

IN THE SENATE

SENATE BILL NO. 1083

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO DOMESTIC WATER USES; AMENDING SECTION 42-111, IDAHO CODE, TO
2 REVISE PROVISIONS REGARDING THE DEFINITION OF DOMESTIC PURPOSES AND TO
3 PROVIDE FOR MULTIPLE WATER RIGHTS; AMENDING SECTION 42-227, IDAHO CODE,
4 TO REVISE PROVISIONS REGARDING DRILLING AND USE OF WELLS FOR DOMESTIC
5 PURPOSES; AMENDING SECTION 42-351, IDAHO CODE, TO REVISE PROVISIONS
6 REGARDING ILLEGAL DIVERSION OR USE OF WATER; AMENDING CHAPTER 17, TITLE
7 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1701C, IDAHO CODE,
8 TO PROVIDE FOR THE ENFORCEMENT OF DOMESTIC PURPOSE AND DOMESTIC USE
9 LIMITATIONS; AMENDING SECTION 42-1805, IDAHO CODE, TO REVISE A PROVI-
10 SION REGARDING THE POWERS OF THE DIRECTOR OF THE DEPARTMENT OF WATER
11 RESOURCES; REPEALING SECTION 31-3805, IDAHO CODE, RELATED TO DELIVERY
12 OF WATER; AMENDING CHAPTER 38, TITLE 31, IDAHO CODE, BY THE ADDITION OF A
13 NEW SECTION 31-3805, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE
14 DELIVERY OF WATER WITHIN SUBDIVISIONS; AMENDING SECTION 31-3806, IDAHO
15 CODE, TO REVISE PROVISIONS REGARDING CIVIL ACTIONS; AMENDING SECTION
16 50-1334, IDAHO CODE, TO REVISE A PROVISION REGARDING THE REVIEW OF WATER
17 SYSTEMS; AMENDING SECTION 67-6508, IDAHO CODE, TO REVISE PROVISIONS
18 REGARDING PLANNING DUTIES; AMENDING SECTION 67-6537, IDAHO CODE, TO RE-
19 MOVE A PROVISION REGARDING THE USE OF SURFACE WATER FOR IRRIGATION; AND
20 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
21

22 Be It Enacted by the Legislature of the State of Idaho:

23 SECTION 1. That Section 42-111, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 42-111. DOMESTIC PURPOSES DEFINED. (1) For purposes of sections
26 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243, and 42-1401A,
27 Idaho Code, ~~the~~:

28 (a) The phrase "domestic purposes" or "domestic uses" means:

29 ~~(a) (i)~~ The use of water for homes, organization camps, public
30 campgrounds, livestock, and for any other purpose in connection
31 therewith, including irrigation of up to one-half (1/2) acre of
32 land, if the total use ~~is not in excess of~~ does not exceed thirteen
33 thousand (13,000) gallons per day; or

34 ~~(b) (ii)~~ Any other uses, The use of water for any other purpose,
35 if the total use does not exceed a diversion rate of four one-hun-
36 dredths (0.04) cubic feet per second and a diversion volume of
37 twenty-five hundred (2,500) gallons per day volume of two and
38 eight-tenths (2.8) acre feet per year.

39 ~~(2) For purposes of the sections listed in subsection (1) of this sec-~~
40 ~~tion, domestic purposes or domestic uses shall not include water for multi-~~
41 ~~ple ownership subdivisions, mobile home parks, or commercial or business es-~~

1 ~~establishments, unless the use meets the diversion rate and volume limitations~~
 2 ~~set forth in subsection (1) (b) of this section.~~

3 (b) "Domestic purposes" or "domestic uses" shall not include water for
 4 the following purposes, unless the use meets the diversion rate and vol-
 5 ume limitations set forth in paragraph (a) of this subsection:

6 (i) Mobile home parks or recreational vehicle parks;

7 (ii) Apartments, condominiums, and similar developments with
 8 multiple dwelling units;

9 (iii) Except as provided in subsection (3) of this section, subdi-
 10 visions, as defined in chapter 13, title 50, Idaho Code; or

11 (iv) Commercial or business establishments or mixed-use estab-
 12 lishments where the water is used primarily for commercial or
 13 business purposes.

