING PROCESS

The planning process encompasses five steps:

1. A comprehensive public involvement program to determine public views and interests regarding resource problems, needs, and potentials as they relate to water;

2. An ongoing evaluation of the water and related resource base and an estimate of probable future conditions;

3. An evaluation of beneficial and adverse effects of protection and development;

4. Adoption of the State Water Plan by the Idaho Water Resource Board as required by Article XV, Section 7 of the Idaho Constitution;

5. Approval by the Idaho Legislature as provided by law.

Public involvement is an important part of the planning process, and is necessary in assessing viewpoints and conditions. Scoping meetings, comment periods, and formal hearings, provide opportunity for public input during plan development. After adoption and approval, public comment on the effectiveness of the plan is encouraged.

DRAFT

STATE WATER PLAN

The State Water Plan emerges from a vision of Idaho in which water is used efficiently, and is allocated through laws that fully conform to the prior appropriation doctrine. Water resource planning involves ground water and surface water, recognizing the increasing demands on both.

Objectives

The following objectives of the State Water Plan are formulated for the conservation, development, management and optimum use of all unappropriated water resources and waterways of this state in the public interest [Idaho Code 42-1734A].

1. **Water Management** - Encourage the quantification of water supply, use, demand and all water rights within the state. Encourage integrated, coordinated, and adaptable water resource management, and the prudent stewardship of water resources. Initiate state protection of waterways or water bodies with outstanding fish and wildlife, recreation, geologic or aesthetic values where protection should take precedence over development.

2. **Public Interest** - Ensure that the needs and interests of the public are appropriately considered in decisions involving water resources of the state.

3. **Economic Development** - Encourage and support economic development by the optimum use of the water resources, with due regard for prior water rights, that promotes the integration and coordination of the use of water, the augmentation of existing supplies, and the protection of designated waterways [Idaho Code 42-1734A(1)(b)].

4. **Environmental Quality** - Maintain, and where possible enhance water quality and water-related habitats. Study and examine the quality of rivers, streams, lakes and ground water [Idaho Code 42-1734(15)], and assure that due consideration is given to the needs of fish, wildlife, and recreation in managing the water resources of the state.

5. **Public Safety** - Encourage programs that will assure life and property within the state are not threatened by the management or use of our water resources.

Policies

State Water Plan policies are directed toward optimum use of the state's water resources. The policies provide a framework within which private enterprise and government entities can propose and develop water resource projects and water management scenarios. Specific water resource projects and programs are identified in the comprehensive plans developed for defined geographic areas. The Water Resource Board adopts the following policies for the conservation, development, management and optimum use of all the unappropriated water resources and waterways of this state in the public interest [Idaho Code 42-1734A].

1. Optimum Use

The overarching desire of the Board is to establish policies, initiatives, and programs that lead to optimum use of the vital water resources of the state. Water is essential to the vitality and prosperity of the state. All the waters of the state, when flowing in their natural channels, including the waters of all natural springs and lakes within the boundaries of the state are declared to be the property of the state (I.C. § 42-101). The state through the Idaho Department of Water Resources supervises the appropriation and allotment of the right to use the state waters for beneficial purposes.

1A - STATE SOVEREIGNTY

The state has sovereignty over decisions affecting the development and use of its water resources and opposes any attempt by the federal government, other states, or any other entity to usurp the state's role in these areas.

Comment: The Idaho Water Resource Board is responsible for the formulation of state water policy through the State Water Plan. The state's position on existing and proposed federal policies and actions should be coordinated by the Water Board to ensure the state retains its traditional right to control the water resources of the state.

1B - BENEFICIAL USE OF WATER

Beneficial uses should include certain nonconsumptive water uses.

Comment: This policy is affirmed by Idaho Code 42-1501 and is reflected in the policies adopted by the Idaho Water Resource Board that "beneficial use" includes, but is not limited to, water required for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetics, navigation, water quality, and managed ground water recharge as well as the traditional uses for agriculture, manufacturing, mining, hydropower, and human consumption.

1C - TRANSFERABILITY OF USE

Changes in the nature of use of a water right should be allowed including changes to nonconsumptive uses provided other water rights are not injured.

Comment: The demand for water increases every year while the volume of unappropriated water within the state continually decreases. The purpose of allowing transferability of water rights is to provide flexibility in water allocation to meet changing conditions. Idaho Code 42-108 and 42-222 provide for changes in place of diversion, place of use, period of use, and nature of use. Provision is made to protect other water users, the agricultural base of an area, and the local public interest. Priority dates are retained if other water right holders are not injured.

In some instances, it is in the public interest to allow changes from traditional uses to instream flow purposes. In highly developed areas, the potential to protect or restore fish and wildlife, water quality, aesthetic, or recreation resources may depend upon the transferability of water rights. To make such transfers substantive, the priority date of the original water right should be retained if other water rights are not injured. Chapter 15, Title 42, Idaho Code needs to be expanded to enable the Idaho Water Resource Board to apply for a change in the nature of use when a water right is acquired that is best used for minimum or instream flow purposes.

1D WATER SUPPLY BANK

The sale or lease of water is critical to the efficient management of the state's water resources. Use of the State's Water Supply Bank to meet consumptive and non-consumptive needs shall be encouraged.

Comment: As the state approaches the situation where little or no water is available for new appropriations, the Water Supply Bank, established by Idaho Code 42-1761, affords an efficient mechanism for the sale or lease of

water both from natural flow and storage. By aggregating water available for lease, rental pools operating under the authority of the Water Supply Bank can supply the water needs of many potential users.

The Idaho Water Resource Board has adopted rules and regulations governing the sale or lease of water through the Water Supply Bank. The Idaho Water Resource Board has authorized local entities to manage (consider language changes) rental pools in Water Districts 01, 37/37M, 63, 65, 65K and 74. The Shoshone-Bannock Tribes are also authorized pursuant to state law, to operate a rental pool.

The Water Supply Bank and rental pools should be available to meet both diversionary and instream flows. The Idaho Legislature authorized formation of a local rental pool to meet critical instream flow needs in the Lemhi River by leasing and renting natural flow water rights (Idaho Code 42-1765A and 42-1506). This process should be extended to other watersheds with similar conditions.

1 E - CONJUNCTIVE ADMINISTRATION

Where evidence of hydrologic connection exists between ground and surface waters, they are administered conjunctively in recognition of the interconnection.

