



IDAHO SOIL & WATER CONSERVATION COMMISSION

AMENDED REGULAR MEETING BY TELECONFERENCE NOTICE & AGENDA

Idaho Soil & Water Conservation Commission
April 11, 2019, 9:00 a.m. - 1:00 p.m. MT

Location: Idaho Water Center, 322 E Front St, Suite 560, Conference Room, Boise
TELECONFERENCE # 1-877-820-7831 Passcode: 922837

Members of the public may address any item on the Agenda during consideration of that item. Those wishing to comment on any agenda item are requested to so indicate on the sign-in sheet in advance. Copies of agenda items, staff reports and/or written documentation relating to items of business on the agenda are on file in the office of the Idaho Soil & Water Conservation Commission in Boise. Upon request, copies can be emailed and will also be available for review at the meeting.

The Commission will occasionally convene in Executive Session, pursuant to Idaho Code § 74-206(1). Executive Session is closed to the public.

AMERICANS WITH DISABILITIES ACT COMPLIANCE

The meeting will be held in facilities that meet the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations to attend, participate in, or understand the meeting, please contact the Idaho Soil & Water Conservation Commission at (208) 332-1790 or Info@swc.idaho.gov so advance arrangements can be made.

	1.	WELCOME, SELF-INTRODUCTIONS, AND ROLL CALL	Chairman Wright
	2.	PARTNER REPORTS (for information only)	
*	3.	AGENDA REVIEW (potential action item) The Agenda may be amended by formal Board action if necessary at the meeting. If so, a motion that states the reason for the amendment and the good faith reason the item was not included in the original agenda will be made and approved by the Board.	Chairman Wright
ACTION ITEMS			
	4.	ADMINISTRATIVE	
*	a.	ELECT BOARD SECRETARY Elect Commission Secretary to Fill Unexpired Term of Dave Radford <u>ACTION:</u> Elect Secretary	Chairman Wright
*	b.	MINUTES 1. February 18, 2018 Regular Meeting <u>ACTION:</u> Approve	Chairman Wright
#	c.	FINANCIAL REPORT 1. FY 2019 Monthly Report, February 28, 2019 2. FY 2019 Monthly Report, March 31, 2019 3. FY 2019 YTD Financial Summary through March 31, 2019 <u>ACTION:</u> Approve	Yadon

(*) Action Item

(#) Attachment

ACTION: Staff recommended action for Commission consideration

Thursday, April 11, 2019 Meeting Agenda

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* #	d.	FY 2020 Appropriation and Budget Blueprint 1. FY 2020 Appropriations 2. FY 2020 General and Dedicated Fund Blueprints <u>ACTION</u> : Approve FY 2020 General and Dedicated Fund Blueprints, including setting Trustee and Benefit fund distribution to districts in FY 2020 at: \$425,000 in Base funding, \$678,200 in Match Formula funding, \$100,000 in Operating funding, and \$50,000 in Capacity Building funding.	Yadon
NON-ACTION ITEMS			
	5.	ADMINISTRATIVE (CONT.)	
	a.	FY 2019-2022 Strategic Plan Update <u>ACTION</u> : For information only	Trefz
	b.	ADMINISTRATOR'S REPORT 1. Activity Report <u>ACTION</u> : For information only	Trefz
#	c.	WATERS OF THE UNITED STATES (WOTUS) REPORT 1. Fact Sheet, Proposed Revised Definition of "Waters of the United States" 2. ISDA Comments in Support of the Proposed WOTUS Rule 3. SWCC Staff Comment Letter <u>ACTION</u> : For information only	Trefz
	6.	PROGRAMS	
#	a.	CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP) ANNUAL REPORT <u>ACTION</u> : For information only	Pentzer
	7.	OTHER REPORTS <u>ACTION</u> : None, for information only	Commissioners, Staff
POSSIBLE ACTION ITEMS			
* #	8.	RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM (RCRDP) RULE CHANGES 1. Review the 2019 legislature's actions related to proposed changes to IDAPA 60.05.01, the RCRDP Rule (Audio of House Ag Affairs and Senate consideration of SCR 110) 2. Review options related to proposing an administrative rule change for 2020 <u>ACTION</u> : For consideration and possible action to authorize staff to initiate Proposed Rule changes to RCRDP Rules.	Hoebelheinrich & Chapple Knowlton
*	9.	EXECUTIVE SESSION <i>Executive Session is closed to the public. Under the relevant Idaho Code Section(s) noted below, any Board action will be taken publicly in open session directly following Executive Session.</i> <u>ACTION</u> : Move to enter Executive Session pursuant to Idaho Code §74-206(1)(f) to discuss with legal counsel pending litigation, or controversies not yet being litigated but imminently likely to be litigated. <u>Roll Call Vote</u> <u>ACTION</u> : For information and possible action to direct legal counsel to take action in pending or imminent litigation.	Chairman Wright
ADJOURN <i>The next Regular Commission Meeting is scheduled for May 9, 2019, in Boise, Idaho.</i>			Chairman Wright

(*) Action Item

(#) Attachment

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Idaho Soil & Water Conservation Commission

322 E Front St, Suite 560 • Boise Idaho 83702
Telephone: 208-332-1790 • Fax: 208-332-1799

IDAHO SOIL & WATER CONSERVATION COMMISSION PUBLIC MEETING & TELECONFERENCE

Date and Time:

Monday, February 18, 2019
1:03 PM – 5:09 PM MT

Location:

322 E. Front St., Suite 560
Boise, Idaho 83702

MINUTES

COMMISSION MEMBERS PRESENT:

Norman Wright (Chair)	Cathy Roemer (Vice-Chair) (Teleconference)
Dave Radford (Secretary)	Jerry Trebesch (Teleconference)
Erik Olson	

COMMISSION STAFF PRESENT:

Teri Murrison	Delwyne Trefz
Terry Hoebelheinrich	Crystal Rosen
Rhonda Yadon	

PARTNERS AND GUESTS PRESENT:

Shantel Chapple Knowlton, Office of the Attorney General
Curtis Elke, NRCS

ITEM #1: WELCOME AND ROLL CALL

Chairman Wright called the meeting to order at 1:03 PM.
Roll call: Chairman Norman Wright, Commissioners David Radford, and Jerry Trebesch were present. Commissioners Roemer and Olson were absent.