14 ~~(3) (2) Multiple~~ Except as provided in subsection (3) of this section,
 15 multiple water rights for domestic uses or domestic purposes, as defined in
 16 this section, shall not be established or exercised in a manner to satisfy
 17 a single combined water use or purpose that would not itself come within the
 18 definition of a domestic use or purpose under this section. The purpose of
 19 this limitation is to prohibit the diversion and use of water, under a combi-
 20 nation of domestic purposes or domestic uses as defined in this section, to
 21 provide a supply of water for a use that does not meet the exemption of sec-
 22 tion 42-227, Idaho Code, and is required to comply with the mandatory appli-
 23 cation and permit process for developing a right to the use of water pursuant
 24 to chapter 2, title 42, Idaho Code.

25 (3) Multiple water rights for domestic purposes or uses may be estab-
 26 lished and exercised from the same point or points of diversion if the use is
 27 limited to residential, in-home use and a water meter capable of measuring
 28 the total volume diverted is installed at the point or points of diversion.
 29 This subsection does not affect any other permitting requirement or other
 30 requirement that may apply to the use of water within a subdivision.

31 SECTION 2. That Section 42-227, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 42-227. DRILLING AND USE OF WELLS FOR DOMESTIC PURPOSES EXCEPTED. (1)
 34 ~~The~~ Except as provided in subsection (4) of this section, excavation and
 35 opening of wells and the withdrawal of water therefrom for domestic purposes
 36 or uses as defined in section 42-111, Idaho Code, shall not be subject to ~~the~~
 37 ~~permit requirements~~ under section 42-229, Idaho Code; ~~providing such wells~~
 38 ~~and withdrawal devices are subject to inspection by the department of water~~
 39 ~~resources and the department of environmental quality and providing further~~
 40 ~~that the drilling of such wells shall be subject to the licensing provisions~~
 41 ~~of section 42-238, Idaho Code.~~ Rights to ground water for such domestic pur-
 42 poses may be acquired by withdrawal and use.

43 (2) Wells and withdrawal devices for domestic purposes or uses shall be
 44 subject to inspection by the department of water resources and the depart-
 45 ment of environmental quality.

46 (3) Well drillers shall be licensed pursuant to the licensing provi-
 47 sions of section 42-238, Idaho Code.

48 (4) For purposes of new diversions within subdivisions, as defined in
 49 chapter 13, title 50, Idaho Code, in any area where the director of the de-

1 partment of water resources has issued a moratorium order on the develop-
 2 ment of new water rights or has designated a critical ground water area or
 3 ground water management area, an application for permit, pursuant to section
 4 42-229, Idaho Code, shall be required for the diversion of water for any new
 5 domestic purposes or uses, as defined in section 42-111, Idaho Code, other
 6 than for in-home uses or watering livestock.

7 SECTION 3. That Section 42-351, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 42-351. ILLEGAL DIVERSION OR USE OF WATER -- ENFORCEMENT PROCEDURE --
 10 INJUNCTIVE RELIEF. (1) It is unlawful for any person to divert or use water
 11 ~~from:~~

12 (a) From a natural watercourse or from a ground water source without
 13 having obtained a valid water right to do so, ~~or to divert or use water~~
 14 ~~not;~~

15 (b) Not in conformance with a valid water right; or
 16 ~~(2) (c) It is unlawful for any person to divert or use water in~~ In sub-
 17 stantial violation of any provision of this title, or any rule, permit,
 18 condition of approval, or order issued or promulgated pursuant to this
 19 title that is related to the diversion or use of water.

20 ~~(3) (2) Upon investigation of available information, the director of~~
 21 the department of water resources shall have the discretion to ~~issue:~~

22 (a) Issue a written notice of violation to the person in accordance with
 23 the provisions of section 42-1701B, Idaho Code, for the illegal diver-
 24 sion or use of water; or

25 (b) Proceed with enforcement actions pursuant to section 42-1701C,
 26 Idaho Code, in cases of diversions for domestic purposes or uses as de-
 27 defined in section 42-111, Idaho Code; and

28 ~~(4) (3) Notwithstanding the issuance of a notice of violation the pro-~~
 29 visions of subsection (2) of this section, the director may also file an ac-
 30 tion seeking injunctive relief directing the person to cease and desist the
 31 activity or activities alleged to be in violation of applicable law or any
 32 existing water right.

