

2017

WATER DISTRICT 1

RENTAL POOL PROCEDURES

**WATER DISTRICT #1 RENTAL POOL
APPLICATION TO RENT WATER FROM THE COMMON POOL SUPPLY**

_____ (applicant) hereby requests to rent _____ (acre-feet) of storage from the Water District #1 Rental Pool with the enclosed rental fees of \$ _____ for the irrigation season 20____. The acceptance and approval of this rental request by the Water District #1 Watermaster is subject to the adopted Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765.

Description of Point of Diversion:

Name of River or Stream from which rental is diverted: _____

Canal or Pump Name & location: _____

Place of Use description: _____

Applicant Signature and Address:

Print Name: _____

Signature: _____

Address: _____

If applicant is not a spaceholder and is applying to rent 100 ac-ft or less, pursuant to Rule 5.2.104, the applicant must submit written consent from the operator of the point of diversion listed on the application.

Operator Name and Title: _____

Operator Consent Signature: _____

NOTICE: Applicants that are not spaceholders will be billed for an additional impact fee in the year following the approval of this application if the rental causes impacts to spaceholders in excess of the rental fees paid with this application, pursuant to Rule 5.5.107.

(official use only)

Date Application Accepted by Watermaster: _____

Application Approved by Watermaster: _____ YES _____ No

Watermaster Signature: _____

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**2017
WATER DISTRICT 1
RENTAL POOL PROCEDURES**

RULE 1.0 LEGAL AUTHORITY

- 1.1 These procedures have been adopted by the Water District 1 Committee of Nine pursuant to Idaho Code § 42-1765.
- 1.2 These procedures shall not be interpreted to limit the authority of the Idaho Department of Water Resources, the Idaho Water Resource Board, or the Watermaster of Water District 1 in discharging their duties as prescribed by statute or rule.
- 1.3 These procedures shall be interpreted consistent with Idaho Code, rules promulgated by the Idaho Water Resource Board, relevant provisions of spaceholder contracts with the United States, and the Mediator's Term Sheet of the 2004 Snake River Water Rights Agreement.
- 1.4 The operation of the rental pool shall in no way recognize any obligation to maintain flows below Milner or to assure minimum stream flows at the United States Geological Survey (USGS) gaging station on the Snake River near Murphy.
- 1.5 These procedures shall not be interpreted in any manner that is inconsistent with or would adversely impact or effect the rights of the Shoshone-Bannock Tribes as set out in the Fort Hall Agreement, the Blackfoot River Equitable Adjustment Settlement Agreement, and the 2015 Settlement Agreement between the Tribes and the Committee of Nine.

RULE 2.0 DEFINITIONS

- 2.1 **Accounting Year:** the Water District 1 accounting year that begins on November 1 and ends on October 31.
- 2.2 **Acre-foot:** a volume of water sufficient to cover one acre of land one foot deep and is equal to 43,560 cubic feet.
- 2.3 **Administrative Fee:** a fee of one dollar and five cents (\$1.05) per acre-foot assessed on the total quantity of storage set forth in any rental or lease application, disbursed to the District at the end of the irrigation season.
- 2.4 **Allocation:** the amount of stored water, including carryover, that has accrued to a spaceholder's storage space on the date of allocation that is available for the spaceholder's use in the same accounting year.
- 2.5 **Applicant:** a person who files with the Watermaster an application, accompanied by the required fees, to rent or lease storage through the rental pool.
- 2.6 **Assignment:** storage provided by an assignor from the current year's storage allocation for rental through the common pool pursuant to Rule 5.3.
- 2.7 **Assignor:** a participant who assigns storage to the common pool pursuant to Rule 5.3 and subject to Rule 7.5.

- 2.8 **Board:** the Idaho Water Resource Board (IWRB).
- 2.9 **Board Surcharge:** a surcharge equal to ten percent (10%) of the rental price or lease price assessed on the total quantity of storage set forth in any rental or lease application, disbursed to the Board at the end of the irrigation season.
- 2.10 **Bureau:** the United States Bureau of Reclamation (USBR).
- 2.11 **Committee:** the Committee of Nine, which is the advisory committee selected by the members of Water District 1 at their annual meeting and appointed as the local committee by the Board pursuant to Idaho Code § 42-1765.
- 2.12 **Common Pool:** storage made available to the Committee through participant contributions and/or assignments for subsequent rental pursuant to Rule 5.
- 2.13 **Date of Allocation:** the date determined each year by the Watermaster on which the maximum accrual to reservoir spaceholders occurs.
- 2.14 **Date of Publication:** the date on which the Watermaster publishes on the District website the storage allocation for the current accounting year.
- 2.15 **Department:** the Idaho Department of Water Resources (IDWR).
- 2.16 **District:** Water District 1 of the state of Idaho.
- 2.17 **Impact Fee:** a fee added to the rental price for non-spaceholder rentals pursuant to Rule 5.5.107.
- 2.18 **Impact Fund:** a fund maintained by the Watermaster for the mitigation of computed impacts to participants pursuant to Rule 7.3.
- 2.19 **Infrastructure Fee:** a fee of five dollars (\$5.00) per acre-foot assessed on all storage rented through the common pool for purposes below Milner, excluding flow augmentation, disbursed to the Infrastructure Fund at the end of the irrigation season.
- 2.20 **Infrastructure Fund:** a fund maintained by the Watermaster for the purposes outlined in Rule 4.5.
- 2.21 **Lease:** a written agreement entered into between a lessor and lessee to lease storage through the rental pool pursuant to Rule 6.
- 2.22 **Lease Price:** a price per acre-foot negotiated between a lessor and lessee as set forth in a lease agreement.
- 2.23 **Lessee:** a person who leases storage from a participant under a lease.
- 2.24 **Lessor:** a participant who leases storage to a person under a lease pursuant to Rule 6 and subject to Rule 7.6.
- 2.25 **Milner:** Milner Dam on the Snake River.