Comment: The goal of conjunctive administration is to protect the holders of prior water rights while allowing for the optimum development and use of the state's water resources. Nearly all ground water aquifers in the state discharge to or are recharged by a surface body of water. Surface water seeps through streambeds, lake beds, channel banks, and irrigation delivery systems to aquifers. Irrigation practices, ground water pumping, and climate variability impact the available supply. Aquifers, in turn, serve as underground reservoirs, and can stabilize stream and spring discharge during dry periods. The approval of new water-use applications and the administration of existing water rights must recognize this relationship.

1F - GROUND WATER WITHDRAWAL

Average withdrawals from an aquifer should not exceed the reasonably anticipated rate of future recharge to that aquifer.

Comment: Excessive withdrawals of ground water may cause economic, environmental, and social problems nearly anywhere in the state. The state should seek to correct withdrawal/recharge imbalances in an orderly fashion, while attempting to minimize negative impacts.

Idaho Code 42-226 allows full economic development of the state's underground water resources. The Director of the Department of Water Resources can establish reasonable ground water pumping levels when necessary to protect prior appropriations of ground water. It is important that all beneficial uses, including interdependent spring and surface water uses be considered in evaluating the full economic development potential of an aquifer. Section 42-237a provides that the Director may prohibit or limit the withdrawal of water from a well if withdrawal would result in diversion of the ground water supply at a rate beyond the reasonable anticipated rate of future natural recharge. The director may allow withdrawals to exceed natural recharge if a program exists to increase recharge or decrease withdrawals and senior ground-water rights are protected.

There are areas within the state where withdrawal/recharge imbalances of the ground water resource have been identified by the Department of Water Resources. Idaho Code 42-233a and 233b give the Director of the Department of Water Resources the authority to designate areas as either Ground Water Management Areas or Critical Ground Water Areas. Designation and its associated management options provide a logical step in arresting excessive withdrawals from an aquifer. The Department of Water Resources should also require water-use reporting and the measuring of water levels.

1 G - INTERSTATE AQUIFERS

Ground water aquifers shared with neighboring states should be managed collaboratively.

Comment: Where interstate aquifer issues are involved, the state policy is to work collaboratively to develop and share technical tools, including models and data collection, so that the states can cooperatively manage the states' resources.

Any agreements established should maximize flexibility and adaptive approaches. Memoranda of Agreement or Memoranda of Understanding are preferable to more rigid interstate compacts.

1H - SPRING FLOWS

The hydrogeologic relationships between ground water supplies and spring flows should continue to be quantified to allow for the determination of optimal development of the water resources.

Comment: Spring flow is part of the natural discharge from an aquifer. Pumped ground water withdrawals from an aquifer change the original recharge-discharge relationship and affect spring flows. Where this hydrogeologic relationship exists, it must be sufficiently quantified to allow for optimal utilization of the ground water supply while protecting established senior rights which depend on spring flows discharging from the aquifer. This requires continued funding for studies.

1I - WATER MEASUREMENT

The water resources of the state should be quantified and their uses should be measured.

Comment: Planning for the optimum use of the water resources of the state and optimal management requires adequate water supply assessment and water use measurement.

Idaho Code 42-1805 lists as a duty of the Director of the Department of Water Resources preparation of a present and continuing inventory of the water resources of this state. However, stream gaging in the state is sparse and many gaging stations have been abandoned due to rising maintenance costs and reductions in agency funding. The existing stream gaging program should be reviewed and enhanced in the most efficient manner to meet water planning and management needs. Many ground water systems have not been adequately studied. Assessment studies are needed to understand and evaluate the state's ground water resources to avoid depletion and contamination.

Water use quantification is essential for water resource planning. Chapters six and seven, Title 42, Idaho Code, list authorities for water measurement. The State, through the Department of Water Resources, needs to be actively involved in water use measurement and reporting.

Work on language re automating and accessibility of measurements and data – promote importance;

1J - WATER QUALITY

Water should be protected against unreasonable contamination or deterioration in quality, thereby maintaining designated beneficial uses.

Comment: It is essential that the quality of Idaho's water resources be protected for public safety and economic stability and growth. The quality of surface and ground water depends in large degree on land-use practices within watersheds. Land managers and local units of government are urged to adequately consider means of reducing nutrient loading bacterial contamination and soil erosion and deposition to protect water quality. Local units of government and special use districts should participate with Basin Advisory and Watershed Advisory Groups in the preparation of water quality management plans.

The Department of Water Resources administers a statewide ambient ground water quality monitoring network and the Environmental Data Management System. Regional and local monitoring networks are managed by the Division of Environmental Quality. The citizens of Idaho will be most efficiently served by cooperative water quality monitoring programs involving appropriate public and private entities, and establishment of an information distribution system for all water quality data.

1 K - POLLUTION CONTROL

The use of water to dilute pollution is not a substitute for adequate treatment.

Comment: State and federal water quality programs should provide protection for the current high quality of water associated with streams within the state. In most cases, allocation of water for instream flow use should be directed toward meeting fish, wildlife, and recreational needs and not to the dilution of pollution. One way to ensure sufficient water is to obtain storage rights for water quality maintenance in reservoirs and instream flow rights for stream reaches below impoundments.

1 L RECHARGE

Managed recharge should be encouraged, pursuant to state law.

Comment: Managed aquifer recharge may enhance spring flows, and provide mitigation for junior ground water and maintain desirable aquifer levels. Managed recharge may also be a strategy for enhancing streamflows and adaptive mechanisms for minimizing the impacts of climate change. Managed recharge should be monitored to document the beneficial effects on the state's water resources, and to minimize any concerns or issues.
State's role?
Wait for CAMP for potential recommendations that could be incorporated into SWP.

1 M - LOCAL NATURAL FLOW RENTAL POOL

Authority granted in Idaho Code § 42-1765A for the Lemhi river basin should be expanded to other basins as needed and determined necessary by the Board.

The Idaho legislature established by statute authority to the Idaho Water Resource Board to appoint a local committee to facilitate operation of the water supply bank in the Lemhi river basin. The Lemhi water supply bank was unique in that it provides for a local committee to rent natural flow water rights between consenting owners and renters. It also provides for partial season leasing and establishes that the rented water could be used to satisfy a Board minimum stream flow water right.

Water users in many basins continue to struggle with issues related to federal implementation of the endangered species act (ESA). Expanding the Board's authority to establish local committees for natural flow rentals would be a significant help in other ESA basins and enhance Idaho water management flexibility.

2. Conservation

The Conservation policies focus on careful planning and wise use of Idaho's water. The purpose of the policies is to manage the use of water resources for the benefit of all Idaho citizens.