33 SECTION 4. That Chapter 17, Title 42, Idaho Code, be, and the same is
 34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 35 ignated as Section 42-1701C, Idaho Code, and to read as follows:

36 42-1701C. ENFORCEMENT OF DOMESTIC PURPOSE AND DOMESTIC USE LIMITA-
 37 TIONS. (1) If the director of the department of water resources becomes aware
 38 of water use that exceeds the authorized limits of an appurtenant water right
 39 for domestic purposes or uses as defined in section 42-111, Idaho Code, re-
 40 gardless of when the use was established, the director may:

41 (a) Notify the property owner, in writing, of the alleged excess use;
 42 and

43 (b) Provide the property owner ninety (90) days to remedy the excess
 44 use or provide information that the water use does not exceed authorized
 45 limits of the appurtenant water right for domestic purposes or uses.

46 (2) If, after notification by the director pursuant to subsection (1)
 47 of this section, the property owner fails to remedy the excess use or to pro-

1 vide information that the use does not exceed authorized limits within the
 2 time prescribed and to the director's satisfaction, then the director shall
 3 issue a notice of violation to the property owner, identifying the informa-
 4 tion supporting the determination of excess use.

5 (3) (a) Any person to whom a notice of violation has been issued pursuant
 6 to subsection (2) of this section shall be liable for a civil penalty
 7 pursuant to this section.

8 (i) For excess irrigation, a penalty of five hundred dollars
 9 (\$500) for every one-tenth (0.1) of an acre in excess irrigation
 10 above the authorized limits shall be assessed.

11 (ii) For excess use other than irrigation, the lesser of the fol-
 12 lowing shall be assessed:

13 1. One hundred dollars (\$100) for every day water is di-
 14 verted at a rate that exceeds the maximum authorized diver-
 15 sion rate; or

16 2. One hundred dollars (\$100) for every acre-foot diverted
 17 in excess of the maximum authorized annual diversion volume.

18 (b) Penalties shall be renewed each year until the excess use has been
 19 remedied to the director's satisfaction but shall not exceed five thou-
 20 sand dollars (\$5,000) in any given year.

21 (4) The director may request that the county in which the property
 22 is located collect the penalty for excess use. If the county collects the
 23 penalty:

24 (a) The director shall provide the county with a copy of the notice of
 25 violation issued pursuant to this section; and

26 (b) The county shall retain half of the penalty proceeds and deliver the
 27 other half to the director.

28 (5) Unpaid penalties shall be filed as a lien against the property until
 29 paid in full.

30 (6) Once a penalty has been assessed for a particular irrigation sea-
 31 son, as provided in this section, it shall be due and payable even if the ex-
 32 cess use is subsequently resolved.

33 SECTION 5. That Section 42-1805, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 42-1805. ADDITIONAL DUTIES. In addition to other duties prescribed by
 36 law, the director of the department of water resources shall have the follow-
 37 ing powers and duties:

38 (1) To represent the state in all matters pertaining to interstate and
 39 international water rights affecting Idaho water resources; and to cooper-
 40 ate with all agencies, now existing or hereafter to be formed, within the
 41 state or within other jurisdictions, in matters affecting the development of
 42 the water resources of this state.

43 (2) To prepare a present and continuing inventory of the water re-
 44 sources of this state, ascertain means and methods of conserving and
 45 augmenting these and determine as accurately as possible the most effective
 46 means by which these water resources may be applied for the benefit of the
 47 people of this state.

48 (3) To conduct surveys, tests, investigations, research, examina-
 49 tions, studies, and estimates of cost relating to availability of unappro-

1 priated water, effective use of existing supply, conservation, storage,
2 distribution and use of water.

3 (4) To prepare and compile information and data obtained and to make the
4 same available to interested individuals or agencies.

5 (5) To cooperate with and coordinate activities with the director of
6 the department of environmental quality as such activities relate to the
7 functions of either or both departments concerning water quality. Such co-
8 operation and coordination shall specifically require that:

9 (a) The director meet at least quarterly with the director of the de-
10 partment of environmental quality and his staff to discuss water qual-
11 ity programs. A copy of the minutes of such meeting shall be transmitted
12 to the governor.

13 (b) The director transmit to the director of the department of envi-
14 ronmental quality reports and information prepared by him pertaining to
15 water quality programs and proposed rules pertaining to water quality
16 programs.

