

# Idaho Statutes

TITLE 42

IRRIGATION AND DRAINAGE -WATER

RIGHTS AND RECLAMATION

CHAPTER 17

DEPARTMENT OF WATER RESOURCES -

WATER RESOURCE BOARD

42-1765B. WOOD RIVER BASIN -WATER RIGHTS DONATED TO ENHANCE INSTREAM FLOWS AND

DOWNSTREAM WATER SUPPLIES -LOCAL COMMITTEE. [EFFECTIVE JULY 1, 2008, UNTIL DECEMBER

31, 2012.] (1) The water resource board is authorized to accept the donation by gift,

grant or bequest of water rights, in whole or in part, from the Big Wood River

upstream of the United States geological survey gage station number 13140800 located

below Stanton Crossing and above Magic Reservoir, and from Silver Creek tributary to

the Little Wood River, and to place eligible portions of the water rights into the

water supply bank. Section 42-1765, Idaho Code, and the board's water supply bank

rules shall apply to the operation of the water supply bank in the Wood River basin,

except as inconsistent with this section. Ground water rights shall not be eligible

for donation under this section.

(2) The board shall appoint a local committee to facilitate donations of eligible

water rights and to adopt local procedures. The local committee shall be comprised of

the members of the water district 37/37M advisory committee. In addition, the district

watermaster and other individuals that may be appointed by the board, upon

recommendation of the advisory committee, shall serve as ex officio members of the

local committee.

(3) Upon acceptance of the ownership of the donated rights by the board, the appointed

local committee shall have authority to accept the water rights, in whole or in part,

into the water supply bank.

(4) Donated water rights may be accepted into the water supply bank to satisfy the

board's minimum stream flow water rights authorized under section

42-1508, Idaho Code, and to satisfy existing minimum stream flow water rights

previously appropriated by the board on Silver Creek and the Big Wood River; provided,

that the director of the department of water resources, upon recommendation of the

local committee, determines that there will be an equivalent reduction in the extent

of consumptive use made under the donated water right, and that injury will not result

to other water rights. The burden of proof shall be on the owner of the donated water

right to demonstrate by clear and convincing evidence that injury will not result to

other water rights. For purposes of water rights distribution under chapter 6, title

42, Idaho Code, water rights donated pursuant to this section shall retain their

respective priority dates; provided however, that the local committee will recommend

and the director shall condition or limit the use of donated water rights as necessary

to avoid injury to other water rights and to provide for continued incidental

recharge, or managed recharge, as necessary to maintain historic recharge patterns,

and the provisions of section 42-1766, Idaho Code, shall apply to any appeals by water

right holders regarding the use of the donated water rights. All donated water rights

with points of diversion on the Big Wood River downstream of the 45 district canal

shall flow through the bypass canal and be returned to the Big Wood River through the

western branch of the 57F canal from the 57F divide. In addition, all water rights

from the southern branch of the 57F divide shall be delivered through the bypass

extension canal. A measuring device approved by the watermaster shall be installed at

the beginning of the western branch of the 57F canal.

(5) For purposes of this section, the board and local committee may not accept for

enhanced flow in the Big WoOd River any water rights currently diverted into the

Bellevue triangle via the 45 district canal (Bellevue

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diversion) In addition, all donated water rights with points of diversion located on the Big Wood River upstream of the 45 district canal shall be diverted into the 45 district canal in order to enhance local water supplies and to increase stream flows in Silver Creek and the Little Wood River.

(6) Water rights placed into the water supply bank from the Silver Creek and Little Wood River portions of the Wood River basin pursuant to this section may only be used to increase stream flows in Silver Creek and the Little Wood River.

(7) The watermaster for water district 37/37M shall collect water district expenses pursuant to chapter 6, title 42, Idaho Code, from the water users receiving water as a result of enhanced downstream water supplies provided pursuant to this section, as determined by the watermaster for water district 37/37M in cooperation with the local committee. Any additional water district expenses resulting from the administration of water rights donated under this section shall be treated as expenses related to the administration of nonconsumptive water rights under section 42-605A, Idaho Code, and shall be collected by the watermaster from the owners of the donated water rights or other persons agreeing to pay such costs.

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