

Water Banking in Idaho: A Tool for Water Suppliers

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What is a water right?

- The citizens of the State own the water resources within the State.
- A water right is created and maintained by controlling water and placing it to a 'beneficial use'.
- Most water use is recognized as beneficial use, as long as it is not wasteful.
- A new water right is established through an administrative process overseen by the Idaho Department of Water Resources (IDWR)

The elements of a water right

- Source
 - Ground water
 - Surface water
- Priority date
 - Usually the date of application or first use
- Quantity
 - Rate of flow, and/or
 - Volume
- Period of Use
 - Limited (e.g. irrigation season)
 - Year-round
- Purpose of Use
 - This is the beneficial use
- Point of Diversion
- Place of Use

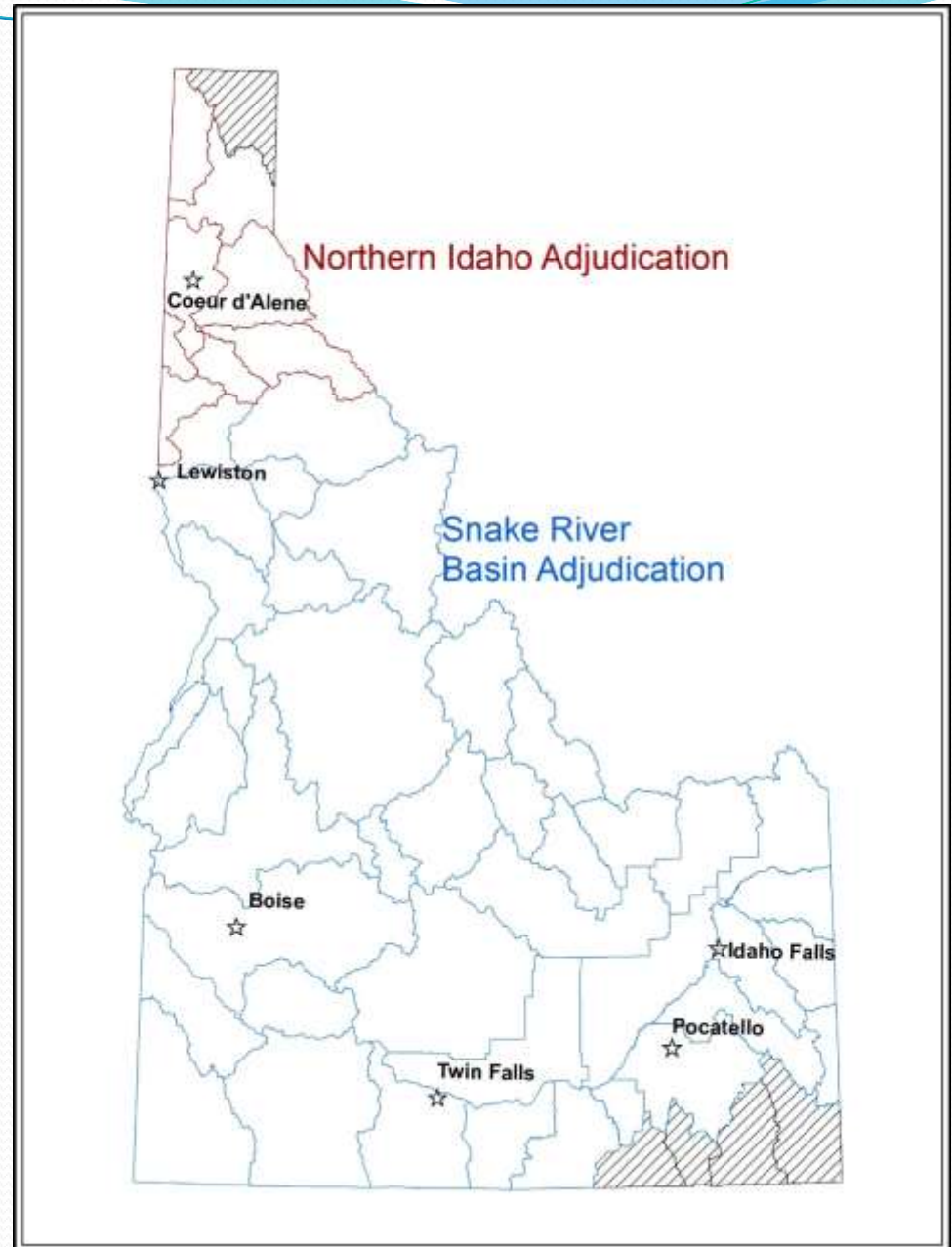
The appropriation process - Idaho

How is a new water right created?

1. An **Application for Permit** is filed with IDWR.
2. Public notice is given in local newspapers.
3. Protests can be filed in the ten days following the date of final publication.
4. After resolution of any protests, IDWR issues a **Permit to Appropriate Water**.
5. *Proof of Beneficial Use* is submitted when development is complete.
6. A field exam is conducted to determine the extent of beneficial use developed under the *Permit*.
7. IDWR issues the **Water Right License** and the process is complete.
8. Courts issue **Water Right Decrees**, further perfecting a water right.