- 2.26 **Net Price:** the average price per acre-foot of all rentals from the common pool, including flow augmentation, but excluding rentals of assigned storage.
- 2.27 **Net Proceeds:** the net price times the number of acre-feet rented from the common pool, excluding rentals of assigned storage.
- 2.28 **Participant:** a spaceholder who contributes storage to the common pool pursuant to Rule 5.2.
- 2.29 **Participant Contributions:** storage made available to the common pool by participants, with computed impacts accounted from next year's reservoir fill, which forms the supply for large rentals, small rentals, and flow augmentation, subject to the limitations in Rule 5.2.
- 2.30 **Person:** an individual, corporation, partnership, irrigation district, canal company, political subdivision, or governmental agency.
- 2.31 **Rent:** the rental of storage from the common pool.
- 2.32 **Rental Pool:** the processes established by these procedures for the rental and/or lease of storage, mitigation of computed impacts to spaceholders, and disposition of revenues.
- 2.33 **Rental Pool Subcommittee:** a subcommittee composed of the Watermaster (advisor), a designated representative from the Bureau (advisor), and three or more members or alternates of the Committee who have been appointed by the chairman of the Committee.
- 2.34 **Rental Price:** the price per acre-foot of storage rented from the common pool, as set forth in Rule 5.5, excluding the administrative fee, the Board surcharge, and the infrastructure fee.
- 2.35 **Renter:** a person who rents storage from the common pool.
- 2.36 **Reservoir System:** refers to American Falls, Grassy Lake, Henrys Lake, Island Park, Jackson Lake, Lake Walcott, Milner Pool, Palisades, and Ririe.
- 2.37 **Space:** the active capacity of a reservoir measured in acre-feet.
- 2.38 **Spaceholder:** the holder of the contractual right to the water stored in the space of a storage facility within the Reservoir System.
- 2.39 **Storage:** the portion of the available space that contains stored water.
- 2.40 **Watermaster:** the watermaster of Water District 1.
- 2.41 **Water Supply Forecast:** the forecasted unregulated runoff for April 1 to September 30 at the Heise USGS gaging station, referred to in Table 1.

RULE 3.0 PURPOSES

- 3.1 The primary purpose of the rental pool is to provide irrigation water to spaceholders within the District and to maintain a rental pool with sufficient incentives such that spaceholders supply, on a voluntary basis, an adequate quantity of storage for rental or lease pursuant to procedures established by the Committee. These procedures are intended to assure that participants have priority over non-participants and non-spaceholders in renting storage through the rental pool.
- 3.2 To maintain adequate controls, priorities, and safeguards to insure that existing water rights are not injured and that a spaceholder's allocation is not impacted without his or her consent. To compensate an impacted spaceholder to the extent the impact can be determined by the procedures developed by the District.
- 3.3 To generate revenue to offset the costs of the District to operate the rental pool and to fund projects that fall within the parameters of Rule 4.5.
- 3.4 To provide storage water at no cost under Rule 5.5 for the benefit of the Tribes consistent with the terms of the Blackfoot River Equitable Adjustment Settlement Agreement and the 2015 Settlement Agreement. Discussions are ongoing to identify the party responsible for mitigating impacts to the Tribes. Nothing in these Procedures should be construed as an admission of liability by Water District 1 or the Committee of Nine.