17 (c) The director shall make available to the director of the department
18 of environmental quality and the director of the department of envi-
19 ronmental quality shall make available to the director all notices of
20 hearings relating to the promulgation of rules relating to water qual-
21 ity, waste discharge permits, and stream channel alteration, as such
22 directly affect water quality, and notices of any other hearings and
23 meetings which relate to water quality.

24 (6) To perform administrative duties and such other functions as the
25 board may, from time to time, assign to the director to enable the board to
26 carry out its powers and duties.

27 (7) After notice, to suspend the issuance or further action on permits
28 or applications, including permits or applications for domestic purposes or
29 uses as defined in section 42-111, Idaho Code, required pursuant to section
30 42-227, Idaho Code, as necessary to protect existing vested water rights or
31 to ensure compliance with the provisions of chapter 2, title 42, Idaho Code,
32 or to prevent violation of minimum flow provisions of the state water plan.

33 (8) To promulgate, adopt, modify, repeal and enforce rules implement-
34 ing or effectuating the powers and duties of the department.

35 (9) To seek a preliminary or permanent injunction, or both, or a tempo-
36 rary restraining order restraining any person from violating or attempting
37 to violate:

38 (a) Those provisions of law relating to all aspects of the appropria-
39 tion of water, distribution of water, headgates and measuring devices;
40 or

41 (b) The administrative or judicial orders entered in accordance with
42 the provisions of law.

43 (10) To develop, coordinate and provide, through contract or by other
44 means, for weather modification projects involving cloud seeding that are
45 designed to increase the water supplies of the state by enhancing natural
46 precipitation and that conform to state water planning objectives. To ac-
47 complish these purposes, the director is authorized to accept and use funds
48 acquired through legislative appropriation or by gift, grant, contribution
49 or funding received from any private or public individual or entity. All
50 funds accepted under this provision shall be transmitted to the state trea-

1 surer for deposit in the water administration account and shall be reserved
2 and made available until expended as ordered by the director for weather mod-
3 ification purposes determined by the director to be beneficial.

4 (11) To develop and implement a plan for data gathering to determine any
5 effect of the weather modification efforts in which the department is in-
6 volved.

7 (12) To receive, file, record, or retain documents of record on media
8 other than paper.

9 SECTION 6. That Section [31-3805](#), Idaho Code, be, and the same is hereby
10 repealed.

11 SECTION 7. That Chapter 38, Title 31, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 31-3805, Idaho Code, and to read as follows:

14 31-3805. DELIVERY OF WATER WITHIN SUBDIVISIONS. (1) The provisions of
15 this section shall apply to any proposed subdivision, as defined in chapter
16 13, title 50, Idaho Code, within the state of Idaho or to a subdivision sub-
17 ject to a more restrictive county or city zoning ordinance.

18 (2) For any subdivision that lies within the service area or area of
19 city impact of a municipal provider, the following requirements apply:

20 (a) If a shared well or public water system is installed, it shall be
21 designed to meet requirements of that municipal provider and be planned
22 to integrate with and connect to the municipal provider's system when
23 appropriate. The requirements of this paragraph shall not apply if an
24 agreement is reached with the municipal provider;

25 (b) The municipal provider shall be consulted in the design of the
26 shared well or public water system to ensure proper integration; and

27 (c) Upon connection to the municipal provider's system, the water
28 rights associated with the subdivision's shared well or public water
29 system shall be conveyed to the municipal provider.

30 (3) If surface water for irrigation is reasonably available to all or
31 any part of a subdivision, as provided in section 67-6537, Idaho Code, then
32 no subdivision plat, amendment to a subdivision plat, or any other plat or
33 map recognized by the city or county for the division of land will be ac-
34 cepted, approved, and recorded unless the owner or entity has provided for
35 the irrigation of lots within the subdivision using the available surface
36 water.

37 (4) For subdivisions using water provided by an irrigation entity, as
38 required by section 67-6537, Idaho Code, the subdivision plat or with the
39 plat mat as an exhibit shall include a description of the system used to de-
40 liver irrigation water from the irrigation entity's point of delivery to the
41 individual lots. In such cases:

42 (a) For proposed subdivisions within the incorporated limits of a city,
43 the irrigation system must be approved by the city zoning authority or
44 the city council, as provided by city ordinance, with the advice of the
45 irrigation entity charged with the delivery of water to such lands; and

46 (b) For proposed subdivisions located outside an incorporated city,
47 the irrigation system must be approved by the board of county commis-

1 sioners, with the advice of the irrigation entity charged with the
2 delivery of water to such lands.