ITEM #2: PARTNER REPORTS

Action: None taken

Commissioner Erik Olson joined the meeting at 1:12 PM.

ITEM #3: AGENDA REVIEW

Action: Commissioner Radford made a motion to *add non-action item #5b: Project Tracker Concerns to the agenda as advised by staff*. The motion was made on the good faith basis that the email expressing the concerns was not received until Friday, February 15, 2019 after 5 p.m. Commissioner Olson seconded the motion. Motion carried by unanimous vote.

ITEM #4a: MINUTES

Action: Commissioner Radford made a motion to *approve the January 14, 2019 minutes as submitted*. Commissioner Olson seconded the motion. Motion carried by unanimous vote.

Action: Commissioner Olson made a motion to *approve the January 15, 2019 minutes as submitted*. Commissioner Radford seconded the motion. Motion carried by unanimous vote.

ITEM #4b: FINANCIAL REPORTS

Action: Commissioner Radford made a motion to *approve the Financial Report for the month ended on January 31, 2019 and the YTD Financial Summary through January 31, 2019*. Commissioner Olson seconded the motion. Motion carried by unanimous vote.

ITEM #4c: ADMINISTRATOR'S REPORT

Action: Commissioner Olson made a motion to *authorize Administrator's ongoing participation on NASCA Board, out of state travel and payment of related expenses for annual NASCA Board retreat and conference, and approve payment of 2019 dues*. Commissioner Trebesch seconded the motion. Motion carried by unanimous vote.

**ITEM #4d: RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT (RCRDP)
RULEMAKING UPDATE**

Action: None taken

**ITEM #4d: RCRDP REQUEST TO AUTHORIZE OUT OF STATE TRAVEL FOR CORRINE TO
NORTRIDGE USER'S MEETING**

Action: Commissioner Radford made a motion to *authorize Corrine Dalzell, Loan Assistant, to travel out of state to participate in Nortridge Loan System User's Group as well as payment of related travel expenses*. Commissioner Olson seconded the motion. Motion carried by unanimous vote.

ITEM #5a: FY 2020-FY 2023 STRATEGIC PLAN

Action: None taken

ITEM #5b: PROJECT TRACKER CONCERNS

Action: None taken

Commissioner Jerry Trebesch left the meeting at 4:00 PM.

Meeting recessed at 4:06 PM.

Meeting reconvened in Executive Session at 4:12 PM.

ITEM #6a: RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM UPDATE

Action: None taken

ITEM #7: OTHER REPORTS

Action: None taken

ITEM #8: EXECUTIVE SESSION

Action: Commissioner Radford made a motion to *enter Executive Session pursuant to Idaho Code § 74-206(1)(b) for the purpose of discussing pending litigation or controversies not yet being litigated but imminently likely to be litigated with legal counsel.* Commissioner Olson seconded the motion. Motion carried by unanimous roll call vote.

Commissioner Cathy Roemer joined the meeting at 4:43 PM.

Executive Session ended at 5:09 PM.

No action was taken.

ITEM #7: OPEN SESSION and ADJOURN

The meeting was adjourned at 5:09 PM. The next Commission Meeting will be held in Boise on April 11, 2019.

Respectfully submitted,

, Secretary

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**IDAHO SOIL & WATER
CONSERVATION COMMISSION**

ITEM #4c

TO: CHAIRMAN WRIGHT AND COMMISSIONERS ROEMER, OLSON, AND TREBESCH
FROM: RHONDA YADON, FISCAL & HR MANAGER
DATE: APRIL 2, 2019
RE: FINANCIAL REPORTS, FISCAL MATTERS

FINANCIAL REPORTS

The Financial Detail Report and Financial Summary Report for the year-to-date as of March 31, 2019, which includes expenditure projections, will be available at your meeting. The statewide financial reports used to compile this data will not be available to me until April 4, 2019. For those of you that will be attending the meeting remotely, I will have the reports emailed to you no later than the end of the day Tuesday, April 9. I will address any questions you have at your meeting.

The Financial Detail Report for the year-to-date ending February 28, 2019 is attached for your review. As of February, we are 82.3% spent in the general fund, but I believe we will end the year very close to budget. As a comparison, in FY18 at this time, we were 81.8% spent and in FY17 we were 82.5% spent in the general fund. Overall, I believe that we are in good financial standing.

STAFFING CHANGES

Interviews for our vacant NRCS Conservation Technical Assistant out of Pocatello have begun and we hope to have our replacement hired in the next couple of weeks.

COMMISSIONER HONORARIUMS

Below is a schedule of the honorarium balances as of March 22, 2019. Included in the schedule is the days and amounts budgeted for each Commissioner for FY19. We are in good standing with the travel budget for Commissioners. For honorariums, Commissioners have spent 69.5% of the budget and for operating travel costs, Commissioners have spent 74.1% of the budget.

Commissioner	Days Budgeted/ Traveled to Date	Benefit Costs included in Honorariums	Honorariums Budgeted	Expended to Date	Projected Balance/ (Overage)
Wright	30 / 23	\$132	\$1,632	\$1,241	\$391
Roemer	20 / 16	\$88	\$1,088	\$868	\$220
Trebesch	12 / 4	\$44	\$544	\$215	\$329
Radford	20 / 12	\$88	\$1,088	\$649	\$439
Slichter/Olson	20 / 15	\$88	\$1,088	\$810	\$278
Totals		\$442	\$5,442	\$3,784	\$1,658

RECOMMENDED ACTION: Approve the Financial Report for the month ended February 28, 2019
 Approve the Financial Reports for the month ended March 31, 2019