RULE 4.0 MANAGEMENT

- 4.1 **Manager.** The Watermaster shall serve as the manager of the rental pool and shall take all reasonable actions necessary to administer the rental pool consistent with these procedures, which include, but are not limited to:
 - (a) Determining impacts pursuant to Rule 7;
 - (b) Calculating payments to participating spaceholders as prescribed by Rules 5.2 and 7.3;
 - (c) Accepting storage into the common pool and executing rental agreements on behalf of the Committee;
 - (d) Disbursing and investing rental pool monies with the advice and consent of the Rental Pool Subcommittee; and
 - (e) Taking such additional actions as may be directed by the Committee.
- 4.2 **Rental Pool Subcommittee.** The Rental Pool Subcommittee shall exercise the following general responsibilities:
 - (a) Review these procedures and, as appropriate, make recommendations to the Committee for needed changes;
 - (b) Review reports from the Watermaster regarding rental applications, storage assignments to the common pool, and leases of storage through private leases;
 - (c) Advise the Committee regarding rental pool activities;
 - (d) Develop recommendations for annual common pool storage supplies and rental rates;
 - (e) Assist the Watermaster in resolving disputes that may arise from the diversion of excess storage; and
 - (f) Assume such additional responsibilities as may be assigned by the Committee.

4.3 Applications

- 4.3.101 Applications to rent or lease storage through the rental pool shall be made upon forms approved by the Watermaster and shall include:
- (a) The amount of storage sought to be rented or leased;
 - (b) The purpose(s) for which the storage will be put to beneficial use;
 - (c) The lease price (for private leases); and
 - (d) To the extent practicable at the time of filing the application, the point of diversion identified by legal description and common name; and a description of the place of use.
- 4.3.102 *Application Acceptance.* Applications are not deemed accepted until received by the Watermaster together with the appropriate fees required under Rules 5.5 (rentals) or 6.4 (leases).
- 4.3.103 *Application Approval.* An application accepted under Rule 4.3.102 shall be approved after the Watermaster has determined that the application is in compliance with these procedures and sufficient storage will be available from the common pool and/or lessor to provide the quantity requested in the application. Upon approval of the application, the Watermaster shall send notice to the renter/lessor/lessee and entity owning the point-of-diversion designated in the application of such approval and allocation of storage; provided, however, no allocation of storage shall be made until the applicant designates the point of diversion and place of use of the rented and/or leased storage in the application or pursuant to Rule 4.3.106.
- 4.3.104 *Timeframe for having Rental Application Accepted to Preserve Rental Priority.* Applications to rent storage will not be accepted until April 5 of the year in which the storage will be used. Applications must be accepted by the Watermaster within 15 days following the date of publication to preserve the applicant's priority under Rule 5.4.101.
- 4.3.105 *Deadline for Accepting Applications to Rent or Lease Storage.* All applications to rent or lease storage must be accepted by the Watermaster pursuant to Rule 4.3.102 on or before December 1 in order for the storage identified in such applications to be accounted for as having been diverted prior to October 31 of the same year. Applications accepted after December 1 will be accounted for from storage supplies in the following calendar year, unless an exception is granted by the Rental Pool Subcommittee.
- 4.3.106 *Deadline to Designate Point of Diversion and Place of Use.* If the point of diversion and/or place of use of the rented and/or leased storage was not previously designated in the application, the renter and/or lessee must make such designation in writing to the Watermaster on or before December 1 of the same year, unless an extension is granted by the Rental Pool Subcommittee. Failure to comply with this provision shall cause any unused storage to automatically revert back to the common pool and/or lessor, respectively.
- 4.3.107 *Deadline to Use Rental or Lease Storage.* Approved applications pursuant to Rule 4.3 or water leased through a private lease, must be used and diverted on or before December 1 of the same year.

4.4 **Rental Pool Account**

4.4.101 All monies submitted by applicants shall be deposited in an interest-bearing account known as the “Rental Pool Account” and maintained by the Watermaster on behalf of the Committee. Monies in the Rental Pool Account will be disbursed to participants, the District, the Board, the Impact Fund, and the Infrastructure Fund in the proportions set forth in these Rules. Accrued interest to the Rental Pool Account shall be used to maintain the Impact Fund. Rental Pool Funds shall be considered public funds for investment purposes and subject to the Public Depository Law, Chapter 1, Title 57, Idaho Code.

4.4.102 Monies deposited in the Rental Pool Account are non-refundable to the extent the rental and/or lease application is approved pursuant to Rule 4.3.103, regardless of whether the storage is used.

4.5 **Infrastructure Fund**

4.5.101 Monies in the Infrastructure Fund may only be used to fund District costs of projects relating to improvements to the District’s distribution, monitoring, and gaging facilities, and other District projects designed to assist in the adjudication, which includes the cost of Blackfoot River Equitable Adjustment Settlement Water, if any is required, conservation, or efficient distribution of water.

4.5.102 Disbursements from the Infrastructure Fund are subject to two-thirds (2/3) Committee approval.

4.5.103 If monies in the Infrastructure Fund accrue to one million dollars (\$1,000,000.00), the infrastructure fee shall be waived and the same amount (five dollars (\$5.00)) added to the rental price in Rule 5.5.105.