2A - REASONABLE USE

The reasonable use of water in accordance with state law should be promoted.

Comment: As water use efficiencies are increased, reduced requirements in one water use sector could provide available water for existing uses, new demands, or help efforts to improve instream flows. State and local planning should consider water efficiency techniques, together with legislation or ordinances, that may help conserve water resources for drought periods and water supplies for other needed uses.

2B - SPECIES OF CONCERN

The public interest in water resources should be considered when decisions are made to maintain sustainable populations of plant and animal species whose existence is threatened by mankind's actions.

Comment: The state and federal government have identified species of concern and species that are listed or are candidates for listing as Threatened or Endangered. In most cases, action at the state level can identify management strategies that will insure sustainable populations of these species. The State will consider the public interest in determining its strategies and will encourage local leadership to this end. Exceptions to this policy will be made for efforts to eliminate noxious weeds and other pests.

Where species are listed as Threatened or Endangered, the State will take the leadership role in their recovery. The Idaho Department of Water Resource and the Water Resource Board will take appropriate steps to ensure that flows necessary to maintain sustainable populations of listed aquatic species remain instream, while ensuring that the rights of the citizens of Idaho are protected. The Board's Water Bank and Minimum Stream Flow programs should be modified to meet these needs.

Office of Species Conservation
Work on combining 2A and B
Reference also: Nez Perce Agreement, Flow Augmentation, uncontracted storage water should be used in Idaho

2B - FEDERALLY LISTED SPECIES

Cooperation should occur, insofar as allowed by state law, in efforts to conserve and restore plant and animal species listed by the federal government as Threatened or Endangered.

Comment: Actions taken by federal agencies under authorities created by the Endangered Species Act do not modify state law. Efforts by the citizens and agencies of the state to achieve federal goals may be constrained by existing state law, particularly the protection and preservation of state water rights and property rights.

The State should take an active role in the listing process. To the extent allowed by federal law, the State should be involved in developing and administering recovery and habitat management plans for species that are listed.

The Idaho Water Transactions Program, administered by the Department of Water Resources and the Water Resource Board is an example of a stream habitat recovery program.

2C - LAKE AND RESERVOIR MANAGEMENT (Obtain comment from other state agencies and commissions, hh 1/8/2008)

Comprehensive management plans for surface use and water quality protection should be developed for lakes and reservoirs in the state.

Comment: Idaho is a land of numerous lakes and reservoirs. Many lakes and reservoirs in the state have experienced declining water quality, surface crowding, losses in scenic values, and physical damage to the shoreline. Comprehensive management plans for surface use, relative to public safety, and water quality protection can address these problems.

Each lake or reservoir has its own set of needs and constraints which must be considered. County and city government, the local public, land managers, and user groups of the lake or reservoir and its watershed, must be involved in plan development and implementation.. The Idaho Water Resource Board supports implementation of the Clean Lakes Act passed by the Idaho Legislature in 1989 [Chapter 64, Title 39, Idaho Code]. The law provides for the creation of regional councils empowered to develop lake management plans. It further provides for technical advisory groups to support the council in its planning efforts. These measures have been successfully used at Payette Lake to improve water quality.(jj)

Pend Oreille and Priest Lake Commission
Look at previous plans – when was this policy added, history?
Discuss with IDEQ – DEQ policy?
Dworshak operational plan

Get input

2D - CLIMATE VARIABILITY

Policy 2D: CLIMATE CHANGE (Draft 12-24-2007) hna

Climate Change resilience and preparedness goals should be guiding principles for Idaho Water Resource management.

Discussion:

Average temperatures in the western United States have risen 2-5 degrees during the 20th century and are predicted to continue rising into the future. While recognizing the uncertainties inherent in climate prediction considerable efforts need to be focused on identification of climate related risks and building resiliency to climate extremes.

Climate experts are less confident on how continued warming will affect the overall amount of precipitation Idaho receives but they have already documented changes in runoff timing and increased annual variability. More rain and less snow, earlier runoff, reduced summer and fall stream flows, increased water temperatures, and more sever droughts and floods are predicted. High priority should be given to identifying and implementing actions designed to deal with water system stresses brought about by climate. Increasing public and agency awareness, enhanced technical capacity, improved information exchange, expanding and maintaining adaptive mechanisms and strengthening community partnerships that reduce vulnerability are proactive steps to preparedness.

Implementation Strategies:

- Policy makers at all levels should evaluate existing rules and regulation that limit adaptive flexibility.
- Reservoir operation rule curves should be cooperatively analyzed and additional weight should be given to more recent hydrologic data.
- Expansion and diversification of water supplies, including increased surface and ground water storage should be aggressively pursued.
- Risk assessments particularly regarding flood vulnerability and environmental impact mitigation should be developed and frequently updated.

- Adaptive mechanisms for agriculture, municipal water suppliers, water resource management agencies and hydropower interests should be identified and implemented as soon as possible.
- Preparedness actions should include long, medium and short-term objectives. Actions must be coordinated and effort must be focused and collaborative approaches.

Milestones:

- Completion and implementation of updated flood control rule curves.
- Construction of water supply projects.
- Finalization of Risk assessment studies.
- Documentation of preparedness actions and establishment of collaborative forums.

Recommendations:

- Establish funding for Climate Change preparedness and risk assessment for all levels of government.
- Create Climate Change collaboration forums.
- Aggressively move forward with study, design and construction of water projects.

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. Chapter 15, Title 42, Idaho Code, should be expanded to enable the Idaho Water Resource Board to transfer acquired water rights to instream flow water rights. By law [Idaho Code 42-108 and 42-222], provision is made to protect other water users and the agricultural base of an area.

Lemhi & Wood River (IC 42-1508, 1765B)
Rental & Minimum Stream Flow mechanisms
Language to give board authority to appoint local committees to manage local natural flow Water Bank.

3. DEVELOPMENT

Priority Projects vs. general statement of developing new storage
Staff develop suggested policy for 1 or 2 policies
Develop approx. costs indexed from earlier cost estimates

3A- WATER SUPPLY ENHANCEMENT

New surface water storage will provide a significant source of water to meet existing and future water demands

Discussion:

Future economic development, population growth, and changing priorities will bring additional demands on Idaho's water resources. In future years, the construction of additional storage will play an important role in flood management, water supply enhancement, hydropower and recreation benefits. Storage opportunities are available through the construction of new reservoirs and enlargement of existing reservoirs,.

