

DRAFT

USWD Upper Salmon Water District Bylaws & Adopted Resolutions

It is herewith proposed that the Upper Salmon Water District (USWD) be formed under Bylaws incorporating the Idaho Department of Water Resources (IDWR) Watermaster Handbook as amended by the following resolutions adopted herein and as may be amended or supplemented by subsequent resolutions duly approved and adopted by USWD water users at their annual meeting or special meeting duly called for such purpose.

1. The USWD Watermaster shall perform the duties as required by Chapter 6, Title 42, Idaho Code and in accordance with the following:
 - a) The duties described in the Final Order Creating the USWD signed by the Director of IDWR, insert date , including:
 - 1) Working directly with sub-district Deputy Watermasters and, if preferred by the sub-districts, Officers and Advisory Board members, locate and identify (by GPS sequential numbering) all diversions within USWD;
 - 2) Working directly with sub-districts Deputy Watermasters, and, if preferred by the sub-districts, Officers and Advisory Board members, establish a schedule whereby within three (3) years all diversions within USWD shall have an IDWR approved flow control mechanism and measuring device; all new diversions of water under non-deminimis water rights issued after the effective date of the Wild and Scenic Water Rights agreement will be conditioned by IDWR to require that each diversion is equipped with a lockable controlling works, a measuring device, and a data logger or other acceptable continuous recorder that regularly monitors and records the rate of diversion; it is the goal of the USWD to measure and report water diverted from public water sources using permanently installed measuring devices on as many diversions as realistically possible, but that exceptions may be recognized due to physical constraints or locations, the amount of the rate of diversion, the relative need for regulation and/or frequency of measurements, or other reasons deemed appropriate by the USWD and IDWR. Therefore, measuring devices shall be installed on existing non-deminimis diversions (diversions of water rights in the USWD that are not subordinated to the Wild and Scenic minimum instream flow rights), in accordance with orders issued by the Director of IDWR, where such orders include consultation with the USWD Watermaster, sub-district Deputy Watermasters, and the Advisory Board members of the USWD and USWD sub-districts. Orders requested by USWD and issued by IDWR will provide specific timelines for compliance and the opportunity for recipients to file motions for reconsideration if they feel aggrieved by issuance of any such orders.
 - 3) Curtail illegal or unauthorized diversions;
 - 4) Enforce water rights in priority;
 - 5) Measure, record and report flows by water right and diversion number in accordance with requirements dictated by IDWR and USWD and;
 - 6) Enforce the provisions of the stipulated agreements approved by USWD and the Director.

- b) Direction and guidance provided by the Director of IDWR.
 - c) The annual USWD resolutions as adopted herein and as may be amended or supplemented by resolutions duly approved and adopted in future annual meetings by the USWD water users.
2. IDWR be elected to provide the watermaster services for USWD and that the Director appoint whomever to serve as USWD Watermaster for the ensuing two (2) fiscal years at no expense to USWD.
 3. As provided in Idaho Code 42-608(4), the USWD Watermaster shall begin service upon annual meeting election and continue until the next annual meeting when a successor is elected or appointed or upon prior removal by the Director.
 4. The water users of USWD hereby empower whomever , duly elected Chairperson of USWD and the USWD Advisory Board created herein to enter into a Memorandum of Understanding between USWD and the Director of IDWR that will provide the following:
 - a. USWD will assume full responsibility for all expenses of the district incurred following the 2006 USWD Annual Meeting.
 - b. IDWR will provide one (1) full-time employee equivalent (FTE), for USWD Watermaster duties during the dates of service as identified in Resolution #3 for the 2006 and 2007 fiscal years. This IDWR provided USWD Watermaster shall maintain an office for these two (2) years within the USWD area, preferably Salmon, Idaho. Thereafter USWD will have the option of continuing utilization of the IDWR provided USWD Watermaster at their (IDWR) cost or elect their own USWD Watermaster also at the sole expense of USWD.
 - c. The Director of IDWR and USWD Watermaster may appoint other staff as necessary to perform measurement and reporting of diversions within USWD that are not within a sub-district and/or heretofore have not measured or reported flows. Such staff will be appointed as USWD Ditch Riders and USWD will set assessments to compensate for this expense of measuring and reporting said diversions. Such assessments shall be charged to only those users who utilize diversions that are not measured and reported. Each assessment shall be based upon the maximum allowable flow at the then current year cost per cfs or \$50 per diversion, whichever is greater.
 - d. IDWR will provide office space, vehicle and the use of all necessary office and field equipment and other necessary watermaster expenses for the 2006 and 2007 fiscal years. This arrangement shall not give USWD any ownership interest in any IDWR office space and equipment and shall terminate after the 2007 fiscal year.
 5. whomever be elected USWD Secretary/Treasurer. The duties of the Secretary/Treasurer shall be to work with the USWD Watermaster to maintain a computerized record of all sub-district flows and usage history and report same in accordance with IDWR reporting requirements, approve expenses and disburse USWD funds and to prepare a written statement of USWD financial affairs at the end of each fiscal year in accordance with Idaho Code Section 42-619.
 6. The USWD budget for the fiscal year 2006 beginning whenever, 2006 and ending on whenever, 2007, be as follows: to be determined and itemized budget sheet to be attached.
 7. In accordance with Idaho Code 42-618, the USWD Watermaster and Secretary/Treasurer are hereby