4.5.104 Monies in the Infrastructure Fund may be carried over from year to year.

RULE 5.0 COMMON POOL

5.1 **Scope.** The common pool consists of storage made available to the Committee through participant contributions and assignments. Participants make all of their storage available to the common pool pursuant to the terms of Rule 5.2, with computed impacts accounted from next year’s reservoir fill. Assignors provide storage to the common pool, pursuant to Rule 5.3, by assigning a portion of their current year’s storage allocation. Rentals from the common pool are subject to the priorities and prices established under this Rule.

5.2 **Participant Contributions**

5.2.101 *Participants.* Any spaceholder may, upon submitting written notice to the Watermaster prior to March 15, 2016, elect to contribute storage to the common pool. Any spaceholder making such election shall be deemed a “participant” for the current year and every year thereafter until the spaceholder provides written notice to the Watermaster prior to March 15, 2016 rescinding its participation. Upon election to participate, a spaceholder is eligible for all the benefits of a participant set forth in these procedures, excluding monetary payment for rentals or computed impacts associated with rentals from the prior year. If after March 15, 2016, less than seventy-five percent (75%) of the contracted storage space is

committed to the common pool by participants, the Committee shall revise the rental pool procedures as necessary prior to April 1.

- 5.2.102 *Non-Participants.* Spaceholders who are not participants shall not be entitled to supply storage to, or rent storage from, the common pool, or supply or lease storage through a private lease. Notwithstanding this restriction, the Bureau may rent water from the common pool for flow augmentation pursuant to Rule 5.2.105.
- 5.2.103 *Large Rentals.* The common pool will make available from participant contributions 50,000 acre-feet of storage for rentals, plus any assigned storage, subject to the priorities and limitations set forth in Rule 5.
- 5.2.104 *Small Rentals.* The common pool will make available from participant contributions 5,000 acre-feet for rentals of 100 acre-feet or less per point of diversion, subject to the priorities and limitations set forth in Rule 5. Rentals from the small pool shall only be considered for approval following submittal of written consent from the operator of the delivery system. The Committee may approve on a case-by-case basis the additional rental of storage under this provision to exceed the 100 acre-feet limitation. The 100 acre-feet limitation per point of diversion does not apply if the rental is supplied pursuant to Rule 5.2.103.
- 5.2.105 *Flow Augmentation*
- (a) *Table 1.* The amount of storage, from participant contributions to the common pool, available for rental for flow augmentation shall be determined by Table 1.
- (b) *Extraordinary Circumstances.* A greater amount of storage may be made available by the Committee, if it determines on or before July 1 that extraordinary circumstances justify a change in the amount of storage made available for flow augmentation.
- 5.2.106 *Shoshone-Bannock Tribes.* The Tribes shall be treated as non-participants unless written notice is provided under 5.2.101.
- (a) *Blackfoot River Equitable Adjustment Settlement Agreement Water.* Storage water not to exceed 20,000 acre-feet shall be made available in accordance with the terms of the Blackfoot River Equitable Adjustment Settlement Agreement. The source and funding of the storage water shall be determined by the Committee at its June meeting. Administrative fees shall be paid by Water District 1.
- (b) 2015 Settlement Agreement. Storage water not to exceed 10,000 acre-feet (except with the approval of the Committee of Nine) shall be made available in accordance with the terms of the 2015 Settlement Agreement from the current year's Common Pool prior to providing any rental under the priorities of Rule 5.4.101. Administrative fees shall be paid by Water District 1. Discussions are ongoing to identify the party responsible for mitigating impacts to the Tribes. Nothing in these Procedures should be construed as an admission of liability by Water District 1 or the Committee of Nine.

5.2.107 *Additional Quantities.* In the event rental requests from participants impacted from the prior year's rentals exceed 50,000 acre-feet and insufficient storage has been assigned to the common pool to meet such additional requests, the maximum amount of storage that will be available through the common pool will be equivalent to the amount necessary to meet the demand of those shown to have been impacted from the prior year's rentals.

5.2.108 *Participant Payments.* Monies collected through the rental of the participant contribution portion of the common pool, including flow augmentation, shall be disbursed as follows:

- (a) seventy percent (70%) of the Net Proceeds disbursed to participants; and
- (b) thirty percent (30%) of the Net Proceeds disbursed to the Impact Fund.

5.2.109 *Participant Payment Formula.* Participants will receive payment for storage rented from the participant contribution portion of the common pool pursuant to the following payment formulas:

$$\begin{aligned} 1^{\text{st}} \text{ Installment} &= (R \times SP/TSP) / 2 \\ 2^{\text{nd}} \text{ Installment} &= (R \times ST/TST) / 2 \end{aligned}$$

- R = 70% of net proceeds
- SP = Space of participants
- ST = Storage of participants based on the preliminary storage allocation for the following year
- TSP = Total participating space in system
- TST = Total participating storage in system based on the preliminary storage allocation for the following year

If a specific reservoir's allocation has been reduced as a result of flood-control operations, the ST and TST values in the above formula for those reservoir spaceholders will reflect the values that otherwise would have occurred without any reductions for flood-control.