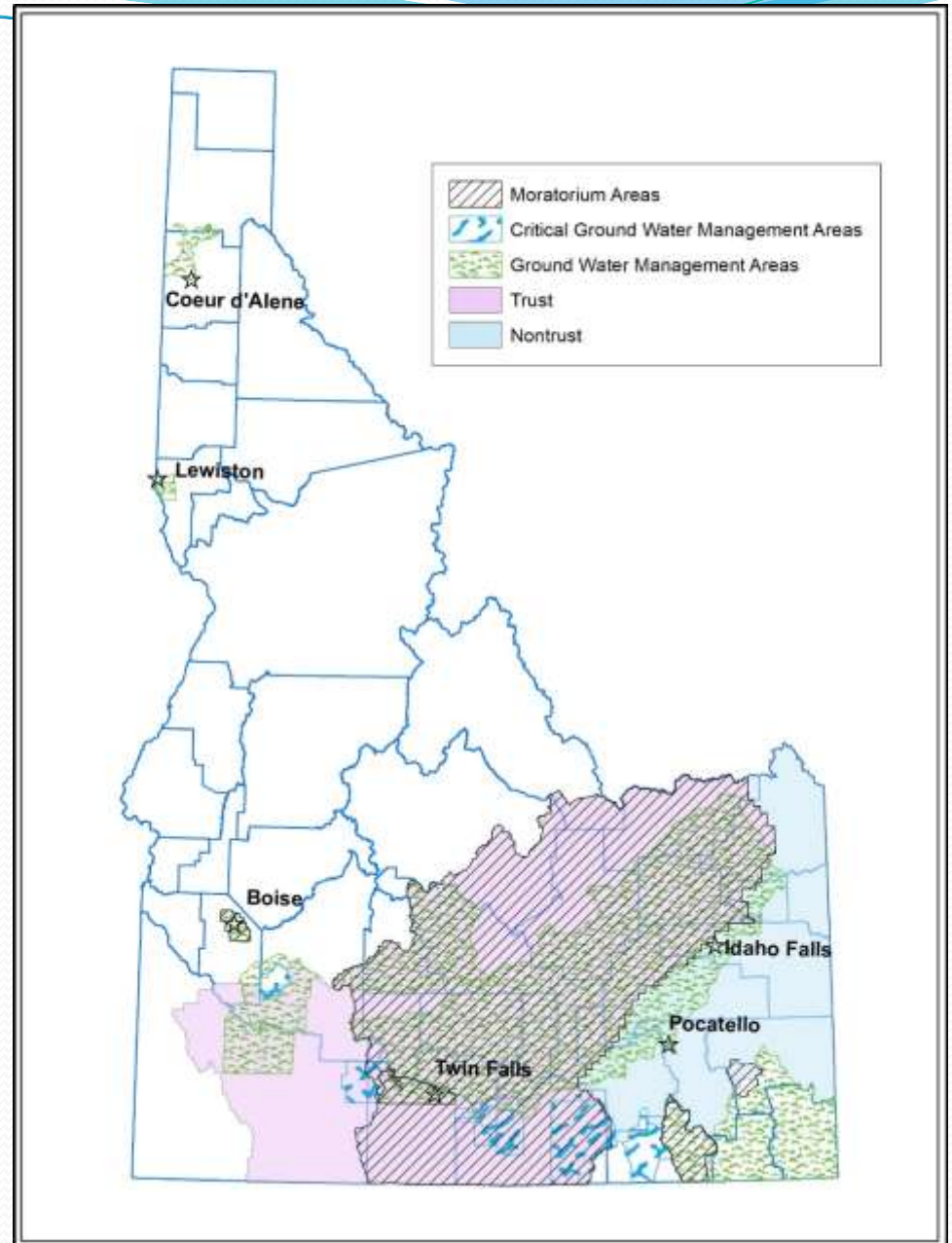
Adjudication

- Snake River Basin Adjudication
 - Began in 1987
 - Final Unified Decree signed August 2014
 - 158,706 decreed rights
- Northern Idaho Adjudication
- Bear River Basin
 - Pending



Moratorium Areas

- Eastern Snake River Plain
- Bancroft-Lund
- Twin Falls
- Banbury Hot Springs
- Boise Front
- Malad Valley (Temp)



Idaho's Water Supply Bank

- The purposes:
 - Encourage the highest beneficial use of water,
 - provide a source of adequate water supplies to benefit new and supplemental water uses, and
 - provide a source of funding for improving water user facilities and efficiencies (Idaho Code §42-1761).

Idaho's Water Supply Bank

- Water exchange market
- Operated by the Idaho Department of Water Resources (IDWR) for the Idaho Water Resource Board (IWRB)
- Natural flow rights
 - Surface and groundwater
 - Storage rights

Idaho's Water Supply Bank

- Leasing
 - Unused water rights are “leased” into the Bank
 - Lease period is from 1 to 5 years
 - Lease filing fee is \$250 per water right
 - Fee capped at \$500 for stacked water rights
 - Water right owner cannot use water rights leased into the bank, even though they may not be rented from the bank. Land is idled for the duration.

Idaho's Water Supply Bank

- Leasing review by IDWR
 - Is the right recorded?
 - Is ownership clear?
 - Has the right been forfeited or abandoned?
 - Can the source fill the right?
 - Is the lease consistent with the State Water Plan?
 - Is the lease in the local public interest?
