

Idaho Developments: Water Rights Enforcement Compliance & Monitoring

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Western States Engineers Workshop

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Idaho Water Rights Enforcement Statutes

Section 42-351: Illegal diversion or use of water

- 1) Unlawful to divert or use water from a surface or ground water source without a valid water right, or to divert or use water not in conformance with a valid water right”**

Idaho Water Rights Enforcement Statutes

Section 42-351:

- 2) “...unlawful to divert or use water in substantial violation of ...any rule, permit, condition of approval or order issued pursuant to this title that is related to the diversion or use of water”

Idaho Water Rights Enforcement Statutes

Section 42-351:

- 3) “Upon investigation..., the director shall have the discretion to issue a written notice of violation in accordance with the provisions of Section 42-1701B”**

Idaho Water Rights Enforcement Statutes

Section 42-1701B: Enforcement procedure (water rights & other violations)

- 1) Notice of Violation**
- 2) Response**
- 3) Compliance conference & consent order**
- 4) Civil enforcement action**
- 5) Penalties**

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Notice of Violation

- ✓ Identify violation & relative law, rule, or condition of approval violated
- ✓ State remedy (including cease & desist), restoration, mitigation measures, and/or civil penalty
- ✓ Provide opportunity for conference

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Response

- ✓ Recipient provided 14 days to respond for compliance conference
- ✓ Failure to respond may result in civil enforcement action

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Compliance Conference & Consent Order

- ✓ Negotiation Process
- ✓ Identify remedy and assure compliance
- ✓ Consent order & agreement
 - specify remedy terms and time lines
 - payment of civil penalties

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Civil Enforcement

**Action may be initiated by AG in county
district court**

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Civil Penalties in civil enforcement action

**\$10,000 per violation or \$150 per day for a
continuing violation (whichever is greater)**

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Civil penalties for violation of Sec 42-351

1) Irrigation Uses

**\$300 annually for each acre irrigated
(in whole or in part)**

Idaho Water Rights Enforcement Statutes

Section 42-1701B:

Civil penalties for violation of Sec 42-351

2) Non-irrigation uses

- \$50 per one-tenth cfs diverted per day
- \$50 per two tenths (0.2) of an acre-foot diverted to storage
- Maximum of \$50,000 per year

Idaho Water Rights Enforcement & Compliance

Year	No. of Investigations	NOVs Issued
2004	170	19
2003	217	20
2002	139	10

Penalties collected: NA annually

- \$37,000 in enforcement account**
- Largest: \$10,000**
- Normal: \$200 to \$3,000**

Water Rights Enforcement Detection & Monitoring

- **Written or verbal complaints**
- **Related IDWR activities**
- **Water Districts**
- **Satellite Imagery**
- **Water Measurement**

Idaho Water Rights Monitoring

Use of Satellite Imagery

- Obtained annually for some areas
 - cost about \$1,500 per scene
- Overlay water right POU shape files
- Field visit by watermasters or IDWR staff
- NOV process may be initiated
 - send Pending NOV first

Monitoring


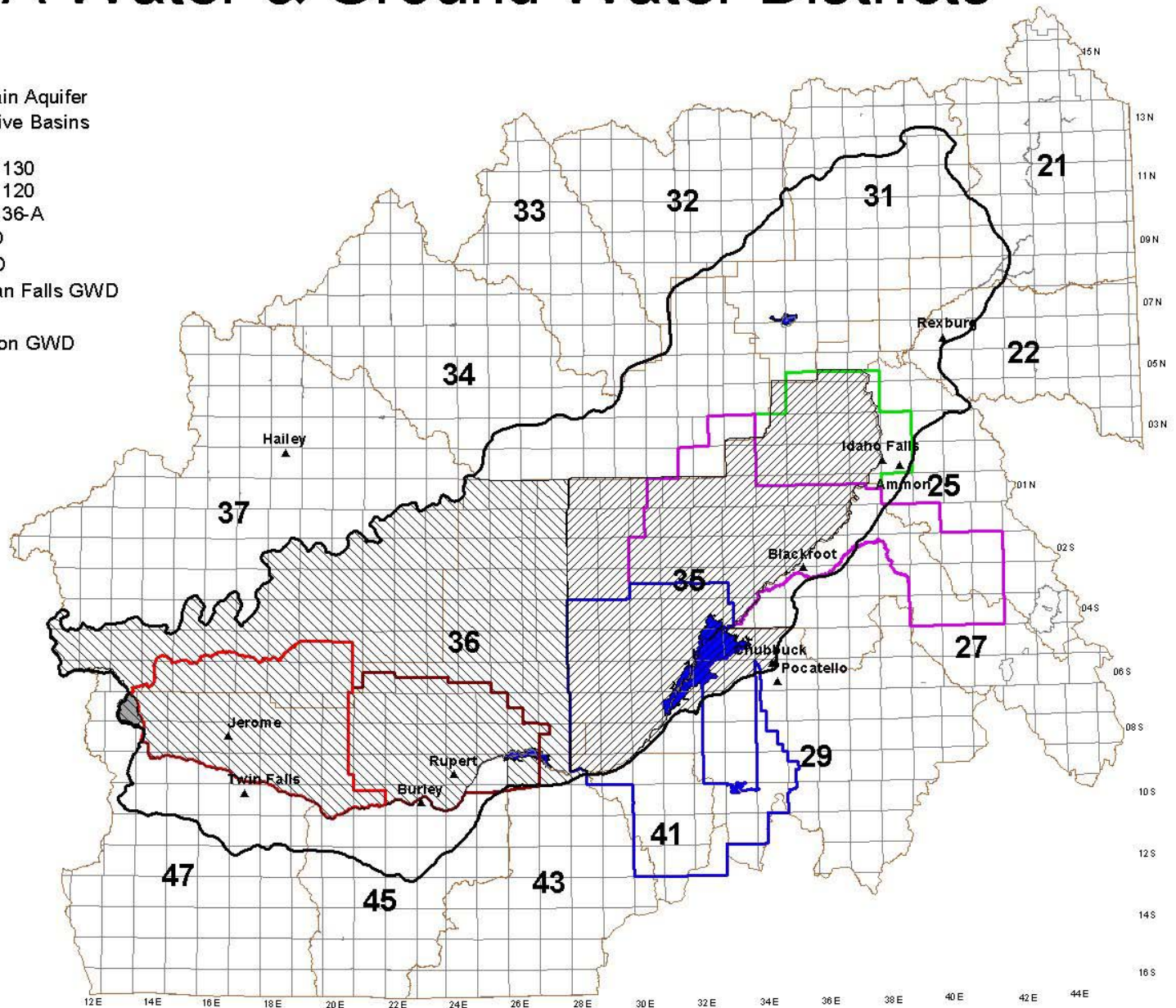




ESPA Water & Ground Water Districts

-  Eastern Snake Plain Aquifer
-  IDWR Administrative Basins
-  Townships
-  Water District No. 130
-  Water District No. 120
-  Water District No. 36-A
-  North Snake GWD
-  Magic Valley GWD
-  Aberdeen-American Falls GWD
-  Bingham GWD
-  Bonneville-Jefferson GWD

10 0 10 20 Miles

Wilderness Water Right Impact Areas

- IDWR Administrative Basins with basin number
- Affected Wilderness & National Recreation Areas
- Affected areas upstream of Wilderness and National Recreation areas

