

IWRB Approved 2005

WATER DISTRICT NO. 65

RENTAL POOL PROCEDURES

PARA 1. AUTHORITY AND STATEMENT OF PURPOSE:

1.1 These procedures have been adopted pursuant to Idaho Code, Section 42- 1765 and Rule 6 of the Water Supply Bank Rules and Regulations of the Idaho Water Resource Board to assure orderly operation of the Payette River Rental Pool. Under no circumstances shall these procedures be construed to limit or restrict the authority of the Director of the Department of Water Resources, the Water Resource Board, Water District No. 65 Advisory Board, or the Payette River Watermaster in discharging their duties as set forth in the statutes of the State of Idaho. Anyone leasing water to, or renting water from, such space shall be subject to all applicable water laws of the State of Idaho and the Bureau of Reclamation.

1.2 IT IS THE PURPOSE OF THESE PROCEDURES TO:

- a. Provide a process, consistent with applicable statutes and administrative rules, by which stored water supplies may be made available for a specified period of time to water users who need additional water.
- b. Provide incentives for those owning reservoir space and having stored water, which is surplus to their needs, to lease such space/water to the Rental Pool to be made available to other users, and which will serve to protect the local public interest.
- c. Establish a recognized system through which water supplies can be located, identified and subsequently rented to a water user.
- d. Provide a source of revenue for Water District No. 65 to make improvements in distribution of water and aid in increasing the conservation of water in the Payette River Drainage Basin.
- e. Provide that available water supplies may be leased to the Rental Pool by the Lessor and rented from the Rental Pool for any beneficial purpose recognized by the laws of the State of Idaho, provided that other water rights are not injured, irrigators are not deprived of supplemental storage by renting water for uses

other than irrigation, and the use is consistent with the conservation of water resources within the State of Idaho.

PARA 2. DEFINITIONS:

- 2.1 ACRE-FOOT is a volume of water sufficient to cover on acre one foot deep.
- 2.2 YEAR refers to a normal calendar year.
- 2.3 BOARD means the Idaho Water Resource Board
- 2.4 BUREAU means the U.S. Bureau of Reclamation or USBR.
- 2.5 COMMITTEE or LOCAL COMMITTEE means the Advisory Board of Water District No. 65.
- 2.6 DEPARTMENT means the Idaho Department of Water Resources or IDWR.
- 2.7 DIRECTOR means the Director of the Idaho Department of Water Resources.
- 2.8 DISTRICT means Payette River Water District No. 65.
- 2.9 LEASE is the agreement through which a specific amount of storage space or stored water is obtained by the Rental Pool for use during a year.
- 2.10 RENTER is the person renting water from the Rental Pool.
- 2.11 LESSOR is the person leasing space/water to the Rental Pool.
- 2.12 PERSON means any company, corporation, association, firm, agency, individual, partnership, government agency or other entity.
- 2.13 RENTAL AGREEMENT is the agreement through which a Renter obtains the right to a specific amount of storage space or stored water from the Rental Pool.
- 2.14 RENTAL POOL refers to the water leasing and renting activities administered by the Local Committee appointed by the Water Resource Board.
- 2.15 SPACE means all or any portion of the active capacity of a reservoir measured in acre-feet.
- 2.16 STORED WATER is the water that accrues to reservoir space and is available for use.

2.17 WATERMASTER means the Watermaster of Water District No. 65.

PARA 3. GENERAL:

- 3.1 It is the policy of the Local Committee of Water District No. 65 to operate the Rental Pool for the maximum beneficial use of available stored water.
- 3.2 Operation of the Rental Pool will be by and for the irrigators within the District through the Committee. These procedures are designed to assure that Stored Water is maintained and first made available primarily for irrigation use.
- 3.3 The operation of the Rental Pool shall be consistent with the statutes creating the Water Supply Bank and the Rules and Regulations of the Board and the provisions of the contracts with the United States.
- 3.4 Space will be accepted by the Committee on a contingency basis.
- 3.5 Payments to the Lessor will be made only if Stored Water is subsequently rented from the Rental Pool.
- 3.6 The Space of storage water leased to the Rental Pool that is rented for uses below the mouth of the Payette River shall be the last space to fill in the ensuing year.
- 3.7 No storage water leased to the Rental Pool shall be rented for uses below the mouth of the Payette River without the express written consent of the Lessor.
- 3.8 It is the policy of the Committee to facilitate annual leases and rentals, and to base all transactions on water stored (storage) rather than reservoir space.