The benefits and costs associated with storage opportunities fluctuate with political, environmental, climatic, economic and other changes. Some projects have been sufficiently studied and should proceed to feasibility/design stages. Other sites require additional investigation to determine viability of the potential project. Potential projects should be categorized and level of further study identified, and when appropriate, pursue development.

While the State recognizes the rights of land owners, improvements and new development within potential storage sites, which would prevent viable water resource projects, should be discouraged. IWRB should prioritize and pursue protection of potential sites through agreements, purchase or other mechanisms when appropriate.

DEVELOP NEW TABLE (IDWR will provide revised table)

Implementation Strategies:

- Evaluate existing list to establish level of study needed. Sites should be categorized to identify future actions (eliminate from list, further study level needed, proceed with project, etc.)
- Initiate feasibility/construction design studies for sites determined to be high priority. Project partners should be identified or project pursued independently.
- Initiate assessment level studies for sites determined to need additional investigation. Coordinate/partner with federal agencies or other interested parties.
- Revise list as needed when new potential sites are identified or if a site should be removed from the list.

Milestones:

- Annual review of potential storage site list and revised as appropriate.
- By 2010, feasibility studies of Teton, Galloway, and Twin Springs projects begun.
- New storage of 600 KAF under construction by 2025

Recommendations:

- Develop criteria for listing of potential sites to provide consistent monitoring of the list and keeping it current
- Develop targets for new storage development (by basin, needs, ?)
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3 B - STATE PROTECTED RIVER SYSTEM

A system of state protected rivers should exist to provide for the protection of unique features and 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.

The Idaho Water Resource Board encourages the federal government to work within the state water planning process rather than independently pursuing federal protection of waters within Idaho. State water planning provides a means for ensuring coordinated water planning by both federal and state governments.

Implementation Strategies
-coordinate with local governments and federal agencies (MOUs)
-authority and funding

3 C - RIPARIAN HABITAT AND WETLANDS

Protecting the ecological viability of riparian habitat and wetlands within the state is a critical component of watershed planning.

Comment: The practice of good stewardship for managing public and private riparian zones and wetlands is necessary to protect their ecological values.Riparian and wetland protection above the mean high water elevation should be implemented at the watershed level. The authority to control land use is 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.

Imp. Stg:
-coordination with local & federal (agencies specific)
-

3 D- STREAM CHANNEL REHABILITATION

The costs and benefits of stream channel rehabilitation will be evaluated where past activities currently or potentially affect the quantity from or quality 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 stream 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.

Policy 3E - TAILINGS POND REGULATION

Eliminated because this is an existing function of the Dam Safety Section and this policy is a statement of existing authority and activity.

3 F - RADIOACTIVE WASTE MONITORING (Obtain comment from IDEQ, hh 1/7/2008)

It is the policy of Idaho to maintain a state program to monitor and regulate the use, handling, and storage of radioactive wastes.

Comment: The Idaho National Engineering Laboratory (INEL), near Arco, sits on top of the Eastern Snake Plain aquifer, the primary drinking water supply to half the state's population and the irrigation water supply for three million acres. Protection of this vital water supply from radioactive contamination is imperative for both the physical health of the population and the economic health of the state.

The State of Idaho INEL Oversight Program, provides independent information about the Idaho National Engineering Laboratory to the citizens of Idaho. In order to verify and complement the monitoring conducted by the U.S. Department of Energy and it's contractors, the Oversight Program has developed an environmental surveillance program to monitor potential impacts on air, water, soil, and biota resulting from activities at the INEL. Some of the

monitoring sites are the same as, or are co-located with, federal monitoring locations, while others have been located so as to provide information that would not otherwise be available. Monitoring results are reported quarterly, with an annual summary and assessment of impact on the environment and people of Idaho.

The Division of Environmental Quality is Idaho's lead agency for regulatory control over the use, handling, storage, and disposal of radioactive materials. Regulatory control is also exercised over clean up of sites contaminated with radioactive materials and transportation of nuclear waste and spent fuel in Idaho.

The Idaho Water Resource Board supports the Governor's agreement on radioactive waste storage and removal at INEL, and supports continued negotiations to restrict further importation to Idaho. The transfer of all radioactive waste from Idaho to a designated national repository at the earliest date possible is strongly encouraged.

3 G - SAFETY MEASURES PROGRAM

It is the policy of Idaho that a program should be established to assist local units of government in repairing and installing safety structures on or near canals, rivers, lakes, and reservoirs. The program should be established as a cost-sharing cooperative program.

Comment: Each year, numerous fatal accidents occur in the state's waterways because of the lack of preventive safety measures. Accidents are not confined to one area of the state nor one segment of the economy but are scattered throughout the state. Most Idaho cities are built on a water course and subsequently are plagued by hazardous canals, rivers, or shore lands. Fencing, signing, debris removal, covering and other structures should be installed to provide for human safety.

Local units of government should be encouraged to conduct annual public awareness campaigns concerning the dangers and hazardous nature of water bodies in their areas.

3 H - FLOOD PRONE AREAS (Work with IDWR Resource Protection Bureau, hh 1/8/2008)

Protection of flood plains and reliance on management is vital in reducing or preventing flood damages.

Comment: Flood damage can be limited by providing sufficient space in the flood plain to accommodate flood waters. Local government is encouraged to plan for floodways and protect flood plains from further development.

Prospective buyers should be made aware of identified flood prone areas. The pressures to develop areas subject to periodic flooding will continue to increase as population increases. Buyers should realize those flood prone areas require special construction provisions to avoid flood losses.

The National Flood Insurance Program should be adopted statewide. This program requires that local units of government zone and control flood prone areas in order to be eligible for most federal assistance. Floodplain maps prepared for the Federal Emergency Management Agency are available through the Idaho Department of Water Resources.

Draft:

Imp. Stat.

- Work with all communities to implement NFIP minimum standards
-

- Recommendation: Encourage local P&Z to discourage development in the flood prone areas.

3 I - FLOOD CONTROL LEVEE REGULATION(Work with IDWR Resource Protection Bureau, hh 1/8/2008)

It is the policy of Idaho that the construction and maintenance of flood control levees be regulated by the State.

Comment: The only standards applicable to the construction of flood control levees in Idaho are in the Rules governing Stream Channel Alterations. These standards apply only when all or part of the levee will be located below the mean high water mark.

Flood control levees are maintained by local entities. There are no maintenance regulations so the degree of maintenance varies with the capability and diligence of the responsible organization. This situation creates a potential hazard in that levees may be deteriorate to the point of being unsafe.

