

AGENDA
WATER DISTRICT 170
2009 ANNUAL MEETING
Tuesday, January 27, 7:00 pm
Challis Court House
Challis, ID

Call Meeting to Order	Gary Chamberlain
Selection of Meeting Chairman and Secretary	
Read and Approve Minutes from 2008 Annual Meeting	
Watermaster's Report	Nick Miller
– 2008 activities, goals and activities for 2009	
– Legal Challenges update	
– Expansion of WD170	
Present Proposed Resolutions and Budget	Chairman
– Read 2009 proposed resolutions	
– Revision/Adoption of Resolutions and Budget and Election of Watermaster	
Caucus Selection of Advisory Committee Members	Chairman
Other Items of Business	Chairman
Adjournment of Meeting	Chairman

**Water District 170
Annual Meeting Minutes
January 27, 2009
Challis, Idaho**

The meeting was called to order at 7:05 p.m. by Chairman Gary Chamberlain.

Cliff Hansen moved that Mr. Chamberlain be selected as the meeting Chairman and Nick Miller act as the meeting secretary. Jim Hawkins seconded the motion and the motion carried with none opposed.

The minutes for the 2008 annual meeting were provided with the meeting handout materials. Mike Cutler moved to approve the minutes from the 2008 annual meeting as written. The motion was seconded by Jim Hawkins. The motion carried with none opposed.

Nick Miller reviewed the water district activities of 2008. This information is included in the attached report prepared by Mr. Miller. Cliff Hansen questioned Mr. Miller about costs users would be expected to pay for water district operations. Mr. Miller explained that IDWR has continued to offer watermaster services for the larger district at no expense to the users for the ensuing season, but that users within a sub-district are expected to fund that sub-district. Mr. Miller and Mr. Chamberlain then explained that, in the future, when IDWR is no longer providing watermaster services at no cost to the users, users within a sub-district would not be responsible for additional costs associated with the WD170 watermaster, as long as the sub-district is adequately performing its duties. The costs would be born by users not within a sub-district; those users directly served by the WD170 watermaster.

Mr. Miller reviewed the proposed activities for 2009. This includes starting a sub-district in Basin 71 and initiation of measurement and reporting in Basin 72. Mr. Chamberlain then read a letter sent by Mr. Miller to users in Basin 72 reminding them of the February 20, 2007 IDWR order requiring measurement and control in WD170. The order requires certain diversions in Basin 72 to be equipped with measurement and control structures prior to diverting water in the 2009 irrigation season. The letter asks users to contact IDWR to ensure the diversions are in compliance or are issued an extension of time to comply.

Mr. Chamberlain and Mr. Miller addressed questions regarding penalties for non-compliance and extensions of time.

- The Watermaster may curtail delivery of water from diversions not in compliance after the start of the 2009 irrigation season if users have not been issued an extension. Additionally, users that divert water from such diversions may be issued a notice of violation.
- An extension may be given if circumstances (such as needing to acquire a permit for construction on Federal land) prohibit a user from meeting the compliance deadline.

Renee Snyder of the USFS indicated that no users in Basin 72 have contacted the USFS to obtain special use permits for bringing their diversions into compliance.

Mr. Miller stated that the US. Bureau of Reclamation has a number of prefabricated ramped flumes that they have offered to provide to users free of cost. Users should contact Brian Hamilton at the USBOR office in Salmon for more information. Additionally, IDWR is available

to meet with users to assist in selecting a measuring device and control structure for their diversion.

The adopted resolutions from previous meetings were provided to users in the meeting handouts. Gary Chamberlain reminded the users that adopted resolutions will remain in effect perpetually, until changed or replaced by resolutions adopted at future meetings.

He then asked for a motion to approve the proposed resolutions as written. Jim Hawkins asked that the resolutions be adopted individually. The proposed resolutions are attached to these minutes and were addressed by the users as follows:

1. 2009 WATERMASTER SERVICES

Jim Hawkins moved to adopt this resolution. Mike Cutler provided a second. The motion carried unanimously.