PARA 4. MANAGEMENT:

- 4.1 The Committee shall have the following responsibilities:
 - a. To provide direction to the Watermaster in the operation of the Rental Pool within the overall framework of these adopted procedures.
 - b. To notify the Department and the Watermaster of any rentals where water will be moved from the place of use authorized by the permit, license or decree authorizing the stored water right.

- c. To set policies for the investment and disbursement of funds generated by the Rental Pool in conformity with Public Depository Law, Chapter 1, Title 57, Idaho Code.

4.2 The Watermaster shall act as the manager of the Rental Pool. This authority shall include accepting Space into the Rental Pool, executing Rental Agreements on behalf of the Committee, accepting and disbursing funds generated through the rental of Stored Water, and distribution of rental water.

4.3 The Committee shall decide all issues by a majority vote.

PARA 5. LEASES:

5.1 All leases of space to the Rental Pool and all rental of Stored Water from the Rental Pool shall be for a term of one year.

5.2 Any contracting entity which owns Space in a reservoir located in the District may lease any portion of its Space to the Rental Pool.

5.3 When a Lessor has Space in more than one reservoir the lease shall designate: Cascade Space, Deadwood Space, or Payette Lakes Space.

5.4 Leases accepted by the Watermaster are subject to the review and approval of the Committee. Space submitted for lease may be rejected in whole or part by the Committee or it may place special conditions on uses, allocation, and price if, in the judgement of the Committee, accepting said Space will not be in the best interest of the Rental Pool and Water District #65.

5.5 Any Lessor, or Renter, or applicant aggrieved by a decision of the Rental Pool Committee on matters related to the operations of the Rental Pool may request a hearing before the Committee within 15 days after receiving notice in writing of the decision. After hearing the grievance and after review by the Committee, a decision will be made by the Committee, in writing, setting forth the reasons for its decision, and said review decision must be signed by a majority of the Committee. The decision of the Committee may be appealed to the Board.

5.6 Leases of Space to the Rental Pool shall be on a priority basis as set forth in paragraph 6 of these procedures.

5.7 All Space leased to the Rental Pool shall be under the control of the Watermaster and the Committee for the duration of the lease.

PARA 6. PRIORITIES AMONG LESSORS:

- 6.1 When a Lessor leases Space to the Rental Pool, the Stored Water attributable to such Space shall be determined by the Watermaster according to the percentage the reservoir fills.
- 6.2 All Stored Water attributable to Space leased to the Rental Pool before July 1 will be rented before any Stored Water from Space leased after July 1.
- 6.3 Lessors who lease Space to the Rental Pool by July 1, shall share proportionally in the proceeds from the rental of Stored water attributable to such Space.
- 6.4 Lessors who lease Space to the Rental Pool after July 1, shall receive proceeds from the rental of Stored Water attributable to such Space on a “first come” basis, whereby the first Lessor to Lease Space will be the first paid.
- 6.5 All space/water that has not been rented by the end of the year, shall revert back to the Lessor, unless extended by the Lessor.

PARA 7. PRIORITIES AMONG RENTERS:

- 7.1 Any Stored Water available through the Rental Pool for use shall be provided on a priority basis. The first priority for each time category is defined below. The second priority for each time category consists of all water users not defined in that time category. Water shall be rented to second priority Renters only upon specific findings of the Committee, in cases when all first priority uses are anticipated to be satisfied.
- 7.2 Priority until July 1 of each year in acquiring Stored Water from the Rental Pool shall be given to renters for irrigation within the active portion of Water District #65.
- 7.3 After July 1 of each year all remaining unrented Stored Water in the Rental Pool shall be available to any water user who desires to rent the water for any beneficial use.
- 7.4 Sub-priority among water users of each priority listed above shall be determined by the date on which the water user’s signed Rental Agreement and payment is received at the office of the Watermaster. During periods of drought or special conditions, with consideration to local public interest and with the Director’s approval, the Committee may develop additional or alternative procedures.
- 7.5 Any water user having once entered into a Rental Agreement for Stored Water may request Stored Water in subsequent years by confirming, in writing, that all the information on the original agreement is true and correct, and by identifying the amount of water he wishes to purchase. The priority in this case will be the date on which payment is received by the Watermaster.