Attachments: SWC Detail Financial Report as of February 28, 2019

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SWC DETAIL FINANCIAL REPORT AS OF FEBRUARY 28, 2019

GENERAL FUND & OTHER FUNDS	PERSONNEL			OPERATING			CAPITAL OUTLAY			TRUSTEE & BENEFITS			CASH			
	BUDGET	ACTUAL EXPENSE Thru End of Current Month	ACTUAL EXPENSE Thru End of Current Month BALANCE	BUDGET	ACTUAL EXPENSE Thru End of Current Month	ACTUAL EXPENSE Thru End of Current Month BALANCE	BUDGET	ACTUAL EXPENSE Thru End of Current Month	ACTUAL EXPENSE Thru End of Current Month BALANCE	BUDGET	ACTUAL EXPENSE Thru End of Current Month	ACTUAL EXPENSE Thru End of Current Month BALANCE	BEG CASH AT 7/1/18	PLUS TOTAL REC TO DATE	LESS TOTAL EXP TO DATE	ACTUAL CASH BALANCE End of Current
FY19																
INDEX																
7101 MANAGEMENT ADMIN	353,750	227,685	126,065	34,226	26,632	7,594	1,013	822	191				388,989		255,139	133,850
7111 MANAGEMENT BOARD	5,250	3,017	2,233	9,400	6,431	2,969							14,650		9,448	5,202
7201 FIELD STAFF	457,600	297,846	159,754	84,986	68,337	16,649	1,168	823	345				543,754		367,006	176,748
7301 PROGRAMS	248,500	159,169	89,331	34,745	31,865	2,880	723	548	175				283,968		191,582	92,386
7310 DISTRICT ALLOCATIONS										1,103,200	1,103,200	0	1,103,200		1,103,200	0
7320 DISTRICT CAPACITY BLDG										150,000	150,000	0	150,000		150,000	0
7350 CREP	150,400	93,033	57,367	23,943	19,161	4,782	296	219	77				174,639		112,413	62,226
TOTAL GENERAL FUND 0001	1,215,500	780,750	434,750	187,300	152,426	34,874	3,200	2,412	788	1,253,200	1,253,200	0	2,659,200	0	2,188,788	470,412
		64.23%			81.38%			75.38%			100.00%				82.31%	
7315 FEDERAL GRANT-NRCS TRS	15,800	4,645	11,155										14,568	3,081	4,645	13,004
7316 FEDERAL GRANT-NRCS CTA	169,000	107,234	61,766	17,500	2,426	15,074							55,821	111,159	109,660	57,320
7317 NFWF GRANT	86,800	55,277	31,523										3,824	57,960	55,277	6,507
TOTAL FEDERAL FUND 0348	271,600	167,156	104,444	17,500	2,426	15,074	0	0	0	0	0	0	74,213	172,200	169,582	76,831
		61.54%			13.86%										Borrowing Limit (40,000)	36,831
															82.16%	
7325 SWC PROFESSIONAL SERV				30,000	8,093	21,907							24,727	11,499	8,093	28,133
TOTAL DEDICATED FUND 0450	0	0	0	30,000	8,093	21,907	0	0	0	0	0	0	24,727	11,499	8,093	28,133
					26.98%										22.34%	
LOAN FUNDS	PERSONNEL			OPERATING			CAPITAL OUTLAY			CASH				BALANCE SHEET		
		ACTUAL EXPENSE thru End of Current Month	ACTUAL EXPENSE Thru End of Current Month BALANCE		ACTUAL EXPENSE Thru End of Current Month	ACTUAL EXPENSE Thru End of Current Month BALANCE		ACTUAL EXPENSE Thru End of Current Month	ACTUAL EXPENSE Thru End of Current Month BALANCE		PLUS TOTAL REC TO DATE	LESS TOTAL EXP TO DATE	ACTUAL CASH BALANCE End of Current	NOTES RECEIVABLE 7/1/18	LOANS PAID OUT, COLLECTIONS /ADJUSTMENTS TO DATE	NOTES RECEIVABLE End of Cur period
FY19																
7351 RCRDP LOAN ADMIN	168,300	98,523	69,777	147,300	76,847	70,453	500	493	7	6,656,334	513,233	293,703	6,875,864	3,056,384	117,805	2,813,801
TOTAL RCRDP ADMIN 0522-01	168,300	98,523	69,777	147,300	76,847	70,453	500	493	7	6,656,334	513,233	293,703	6,875,864		(360,388)	
		58.54%			52.17%			98.60%				4.10%				
7361 REVOLVING LOAN - DEQ				30,000	19,850	10,150				29,777	13,014	19,850	22,941	352,968	0	285,178
TOTAL DEQ LOAN 0529-16	0	0	0	30,000	19,850	10,150	0	0	0	29,777	13,014	19,850	22,941		(67,790)	
					66.17%							46.39%		ADV FROM PAYMENTS/ADJ TO DATE	ADV FROM TO DATE	END OF CUR PERIOD
														301,436	(64,142)	237,294



**IDAHO SOIL & WATER
CONSERVATION COMMISSION**

ITEM # 4d

TO: CHAIRMAN WRIGHT AND COMMISSIONERS ROEMER, OLSON, AND TREBESCH
FROM: RHONDA YADON, FISCAL & HR MANAGER
DATE: APRIL 2, 2019
RE: FY 2020 APPROPRIATION AND BUDGET BLUEPRINT

The Governor recently signed House Bill 213, the Commission’s FY 2020 Appropriations Bill (see attached). It appropriates \$3,437,100 in FY 2020, and caps ISWCC’s full-time authorized positions at 21.75. In addition to adjustments for health care, network, device security, statewide cost allocation and such, the FY 2020 budget provides funding for the replacement of one 4WD vehicle. It also continues spending authority for 3 FTPs for the Conservation Technical Assistants to be paid by the NRCS, 1 FTP for the Sagebrush Restoration Specialist to be paid by the NFWF, and a 3% ongoing salary increase for our employees to be distributed based on merit which must include a mandatory minimum \$550 increase or \$0.27 per hour pay rate increase for which merit is not a factor.

The Conservation Commission annually approves a Budget Blueprint for the appropriations of General and Dedicated funds. Attached is a draft FY 2020 Budget Blueprint recommendation for your consideration.