All new flood control levees should be required to be built to standards promulgated by the Department of Water Resources. The Department should also be authorized to develop maintenance criteria for flood control levees and to insure compliance with these criteria through an inspection program.

When a levee is scheduled to be rebuilt, a cost/benefit analysis should be conducted to determine if it is prudent to rebuild the levee in question or buy the property which the levee would protect.

4. Management

A goal of the State Water Plan is to improve efficiency and secure greater productivity from existing water supplies. Management policies are concerned with improvement in practices, procedures, and laws relating to water management.

The focus of the Management policies is on improvement in the practices, procedures, and laws relating to existing water and energy resource administration and programs. The purpose of the policies is achievement of greater administrative efficiency.

4B - REVIEW OF FEDERAL RESERVOIR WATER ALLOCATION

Agreements will be established with federal agencies to allow Idaho Water Resource Board review of any proposed water allocation from federal reservoirs.

Comment: This policy does not encroach upon the authority of federal agencies to operate their facilities according to congressional authorization, but would help to ensure that their actions occur with state re-view and concurrence. The Idaho Water Resource Board would be guided in such a review by the conformance of the proposed allocation with the State Water Plan.

Formal agreements are necessary for the State Water Plan to be implemented in a coordinated manner. The Idaho Water Resource Board and the U.S. Bureau of Reclamation reached an agreement in 1988 [what agreement?] providing for Board review of proposed reallocations.An agreement should be negotiated with the Corps of Engineers regarding large water releases from their facilities.

Would stock water ponds be addressed?

Follow-up with OER

4D - HYDROPOWER LICENSING

Future water and energy needs, existing water rights, related settlement agreements and the State Water Plan will be considered in hydropower licensing.

Comment: Hydropower water rights may be limited to a specific term and subordinated to upstream depletionary uses [Idaho Code, 42-203B(6) and (7)]. Water rights for power purposes may also be defined by agreement as unsubordinated to an established minimum flow [Idaho Code, 42-203B(2)]. Idaho asserts its sovereign right to regulate the state's water resources. The federal government, in the hydropower licensing process, must recognize water rights and other constraints on water use established through state law. Hydropower licenses should be compatible with the State Water Plan and outstanding power purchase contracts.

Many hydropower projects in Idaho are or soon will be undergoing relicensing by the Federal Energy Regulatory Commission (FERC). State review of existing water rights should occur in conjunction with the FERC relicensing process.

4E - HYDROPOWER SITING

New hydropower developments are encouraged when in conformance with the State Water Plan.

Comment: The Idaho Water Resource Board is charged with the responsibility for planning for the optimum development of the water resources of the state through policies and water allocations which reflect the local public interest. Specific hydropower siting issues are addressed in the Idaho Water Resource Board's comprehensive basin or river plans. The Federal Energy Regulatory Commission must consider State comprehensive plans in making hydropower siting decisions.

As a general policy, the Idaho Water Resource Board believes that energy conservation and efficiency improvements should receive primary consideration to meet increasing energy needs. The State of Idaho will be best served through conservation and the upgrading of existing energy systems. These measures are attractive because of their low costs, short lead time, and flexibility.

Recognizing the future need for new generating capacity, the Board prefers that new hydropower resources be developed at dams having hydropower potential that do not currently generate power or do not generate at their maximum potential. New structures or projects should be carefully evaluated to insure that the benefits to the state outweigh any negative consequences associated with the proposed development. The Idaho Water Resource Board will evaluate specific hydropower developments in comprehensive plans for river basins or waterways.

Add the green aspects of hydropower.

4F - CONSERVANCY DISTRICTS

The total water needs of a geographic area should be satisfied by a legal entity having the authority and responsibility to address all water needs in a comprehensive manner when practical.

Comment: Under present law the boundaries of irrigation districts, ground water districts, recharge districts, water measurement districts, drainage districts, and flood control districts need not coincide. Since coordinated planning is rarely undertaken, the possibility exists for good faith actions to have adverse impacts or be at cross purposes with the aims of other management entities.

A water conservancy district should have the authority to own and operate storage, diversion, and delivery systems to provide the total water needs of large geographic parts of the state (e.g., river basins, single or multi-county areas). It should have authority to levy taxes on all property benefitted by a program or project and to bond and contract for project construction. Water could be supplied for irrigation, domestic, municipal, industrial,

recreation, and other purposes. Such districts could also sponsor ground-water recharge projects, distributing the costs over the affected area. They could also integrate the use of the surface and ground-water resources of a river basin for more efficient use of the total resource.

Would require a change in State law.
Does the Board want to push the issue?
One large conservancy district under the Board?
Population vs water use
What about the other existing districts? What would such a policy mean for them?

Recommend a general discussion of this with the entire Board. Have staff draft an implementation policy/strategy.

4G - RESEARCH PROGRAM

Encourage and conduct research on important water resource topics.

Comment: While water programs in Idaho can incorporate information from research in other states, more research dealing with specific problems in Idaho is needed. Topics that need immediate attention include:

- water use efficiency,
- optimum monitoring programs for water use,
- ground and surface water relationships specifically with regard to the timing and spatial distribution of pumping and recharge efforts,
- ground water flow models, and
- cooperatively developed system operation modeling techniques for Idaho river basins.

Board can discuss relevant topics for exploration.

4H - FUNDING PROGRAM

State, Federal and other funds should be sought to support the development, preservation, conservation, and restoration of the water and related resources of the state.

Comment: The Idaho Water Resource Board's Revolving Development Fund, and the Water Management Account, are mechanisms for achieving the goals of this policy. The funds or accounts are supported by the appropriation of moneys from the state's general fund, federal funds, and other revenue sources. These programs have provided financial assistance for water development, conservation, system rehabilitation and water treatment projects.

Idaho Code 42-1734(2) provides that the Idaho Water Resource Board may lend the proceeds of the sale of revenue bonds to a local water project sponsor or sponsors. The issuance of revenue bonds does not constitute a general obligation of the State of Idaho or the Idaho Water Resource Board.

Need for an annual appropriation.
See Idaho Code 42-1750 & 1760

4I - PLANNING PROGRAM (Add language collaborative planning with other agencies, set basin plan priorities

Comprehensive basin planning should be implemented based upon water needs and/or local support within a geographic area.

Comment: Comprehensive planning is necessary to promote the effective and efficient use of Idaho's water, to ensure protection of all beneficial uses of water, to enhance conservation, and to minimize conflicts between competing water uses. Comprehensive basin plans should be prepared to evaluate the specific interrelationship

between ground and surface water and to provide for the orderly protection and development of the state's water resources.