5.2.110 *Timing of Payments.* Payments to participants will be made in two installments. The first installment will be paid to participants immediately following the irrigation season in which the proceeds were collected. The second installment will be paid to participants within two weeks of the date of publication for the following irrigation season.

5.3 **Assignments**

5.3.101 *Assignors.* Any participant may assign storage to the common pool. An assignment of storage shall be made in writing on forms approved by the Watermaster.

5.3.102 *Purposes.* Storage assigned to the common pool may be rented only for purposes above Milner.

5.3.103 *Limitations.* Storage assigned to the common pool may be rented only after the participant contributions to the common pool have been rented. A participant

may not assign storage and rent storage in the same accounting year unless an exception is granted by the Rental Pool Subcommittee.

5.3.104 *Assignor Payment.* The assignor shall receive one-hundred percent (100%) of the rental price per acre-foot of the assigned storage that is rented.

5.3.105 *Distribution of Assigned Storage.* Assignments can only be made between April 5 and 15 days after the date of publication in the year in which the storage is to be rented. Assignments shall initially be distributed on a pro-rata basis, with each pro-rata share based on the amount of storage assigned or 10% of the assignor's storage space, whichever is less. If, after this initial distribution, additional rental requests exist, the remaining assigned storage shall be distributed on a pro-rata basis.

5.4 **Priorities for Renting Storage**

5.4.101 *Priorities.* Storage rented from the common pool shall be pursuant to the following priorities:

- (a) *First Priority.* Rentals by participants whose storage is determined to have been impacted by the prior year's rental from the common pool not to exceed the amount of the computed impact.
- (b) *Second Priority.* Rentals by participants for agricultural purposes up to the amount of their unfilled space.
- (c) *Third Priority.* Rentals by participants for any purposes above Milner in excess of their unfilled space. Applications for such rentals will be reviewed by the Committee and may be approved on a case-by-case basis.
- (d) *Fourth Priority.* Rentals by non-spaceholders for any purposes above Milner.

5.4.102 *Priority for Late Applications.* Applications received after the deadline set forth in Rule 4.3.104 will be deemed last in priority and will be filled in the order they are received, only after all timely applications have been filled.

5.4.103 *Distribution Within Priority Classes.* If rental supplies are not sufficient to satisfy all of the timely applications within a priority class (those received within 15 days of the date of publication), the available rental supplies will be distributed to the applicants within that priority class on a pro-rata basis.

5.4.104 *Priority for Small Rentals.* Small rentals made pursuant to Rule 5.2.104 are not subject to the priorities set forth in Rule 5.4.101 and will be approved in the same order in which the rental applications are received by the Watermaster, so long as the total amount of all such applications does not exceed 5,000 acre-feet.

5.4.105 *Priority for Flow Augmentation.* Rentals for flow augmentation are not subject to the priorities set forth in Rule 5.4.101 and shall be determined pursuant to Rule 5.2.105.

5.5 **Rental Prices**

5.5.101 *Tier 1:* If the storage system fills, the rental price for purposes above Milner shall be \$6.00 per acre-foot.

- 5.5.102 *Tier 2:* If the storage system does not fill but storage is provided for flow augmentation pursuant to Rule 5.2.105(a), the rental price for purposes above Milner shall be \$14.50 per acre-foot.
- 5.5.103 *Tier 3:* If the storage system does not fill and no flow augmentation water is provided pursuant to Rule 5.2.105(a), the rental price for purposes above Milner shall be \$22.00 per acre-foot.
- 5.5.104 *Determination of Tier 1, 2 or 3 Rental Price:* Unless the storage system has filled, the Watermaster shall designate on or before April 5 either Tier 2 or Tier 3 as the rental price for above-Milner rentals. If at any time during the same accounting year, the storage system should subsequently fill, the Watermaster shall designate Tier 1 as the rental price for above-Milner rentals and refund any excess rental fees within 30 days after the date of publication.
- 5.5.105 *Tier 4:* The rental price for storage rented for flow augmentation shall be \$14.50 per acre-foot.
- 5.5.106 *Tier 5:* The rental price for storage rented for purposes below Milner, excluding flow augmentation, shall be negotiated between the applicant and the rental pool sub-committee.
- 5.5.107 *Fees & Surcharges.* There shall be added to the rental price for all rentals the administrative fee and Board surcharge. There shall also be added to the rental price for rentals pursuant to fourth priority Rule 5.4.101(d) and rentals to non-spaceholders pursuant to Rule 5.2.104 an impact fee to mitigate the computed impacts under Rule 7 from such rentals, payable as follows: The exact amount which is to be set and paid when the full impacts of such rentals, based upon the following year's Common Pool rental price, are determined under said Rule 7, including all additional fees and surcharges. Payment shall then be due and payable on or before 60 days from the day of allocation. There shall also be added to the rental price for rentals below Milner, excluding flow augmentation, the infrastructure fee. Failure of a non-spaceholder to timely pay the fees identified above, shall result in the non-spaceholder's ineligibility to rent water in the future. Such failure to pay shall also subject the non-spaceholder to such legal actions as allowed under state law in the collection of fees.
- 5.5.108 *Storage System Fill.* For purposes of Rule 5.5 only, the storage system is considered full when all storage rights are filled in Jackson Lake, Palisades (except for powerhead), American Falls, and Island Park.
- 5.6 **Limitations.** A participant cannot rent water from the Common Pool if the participant is replacing storage space or water which has been evacuated due to an assignment to or private lease through the Water District 1 Rental Pool, unless an exception is granted by the Committee.