General Fund Draft Blueprint

Revenue: Appropriated General Fund revenue in FY 2020 totals \$2,753,500. It includes \$1,248,800 in Personnel funds, \$224,900 in Operating funds, \$26,600 in Capital funds, and \$1,253,200 in Trustee and Benefit funds. FY 2013’s additional \$50,000 in Trustee & Benefit funds distributed under the match allocation formula is included as part of the Commission’s Base FY 2019 funding, as are FY 2014’s \$50,000 and FY 2015’s additional \$50,000 (each year), which are allocated to districts equally.

Expenditures: General Fund budgeted expenditures in FY 2020 are forecasted to be \$222,651. Personnel and Capital fund expenditures in FY 2020 equal the appropriated funds. Per Board policy, the draft Blueprint sets aside a modest \$2,249 in Operating funds as a contingency. Under Trustee and Benefit funds, the draft Blueprint allocates \$425,000 for Base funding, \$678,200 for Match formula funding, \$100,000 for Operating, and \$50,000 for Capacity Building funding.

Since the estimated costs are not yet available, the attached draft Blueprint estimates SWCAP expenses (Controller’s Office, Attorney General, etc.) to be \$68,200. The draft Blueprint assumes roughly 50/50 cost sharing with the RCRDP fund for overhead expenses including our Memo of Understanding (MOU) with the Department of Administration for IT support.

The General Fund Budget draft Blueprint funds ISWCC staffing at 15.51 FTPs. It assumes some office staff spend .05 to .15 of an FTP assisting with RCRDP conservation planning and fiscal activities.

Dedicated Fund Draft Blueprint

Revenue: Dedicated Fund revenues are limited to cash on-hand and interest generated by both RCRDP and SRF loans, as well as one fund containing cost recovery for the provision of technical assistance provided to other agencies. In FY 2020, RCRDP cash on-hand in July 2019 is estimated to be no less than \$6,811,895, which includes the final installment cash outlay of \$2,875 for Tracker Services. Estimated interest income on the current loan portfolio will be approximately \$237,000 (not including late interest, new loan activity, or early payoffs’ impacts on interest generation). The total RCRDP Dedicated Fund balance will be approximately \$7,048,900 in FY 2020. Cash on-hand at the beginning of FY 2020 in the Professional Services Fund is projected to be \$33,500. Potential additional income in that fund is \$5,000, which would bring beginning total funds to \$38,510. Estimated income in this fund from indirect

cost reimbursements from NRCS will be approximately \$18,000. Beginning cash on-hand in the SRF Fund is forecast to be \$17,900, which includes the potential cash outlay of \$2,875 for the final installment payment for Tracker Services. Potential FY 2020 income in the SRF Fund is \$12,600. Total SRF cash on-hand and income generated in FY 2020 are estimated at \$30,500.

Terry Hoebelheinrich prepared the below-referenced estimate of the interest to be generated in RCRDP Fund for FY 2020. He will be available at your meeting to discuss any questions you have about his projection (below):

\$ 77,000	RCRDP (AVG 2.79%)
<u>\$160,000</u>	<u>IDLE TREASURY (AVG 2.35%)</u>
\$237,000	TOTAL

We would stress that while interest generated does not yet equal program expenses, continuing to be fiscally cautious while awaiting an upturn in loan activity and interest rates is the prudent course of action. For example, if state treasury rates go up by 1%, that would yield an approximate increase of interest income approaching \$68,000.

Expenditures: Expenditures assume that the income identified in Revenues materializes, but if not, expenditures are estimated to equal income with the exception of the RCRDP fund. The draft Blueprint assumes that income generated through interest to the RCRDP fund increases, but does not cover the spending authority appropriation. See the attached FY 2020 RCRDP Estimated Interest Income. Loan officer Terry Hoebelheinrich will address that during the discussion of this item.

The RCRDP draft Blueprint assumes 2.18 full time staff persons (loan officer and loan servicing assistant, and .18 of office staff FTP). It also assumes costs incurred for meetings where RCRDP program business is conducted will be charged to that fund. Commissioner travel for regular Board Meetings and Administrator travel and training will assume roughly 50/50 cost sharing.

Since the estimated costs are not yet available, the attached draft Blueprint estimates SWCAP expenses (Controller’s Office, Attorney General, etc.) to be roughly \$68,200. The draft Blueprint assumes roughly 90/10 cost sharing with the RCRDP fund for overhead expenses including our MOU with the Department of Administration for IT support.

The Budget draft Blueprint for Dedicated Funds assumes the specified income will be realized in Professional Services, however that may not be the case. Cash on-hand on at the beginning of FY 2020 will be approximately \$33,500 and we may recover up to an additional \$20,000 for NRCS indirect cost reimbursement and engineering technical services. Regardless, the maximum spending authority in this fund is capped at \$30,000 in FY 2020.

Continuing this year is an appropriation for 3 FTP in the Federal Grant Fund of \$198,400 for field office specialists to engage in Natural Resource Conservation Service work. Additionally, we received the on-going appropriation of \$17,200 for .25 FTP to fund our TRS2 position by the NRCS, but NRCS will not be renewing that contract for FY 2020. Most of those hours will be absorbed by the general fund for district support and administrative duties. Another one-time appropriation that began in FY 2018 (for up to 2.5 years) for 1 FTP in the Federal Grant Fund of \$100,000 for a sagebrush restoration specialist to be paid by the National Fish and Wildlife Foundation continues in FY 2020.

The budgeted cost in the State Revolving Fund assumes that an amount roughly equal to 10% of the loan officer’s salary will be charged to this fund to recoup RCRDP administrative costs. The balance of funds generated through this loan will continue to be held in contingency to build a modest reserve to preserve cash flow in this account should the borrower be late on payments.

ACTION: Approve FY 2020 General and Dedicated Fund Blueprints, including setting Trustee and Benefit fund distribution to districts in FY 2020 at: \$425,000 in Base funding, \$678,200 in Match Formula funding, \$100,000 in Operating funding, and \$50,000 for Capacity Building funding.