as sub-
district

authorized to collect the expenses of the Water District directly from the water users. The Watermaster and Secretary/Treasurer will make an assessment to each individual water user in pro-rata amounts as determined by the budget which is formally adopted at the annual meeting. All funds shall be deposited in a separate bank account maintained by the USWD.

8. Given that the USWD cost for administering water for many water users is greater than their normal assessments would be based upon their total annual use of water, it is resolved that the USWD shall assess a \$25 minimum charge for administrative services for minimal water users within USWD.
9. In accordance with Idaho Code 42-612 (5), the assessment amount for each individual user as shown in the adopted budget shall constitute a final determination of the amount due for the prior year's usage. Water user credits and debits will not be carried forward.
10. An Advisory Board shall be elected to provide input to the watermaster and the Director of IDWR. The number and composition of the advisory committee for the ensuing year shall total to be determined seats as follows:
to be determined
Additional seats may be added to the Advisory Board in subsequent years depending on further revisions or expansions of the district boundaries to be determined as necessity may dictate. Each group represented may also select an alternate for each seat. Candidates will be voted on at caucus during the annual meeting. The advisory committee will meet as often as needed to address the structure, governance and operation of the district. Decisions or recommendations of the Advisory Board must be made with a minimum of 70% of the members in attendance and a majority of those Advisory Board members present in favor.
11. The sub-districts designated herein may have employees or agents who measure and report flows to USWD and IDWR and who may provide other services to the sub-district. The Director of IDWR therefore may upon request of the sub-district(s) appoint employees or agents of the sub-districts as Ditch Riders for purposes of measuring and reporting flows to the USWD Watermaster. The USWD Watermaster and the Director of IDWR will provide direction and guidance to Ditch Riders for measuring and reporting of flows in sub-districts, including but not limited to the following:
 - a. Each sub-district shall prepare and provide water right and diversion flow reports to the USWD Watermaster at intervals dictated by IDWR. USWD shall, in turn, prepare and provide a district-wide report of such water right and diversion flows to IDWR at these same intervals. An annual report of water right and diversion data shall be provided by USWD to IDWR in accordance with Idaho Code 42-606, 42-708, 42-709, and the direction provided by the Director of IDWR. Annual summary sub-district reports shall also be provided to all sub-district Advisory Board Chairpersons in hard copy and/or CD for sub-district records.
 - b. Ditch Riders from sub-districts shall cooperate and coordinate with the Deputy Watermaster, the USWD Watermaster and IDWR in sharing water distribution information and in the investigation of water uses within sub-districts including but not limited to investigation of water use to confirm reductions of water use when required and confirm and report compliance of water use with valid water rights.
 - c. Any disputed regulation of water rights or diversions, including disputed curtailment of diversions and other protested water right enforcement actions, shall be the primary responsibility of the USWD Watermaster or IDWR.
 - d. Sub-districts and their respective Deputy Watermasters shall cooperate and participate with

- USWD and IDWR in resolution of unauthorized diversions or other enforcement matters.
- e. To the extent that Deputy Watermasters may otherwise be involved in the regulation or enforcement of water rights and/or diversions, such involvement will be under the instruction of the USWD Watermaster or the Director of IDWR.

