

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 38

BY ENVIRONMENT, ENERGY, AND TECHNOLOGY COMMITTEE

AN ACT

1 RELATING TO THE COMPREHENSIVE STATE WATER PLAN; RATIFYING AND APPROVING THE
2 COMPREHENSIVE STATE WATER PLAN AS ADOPTED BY THE IDAHO WATER RESOURCE
3 BOARD ON NOVEMBER 28, 2012; TO PROVIDE THAT ALL STATE AGENCIES SHALL EX-
4 ERCISE THEIR DUTIES IN A MANNER CONSISTENT WITH THE COMPREHENSIVE STATE
5 WATER PLAN; AND DECLARING AN EMERGENCY.
6

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

8 SECTION 1. That pursuant to Section 42-1734B(6), Idaho Code, the Com-
9 prehensive State Water Plan (Part A) adopted by resolution of the Idaho Water
10 Resource Board on November 28, 2012, is ratified and approved. The Compre-
11 hensive State Water Plan (Part A) shall read as follows:

12 1A - STATE SOVEREIGNTY

13 The State asserts sovereignty over the development and use of Idaho's water
14 resources for the benefits of its citizens. Any action by the federal gov-
15 ernment or other states that would impair Idaho's sovereignty over its water
16 resources is against state policy.

17 1B - BENEFICIAL USE OF WATER

18 The concept of beneficial use must necessarily evolve with changing condi-
19 tions.

20 1C - CHANGE IN USE

21 Changes in the use of a water right should be allowed to meet changing needs
22 and to provide for optimum use of the state's water resources.

23 1D - WATER SUPPLY BANK

24 The sale or lease of water is critical to the efficient management and opti-
25 mal use of the state's water resources. Thus, use of the state's Water Supply
26 Bank should be expanded to meet traditional and emerging needs for water.

27 1E - CONJUNCTIVE MANAGEMENT

28 Where a hydraulic connection exists between ground and surface waters, they
29 should be conjunctively managed to maintain a sustainable water supply.

30 1F - GROUND WATER WITHDRAWALS

31 Withdrawals from an aquifer should not exceed the reasonably anticipated av-
32 erage rate of future natural recharge to that aquifer.

33 1G - INTERSTATE AQUIFERS

34 Cooperative arrangements with neighboring states should be developed for
35 shared aquifers to avoid water supply conflicts and to optimize utilization
36 of the resource for the citizens of Idaho.

1 1H - QUANTIFICATION AND MEASUREMENT OF WATER RESOURCES

2 Quantification and measurement of Idaho's water supply and use is essential
3 for sound water resource planning, management, and administration.

4 1I - AQUIFER RECHARGE

5 Aquifer recharge should be promoted and encouraged, consistent with state
6 law.

7 1J - WATER QUALITY

8 The citizens of Idaho will be best served by a cooperative effort involving
9 public and private entities to assure that the state's surface and ground wa-
10 ter sources meet state water quality standards and maintain designated bene-
11 ficial uses.

12 1K - COMPREHENSIVE AQUIFER MANAGEMENT PLANS

13 The Idaho Water Resource Board will complete and implement comprehensive
14 aquifer management plans to address the changing demands on the state's wa-
15 ter supply.

16 1L - SURFACE WATER SUPPLY ENHANCEMENT

17 Surface water development will continue to play an important role in meeting
18 Idaho's future water needs.

19 1M - WEATHER MODIFICATION

20 Weather modification offers the possibility of augmenting water supplies.

21 1N - HYDROPOWER

22 Appropriation of water for hydropower should be subordinated to subsequent
23 upstream beneficial uses to assure an adequate supply of water for all future
24 beneficial uses and minimum stream flows for hydropower projects should be
25 established by state action.

26 2A - WATER USE EFFICIENCY

27 Water conservation and water use efficiency should be promoted.

28 2B - FEDERALLY LISTED AND OTHER AQUATIC SPECIES

29 The state asserts primacy over the management of its fish and wildlife and
30 water resources. Accordingly, any reintroduction or introduction of feder-
31 ally listed species or other aquatic species without state consultation and
32 approval is against the policy of the State of Idaho because it would impair
33 or impede the state's primacy over its water resources.

34 2C - MINIMUM STREAM FLOWS

35 The Idaho Water Resource Board will exercise its authority to establish and
36 to protect minimum stream flow water rights on those water bodies where it is
37 in the public interest to protect and support instream uses.