2. WATERMASTER ACCESS

Jim Hawkins moved to set this resolution aside. Mr. Chamberlain suggested instead that the users should discuss the resolution. No user provided a second to Mr. Hawkins' motion and the motion failed. On a motion to discuss the resolution, Mr. Miller described why he proposed the resolution, and some users expressed several concerns with the resolution.

Mr. Miller indicated it is necessary that the watermaster be able to access control structures and measuring devices in order to perform his duties. Mr. Hawkins indicated the resolution is duplicative of Idaho Code and is therefore unnecessary. Mr. Miller indicated that the statutes only grant the watermaster the ability to trespass, but this resolution helps facilitate WM access. Users then asked several questions related to watermaster access:

- Is the WM required to report activities he observes while on the property?
Mr. Chamberlain indicated that all state employees are required to report illegal behavior they observe. However, the WM is not and will not, for example, ask to see a timber cutting permit if he observes timber cutting. The purpose of the WM access is to measure and control diversions of water.
- Can a deputy WM from one sub-district go on lands within another sub-district?
Mr. Miller indicated that the trespass authority is only for purposes of conducting official watermaster duties. A deputy watermaster's duties lie only within their own sub-district and would not have a reason to trespass outside that district and, therefore, would not have the authority to.
- Can the user schedule a visit to provide access, rather than providing a key?
Mr. Miller expressed a belief that it is in the best interest of both the watermaster and the user that the watermaster's visits be unannounced. It protects the user from accusations of over-diverting, since he never knows when the watermaster will show up, and it is in the interest of the watermaster because it eliminates having to either coordinate with the user ahead of time, or climb a fence and walk several miles. Additionally, it is in the interest of all the users because the watermaster can be more efficient, which can reduce costs.

- Who is liable if the watermaster is injured or damages while on the property?
Mr. Miller indicated that the watermaster's actions are covered by the state group surety bond and that the watermaster will respect the landowner's property (by staying on existing roads, closing gates, etc...) and will work with the land owner when special concerns are present (such as not driving over unsafe bridges).
- Users like to know who is accessing their property. How will I know who is on my property?
Mr. Miller indicated that only the watermaster will be accessing the property using the key or combination under this resolution and the key or combination will only be requested if necessary. Mr. Miller is willing to contact the user after the visit to let them know he was on the property and what he measured.

Some additional discussion ensued discussing whether the district could provide a lock. Mr. Miller indicated that they could, and that the resolution could be changed to emphasize that. Mr. Chamberlain indicated that the resolution can be changed or repealed at any future annual meeting if necessary.

Mike Cutler moved to adopt the resolution as written. Steve Bauchman provided a second. The motion passed with one opposed.

3. RESOLUTION SETTING THE 2009 BUDGET

Jim Hawkins moved to adopt this resolution. Steve Bauchman provided a second. The motion passed with none opposed.

4. 2009 Advisory Committee MEMBERS

Cliff Hansen indicated he would like to be appointed to one of the Basin 71 representative positions. As none of the other Basin 71 representatives were present, Mr. Miller moved to suspend selection of Basin 71 representatives until the Basin 71 Sub-district Annual Meeting this spring. This was seconded and passed.

The users at the 72A sub-district annual meeting (held the night before this meeting) voted to approve Mr. Steve Bauchman to represent the sub-district in place of Mr. Jack Challis. Alan Henderson and Jim Hawkins agreed to continue to serve. No users opposed.

Gary Chamberlain and Mike Cutler agreed to continue to serve. No users opposed.

Renee Snyder indicated she and Steve Spencer are the USFS representative contacts.

The current BLM contact is likely Tim Vanek, but this is not certain.

Mr. Chamberlain asked for a motion to change meeting date if anyone desired to. No motion was presented.

The 2009 WD170 annual meeting is scheduled for 7:00 pm on the 4th Tuesday in January – January 26, 2010 – at the Custer County Courthouse in Challis, ID.

The meeting adjourned at 7:50 p.m.

Upper Salmon Water District No. 170

ADOPTED RESOLUTIONS (PAGE 1 of 2)

RESOLUTION REGARDING DISTRICT BYLAWS (Adopted 2007)

The Idaho Department of Water Resources (IDWR) Watermaster Handbook and related Idaho Statutes (both as may be duly amended from time to time) and Resolutions as duly approved by the water right owners of the District shall serve as the Upper Salmon Water District No. 170 Bylaws.