12. The USWD Watermaster working with the USWD Advisory Board shall apply the following guidelines for preparation of the proposed 2006 budget that shall be filed with IDWR prior to the 2006 annual meeting of the USWD water users in accordance with Idaho Code 42-615.
 - a. Said proposed budget shall show the proposed expenses for the 2006 USWD operation year.
 - b. Said proposed budget shall include a proposed distribution of the amount of said budget to the water right owners using the actual deliveries of water or water use for the past irrigation season (less an amount projected to be that of minimum users paying the \$25 annual minimum) or past calendar year(s) if the consumptive use is for non-irrigation purposes, that are available to the USWD Watermaster pursuant to IDWR water measurement and reporting requirements.
 - c. In preparing said budget the USWD Watermaster shall show those water right flows and/or diversions that are non-consumptive as defined in Idaho Code 42-605A(1).
 - d. In preparing the budget the USWD Watermaster shall determine an assessment for the ensuing year for individual water rights that are used for non-consumptive purposes. The assessment shall be sufficient to pay the additional costs and expenses for USWD Watermaster services for data collection, water measurement and reporting, delivery of water and record keeping directly attributable to delivery of the water right. Costs and expenses related to data collection and water measurement and reporting need not be included in the assessments of non-consumptive water rights if a sub-district provides such services and includes same in their reports to USWD.
 - e. It is of benefit to certain sub-districts and hence numerous water users in the District to have the 2006 proposed budget filed with IDWR at a date sufficiently in advance of the 2006 annual water district meeting so that the sub-districts can adequately plan for budgeting and collection of the 2006 water district expenses. The USWD Watermaster therefore shall file a preliminary 2006 budget with IDWR by to be determined, 2006.
15. The USWD Watermaster shall prepare assessments for the 2006 budget after the water users present at the 2006 annual meeting have formally adopted the budget. Then applicable 2006 assessments shall be due the District on or before to be determined, 2006 so that there will be sufficient funds early enough in the year to accommodate the expenses of the District.
16. All payments for assessments not received by to be determined, 2006 shall accrue penalties in the amount of 10% of the actual billing amount and interest in the amount of 1% per month as provided pursuant to Idaho Code Section 42-617.
17. Be it also resolved that the USWD Watermaster is authorized pursuant to Idaho Code Section 42-618, to withhold or suspend deliveries of water to any water user who has not paid their assessment charges by thirty (30) following the billing date.
18. The USWD Annual Meeting shall hereafter be held on the to be determined of each year unless the Director of IDWR should find it necessary to change the meeting date or unless changed by future resolution of the District at any annual meeting.

19. Copies of the Minutes of the annual meeting, the budget as approved, all resolutions approved, and any report prepared in accordance with Idaho Code 42-615, shall be filed with the Director of the IDWR in accordance with Idaho Code 42-617.
20. The USWD Watermaster shall be responsible for submitting to IDWR annual reports showing water use and such other information that may be deemed necessary by the Director of IDWR in accordance with Idaho Code 42-606, 42-708, and 42-709.
21. The USWD Watermaster and Deputy Watermasters are authorized as employees of IDWR under Idaho Code 42-1701(5) to make reasonable entry on lands within the District, in accordance with IDWR policy, to carry out their duties as instructed by IDWR. These duties include but are not limited to:
 - a. Monitoring diversion and measuring rate and volume of water diverted from ground water and other public water sources.
 - b. Measuring the depth to water in wells.
 - c. Monitoring the place, period, and nature of use of water to identify unauthorized diversion and use and to determine compliance with mitigation provisions required by agreement or order of IDWR.
22. The Advisory Board shall make available a copy of any resolutions proposed to it or by it at least thirty (30) days prior to the annual meeting by providing copies of same with their meeting announcement and proposed Agenda. Any proposed changes to the resolutions made prior to the annual meeting will also be so indicated. This shall not preclude any water right owner from proposing any new resolution or proposing changes to resolutions at any annual meeting.
23. In the event that the alternate voting method is requested by any water user during any USWD annual meeting, the Secretary/Treasurer shall have tabulated water right owner votes in accordance with Idaho Code 42-605(4). Any USWD water right owner who, in the event the alternate voting method is requested, wishes to vote his/her/their shares via proxy voting must do so by requesting and subsequently submitting a notarized USWD Official Proxy Form received by the Secretary/Treasurer prior to the annual meeting.