3 (5) For subdivisions receiving water from an irrigation entity, the
4 subdivision plat or amendment to a subdivision plat shall contain notes
5 stating the following:

6 (a) That the subdivision or a portion of it is located within the ser-
7 vice area of the irrigation entity and the name and contact information
8 for the irrigation entity;

9 (b) That a system for the delivery of irrigation water to lots within
10 the subdivision has been provided;

11 (c) That the system has been approved as required by subsection (4) of
12 this section;

13 (d) That the purchaser of each lot shall remain subject to all assess-
14 ments levied by the irrigation entity; and

15 (e) That unpaid irrigation entity assessments are a lien on the land
16 within the irrigation entity.

17 SECTION 8. That Section 31-3806, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 31-3806. CIVIL ACTION TO ENFORCE. (1) If the owner of the property of
20 the person, firm, or corporation filing the subdivision plat, ~~or~~ amendment
21 to a subdivision plat, or any other plat or map recognized by the city or
22 county for the division of land fails to comply with ~~either subsection (1) or~~
23 ~~(2) of~~ section 31-3805, Idaho Code, prior to sale of the lots in the subdivi-
24 sion to purchasers, the owner of the property, or the person, ~~firm or corpo-~~
25 ~~ration or entity~~ filing the subdivision plat, ~~or~~ amendment to a subdivision
26 plat, or any other plat or map recognized by the city or county for the divi-
27 sion of land shall be liable to any purchaser for ~~the costs of the lot's ex-~~
28 ~~clusion plus all assessments due and owing or the actual cost of installation~~
29 ~~of an irrigation delivery system not to exceed one thousand five hundred dol-~~
30 ~~lars (\$1,500) per lot all costs required to bring each subdivision lot into~~
31 ~~compliance with section 31-3805.~~ The purchaser shall have a right to enforce
32 this obligation in a civil action and ~~the purchaser shall have the right to~~
33 ~~elect exclusion or installation of the system in such action.~~

34 ~~(2) Any person, firm or corporation who shall omit, neglect or refuse to~~
35 ~~provide the purchaser or the irrigation entity within whose boundaries the~~
36 ~~land is located, a copy of the disclosure statement required by subsection~~
37 ~~(2) of section 31-3805, Idaho Code:~~

38 ~~(a) Shall be liable to the purchaser as provided in subsection (1) of~~
39 ~~this section.~~

40 ~~(b) Shall be liable to the irrigation entity for its reasonable ex-~~
41 ~~penditure, including employee time, of locating the purchaser and providing~~
42 ~~the information required in the form and for advising affected pur-~~
43 ~~chasers of the lack of a water delivery system and for any assessments on~~
44 ~~the property that are past due at the time of discovery of the violation.~~
45 ~~The irrigation entity affected shall have a right to claim such expenses~~
46 ~~in a civil action.~~

47 ~~(3) (2) In any civil action filed under subsection (1) or (2) of this~~
48 ~~section, the prevailing party shall be awarded its reasonable costs and at-~~

1 torney's fees. The purchaser and irrigation entity shall have two (2) years
2 from the date of discovery of the violation to initiate any legal action.

3 SECTION 9. That Section 50-1334, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 50-1334. REVIEW OF WATER SYSTEMS ENCOMPASSED BY PLATS. Whenever any
6 plat is subject to the terms and requirements of sections 50-1326 through
7 50-1329, Idaho Code, no person shall offer for recording, or cause to be
8 recorded, a plat unless he or she shall have certified that he or she is in
9 compliance with section 31-3805, Idaho Code, where applicable, and that at
10 least one (1) of the following is the case:

11 (1) The individual lots described in the plat will not be served by any
12 water system common to one (1) or more of the lots, but will be served by indi-
13 vidual wells.

14 (2) All of the lots in the plat will be eligible to receive water service
15 from an existing water system, be the water system municipal, a water dis-
16 trict, a public utility subject to the regulation of the Idaho public utili-
17 ties commission, or a mutual or nonprofit water company, and the existing wa-
18 ter distribution system has agreed in writing to serve all of the lots in the
19 subdivision.