These plans contain State protected river designations and recommendations concerning other aspects of water use. The positions and policies contained in an approved plan are the State's official position on water use in the affected areas. The plans also assure that the state's interests will be considered in federal management agency decisions.

Reference MOU's
Establish relationship of basins to local public interest.

4J -FEDERAL AND TRIBAL WATER RIGHTS

Idaho will quantify all federal and tribal water rights within the state.

Comment: Federal agency and tribal water rights claims in Idaho must be identified and quantified to plan for continued use of existing water rights and future needs. As a part of each effort to identify and quantify federal agency and tribal water rights, the protection of existing water rights must be considered. The State should seek to negotiate these rights whenever appropriate.

The Idaho Water Resource Board is lead agency to coordinate state activities related to the negotiation of reserved water rights with Idaho Tribes. The successful negotiations concluded with the Shoshone-Bannock over the Fort Hall water rights and the Nez Perce Snake River Agreement serve as examples of negotiated settlements.

Resolve remaining tribal claims
Review Executive Order No. 91 8

4K - WATER RIGHTS ADJUDICATION

Adjudication of water rights through the state courts should be completed to fully define and quantify all state and federal water rights.

Comment: The adjudication of water rights is often necessary to sort out overlapping or incomplete claims for the use of surface and ground water resources. These conflicts need to be resolved if the resources are to be managed effectively. Effective programs can then be applied to assure that water is diverted and used in accordance with valid rights.

(Possible Adjudication Policy to complete the state, post Snake River Basin Adjudication (BG)) Keep adjudication updates

5. Snake River Basin

5A - SWAN FALLS AGREEMENT

The Swan Falls agreement between the state and Idaho Power Company establishes the framework for water management in the Snake River basin.

Comment: The Swan Falls Agreement was signed in 1985 by the State of Idaho and the Idaho Power Company. The Idaho Water Resource Board is committed to continued implementation of this agreement. Minimum flows in the Snake River are crucial to the Swan Falls Agreement. During portions of low water years, river flows downstream from Milner Dam to Swan Falls Dam consist almost entirely of ground water discharge. The Eastern

Snake Plain aquifer which provides this water must therefore be managed conjunctively as an integral part of the river system. This agreement also calls for the adjudication of water rights in the Snake River Basin to enhance the state's water management capabilities

5B - SNAKE RIVER MINIMUM FLOWS

Average daily flows at the Murphy gaging station shall meet or exceed 3,900 cfs from April 1 to October 31 and 5,600 cfs from November 1 to March 31. The average daily flow measured at the Weiser gage shall not be less than 4,750 cfs. (A minimum average daily flow of 5,000 cfs at Johnson's Bar shall be maintained and an average daily flow of 13,000 cfs shall be maintained at Lime Point (river mile 172) a minimum of 95 percent of the time. Review pending DAG discussion) The exercise of water rights above Milner Dam has and may reduce flow at the dam to zero.

Comment: In licensing the Milner hydropower project, the Federal Energy Regulatory Commission (FERC) specified "target flows" for the Snake River at Milner. The target flow must be satisfied only when water in excess of prior irrigation rights is available. Water for target flows may be acquired from storage or may be leased from the Upper Snake Rental Pool. The State should seek to acquire water whenever it becomes available in order to mitigate the impacts of low flow below the Dam.

The minimum flows established for the Snake River at the Murphy and Weiser gaging stations are management and permitting constraints; they further insure that the State will be able to assure an adequate hydropower resource base and better protect other values recognized by the State such as fish propagation, recreation, and aesthetic interests, all of which would be adversely impacted by an inadequate stream flow.

(The minimum flows established for Johnson's Bar and Lime Point are contained in the original Federal Power Commission (now FERC) license for the Hells Canyon hydropower complex. By adopting these flows, the Idaho Water Resource Board recognizes the importance of minimum flows to downstream uses and makes their maintenance a matter of state water policy. Lower flows may be permitted at Lime Point during the months of July, August, and September, during which time the operation of the Hells Canyon dams shall be in the best interest of power and navigation as determined by the Corps of Engineers and Idaho Power Company as owner of the Hells Canyon power facilities. The Board encourages Idaho Power to cooperate with the Bureau of Reclamation and Bonneville Power Administration to provide shaping of water released for flow augmentation purposes. Although Board policy on flow augmentation is that it should only occur if credible scientific information shows a measurable increase in anadromous fish survival, if water is rented for flow augmentation, shaping the releases provides significant flexibility related to timing of those releases. As per discussion by Mr. Tucker (2/5/08), Idaho Power Company concern is need for customers to be kept whole, have no problem cooperating to shape water releases. PENDING DAG DISCUSSION)

The Idaho Water Resource Board recognizes that FERC license requirements relate primarily to the provision of water for navigation and power and not to other instream uses. The Board realizes that the state has no authority to require releases of stored water by the power company, but believes the license conditions serve the public interest. When the Hells Canyon hydropower complex is relicensed, the Water Board will reevaluate the public interest.

Snake River flows above the hydropower right at any Idaho Power facility are considered unappropriated and therefore are not held in trust by the state. This distinction is further addressed in Policy 5C.

5C - SNAKE RIVER TRUST WATER (Consider eliminating policy and moving discussion to the Swan Falls Agreement section-staff will work on)

Water held in trust by the state pursuant to Idaho Code 42-203B be reallocated to new uses in accordance with the criteria established by Idaho Code 42-203A and 42-203C.

Comment: The agreement between the State of Idaho and Idaho Power Company dated October 25, 1984 provides that Idaho Power's claimed water right of 8,400 cubic feet per second (cfs) at the Swan Falls Dam may be reduced to either 3,900 cfs or 5,600 cfs during set periods of the year. The claimed water right of 8,400 cfs is deemed appropriated and the amount above the minimum flow established in Policy 5B up to the 8,400 cfs is held in trust by

the state. The trust water area is defined by Rule 30 in the Idaho Department of Water Resources' Rules for Water Appropriation.

The agreement further provides that Idaho Power's claimed water rights at facilities upstream from Swan Falls shall be considered satisfied when the company receives the minimum flow specified in Policy 5B at the Murphy gaging station. The 8,400 cfs claim of the power company has not historically been available during summer months.