WATERMASTER TERM OF SERVICE (Adopted 2008)

Until changed by subsequent Resolution or otherwise altered by majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, it is herewith resolved that The USWD Watermaster's term of service shall begin upon annual meeting election and continue until the next annual meeting.

RESOLUTION REGARDING MINIMUM USER FEE (Adopted 2007)

Until changed by subsequent Resolution or otherwise altered by majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, it is herewith resolved that the Minimum User Fee shall be \$50.00 per water right owner in accordance with the maximum amount allowed by Idaho Statute.

RESOLUTION OF OFFICER'S ELECTION (Adopted 2007)

Until changed by subsequent Resolution or otherwise altered by majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, it is herewith resolved that District Officers shall be elected at the end of each Annual Meeting allowing incumbents to conduct the entire meeting and Agenda business prior to any potential change(s).

RESOLUTION OF OFFICER AUTHORITY (Adopted 2007)

Upon being duly elected by water right owner majority vote at their Annual Meeting the Secretary/Treasurer shall, until replaced by subsequent majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, have full authority to sign on behalf of the District including, but not limited to, the District bank account(s). The Chairman and Watermaster shall also have alternate signature authority for the District bank account(s).

RESOLUTION OF DISTRICT PAYMENT TERMS (Adopted 2007)

1. Annual Adopted Budget payment shall be payable on or before March 1; any other billing within thirty (30) days following such billing; the postmark date will be considered the date of payment.
2. If not paid by April 1st the water user shall be charged in accordance with Statute 42-613 which provides for a late fee of 10% of the amount due and interest of 1% per month.
3. If not paid in full (partial payments shall not be acceptable) including Late Fee by April 1st, Treasurer shall so inform the Watermaster who shall immediately terminate water delivery to the water right owner who is in payment default.
4. Treasurer must thereafter receive the original invoice amount, Late Fee(s) plus a \$25.00 Watermaster Service Fee before Treasurer shall advise the Watermaster who shall then again deliver the applicable right(s).
5. A returned or insufficient fund check shall require the Treasurer to so advise the Watermaster who shall immediately terminate the appropriate water delivery. All monies originally due plus applicable bank charges and any charges then resulting from unmet District payment terms must be paid in cash, cashier's check or money order before Treasurer shall so advise the Watermaster who shall then deliver the appropriate water right(s).
6. In the event payment in full is not received by the end of the then current irrigation season (or sooner if the Treasurer determines sale of the property and associated water right[s] is imminent), the Treasurer may, on behalf of the District, initiate legal action in Small Claims Court against the water right owner(s). Eventual recovery is to include costs incurred by such action as well as all other monies due.

Note: When a water delivery termination is imminent and there are others utilizing the same diversion that could be affected, those others affected shall, whenever possible, be advised of said delivery termination as soon as possible after the problem arises so they shall have the opportunity, if they so desire, to deal with the matter as they may deem appropriate before water delivery is reduced by the amount covered by the applicable right(s) being terminated

Upper Salmon Water District No. 170

ADOPTED RESOLUTIONS (PAGE 2 of 2)

RESOLUTION REGARDING WATER RIGHT OWNERSHIP BY MULTIPLE PARTIES (Adopted 2007)

Any water right(s) owned by more than one individual (or married couple) shall declare a single individual (or married couple) who shall represent all other owner's interests and be the primary contact with the District on relevant District issues.

RESOLUTION REGARDING PROXY VOTING & SUBORDINATED WATER RIGHT(S) (Adopted 2007)

1. In accordance with District Bylaws proxy votes shall not be allowed "except that in the absence of the owner a right may be voted by another person present who has the use of the right for the ensuing season, such as a tenant, lesser or contract purchaser".
2. In such case(s) or whenever a right is subordinated and/or "worked" by anyone other than the owner a form adopted and provided by the District shall be completed and returned to the Secretary/Treasurer to remain on file throughout the term stating with whom such agreement exists, whether such voting right is granted, and/or granting authority to represent the water right owner on any other water issues that may arise during the irrigation season or balance of the agreement term to be recorded by water right owner with the County Recorder of jurisdiction.