RULE 6.0 PRIVATE LEASES

- 6.1 **General.** All leases must be transacted through the rental pool. Only participants may lease storage to a Lessee subject to the provisions of these rules.

- 6.2 **Purposes.** Storage may be leased through the rental pool only for beneficial use purposes above Milner. A participant may not lease storage to a lessee and rent storage from the common pool in the same accounting year unless an exception is granted by the Rental Pool Subcommittee.
- 6.3 **Payment to Lessor.** The lessor shall receive one-hundred percent (100%) of the lease price.
- 6.4 **Fees & Surcharges.** There shall be added to the lease price the administrative fee and the Board surcharge.
- 6.5 **Non-Applicability to Common Pool.** Storage leased pursuant to this rule does not count against the participant contribution volumes set forth in Rule 5.2.
- 6.6 **Recharge.** All storage used for the purpose of recharge must be transacted through the rental pool. Unless storage is rented pursuant to Rule 5.0, storage used for recharge, whether diverted by the storage spaceholder or another person, will be treated as a lease of storage.
- 6.7 **Idaho Water Resource Board (IWRB) Storage.** The IWRB may lease its existing storage (up to 5,000 acre-feet) to Idaho Power and have it released past Milner for the purpose of mitigating minimum flows at Murphy. The administrative fee must be paid by the IWRB for any storage used for such purpose.

RULE 7.0 IMPACTS

- 7.1 **Determination.** In any year in which the storage rights in the reservoir system do not fill, the Watermaster will determine the actual computed impacts to spaceholders, if any, associated with the prior year's rentals and leases. In making this determination, the Watermaster will use a procedure which identifies the following:
- (a) What each computed reservoir fill would have been had the previous year's rentals and leases not taken place;
 - (b) The storage space from which rented or leased storage was actually supplied for the previous year's rental or lease; and
 - (c) The amount of storage each spaceholder's current allocation was reduced by the previous year's rental or lease activities.
- 7.2 **Flood Control.** There are no computed impacts resulting from the previous year's rentals or leases for a specific reservoir when that reservoir's storage is released as a result of flood-control operations and water is spilled past Milner in the current year.
- 7.3 **Impacts to Participants due to Rentals from the Common Pool (excluding assignments)**
- 7.3.101 *Payments to Impacted Participants Using Impact Fees.* Participants whose storage allocation has a computed impact from the prior year's rental of storage from the common pool, excluding assignments, shall first receive payment from impact fees collected pursuant to Rule 5.5.107 from the previous year's fourth priority rentals. The amount of impact fees disbursed to impacted participants will be proportional to the total common pool rental, including flow augmentation rentals, that occurred during the prior year:

$$\text{Impact Fee Payment} = (\text{Isp} * \text{RP}) * (\text{Fp}/\text{Cp})$$

Isp = Participants computed impacted space in current year

RP = Rental Price in current year

Fp = Fourth priority rentals in prior year

Cp = Total common pool rentals (including flow augmentation) in prior year

Payment to spaceholders for the impacts by non-spaceholders pursuant to 7.3.101 shall be paid from the balance remaining in the impact fund after payments are made pursuant to 7.3.102, which shall then be reimbursed pursuant to Rule 5.5.107.

7.3.102 *Remaining Impact Payment.* Participants whose storage allocation has a computed impact from the prior year's rental of storage from the common pool, excluding assignments, will also receive payment from the Impact Fund (in addition to the Impact Fee Payment pursuant to Rule 7.3.101) equal to the lesser value of the two following formulas:

Remaining Impact Payment = [(Isp*RP) – Impact Fee Payment] or [$\frac{1}{2}$ IF*(Isp/Ispt) – Impact Fee Payment]

Isp = Participant's computed impacted space in acre-feet

RP = Rental Price

IF = Impact Fund

Ispt = Total of all Participants' computed impacted space in acre-feet

7.3.103 *Timing of Payment.* Impact payments, which will be based on preliminary data, will be made to participants on or before July 15.