20 (3) If a new water system will come into being to serve the subdivision,
21 that it has or will have sufficient contributed capital to allow the water
22 system's wells, springboxes, reservoirs, and mains to be constructed to pro-
23 vide service without further connection charges or fees to the landowners
24 of the lots, except for connection of laterals, meters or other plant exclu-
25 sively for the lot owner's own use.

26 Failure to comply with this section is a misdemeanor subject to the pro-
27 visions of section 50-1329, Idaho Code. The certification must be filed or
28 recorded as part of the plat document preserved for public inspection. Prop-
29 erty owners in the area encompassed by the plat will be entitled to the bene-
30 fits of the third provision of this section when that option is chosen.

31 SECTION 10. That Section 67-6508, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 67-6508. PLANNING DUTIES. It shall be the duty of the planning or plan-
34 ning and zoning commission to conduct a comprehensive planning process de-
35 signed to prepare, implement, ~~and~~ review, and update a comprehensive plan,
36 hereafter referred to as the plan. The plan shall include all land within the
37 jurisdiction of the governing board. The plan shall consider previous and
38 existing conditions, trends, compatibility of land uses, desirable goals
39 and objectives, ~~or~~ and desirable future situations for each planning compo-
40 nent. The plan with maps, charts, and reports shall be based on the following
41 components as they may apply to land use regulations and actions unless the
42 plan specifies reasons why a particular component is unneeded.

43 (a) Property Rights -- An analysis of provisions which may be necessary
44 to ensure that land use policies, restrictions, conditions and fees do not
45 violate private property rights, adversely impact property values or cre-
46 ate unnecessary technical limitations on the use of property and analysis as

1 prescribed under the declarations of purpose in chapter 80, title 67, Idaho
2 Code.

3 (b) Population -- A population analysis of past, present, and future
4 trends in population including such characteristics as total population,
5 age, sex, and income.

6 (c) School Facilities and Transportation -- An analysis of public
7 school capacity and transportation considerations associated with future
8 development.

9 (d) Economic Development -- An analysis of the economic base of the area
10 including employment, industries, economies, jobs, and income levels.

11 (e) Land Use -- An analysis of natural land types, existing land covers
12 and uses, and the intrinsic suitability of lands for uses such as agricul-
13 ture, forestry, mineral exploration and extraction, preservation, recre-
14 ation, housing, commerce, industry, and public facilities. A map shall be
15 prepared indicating suitable projected land uses for the jurisdiction.

16 (f) Natural Resources -- An analysis of the uses of rivers and other wa-
17 ters, forests, range, soils, harbors, fisheries, wildlife, minerals, ther-
18 mal waters, beaches, watersheds, and shorelines.

19 (g) Hazardous Areas -- An analysis of known hazards as may result from
20 susceptibility to surface ruptures from faulting, ground shaking, ground
21 failure, landslides or mudslides; avalanche hazards resulting from de-
22 velopment in the known or probable path of snowslides and avalanches, and
23 floodplain hazards.

24 (h) Public Services, Facilities, and Utilities -- An analysis showing
25 general plans for sewage, drainage, power plant sites, utility transmission
26 corridors, water supply, fire stations and fire fighting equipment, health
27 and welfare facilities, libraries, solid waste disposal sites, schools,
28 public safety facilities and related services. The plan may also show loca-
29 tions of civic centers and public buildings.

30 (i) Transportation -- An analysis, prepared in coordination with
31 the local jurisdiction(s) having authority over the public highways and
32 streets, showing the general locations and widths of a system of major traf-
33 fic thoroughfares and other traffic ways, and of streets and the recommended
34 treatment thereof. This component may also make recommendations on build-
35 ing line setbacks, control of access, street naming and numbering, and a
36 proposed system of public or other transit lines and related facilities
37 including rights-of-way, terminals, future corridors, viaducts and grade
38 separations. The component may also include port, harbor and other related
39 transportation facilities.

40 (j) Recreation -- An analysis showing a system of recreation areas, in-
41 cluding parks, parkways, trailways, river bank greenbelts, beaches, play-
42 grounds, and other recreation areas and programs.