RESOLUTION REGARDING ADVISORY COMMITTEE STRUCTURE (Adopted 2008)

An Advisory Committee shall be elected to provide input to the watermaster and the Director of IDWR. The advisory committee for the ensuing year shall be comprised as follows:

(to be selected at each annual meeting, 2006 members are shown for reference)- All 2006 members were re-appointed in 2007 and 2008

Basin 71 irrigation representative(s) (3)

*Pat Brady
Mark Henslee
Jay Neider*

Basin 72 sub-districts, one each (3 total)

*Garden Creek – Alan Henderson
Challis Creek – Jack Challis
Morgan Creek – Jim Hawkins*

Basin 72 non sub-district area irrigation (2)

*Gary Chamberlain
Mike Cutler*

Basin 71 & 72 commercial/industrial/ municipal/other uses (3)

*Bert Doughty, Thompson Creek Mine
City of Challis*

US Forest Service (1)

To be appointed by the agency

US Bureau of Land Management (1)

To be appointed by the agency

Non-Voting members from Basins 73-75

Advisory committee will ask for representatives from those basins.

Seats may be added to or subtracted from the Advisory Committee in subsequent years depending on further revisions or expansions of the district boundaries to be determined as necessary. 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 Committee must be made with a minimum of two-thirds of the members in attendance and a majority of those Advisory Committee members present in favor.

RESOLUTION OF ANNUAL MEETING DATE (Adopted 2007)

Until changed by subsequent Resolution or otherwise altered by majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, it is herewith resolved that the Water district 170 Annual Meeting shall be the fourth (4th) Tuesday in January on a date, time and place to be determined at the Annual Meeting each successive year.

Upper Salmon Water District No. 170

2009 Proposed Resolution Additions/Modifications

THE WATER USERS OF THE UPPER SALMON WATER DISTRICT, DESIGNATED AS WATER DISTRICT NO. 170, MEETING AT THE ANNUAL DISTRICT MEETING ON JANUARY 22, 2008, AT THE CHALLIS COURT HOUSE IN CHALLIS, IDAHO, HEREBY PROPOSE THE FOLLOWING RESOLUTIONS:

1. 2009 WATERMASTER SERVICES (Proposed 2009)

Watermaster services for the USWD shall continue to be provided by IDWR in 2009 and that the Director name or appoint a Department employee to serve as the USWD Watermaster for 2009 at no expense to the USWD.

2. WATERMASTER ACCESS (Proposed 2009)

Until changed by subsequent Resolution or otherwise altered by majority vote of the water right owners in their Annual Meeting or special meeting called for such purpose, it is herewith resolved that all users shall provide for watermaster access to control structures and measuring devices. If the access is through a locked gate, the user shall, upon request by the watermaster, provide to the watermaster or deputy watermaster a key or combination to such locks.

3. RESOLUTION SETTING THE 2009 BUDGET ((Proposed 2009)

Recognizing that the Idaho Department of Water Resources (IDWR) has offered to provide watermaster services for water district No. 170 for the 2009-2010 season, and that IDWR has offered to provide these services to at no cost to the users of Water District No. 170 with the understanding that water users in areas organized as sub-districts within Water District No. 170 will elect and fund a sub-district watermaster to perform the day to day duties within their subdistrict, it is herewith resolved that,

- 1) The three existing sub-districts will each adopt a budget to be collected from the users within the respective sub-districts only, and that users not within a sub-district will not be responsible for any portion of that sub-district budget.
- 2) The proposed 2009-2010 Water District No. 170 budget for watermaster services other than sub-district operations, is \$0.00.

4. 2009 ADVISORY COMMITTEE MEMBERS (Proposed 2009)

Basin 71 irrigation representative(s) (3)

Pat Brady

Mark Henslee

Jay Neider

Basin 72 sub-districts, one each (3 total)

Garden Creek – *Alan Henderson*

Challis Creek – *Jack Challis*

Morgan Creek – *Jim Hawkins*

Basin 72 non sub-district area irrigation (2)

Gary Chamberlain

Mike Cutler

Basin 71 & 72 commercial/industrial/municipal/other uses (3)

Bert Doughty, Thompson Creek Mine

City of Challis

US Forest Service (1)

To be appointed by the agency

US Bureau of Land Management (1)

To be appointed by the agency

Non-Voting members from Basins 73-75

Advisory committee will ask for representatives from those basins.