7.4 **Impacts to Non-Participants due to Rentals from the Common Pool (excluding assignments).** If the prior year's rental of storage from the common pool caused computed impacts to non-participants as determined by the Watermaster, the current year's Common Pool shall be reduced to supply such impacts to non-participants (at no cost to non-participants) prior to providing any rental under the priorities of Rule 5.4.101.

7.5 **Impacts to Spaceholders due to Rental of Assigned Storage.** If the rental of assigned storage caused computed impacts, as determined by the Watermaster, the assignor's storage allocation shall be reduced by an amount equal to such computed impacts, not to exceed the quantity of storage assigned by the assignor, and reallocated to mitigate computed impacts to affected spaceholders. This reallocation will only occur in the year following the rental of assigned storage.

7.6 **Impacts to Spaceholders due to Private Leases.** If the lease of storage pursuant to a private lease caused computed impacts, as determined by the Watermaster, the lessor's storage allocation shall be reduced by an amount equal to such computed impacts, not to exceed the quantity of storage leased by the Lessor, and reallocated to mitigate computed impacts to affected spaceholders. This reallocation will only occur in the year following the lease of storage.

7.7 **Impacts to Spaceholders Resulting from USBR Powerhead Private Lease.** Consistent with the Mediator's Term Sheet of the 2004 Snake River Water Rights Agreement, powerhead space used for flow augmentation shall be the last space to refill after all other

space in reservoirs in that water district, including other space used to provide flow augmentation, in the basin has filled;

- 7.8 *Impacts to Spaceholders Resulting from Release of Idaho Water Resource Board (IWRB) Storage Used for Mitigating Minimum Flows at Murphy.* For 2016 only, if the release of IWRB storage past Milner caused computed impacts, as determined by the Watermaster, the IWRB storage allocation shall be reduced by an amount equal to such computed impacts, not to exceed the quantity of storage released, and reallocated to mitigate computed impacts to affected spaceholders.

RULE 8.0. SUPPLEMENTAL POOL

- 8.1 **Purpose.** To provide a voluntary mechanism for the lease of storage water below Milner for hydropower generation within the state of Idaho when storage water supplies, as a result of hydrologic, climate and other conditions, are sufficient to satisfy above Milner uses and flow augmentation. A supplemental pool shall be created in order to mitigate for computed impacts associated with leases below Milner, consistent with the Idaho Water Resource Board's policy to establish an effective water marketing system consistent with state law and assuring the protection of existing water rights while accommodating the purchase, lease or conveyance of water for use at Idaho Power's hydroelectric facilities, including below Milner Dam.

- 8.2 **Annual Authorization Required.** No storage may be leased through the supplemental pool until the Committee on or after April 1 of each year authorizes use of the pool and the Bureau certifies that it has sufficient flow augmentation supplies for the year or that storage to be released past Milner will count toward flow augmentation.

8.3 Quantity and Price Determinations.

8.3.101 *Quantity Determination.* The maximum quantity of storage authorized to be leased through the supplemental pool shall be determined annually by the Committee taking into account the advice and recommendation of the Rental Pool Subcommittee, together with current and forecasted hydrological conditions and estimated demand on the rental pool for above Milner uses.

8.3.102 *Price Determination.* The Committee shall authorize the leasing of water, including price pursuant to Rule 8 after taking into account spaceholder needs and current market conditions for power generation. There shall be added to the lease price the board surcharge and not to exceed a \$1.80 per acre-foot administrative fee associated with the development and implementation of the supplemental pool, assessed on the total quantity of storage set forth in any lease application approved or conditionally approved under Rule 8.4.

8.3.103 *Subsequent Quantity and Price Determinations.* If within the same accounting year, the Committee subsequently determines based on the criteria set forth in Rule 8.3.101 that additional opportunities exist for utilizing the use of water within Idaho through the supplemental pool consistent with Rule 8.1.it shall designate such additional maximum quantity authorized to be leased through the supplemental pool and identify a separate lease price for such additional quantity pursuant to Rule 8.3.102.