Attachment: HB 213: FY 2020 ISWCC Appropriations Bill
FY 2020 Budget Draft Blueprint (General and Dedicated Funds)

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature First Regular Session - 2019

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 213

BY APPROPRIATIONS COMMITTEE

AN ACT

RELATING TO THE APPROPRIATION TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2020; APPROPRIATING MONEYS TO THE SOIL AND WATER CONSERVATION COMMISSION FOR FISCAL YEAR 2020; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; AND PROVIDING REQUIREMENTS REGARDING TRUSTEE AND BENEFIT PAYMENTS DISTRIBUTION.

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

SECTION 1. There is hereby appropriated to the Soil and Water Conservation Commission the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2019, through June 30, 2020:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General					
Fund	\$1,248,800	\$224,900	\$26,600	\$1,253,200	\$2,753,500
Administration and Accounting Services					
Fund		30,000			30,000
Resource Conservation and Rangeland Development					
Fund	172,900	160,400			333,300
Clean Water Revolving Loan (SCC)					
Fund		30,000			30,000
Federal Grant					
Fund	<u>279,200</u>	<u>11,100</u>	<u>0</u>	<u>0</u>	<u>290,300</u>
TOTAL	\$1,700,900	\$456,400	\$26,600	\$1,253,200	\$3,437,100

SECTION 2. FTP AUTHORIZATION. In accordance with Section 67-3519, Idaho Code, the Soil and Water Conservation Commission is authorized no more than twenty-one and seventy-five hundredths (21.75) full-time equivalent positions at any point during the period July 1, 2019, through June 30, 2020, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. TRUSTEE AND BENEFIT PAYMENTS DISTRIBUTION. Of the amount appropriated in Section 1 of this act for trustee and benefit payments,

1 \$100,000 shall be distributed equally between the fifty (50) soil and water
2 conservation districts in addition to the amounts authorized under Section
3 22-2727, Idaho Code.

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FY 2020 IDAHO SOIL & WATER CONSERVATION COMMISSION

DRAFT General Fund Budget Blueprint

SB 213	Personnel	Operating		Capital	Trustee & Benefit Funds (base, formula, & capacity building)	TOTAL APPROPRIATION
General Fund	\$1,248,800	\$224,900		\$26,600	\$1,253,200	\$ 2,753,500

SWC Budget	Personnel	Operating	Contingency	Capital	District Allocations				TOTAL
					Base Funding	Match Funding	Operating Funding	Capacity Building	
	\$1,248,800	\$222,651	\$2,249	\$26,600	\$425,000	\$678,200	\$100,000	\$50,000	\$2,753,500

Operating and Capital Highlights

Assumes rent in the Water Center until December 2019 at \$3,656 per month and the remainder of the year at the increased rate per month of \$3,706 (all shared between general fund and RCRDP).

Assumes SWCAP expenses including SCO, AG, STO estimated at \$68,200

Assumes appropriate amount of SWCAP, administrative (including postage, phone, rent expense, etc.), and IT services charged to GF and RCRDP

Ongoing expenses for MOU with Admin for IT, assumed to increase \$17,700 from FY 2019 actuals for network equipment replacement, mobile device security, and system modernization

Assumes general fund pays 95% of NRCS desk space and federal IT support and RCRDP pays 5%

One-time capital expense of \$26,600 for vehicle replacement charged to GF

Small 1% operating contingency budgeted (may increase with personnel or operating cost savings or from dedicated funds (excluding RCRDP fund))

Personnel Highlights

Assumes fully staffed in general fund at 15.75 FTPs (2 FTPs in RCRDP fund and 4 in federal fund), all projected personnel costs fall within budget with approx. \$10.6k contingency (excluding federal funds)

Assumes some related administrative time at 15% and fiscal time at 8% in RCRDP fund

Trustee/Benefits Highlights (District Allocations, Capacity Building)

Match Funding formula for FY 2020 is an estimated state match of 1.14:1 based on FY 2016 local match funding (incl \$50k cap).

FY 2020 IDAHO SOIL & WATER CONSERVATION COMMISSION

DRAFT Dedicated Funds Budget Blueprint

REVENUE	Approx. Cash on hand 7/1/2019	Est. FY 2020 Income	TOTAL Dedicated Funds
RCRDP	\$6,811,900	\$237,000	\$7,048,900
Federal Grant Fund	\$58,000	\$232,300	\$290,300
Professional Services	\$33,500	\$18,000	\$51,500
SRF Loan	\$17,900	\$12,600	\$30,500

SPENDING AUTHORITY/ BUDGET	Personnel	Operating	Operating Contingency	Capital	TOTAL Spending Authority/Budgeted
RCRDP	\$172,900	\$160,400			\$333,300
Federal Grant Fund	\$279,200	\$4,320	\$6,780		\$290,300
Professional Services		\$30,000			\$30,000
SRF Loan	-	\$8,687	\$21,313		\$30,000
Total	\$452,100	\$203,407	\$21,313	\$0	\$683,600

Revenue Highlights

Approx. cash on hand 7/1/2019 is based on actual cash on hand at 3/31/2019 less \$2,875 for final installment purchase of Tracker Services (50% from SRF and 50% from RCRDP). Does not include estimate of interest generated in RCRDP and SRF during remainder of FY 2019 (Professional Services includes \$6,190 for an anticipated NRCS reimbursement)

Est. FY 2019 Income includes earned interest on current portfolio (excludes RCRDP late interest, new loan activity, and early payoffs) and billing to OSC for TA cost recovery and NRCS for CTA indirect cost recovery

Operating Highlights

Assumes interest income generated to RCRDP fund increases in FY 2020, but income generated does not meet appropriated spending authority

Assumes SWCAP expenses including SCO, AG, STO estimated at \$68,200

Assumes appropriate amount of SWCAP, administrative (including postage, phone, rent expense, etc.), and IT services charged to GF and RCRDP

Ongoing expenses for MOU with Admin for IT, assumed to increase \$17,700 from FY 2019 actuals for network equipment replacement, mobile device security, and system modernization

Assumes maximum income and expenditures under TA cost recovery

Assumes amount roughly equivalent to 10% of loan officer salary and benefits charged to SRF to cover administrative costs. Remainder held in contingency to cover late borrower payments, if necessary.