WATER DISTRICT REPORT

WATER DISTRICT NO 170 – UPPER SALMON RIVER

– March 2008 through January 2009 –

OVERVIEW

This report provides an overview of the activities and developments of Water District No. 170, Upper Salmon River (WD170) from March 2008 through January 2009.

WD170 was created by an IDWR order issued on March 6, 2006 and a final, amended order dated April 06, 2006. Under these orders, WD170 comprises all surface and ground water rights within IDWR Administrative Basins 71 and 72, with the exception of small rights used solely for domestic and stockwater purposes¹. Water rights within existing water districts (Water District No. 72-A, Challis and Garden Creeks, and Water District 72-F, Morgan Creek) are now within WD170, and the existing water districts have been designated as sub-districts within WD170, so the day-to-day administration of those water rights is unchanged.

Aside from the two existing water districts in Basin 72, little formal water administration has taken place in Basins 71 and 72 prior to the creation of WD170. Few of the diversion works are equipped with measuring devices and users are unfamiliar with water districts and water right administration. As such, the new water district is being brought into operation through a series of steps and has not yet become fully functional. The table below shows the intended and realized progression of the district.

Time period	Activities
Spring 2006	<ul style="list-style-type: none"> • Create WD170 in Basins 71 and 72
Summer/Fall 2006	<ul style="list-style-type: none"> • Field Inventory focused in Basin 71
Winter 2006	<ul style="list-style-type: none"> • Issue Order requiring measurement and control in WD170
Spring 2007	<ul style="list-style-type: none"> • Basin 71 plans for compliance with measurement and control due to IDWR
Summer/Fall/Winter 2007	<ul style="list-style-type: none"> • Inventory work in Basin 72, • Working with Basin 71 users on measurement and control
Spring 2008	<ul style="list-style-type: none"> • Basin 72 plans for compliance with measurement and control due to IDWR • Installation of measurement and control in Basin 71 required by start of the irrigation season
Summer 2008	<ul style="list-style-type: none"> • Begin measurement and reporting of diversions in Basin 71 and more active administration where necessary. IDWR to provide on-the-ground support • Working with Basin 72 users on measurement and control
Spring 2009	<ul style="list-style-type: none"> • Installation of measurement and control in Basin 72 required by start of the irrigation season • IDWR will still provide WM services, but basin 71 will begin adopting a budget to fund local on-the-ground support for that basin.
Summer 2009	<ul style="list-style-type: none"> • Begin measurement and reporting of diversions in Basin 72 and more active administration where necessary. • Local, user-funded district employee(s) to provide on-the-ground support in Basin 71.
Future	<ul style="list-style-type: none"> • Formation of additional sub-districts as necessary • Possible inclusion of Basins 73, 74, and 75 into WD170.

¹ Small domestic and stockwater rights are those rights meeting the definitions of Idaho Code 42-111 and/or 42-1401A(11).