The 8,400 cfs claimed right at Swan Falls is reduced by the agreement to that flow available after satisfying all applications or claims that demonstrate water was beneficially used prior to Oct. 1, 1984, even if such uses would violate the minimum flows established in Policy 5B. Any remaining water above these minimum flows may be reallocated to new uses by the state providing such use satisfies existing Idaho law. This includes both storage and natural flows that are delivered for managed recharge purposes. The declining spring flows at Thousand Springs has resulted in serious water administration and management issues on the Eastern Snake River Plain. Managed recharge is a major component in the effort to stabilize and possibly restore spring flows. This will increase Snake River base flows which will benefit power production.

However, due to continued spring flow decline in the Thousand Springs area since the late l950s, water availability to satisfy additional beneficial uses is limited. A moratorium, as defined in Idaho Code 42-1806, on further water development has been in place since May 15, 1992.

5D - SNAKE RIVER BASIN DCMI

It is the policy of Idaho that 150 cfs of the water held in trust by the state above Swan Falls Dam pursuant to Policy 5C be reallocated to meet future domestic, commercial, municipal, and industrial consumptive uses in accordance with state law.

Comment: While most DCMI (Domestic, Commercial, Municipal, and Industrial) water uses are negligibly consumptive, future growth in Idaho's population and commercial and industrial expansion will require an assured supply of water.

A continuous flow of 150 cfs provides approximately 108,600 acre-feet of water per year. This volume of water is assigned to consumptive uses within the basin for domestic, commercial, municipal, and other industrial purposes. Industrial purposes include processing, manufacturing, research and development, and cooling.

During the ten-year period from 1985 to 1995, about 120 cfs was developed for DCMI uses within the trust water area. Adequate records should be kept and reviewed so that this allocation can be modified as necessary. Increases in the DCMI allocation, if necessary, will reduce the amount of water available for agricultural uses. The allocation will be reviewed as part of every Water Plan update.

5E - SNAKE RIVER BASIN AGRICULTURE

It is the policy of Idaho that appropriated water held in trust by the state pursuant to Policy 5C, less the amount of water necessary to provide for present and future DCMI uses as set forth in Policy 5D, shall be available for reallocation to meet new and supplemental irrigation requirements which conform to Idaho Code 42-203A, 203B, 203C, and 203D.

Comment: During the ten-year period from 1985 to 1995, about 45,600 acres of new irrigation development occurred within the trust water area. Data are not available to estimate the number of acres that received supplemental water during this period.

Idaho Code Section 42-203C limits the rate of new development in the basin above the Murphy gaging station to 80,000 acres in any four-year period. Impact on existing water rights, mitigation for the impact of diversions on hydropower generation, and criteria placed on the reallocation of hydropower rights, however, limits the rate of new development.

Check with Hal on the basis for deletion (hh 2/5/08)

5F - SNAKE RIVER NAVIGATION (hold pending DAG discussion on Lime Pt/Johnson Bar)

It is the policy of Idaho that water sufficient for commercial and recreational navigation is provided by the minimum flows established for the Snake River.

Comment: Commercial navigation en route to Lewiston via the Columbia River and Lower Snake River can be accommodated with the flows leaving Idaho in the Snake River at Lewiston. Above Lewiston, commercial and recreational navigation on the river should be accommodated within the protected flows on the Snake River and tributary streams.

5G - SNAKE RIVER BASIN SPRINGS (Pending DAG, staff make suggestions)

Maintaining spring flows in the American Falls and Thousand Springs reaches of the Snake River will sustain beneficial uses of surface and ground water supplies in accordance with state law.

Comment: Spring discharge in the American Falls and Thousand Springs reaches of the Snake River are vital to the Snake River Basin and Idaho economy. The springs near American Falls provide an important part of Snake River flow appropriated by Magic Valley irrigators. In the Thousand Springs reach, spring flow is the only practical source of water for many of the state's aquaculture facilities. It must be recognized that future management and climate conditions may reduce present spring flows and while existing water rights are protected, it may be necessary to construct different diversion facilities than presently exist.

During portions of low-water years, river flows downstream from Milner Dam to the Murphy gaging station consist almost entirely of ground-water discharge from the Thousand Springs reach. Maintaining these discharges should be the goal of water managers. Managed recharge of the aquifers and continued efforts to efficiently use ground water are two strategies for maintaining spring discharges in these reaches.

5H - SNAKE RIVER BASIN NEW STORAGE (Delete policy, but include comment in Swan Falls Section)

Applications for large surface storage projects upstream from the Murphy gage be approved subject to the requirement that the use is in the public interest.

Comment: "Large surface storage projects" are those which have the potential for significantly impacting existing uses. Projects for which approval is required under Section 42-1737, Idaho Code, would be such projects. This policy addresses the approval of new surface storage in the basin, but does not apply to already approved projects. Approval of new storage projects that would divert water from the main stem of the Snake River between Milner and the Murphy gaging station during the period November 1 to March 31 should be coupled with provisions that mitigate the impact such depletions would have on the generation of hydropower.

5I - WATER ACQUISITION (Move to Management Section-4A?)

As opportunities arise, the Idaho Water Resource Board shall continue to acquire water to provide management flexibility to meet existing and future water needs.

Comment:
As demands for water escalate, the value of water will increase to a point that will be difficult for some sectors to compete and as energy costs increase, many agricultural users especially those with high lifts will struggle to stay

profitable. As opportunities to purchase water become available, the Idaho Water Resource Board should seek new or use existing funds to acquire water.

Include natural flow, storage, lease arrangements, gw, spring water,
Short term, long term, permanent

6. Bear River Basin

6A - BEAR RIVER COMPACT

Water use and management in the Bear River Basin shall conform to the allocations set forth in the Bear River Compact [Idaho Code 42-3402].

Comment: The Bear River Compact has been in effect since 1958, and water allocations for the entire basin were adopted in 1978. The compact must be reviewed by the Bear River Commission at intervals of not less than twenty years and may be amended during the review process.

The goal of Idaho's representatives on the commission should be to recognize and promote the ground water management plan developed for the Bear River basin in Idaho and to move forward with the development of Idaho's depletion allocations in the Central and Lower Divisions.

6B - INTERSTATE WATER DELIVERY

Idaho water users in the Lower Division of the Bear River Basin must be protected from inequitable water allocation in the event of a water emergency and the scheduling of interstate water deliveries.

Comment: Article 4 of the Bear River Compact provides for the administration of the water in the Lower Division if the Bear River Commission finds that a water emergency exists. If a Utahwater user believes the flow of water in the Bear River is insufficient to satisfy their water right, due to diversions in Idaho that user may file a petition requesting water distribution under the direction of the Commission.