Assumes costs associated with meetings where RCRDP program or business conducted will be charged to RCRDP

Assumes 2.18 FTP RCRDP and office staff in RCRDP Loan Fund

Assumes remaining operating expenditures allowed per NRCS CTA Agreement of \$4,320

Assumes 3 FTPs for the Conservation Technical Assistants will be funded by the NRCS and 1 FTP for the Sagebrush Restoration Specialist will be funded by the NFWF



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Administrator

MEMO

**TO: CHAIRMAN WRIGHT AND COMMISSIONERS ROEMER,
TREBESCH, AND OLSON**
FROM: DELWYNE TREFZ, ACTING ADMINISTRATOR
DATE: March 28, 2019
RE: FY 2020-2023 STRATEGIC PLAN UPDATE

The Commission is required by statute to submit an updated and adopted Strategic Plan annually to serve as a guidance document for the agency over next four years. The Leadership Team reviewed and made some adjustments to the benchmarks in the FY 2018 Performance Measures Report and these adjustments are reflected in the Strategic Plan you reviewed during your February 18, 2019 Board meeting.

Following your review, the Draft Strategic Plan was distributed to the Strategic Plan District & Partner Review Committee (Steve Becker, Art Beal, Benjamin Kelly, and Chris Simons). As of today, no suggested revisions or comments have been received from Review Committee members. Suggested revisions and comments received from Review Committee members will be presented during the May meeting when staff will return the draft to your Board for further direction.

Districts will receive a final draft of the revised Strategic Plan after your meeting in May and will be asked to comment and make suggestions. Final adoption of the Plan will take place at your June meeting. The Board is required to adopt the Strategic Plan at your June meeting in order to meet the July 1, 2019 deadline.

REQUESTED ACTION: For information only

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MEMO

**TO: CHAIRMAN WRIGHT AND COMMISSIONERS ROEMER,
TREBESCH, AND OLSON**
FROM: DELWYNE TREFZ, ACTING ADMINISTRATOR
DATE: MARCH 29, 2019
RE: ADMINISTRATOR'S ACTIVITY REPORT

Since being appointed Acting Administrator, I've been involved in the following:

- Attended Division 1, 3, 4, 5 & 6 Spring meetings
- Attended Weiser River SWCD Board meeting to present Supervisor training on the District reports required by the Commission
- Worked with Leadership Team to allocate Commission staff hours for FY 2020
- Along with NRCS, IASCD and ISDA, met with EPA representatives from Boise, Region 10, and Washington D.C. to discuss EPA-related issues and challenges, including reductions in 319 funding, lack of funds available for BMP effectiveness monitoring, dairy lagoon issues, and brainstorming ways to raise awareness and appreciation for the work accomplished with the 75% of EPA's budget that goes to on the ground conservation, not to regulatory activities.
- Attended DHR's Director and Agency Head Leadership Networking and Training Program on Friday, March 15th.
- Sent a condolence card to the family of Latah SWCD Supervisor Frank Walker, who passed away March 16th. Frank was a member of the conservation district for 40 years.
- Attended Legislative hearings before JFAC (budget setting) and the House Ag Affairs Committee while they acted on Senate CR 110, which relates to our pending RCRDP rule. Terry H and Shantel CK will provide an update under agenda item 8 herein on the status of the pending RCRDP rule.)
- Worked with DHR and NRCS to hire a Soil Conservationist to fill the NRCS-CTA position in Pocatello that became vacant when Roni Pasi left us in February. The new hire is Bill Kenyon. He's worked as a range technician for the USFS in Idaho Falls and Wyoming and most recently as an Ag Inspector for ISDA in Blackfoot. Bill's first day was Monday, April 8th and we're happy to welcome Bill to the Commission.
- Worked with DEQ's State TMDL Program Coordinator, Graham Freeman, to coordinate TMDL Implementation Plan and 5-Year Review priorities for FY2020.
- Attended meeting with NRCS, EPA and IDEQ to select a watershed for NRCS's National Water Quality Initiative to focus on, and to discuss partnership opportunities provided by the initiative.
- Attended NRCS State Technical Advisory Committee meeting prepared to provide a power point presentation of Idaho Conservation Project Tracker.



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MEMO

**TO: CHAIRMAN WRIGHT AND COMMISSIONERS ROEMER,
TREBESCH, AND OLSON**
FROM: DELWYNE TREFZ, ACTING ADMINISTRATOR
DATE: March 29, 2019
RE: WATERS OF THE UNITED STATES (WOTUS) REPORT

WATERS OF THE UNITED STATES (WOTUS) PROPOSED RULE COMMENT

December 11, 2018, the Environmental Protection Agency (EPA) and Department of the Army (DOA) proposed a rule revising the definition of “Waters of the United States” (WOTUS). Among the issues addressed by the proposed rule are clarification of federal authority under the Clean Water Act, recognition and respect for the primary responsibilities and rights of states and tribes to regulate and manage land and water resources within their boundaries, and the establishment of geospatial datasets that will enable the regulated community to easily and quickly ascertain which waters are likely subject to federal jurisdiction. A fact sheet titled Proposed Revised Definition of “Waters of the United States” is attached (attachment 1). The proposed rule was published in the Federal Register on February 14, 2019 (84 FR 4154) and is open for a 60-day public comment period which will close on April 15, 2019.

The Governor has instructed Idaho agencies to submit comments on the proposed WOTUS rule to his office and to the Department of Environmental Quality (DEQ) no later than April 8th. DEQ will then compile the comments into a single Idaho state response letter for submission to EPA.

The Idaho State Department of Agriculture (ISDA) provided a draft of the comments they intended to submit (attachment 2), asking that you review them to ensure they are not incongruent with comments our agency may choose to submit. Because Idaho agency comments were due prior your April 11th meeting, staff reviewed the proposed rule, were satisfied that ISDA’s comments adequately represent your views, and submitted a letter (attachment 3) to DEQ concurring with and supporting the ISDA comments.

ATTACHMENTS:

1. Fact Sheet, Proposed Revised Definition of “Waters of the United States”
2. ISDA comments in support of the proposed WOTUS rule
3. SWCC Staff comment letter

ACTION: For information only.