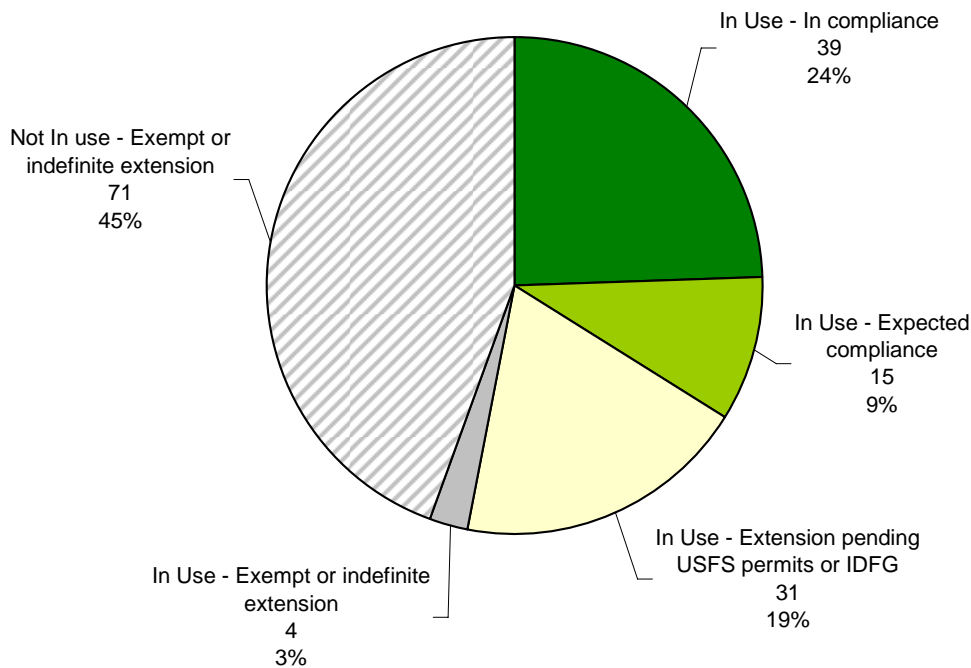
2008 ACTIVITIES

BASIN 71 ACTIVITIES

The majority of diversions within Basin 71 are now equipped with measurement and control structures. As a result, routine measurement and reporting of diversions was initiated in that basin during the 2008 irrigation season. Most of the approximately 90 diversions that are actively used within the basin were measured throughout the irrigation season by the Water District No. 170 Watermaster. Delivery data for these diversions are attached as appendices to this report and are available on the IDWR Internet site.

On December 11, 2008, the Director of IDWR issued Final Order Creating Sub-district No. 71. That order created a sub-district within Water District No. 170 to administer water rights in Basin 71. As a sub-district, users in Basin 71 remain a part of Water District No. 170, but will elect and fund a local watermaster to perform routine measurement and reporting in Basin 71. While the local watermaster is funded entirely by Basin 71 users, he/she will be a deputy watermaster of Water District No. 170. It is anticipated that the sub-district will hold an annual meeting each spring, starting this year, and will operate similar to existing sub-districts.

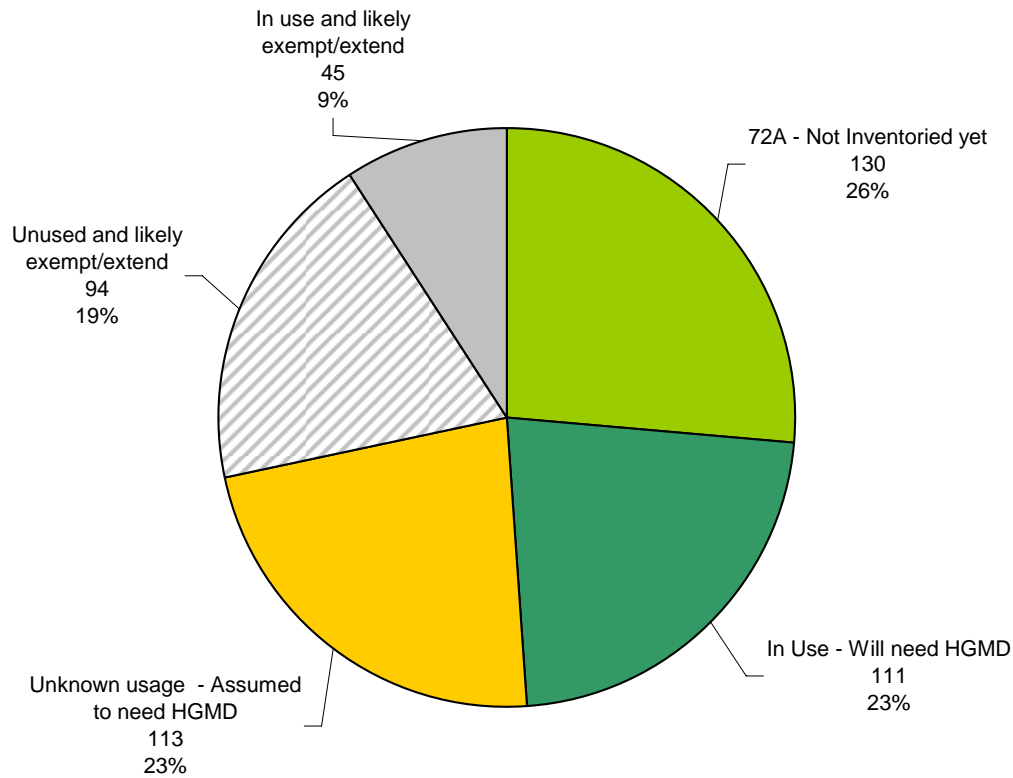
The February 20, 2007 IDWR requiring measurement and control in WD170 requires that diversions in Basin 71 be in compliance by the start of the 2008 irrigation season. The chart below summarizes the status (anticipated for the start of the 2009 irrigation season) of the 160 points of diversion in Basin 71 for which measurement and control are required.