8.4 Application to Lease Storage from the Supplemental Pool.

- 8.4.101 Applications to lease storage from the supplemental pool for hydropower purposes shall be made upon forms approved by the Watermaster and shall include:
- (a) The amount of storage sought to be leased;
 - (b) The lease price with associated fees as identified by the Committee under Rule 8.3.102;
 - (c) The point of diversion identified by legal description and common name; and
 - (d) A description of the place of use.
- 8.4.102 *Application Acceptance.* Applications are not deemed accepted until received by the Watermaster together with the appropriate fees required under Rule 8.3.102.
- 8.4.103 *Application Approval.* An application accepted under Rule 8.4.102 shall be approved after the Watermaster has determined that the application is in compliance with these procedures and sufficient storage will be available from the supplemental pool to provide the quantity requested in the application; provided, however, if the date of publication has not yet occurred, approval of the application shall be conditioned on the ability of spaceholders who have contracted to lease storage through the supplemental pool to have a sufficient storage allocation during the accounting year to satisfy their contracts approved under Rule 8.5.104. Upon approval or conditional approval of the application, the fees collected from the applicant shall be non-refundable to the extent of the total quantity of storage approved or conditionally approved in supplemental pool lease contract(s) under Rule 8.5.104. The Watermaster shall provide notice of such approval.
- 8.4.104 *Deadline for Accepting Applications.* All applications to lease storage from the supplemental pool must be accepted by the Watermaster pursuant to Rule 8.4.102 not later than October 31 in order for the storage identified in such applications to be accounted for as having been diverted as of October 31 of the same year. Applications accepted after October 31 will be accounted for from storage supplies in the following calendar year, unless an exception is granted by the Rental Pool Subcommittee.

8.5 **Supplemental Pool Supply.**

- 8.5.101 *Notice to Spaceholders of Opportunity to Lease Storage through the Supplemental Pool.* The Watermaster shall provide notice of the supplemental pool on the Water District 1 website, which shall include the following information:
- (a) The maximum quantity of storage authorized to be leased through the supplemental pool;
 - (b) The lease process, including price and deadlines as authorized by the Committee;
 - (c) Instructions for spaceholders interested in leasing storage through the supplemental pool, including instructions for executing a standardized supplemental pool lease contract; and
 - (d) The deadline, as set by the Committee, for the Watermaster to receive supplemental pool lease contracts from spaceholders interested in leasing storage through the supplemental pool.
- 8.5.102 *Supplemental Pool Lease Contracts.* Spaceholders interested in leasing storage through the supplemental pool shall execute a standardized supplemental pool

lease contract, which shall be provided by the Watermaster and include provisions for the following:

- (a) Limit eligibility to lease storage through the supplemental pool only to spaceholders who qualify as participants under Rule 2.27;
- (b) The quantity sought to be leased by the spaceholder may be any amount, except that the total amount of storage leased pursuant to Rule 8 may not exceed either the maximum quantity set by the Committee under Rule 8.3.101 or 10% of the spaceholder's total reservoir system space, unless an exception is approved by the Rental Pool Subcommittee;
- (c) The quantity actually leased by the spaceholder may be reduced depending upon the number of spaceholders who elect to lease storage through the supplemental pool as provided in Rule 8.5.103;
- (d) That, in the event the spaceholder elects to sign a standard pool lease contract before the date of publication, the spaceholder assumes the risk that its storage allocation may be less than the spaceholder anticipated; and
- (e) Notice to the spaceholder that if the spaceholder's lease through the supplemental pool causes computed impacts, the mitigation required under Rule 8.7 will result in an amount of the spaceholder's space, not to exceed the quantity of storage leased by the spaceholder, being assigned a junior priority which may not fill for multiple consecutive years, an accounting commonly referred to as "last to fill."

8.5.103 *Distribution of Storage to the Supplemental Pool.* If, following the deadline for receipt of executed supplemental pool lease contracts, the Watermaster determines that the total quantity of storage sought to be leased through the supplemental pool exceeds the quantity limitation established under Rule 8.3, then the Watermaster shall reduce the quantity of each supplemental pool lease contract to a pro rata share based on the amount of storage sought to be leased by each spaceholder. The Watermaster shall amend the supplemental pool lease contract(s) to reflect any reduced quantity required by this provision.

8.5.104 *Lease Contract Approval.* Following receipt of a supplemental pool lease contract, the Watermaster shall determine whether the contract is in compliance with these procedures, and, if so, shall approve the same; provided, however, if the date of publication has not yet occurred, approval of the contract shall be conditioned on the spaceholder having a sufficient storage allocation during the accounting year to satisfy the contract.

8.6 **Notice of Contract Approval and Payment to Lessors.** The lessors shall receive one-hundred percent (100%) of the lease price apportioned according to the quantity of storage each lessor leased through the supplemental pool. The Watermaster shall notify spaceholder(s) who submitted supplemental pool lease contracts of the approved amount and distribute the funds to the lessors within 30 days following approval or conditional approval of an application under Rule 8.4.103.

8.7 **Mitigation of Impacts.** If a lease of storage through the supplemental pool caused computed impacts, as determined by the Watermaster, the lessor's storage allocation shall be reduced by an amount equal to such computed impacts, not to exceed the quantity of storage leased by the lessor, and reallocated to mitigate computed impacts to affected spaceholders until the lessor's affected space fills under a priority junior to that required to fill Palisades powerhead space.

- 8.8 **November 1 Carryover Unaffected.** For purposes of determining the amount of storage available for flow augmentation under Rule 5.2.105(a), storage leased through the supplemental pool shall not affect the November 1 carryover quantity on Table 1.