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Proposed Revised Definition of “Waters of the United States”

ITEM #5c-1

BACKGROUND

- On December 11, 2018, the U.S. Environmental Protection Agency (EPA) and the Department of the Army (Army) proposed a revised definition for “waters of the United States,” which would establish the scope of federal regulatory authority under the Clean Water Act in a more clear and understandable way.
- The agencies’ proposal would be clearer and easier to understand than previous regulations. It would help landowners understand whether a project on his or her property would require a federal permit or not—saving Americans time and money.
- Right now, because of litigation, the 2015 Clean Water Rule (2015 Rule) is in effect in 22 states, the District of Columbia, and the U.S. territories, and previous regulations, issued in the 1980s, are in effect in the remaining 28 states.
- If finalized, the agencies’ proposed rule would apply nationwide, replacing the patchwork framework for Clean Water Act jurisdiction that has resulted from litigation challenging the 2015 Rule. The proposal would also re-balance the relationship between the federal government, states, and tribes in managing land and water resources.
- The proposal respects the limited powers that the executive branch has been given under the Constitution and the Clean Water Act to regulate navigable waters. The proposal limits where federal regulations apply and gives states and tribes more flexibility to determine how best to manage waters within their borders. Together, the agencies’ proposal and existing state and tribal regulations and programs would provide a network of coverage for the nation’s water resources in accordance with the objectives and policies of the Clean Water Act.
- The EPA and the Army reviewed and considered the extensive feedback and recommendations the agencies received from states, tribes, local governments, and stakeholders throughout consultations and pre-proposal meetings and webinars. This input helped highlight the issues that are most important to state and tribal co-regulators and stakeholders, including those directly affected by the scope of Clean Water Act jurisdiction.

THE PROPOSED DEFINITION

- This proposed rule would provide clarity, predictability, and consistency so that regulators and the public can understand where the Clean Water Act applies—and where it does not. Such straightforward regulations would continue to protect the nation’s navigable waters, help sustain economic growth, and reduce barriers to business development.
- The agencies’ proposal is consistent with the statutory authority granted by Congress, the legal precedent set by key Supreme Court cases, and the February 2017 Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.”
- The role of federal government under the Clean Water Act is ultimately derived from Congress’ commerce power over navigation. As a result, this proposal clearly limits “waters of the United

States” under the Clean Water Act to those that are physically and meaningfully connected to traditional navigable waters.

- The proposed rule outlines six clear categories of waters that would be considered “waters of the United States:”
 - Traditional navigable waters (TNWs)
 - Under the proposal, traditional navigable waters would be large rivers and lakes, tidal waters, and the territorial seas—such as the Atlantic Ocean, the Mississippi River, the Great Lakes, and tidally influenced waterbodies, including wetlands, along coastlines—used in interstate or foreign commerce.
 - Tributaries
 - In the agencies’ proposal, tributaries would be rivers and streams that flow to traditional navigable waters—such as Rock Creek, which feeds to the Potomac River in Washington, D.C.
 - Under the proposal, these naturally occurring surface water channels must flow more often than just when it rains—that is, tributaries as proposed must be perennial or intermittent. Ephemeral features would not be tributaries under the proposal.
 - Tributaries can connect to traditional navigable waters directly, through other “waters of the United States,” or through other non-jurisdictional surface waters so long as those waters convey perennial or intermittent flow downstream.
 - Certain ditches
 - A ditch under the proposed rule would be an “artificial channel used to convey water.”
 - Under the proposal, ditches would be jurisdictional where they are traditional navigable waters, such as the Erie Canal, or subject to the ebb and flow of the tide.
 - Ditches may also be jurisdictional where they satisfy conditions of the tributary definition as proposed and either 1) were constructed in a tributary or 2) were built in adjacent wetlands.
 - Certain lakes and ponds
 - Lakes and ponds would be jurisdictional where they are traditional navigable waters, such as the Great Salt Lake in Utah or Lake Champlain along the Vermont-New York border.
 - Lakes and ponds would be jurisdictional where they contribute perennial or intermittent flow to a traditional navigable water either directly, through other “waters of the United States,” or through other non-jurisdictional surface waters so long as those waters convey perennial or intermittent flow downstream, such as Lake Pepin in Minnesota or Lake Travis in Texas.
 - Lakes and ponds would be jurisdictional where they are flooded by a “water of the United States” in a typical year, such as many oxbow lakes.
 - Impoundments
 - Under the proposal, impoundments of “waters of the United States” would be jurisdictional.
 - Adjacent wetlands
 - Under the proposal, wetlands that physically touch other jurisdictional waters would be “adjacent wetlands,” such as Horicon Marsh in Wisconsin.

- Wetlands with a surface water connection in a typical year that results from 1) inundation from a “water of the United States” to the wetland or 2) perennial or intermittent flow between the wetland and a “water of the United States” would be “adjacent.”
 - Wetlands that are near a jurisdictional water but don’t physically touch that water because they are separated, for example by a berm, levee, or upland, would be adjacent only where they have a surface water connection described in the previous bullet through or over the barrier, including wetlands flooded by jurisdictional waters in a typical year.
- The proposal also clearly outlines what would not be “waters of the United States,” including:
 - Waters that would not be included in the proposed categories of “waters of the United States” listed above—this would provide clarity that if a water or feature is not identified as jurisdictional in the proposal, it would not be a jurisdictional water under the Clean Water Act.
 - Ephemeral features that contain water only during or in response to rainfall.
 - Groundwater.
 - Ditches that do not meet the proposed conditions necessary to be considered jurisdictional, including most farm and roadside ditches.
 - Prior converted cropland.
 - This longstanding exclusion for certain agricultural areas would be continued under the proposal, and the agencies are clarifying that this exclusion would cease to apply when cropland is abandoned (*i.e.*, not used for, or in support of, agricultural purposes in the preceding five years) and has reverted to wetlands.
 - Stormwater control features excavated or constructed in upland to convey, treat, infiltrate, or store stormwater run-off.
 - Wastewater recycling structures such as detention, retention and infiltration basins and ponds, and groundwater recharge basins would be excluded where they are constructed in upland.
 - Waste treatment systems.
 - Waste treatment systems have been excluded from the definition of “waters of the United States” since 1979 and would continue to be excluded under this proposal; however, waste treatment systems are being defined for the first time in this proposed rule.
 - A waste treatment system would include all components, including lagoons and treatment ponds (such as settling or cooling ponds), designed to convey or retain, concentrate, settle, reduce, or remove pollutants, either actively or passively, from wastewater or stormwater prior to discharge (or eliminating any such discharge).