7.6 Water must be used by the Renter no later than March 1 of the year following the calendar year in which storage occurs, unless an extension is granted by the Committee.

PARA 8. RENTAL FEES AND PAYMENTS TO LESSORS:

- 8.1 The price of stored water rented from the Rental Pool for use upstream from the mouth of the Payette River is \$3.20 per acre foot, with \$2.00 per acre foot being paid to the Lessors, a \$1.00 per acre foot administrative fee paid to the District and the \$0.20 surcharge due the Board under the Idaho Water Bank rules. The price of stored water rented from the Rental Pool for use downstream from the mouth of the Payette River is \$14.00 per acre foot, with \$ 11.80 per acre foot being paid to the Lessors, \$3.89 of which is intended to be used by the Lessor for improvements within the Lessor's delivery system, with emphasis given to improvements which would result in better water management, water quality and water use efficiencies, a \$1.00 per acre foot administrative fee paid to the District and the \$1.20 surcharge due the Board. In the case that another rental pool or space holder should lease water for the purpose of arbitrage and consequently seek to secure replacement water from the Rental Pool, the price shall be the amount charged by that rental pool or space holder plus an additional \$1.00 per acre foot administrative fee paid to the District.
- 8.2 Payments to the Lessors shall be made in accordance with paragraph 6 and shall be based upon the data published in the annual report of the Watermaster. Payments to the Lessors shall be considered due and payable once the Watermaster has calculated the actual water used within the District for the annual Watermaster's Report. Payments to the Lessors for water delivered after submittal of the annual Watermaster's Report shall be made when delivery of the water is completed.
- 8.3 Any administrative revenue in excess of actual costs shall be held in a contingency fund, and may be used for other purposes that the Committee deems to be of benefit to Water District #65, provided, however, that such uses do not conflict with Idaho Public Depository Law, Chapter 1, Title 57, Idaho Code.
- 8.4 All rental monies shall be maintained in a separate interest-bearing account with accrued interest being distributed on a pro-rata basis at the time payments to Lessors are made.

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Addendum 1-1 Special Rental Pool Rate for Water Year 2011 Out-of-basin Water Rented for Power Generation

Because of the above average natural flow in the Payette River during the 2011 season and reduced demand for stored water, carryover storage volumes provide the Rental Pool of Water District 65 the ability to investigate rental of water for downstream hydropower generation. To accommodate the transaction the Rental Pool Committee is authorizing Water District No. 65 the ability to negotiate special rental rates with the Idaho Power Company that will remain in effect for a single transaction during this 2011 season. The Administration Fee paid to the district is to remain at \$1.00 per acre-foot and the surcharge due the Idaho Resource Board is to be 10% of rental rate remaining after the Administration Fee. Water leased for this purpose of power generation below the mouth of the Payette River shall become the most last to fill water, filling behind all other water rented for down stream usage. This transaction conducted for power production below the mouth of the Payette River shall have its terms reviewed and approved by the Idaho Water Resource Board and its terms and rates attached to the rental pool rules for 2011 to document the special and specific nature of the transaction.

Attachment A

Idaho Power has offered a rate for Winter Rental Water of \$8.50 per acre foot.
Water District No. 65 will retain \$1.00 as an administrative fee.
Idaho Water Resource Board is due \$0.75 as a surcharge.
Lessors will realize a return of \$6.75 per acre foot.

\$8.50 Rental Rate
\$1.00 WD 65 Administration Fee
\$0.75 IWRB Surcharge
\$6.75 Available to leasing entity

Potential volume to be rented to Idaho Power this winter season of 2011-2012
35,000 acre-feet.