 - Will rental result in an enlargement?

Idaho's Water Supply Bank

- Renting
 - Application submitted to rent from the Bank
 - No application fee
 - Identifying the leased right wanted for rental can help, but the Bank is intended to be first-in, first-out.
 - Rental period is generally 1-5 years
 - Longer rentals must be approved by the IWRB

Idaho's Water Supply Bank

- Renting, continued
 - IWRB sets the rental fee
 - Current fee is \$20 per acre-foot
 - 10% of the fee is retained by IWRB to operate the Bank
 - 90% of the fee to the lessor
 - Renter can negotiate with lessor on the fee; IWRB will retain 10% or \$2 per acre-foot

Idaho's Water Supply Bank

- Rental review considerations
 - Hydraulic connection required
 - NOT a permanent solution
 - Rental cannot be for a use requiring a permanent water right
 - Does not authorize new well construction
 - No injury to other water rights
 - No enlargement of the water right
 - Diversion rate
 - Annual volume
 - Consumptive volume

Idaho's Water Supply Bank

- Rental review considerations, continued
 - Water must be put to beneficial use
 - As an example, renting a water right to leave undiverted in a stream, such as to improve aquatic habitat, is generally not approvable. Lemhi River basin is an exception.
 - Water supply must be sufficient
 - The rental must be in the local public interest
 - The rental may be publicly advertised
 - Leases can be divided and/or combined to satisfy the rental

But what is a rental pool?