About 45% of the water right points of diversion are not in use. These points of diversion are locations for which the water rights are in the Water Supply Bank, or they are legal points of diversion that were included on a permit, but were never developed, or they are points of diversion that are simply not being used. These points of diversion were generally issued an extension of time to comply with the measuring device requirements. The extension allows the user to not install measurement and control at the location until the location is used again. About 22% of the 160 points of diversion are in use, but were issued an exemption or extension of time to comply for various reasons, such as pending fish screen installation, pending water right changes, etc. The remaining 33% are locations that are actively being used to divert water and have already installed compliant structures (24%), or are otherwise likely to have structures in place by spring (9%).

BASIN 72 ACTIVITIES

Inventory work continued in Basin 72 during the 2008 irrigation season, but at a slower rate than expected due to the demands of measurement and control in Basin 71. The chart below shows the status of the 493 diversions in Basin 72 listed in the 2007 order requiring measurement and control. The status shown below reflects the best estimate based on current data, but is subject to change as more data are collected.



The chart above shows that approximately 28% of the diversions are expected to be exempt or be issued an extension due to non-use or other reasons. This percentage is expected to rise as a better understanding is gained of the status of the 23% unknown usage diversions; all 113 are assumed to be in use, but this is likely not the case. A complete inventory of the diversions within sub-district 72A has not been accomplished; however, the sub-district watermaster indicates that the vast majority of these diversions are equipped with head gates and measuring devices.

The remaining 23% of diversions represent those that are in use and will need to have measuring devices and head gates installed. Many of these diversions are already in compliance, and a number of others have plans to comply by the start of the 2009 irrigation season. As not all water users have submitted plans for compliance, the number of diversions that will be in compliance at the start of the 2009 irrigation season is unknown. IDWR and the Watermaster will contact water users in Basin 72 prior to the start of the irrigation season to develop a better understanding of expected compliance and to ensure that those that must comply are given technical assistance, if needed.

WD170 – WHAT TO EXPECT IN 2009

Basin 71 Users:

- Steering committee will meet this spring to develop a plan of operations for the sub-district and will set a date for a sub-district annual meeting, probably some time in April.
- At the sub-district annual meeting in April, users will adopt a budget, select a local watermaster, and adopt any resolutions necessary to run the sub-district.
- The sub-district budget will be collected through assessments sent to each water user in the sub-district.
- Although the plan of operations has not yet been created, it will include some component of diversion measurement by the sub-district watermaster. The sub-district watermaster will visit each diversion periodically throughout the irrigation season to measure and record diversion rates. Some level of self-reporting may be considered for the sub-district plan of operations.
- Water use must be authorized by, and consistent with all elements of, a valid water right, permit or license. Unauthorized diversion of water will be regulated by the WD170 Watermaster. The diversion owner and IDWR will be contacted and enforcement actions may be pursued.

Basin 72 Users:

- WD170 Watermaster will visit each diversion periodically throughout the irrigation season to measure and record diversion rates.
- No diversion in Basin 72 that was listed in the February 20, 2007 order requiring measurement and control in WD170 can be used to divert water after May 1, 2009 unless it has a functional control structure and a functional measurement structure in place, or has been issued an extension of time to comply, or an exemption from the order.
- Water use must be authorized by, and consistent with all elements of, a valid water right, permit or license. Unauthorized diversion of water will be regulated by the WD170 Watermaster. The diversion owner and IDWR will be contacted and enforcement actions may be pursued.