Water emergencies must be determined through comprehensive accounting processes and reflect true emergency conditions. Water emergencies should not be declared on an annual basis with the sole intent of advancing interstate water delivery . Idaho and Utah have developed separate but similar water accounting models that incorporate the rights identified in the Commission Approved Lower Division Water Delivery Schedule. The Commission has also adopted procedures for Lower Division Water delivery. Both Idaho and Utah can operate their respective accounting models each year and account for water use with the approved interstate water delivery schedule or including only their respective state water rights or both. Absent a Commission declared water emergency, Idaho water users are not obligated to the interstate accounting which determines their natural flow and storage use, however Idaho water users may voluntarily accept the interstate accounting allocations.

6C - BEAR LAKE

The outstanding values of Bear Lake are recognized and should be preserved while continuing to meet existing allocations for irrigation and hydroelectric power generation.

Comment: Bear Lake is a regional tourist attraction recognized for its unique water coloration and for its fishery. To protect these values, the Idaho Water Resource Board has obtained a minimum lake level water right for Bear Lake. The water right holds the lake elevation at or above 5902 feet.

The State of Idaho also recognizes and supports the Bear Lake Storage Allocation and Recovery Plan. This plan was approved through the Bear Lake Settlement Agreement of April 1995 and updated in 2003 as the established guideline for the operation of Bear Lake and the delivery of storage water. This document calls for a portion of the active storage in Bear Lake to be voluntarily retained to enhance recreation and water quality values.

Recent information indicates that the major contaminant problem in Bear Lake is suspended sediment. The primary source of suspended sediment is the Bear River during high flow periods when sediment-laden water enters Bear Lake through Mud Lake. The most effective way to further enhance the water quality of Bear Lake is to reduce the sediment load to the Bear River above Bear Lake.

6D - BEAR RIVER BASIN WATER PROJECTS

Additional projects for the development of the water resources of the basin without regard to state boundaries are encouraged.

Comment: The Bear River Compact provides for a signatory state to construct storage facilities in another state. In order to obtain the maximum beneficial use of water within the basin, it may be necessary to ignore state boundaries, providing that water rights generated by such projects comply with the basic allocations of the compact. The State of Idaho should participate with Wyoming and Utah in determining the feasibility of storage projects for use in Idaho.

6E - BEAR RIVER BASIN WATER MANAGEMENT

The board should evaluate options for additional management flexibility including a local rental pool.

The Idaho Water Resource Board is authorized by Section 42-1765, Idaho Code, to create a local rental pool to facilitate marketing of stored water by a local committee appointed to administer it. A rental pool provides the advantage of being locally managed and controlled, allows for the development of procedures adapted for conditions existing in the basin, protects unused water rights from forfeiture, and provides a source of funding for improving water management. The Department will facilitate creation of a rental pool.

7. *Panhandle River Basins*

7A - PANHANDLE BASINS

Ground and surface waters of the Idaho Panhandle should be managed to protect the economic and environmental quality of the region.

Comment: While appearing water rich in comparison to the rest of the state, the water resources of the Idaho Panhandle are finite, and in some areas are fully utilized. Water is the key to the continued economic development in the region. The Water Board places a high priority on maintaining the quality of the water resource base.

Proper management requires a full understanding and inventory of the resource characteristics and water supply. (WORK ON LANGUAGE.
END OF DISCUSSION 2/20/2008

7B - PANHANDLE MINIMUM FLOWS

It is the policy of Idaho to provide sufficient water to meet the minimum requirements for aquatic life, fish and wildlife, and to provide for recreation in the Panhandle Basins.

Comment: The minimum stream flow program provides the Idaho Water Resource Board with the authorities necessary to appropriate water for the purposes of this policy. Several streams in the Panhandle Basins have been examined and protected with minimum stream flows claimed by the Idaho Water Resource Board. As water consumption increases in the region, the minimum stream flow program will become increasingly important in the administration of water rights within the Panhandle Basins.

7C - PANHANDLE DCMI

It is the policy of Idaho to provide water for new domestic, commercial, municipal and industrial uses. A depletion of 14 cfs is allocated for these purposes.

Comment: The purpose of this policy is to set aside a significant amount of water for future DCMI (Domestic, Commercial, Municipal, and Industrial) development. The Panhandle population is projected to grow by approximately 2.9 percent annually to more than 200,000 people by 2015. This is a 73 percent increase over 1990 population. Based on current water-use data for the region, an allocation of nine million gallons per day or 14 cfs for consumptive use should be sufficient through the year 2015. (As of 7/1/2006, the population of the 5 northern counties was 206,140 (U.S. Census)hh 2/19/08)

7D - PANHANDLE AGRICULTURAL WATER

It is the policy of Idaho that additional water be made available for irrigated agriculture in the Panhandle. A combined net depletion of 200 cfs is allocated for this purpose.

Comment: Agriculture is a major industry of the state, and Idaho provides an important share of the nation's food production. The Idaho Water Resource Board wishes to insure the availability of water for this purpose.

7E - PANHANDLE NAVIGATION

It is the policy of Idaho that water sufficient for commercial and recreational navigation be maintained in the streams and lakes of the Idaho Panhandle.

Comment: Water for navigation is not a significant problem at this time. If such appropriation appeared necessary, the minimum stream flow program can be used to appropriate water to provide a minimum flow or lake level for the protection of navigation and transportation. Navigation interests are further protected in that all new water appropriations must be in the public interest and an adverse effect on navigation would rarely be in the public interest.

NEW POLICIES

WATER MARKETING POLICIES

It is the policy of the State of Idaho to study and implement new procedures for expanding opportunities to move water among DCMI sectors using voluntary mechanisms including markets.

It is the policy of the State of Idaho, for the purpose of improving water marketing, to analyze existing institutions including accounting, water trusts, dry-years options and opportunities for making substitutions between ground and surface water use.

This has been addressed under Policy 1M: Local natural Flow Rental Pool

This has been addressed under Policy 1H: Interstate Policy Treat as a separate policy and one on Indian Issues

Adjudication

It is the policy of Idaho that all water sources rights within the State be adjudicated.(add Karl's language

The Department of Water Resources initiated an adjudication of the Snake River Basin, and area encompassing nearly 80 percent of the State, in 1984 (?). Through this effort administrated by the Department's Adjudication Bureau which is the largest general stream adjudication in the nation. This effort is scheduled for completion in 2006.

The Adjudication Bureau currently maintains a highly-trained and experienced staff for investigating and reporting the current status of water rights. The remaining basins of the State, situated in the Idaho Panhandle and Southeast Idaho should be adjudicated while this expertise is available.

DRAFT