43 (k) Special Areas or Sites -- An analysis of areas, sites, or struc-
44 tures of historical, archeological, architectural, ecological, wildlife,
45 or scenic significance.

46 (l) Housing -- An analysis of housing conditions and needs; plans for
47 improvement of housing standards; and plans for the provision of safe, sani-
48 tary, and adequate housing, including the provision for low-cost conven-
49 tional housing, the siting of manufactured housing and mobile homes in sub-
50 divisions and parks and on individual lots which are sufficient to maintain

1 a competitive market for each of those housing types and to address the needs
2 of the community.

3 (m) Community Design -- An analysis of needs for governing landscaping,
4 building design, tree planting, signs, and suggested patterns and standards
5 for community design, development, and beautification.

6 (n) Agriculture -- An analysis of the agricultural base of the area in-
7 cluding agricultural lands, farming activities, farming-related businesses
8 and the role of agriculture and agricultural uses in the community.

9 (o) Implementation -- An analysis to determine actions, programs, bud-
10 gets, ordinances, or other methods including scheduling of public expendi-
11 tures to provide for the timely execution of the various components of the
12 plan.

13 (p) National Interest Electric Transmission Corridors -- After noti-
14 fication by the public utilities commission concerning the likelihood of
15 a federally designated national interest electric transmission corridor,
16 prepare an analysis showing the existing location and possible routing
17 of high voltage transmission lines, including national interest electric
18 transmission corridors based upon the United States department of energy's
19 most recent national electric transmission congestion study pursuant to
20 sections 368 and 1221 of the energy policy act of 2005. "High-voltage trans-
21 mission lines" means lines with a capacity of one hundred fifteen thousand
22 (115,000) volts or more supported by structures of forty (40) feet or more in
23 height.

24 (q) Public Airport Facilities -- An analysis prepared with assistance
25 from the Idaho transportation department division of aeronautics, if re-
26 quested by the planning and zoning commission, and the manager or person in
27 charge of the local public airport identifying, but not limited to, facility
28 locations, the scope and type of airport operations, existing and future
29 planned airport development and infrastructure needs, and the economic im-
30 pact to the community.

31 (r) When considering amending, repealing, or adopting a plan, the local
32 governing board shall consider the effect the proposed amendment, repeal,
33 or adoption of the plan would have on the source, quantity, and quality of
34 ground water in the area.

35 Nothing herein shall preclude the consideration of additional planning
36 components or subject matter.

37 SECTION 11. That Section 67-6537, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 67-6537. USE OF SURFACE AND GROUND WATER. (1) ~~The intent of this sec-~~
40 ~~tion is to encourage the use of surface water for irrigation.~~ All appli-
41 cants proposing to make land use changes shall be required to use surface wa-
42 ter, where reasonably available, as the primary water source for irrigation.
43 Surface water shall be deemed reasonably available if:

44 (a) A surface water right is, or reasonably can be made, appurtenant to
45 the land;

46 (b) The land is entitled to distribution of surface water from an irri-
47 gation district, canal company, ditch users association, or other irri-
48 gation delivery entity, and the entity's distribution system is capable
49 of delivering the water to the land; or

1 (c) An irrigation district, canal company, or other irrigation deliv-
2 ery entity has sufficient available surface water rights to apportion
3 or allocate to the land and has a distribution system capable of deliv-
4 ering the water to the land.

5 (2) Consistent with sections 42-108 and 42-222, Idaho Code, any change
6 in the nature of use of surface water provided by an irrigation delivery
7 entity must be authorized by the entity holding the water right(s) for the
8 available surface water. Nothing in this section shall alter the authority
9 and discretion of irrigation delivery entities to apportion, allocate and
10 distribute surface water, or for municipalities, counties, or water and
11 sewer districts to pass ordinances or regulations to promote the use of sur-
12 face water for irrigation.

13 (3) Nothing in this section shall be construed to override or amend any
14 provision of title 42 or 43, Idaho Code, or impair any rights acquired there-
15 under.

16 (4) When considering amending, repealing or adopting a comprehensive
17 plan, the local governing board shall consider the effect the proposed
18 amendment, repeal or adoption of the comprehensive plan would have on the
19 source, quantity and quality of ground water in the area.

20 SECTION 12. An emergency existing therefor, which emergency is hereby
21 declared to exist, this act shall be in full force and effect on and after
22 July 1, 2025.