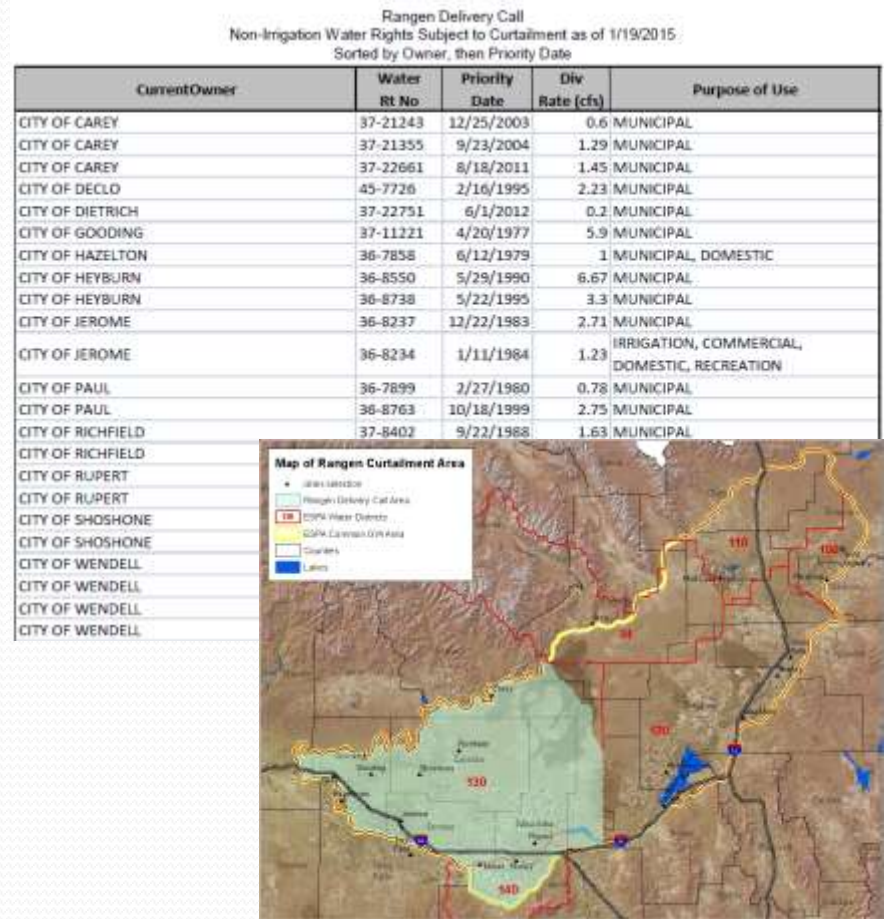
- Rental pools are usually supplied by water stored in reservoirs
- They supply water within specific watersheds
 - Some existing pools
 - Upper Snake River
 - Boise River
 - Payette River
 - Shoshone-Bannock
- Managed by local committee appointed by IWRB
- IWRB & IDWR approve rates, rental procedures
- Portion of revenue to IWRB and local water district

How can Water Suppliers use the Bank?

- Securing future water supplies
 - Obtain water rights from annexed lands
 - Outright purchases
 - Water rights are protected from forfeiture while in the Bank
 - Rentals of unused rights generate income

How can Water Suppliers use the Bank?