1 2D - STATE PROTECTED RIVER SYSTEM

2 The Idaho Water Resource Board will exercise its authority to protect the
3 unique features of rivers where it is in the public interest to protect
4 recreational, scenic, and natural values.

5 2E - RIPARIAN HABITAT AND WETLANDS

6 Protecting the ecological viability of riparian habitat and wetlands within
7 the state is a critical component of watershed planning.

8 2F - STREAM CHANNEL REHABILITATION

9 The Idaho Water Resource Board will support cost-effective stream channel
10 rehabilitation where past activities adversely affect or could affect the
11 ecological goods and services of the state's watersheds.

12 2G - SAFETY MEASURES PROGRAM

13 Owners of water distribution and storage facilities are encouraged to estab-
14 lish or continue safety initiatives including construction and maintenance
15 of safety features and development of public awareness programs to educate
16 residents about hazards associated with these facilities.

17 2H - FLOOD HAZARD AREAS

18 Protection of floodplains through effective floodplain management and pre-
19 disaster mitigation is essential to reducing and preventing flood damages.

20 2I - FLOOD DAMAGE REDUCTION LEVEE REGULATION

21 Levees should be designed, constructed, and maintained to meet the intended
22 purpose of reducing water and flood damage for the useful life of the levee.

23 3A - REVIEW OF FEDERAL RESERVOIR WATER ALLOCATION

24 It is in the state's interest that proposed water allocations and realloca-
25 tions of water in federal reservoirs be consistent with the State Water Plan.

26 3B - HYDROPOWER SITING

27 The expansion of hydropower capacity and generation consistent with the
28 state water plan can help meet the need for affordable and renewable energy
29 resources.

30 3C - RESEARCH PROGRAM

31 Focused research is necessary to support water resource planning and col-
32 laborative solutions that address changing demands on the state's water sup-
33 plies.

34 3D - FUNDING PROGRAM

35 Funding mechanisms to support the development, preservation, conservation,
36 and restoration of the water resources of the state should be based on flexi-
37 ble strategies that provide equitable benefits.

38 3E - WATER RESOURCE PLANNING PROGRAM

39 Comprehensive water planning will help ensure sufficient water supplies to
40 satisfy Idaho's future water needs.

1 3F - WATER RIGHTS ADJUDICATION

2 Adjudication of water rights through the state courts should be completed to
3 fully define and quantify all state, tribal, and federal water rights.

4 3G - CLIMATE VARIABILITY

5 Preparedness strategies should be developed to account for the impact of
6 climate variability on the state's water supplies.

7 4A - SNAKE RIVER MINIMUM STREAM FLOWS

8 The main stem Snake River above Hells Canyon Dam will be managed to meet or
9 exceed the following minimum average daily flows at the designated stream
10 gaging stations:

11 <u>Gaging Station</u>	<u>Minimum Average Daily Flow</u>
12 Milner	0 cfs
13 Murphy	3,900 cfs (4/1 through 10/31)/5,600 14 cfs (11/1 through 3/31)
15 Weiser	4,750 cfs
16 Johnson Bar	5,000 cfs
17 Lime Point	13,000 cfs

18 These minimum stream flows provide the management framework for the optimum
19 development of water resources of the Snake River Basin. The minimum stream
20 flow water rights shall be administered in priority with other water rights.

21 4B - SNAKE RIVER MILNER ZERO MINIMUM FLOW

22 Water resource policy, planning, and practice should continue to provide for
23 full development of the Snake River above Milner Dam recognizing that the ex-
24 ercise of water rights above Milner Dam has and may reduce flow at the Dam to
25 zero.

26 4C - REALLOCATION OF SNAKE RIVER TRUST WATER

27 Water made available for reallocation to new uses in the Snake River trust
28 water area pursuant to Idaho Code § 42-203B shall be allocated in accordance
29 with criteria established by Idaho Code §§ 42-203A and 42-203C.

30 4D - CONJUNCTIVE MANAGEMENT OF THE ESPA AND SNAKE RIVER

31 The Eastern Snake Plain Aquifer and the Snake River below Milner Dam should
32 be conjunctively managed to provide a sustainable water supply for all ex-
33 isting and future beneficial uses within and downstream of the ESPA.

34 4E - SNAKE RIVER BASIN NEW STORAGE

35 Development of new on-stream, off-stream, and aquifer storage is in the
36 public interest; provided, however, applications for large surface storage
37 projects in the Milner to Murphy reach of the Snake River should be required
38 to mitigate for impacts on hydropower generation.