- Provide a supply during shortage or curtailment
 - Eastern Snake Plain Aquifer curtailment scenarios:
 - Rangen call: January 20, 2015, IDWR issues curtailment order against non-irrigation water rights
 - Rental of uncurtailed rights was considered

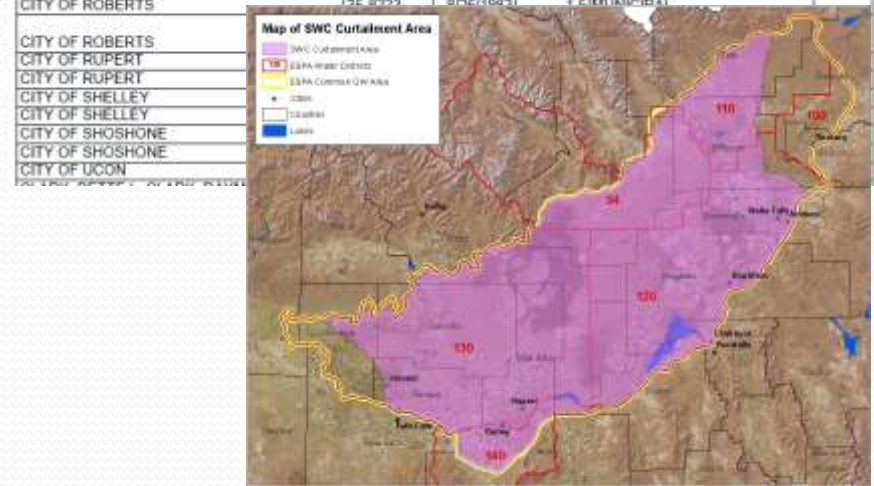


How can Water Suppliers use the Bank?

- Curtailment, continued
 - Surface Water Coalition Call
 - January 28, 2014 Notice of Potential Curtailment of Ground Water Rights
 - Idaho Ground Water Appropriators and Surface Water Coalition landmark 2015 Settlement Agreement

Water Rights and Receipts of 2014 ESPA Curtailment Notice Dated January 28, 2014
Surface Water Coalition Delivery Call

Current Owner	Water Right No.	Priority Date	Diversion Rate (cfs)	Purpose of Use	Total Acres
CITY OF IDAHO FALLS	35-8682	2/10/1988	8.02	MUNICIPAL	
CITY OF IDAHO FALLS	35-8934	6/2/1989	0.24	COMMERCIAL	
CITY OF IONA	25-7623	4/20/1993	1.2	MUNICIPAL	
CITY OF JEROME	36-16938	8/20/1982	0.01	IRRIGATION	2.2
CITY OF JEROME	36-8234	1/11/1984	1.23	IRRIGATION, COMMERCIAL, DOMESTIC, RECREATION	14
CITY OF JEROME	36-8237	12/22/1983	2.71	MUNICIPAL	
CITY OF MUD LAKE	31-7146	11/15/1974	2.23	MUNICIPAL, FIRE PROTECTION	
CITY OF PAUL	36-7899	2/27/1980	0.78	MUNICIPAL	
CITY OF PAUL	36-8763	10/18/1999	2.75	MUNICIPAL	
CITY OF POCATELLO; CITY OF POCATELLO	29-7322	4/25/1976	17.07	MUNICIPAL	
CITY OF POCATELLO; CITY OF POCATELLO	29-7375	2/24/1977	2.23	MUNICIPAL	
CITY OF POCATELLO; CITY OF POCATELLO	29-7375	2/24/1977	3.34	MUNICIPAL	
CITY OF POCATELLO; CITY OF POCATELLO	29-7450	6/13/1978	3.34	MUNICIPAL	
CITY OF POCATELLO; CITY OF POCATELLO	29-7770	5/21/1984	4.46	IRRIGATION	280
CITY OF RICHFIELD	37-22431	1/13/2009	1.19	MUNICIPAL	
CITY OF RICHFIELD	37-8402	9/22/1988	1.63	MUNICIPAL	
CITY OF ROBERTS	35-7886	1/8/1980	1.45	MUNICIPAL	
CITY OF ROBERTS	35-8003	8/22/1983	1.2	MUNICIPAL	



Questions?



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