1 4F - SNAKE RIVER BASIN AGRICULTURE

2 Development of supplemental water supplies to sustain existing agricultural
3 development is in the public interest.

4 4G - SNAKE RIVER DOMESTIC, COMMERCIAL, MUNICIPAL AND INDUSTRIAL USES (DCMI)

5 It is in the public interest to ensure the availability of water for future
6 DCMI uses in the Snake River Basin.

7 4H - SNAKE RIVER HYDROPOWER USE

8 Hydropower generation is a beneficial use of the flow of the Snake River, and
9 it is in the public interest to protect the minimum average daily flows set
10 forth in Policy 4A as a base flow for hydropower use.

11 4I - SNAKE RIVER NAVIGATION

12 The minimum stream flows set forth in Policy 4A are sufficient for commercial
13 and recreational navigation on the Snake River.

14 4J - SNAKE RIVER FISH, WILDLIFE, RECREATION, AND SCENIC RESOURCES

15 The minimum stream flows set forth in Policy 4A provide adequate flows for
16 Snake River fish, wildlife, recreation, and scenic values in the main stem
17 Snake River below Milner Dam. Protection for fish, wildlife, recreation,
18 and scenic uses in tributaries to the Snake River should be addressed through
19 Part B of the State Water Plan and the establishment of minimum stream flows
20 pursuant to Chapter 15, Title 42, Idaho Code. The Board finds that implemen-
21 tation of the collaborative agreements provide benefits for fish, wildlife,
22 recreation, and scenic values.

23 5A - BEAR RIVER COMPACT IN THE BEAR RIVER BASIN

24 Water use and management in the Bear River Basin shall conform to the alloca-
25 tions agreed to in the Bear River Compact.

26 5B - BEAR RIVER BASIN WATER MANAGEMENT IN THE BEAR RIVER BASIN

27 The Idaho Water Resource Board supports enhancing water supplies, increas-
28 ing water use efficiency, and implementing water supply bank mechanisms to
29 help meet future water needs in the Bear River Basin.

30 5C - INTERSTATE WATER DELIVERY IN THE BEAR RIVER BASIN

31 Idaho water users in the Lower Division of the Bear River Basin must be pro-
32 tected from inequitable water allocation in the event of a water emergency
33 and the scheduling of interstate water deliveries.

34 5D - BEAR LAKE IN THE BEAR RIVER BASIN

35 The outstanding recreational, aesthetic, and fish and wildlife resource
36 values of Bear Lake should be preserved, while recognizing the existing
37 storage allocations for irrigation and hydroelectric power generation.

38 6A - CONSERVATION PLANS IN THE SALMON/CLEARWATER RIVER BASINS

39 Voluntary, community-based conservation plans and strategies for the bene-
40 fit of ESA-listed species and other species of concern are key components of
41 water planning and management in the Salmon and Clearwater River Basins.

1 6B - INSTREAM FLOW PROGRAM IN THE SALMON/CLEARWATER RIVER BASINS

2 The Idaho Water Resource Board will promote, provide, and where possible,
3 expand opportunities for voluntary, market-based transactions to improve
4 instream flow for the benefit of ESA-listed aquatic species.

5 7A - INTERSTATE AQUIFERS IN THE PANHANDLE RIVER BASINS

6 Completion of comprehensive aquifer management plans and the Northern Idaho
7 Adjudication and implementation of interstate agreements are central to the
8 optimum use of the Panhandle Basin's water resources.

9 7B - MINIMUM STREAM FLOWS IN THE PANHANDLE RIVER BASINS

10 The Idaho Water Resource Board will establish and protect minimum stream
11 flow and lake level water rights to preserve the scenic and recreational
12 water bodies in the Panhandle river basins.

13 7C - NAVIGATION, FISHERIES, AND RECREATION IN THE PANHANDLE RIVER BASINS

14 Water management decisions in the Panhandle Region should minimize, where
15 feasible, adverse effects on navigation, fisheries, and recreation.

16 SECTION 2. Pursuant to Section 42-1734B(4), Idaho Code, all state agen-
17 cies shall exercise their duties in a manner consistent with the Comprehen-
18 sive State Water Plan.

19 SECTION 3. An emergency existing therefor, which emergency is hereby
20 declared to exist, this act shall be in full force and effect on and after its
21 passage and approval.