FEDERAL-STATE RELATIONSHIP

- In accordance with section 101(b) of the Clean Water Act, EPA and Army’s proposed rule would recognize and respect the primary responsibilities and rights of states and tribes to regulate and manage their land and water resources.
- Under this proposal, there is a clear distinction between federal waters and waters subject to the sole control of the states and tribes.

- The Clean Water Act envisions an approach whereby states, tribes, and the federal government work in partnership to protect the nation’s waters from pollution.
- The agencies’ proposal is in line with that intent, and appropriately identifies waters that should be subject to federal regulation under the Clean Water Act.
- States and many tribes have existing regulations and programs that apply to waters within their borders, whether or not they are considered “waters of the United States.”
- Together, the agencies’ proposed definition and existing state and tribal regulations and programs would provide a network of coverage for the nation’s water resources in accordance with the objective and policies of the Clean Water Act.

EFFECTS OF THE PROPOSAL

- EPA and the Army developed an illustrative economic analysis for the proposed rule that looks at the potential costs, benefits, and economic impacts of the proposed changes to the definition of “waters of the United States” relative to existing regulations.
- EPA and the Army have identified, where possible, how the proposal would affect categories of water resources across the country and potential effects on Clean Water Act programs. The agencies have also highlighted data limitations that prevent quantitative national estimates for most Clean Water Act programs.
- As a result of these data limitations, the agencies conducted a two-stage analysis of the proposed rule using available data to assess the change from the 2015 Rule to the pre-2015 practice, and then the change from pre-2015 practice to the proposed rule. Additional information is included in the economic analysis fact sheet.

PUBLIC COMMENT SOUGHT

- In addition to seeking comments on the specifics of the proposed “waters of the United States” definition itself, the agencies are requesting comment on the discussion and definition of terms within it, such as whether tributaries should be limited to rivers and streams that flow year-round and whether lakes and ponds should be defined more precisely.
- In response to requests from some states, the agencies will be exploring how to develop a data or mapping system to provide a clearer understanding of the presence or absence of jurisdictional waters that landowners and members of the regulated community could rely on in the future.
- The agencies are also taking comment on the underlying legal interpretations that provide the foundation for the proposed rule.
- Finally, the agencies are requesting comment on how the proposed rule can best be implemented so as to maintain clarity when it is used in the field; examples of such implementation questions include whether to establish specific flooding frequency or magnitude to determine when certain wetland features may be jurisdictional.

HOW TO COMMENT

- The agencies will take comment on the proposal for 60 days after publication in the Federal Register. The agencies will also hold an informational webcast on January 10, 2019, and will host a public listening session on the proposed rule in Kansas City, KS, on January 23, 2019. Additional information on both engagements is available at <https://www.epa.gov/wotus-rule>.

- Comments on the proposal should be identified by Docket ID No. EPA-HQ-OW-2018-014 and may be submitted online. Go to <https://www.regulations.gov> and follow the online instructions for submitting comments to Docket ID No. EPA-HQ-OW-2018-0149.
- For additional information, including the full EPA public comment policy, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR MORE INFORMATION

- Additional fact sheets along with copies of the proposed rule and supporting analyses are available on EPA's website at <https://www.epa.gov/wotus-rule>.

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Idaho State Department of Agriculture
 P.O. Box 7249 • Boise, Idaho 83707
 P: 208.332.8500 • F: 208.334.2170
 www.agri.idaho.gov

BRAD LITTLE, GOVERNOR

CELIA GOULD, DIRECTOR

Submitted via Federal eRulemaking Portal

March ____, 2019

U.S. Environmental Protection Agency
 EPA Docket Center
 Mail Code 28221T
 1200 Pennsylvania Avenue NW
 Washington, DC 20460

DOCKET ID NO: EPA-HQ-OW-2018-0149

To whom it may concern,

The Idaho State Department of Agriculture (ISDA) appreciates the opportunity to comment on the U.S. Environmental Protection Agency (EPA) and the U.S. Department of the Army proposed rule defining the scope of waters federally regulated under the Clean Water Act (CWA), also known as the “Waters of the United States” (WOTUS) rule. The ISDA supports the proposed rule.

For years, Idaho and many states have requested more clearly defined, predictable WOTUS regulations. The proposed rule seeks to accomplish many of these long-sought objectives. We appreciate provisions that contemplate state and federal agency partnerships to establish geospatial datasets of waters. The proposed rule notes the importance of clearly-defined maps.

Such mapped features would make it easier for agency field staff, the general public, property owners, permit-holders and others to understand the relationship between familiar geographical features and the overlay of CWA jurisdictional waters... Geospatial datasets and resulting future maps that indicate which waters are likely subject to federal jurisdiction could allow members of the regulated community to more easily and quickly ascertain whether they may want to contact a government agency regarding the potential need for a CWA permit.

We support the agencies going forward—with states as partners in making jurisdictional determinations—to make mapping tools a reality. This would go a long way in satisfying repeated requests from the regulated community and states for maps and data clearly delineating waters included in WOTUS rules.

Idaho supports the clarification that WOTUS should not include features that flow only in response to precipitation, certain ditches, prior converted cropland, and artificially irrigated areas that would revert to upland if artificial irrigation ceased.

WOTUS rule comment

March 28, 2019

Page 2 of 2

Idaho officials also have asked EPA to recognize the role of states as partners. Protecting water resources is a shared goal, and the proposed rule better accounts for state's regulations and programs. We appreciate the rule's commitment to "strike a balance between federal and state waters and [carry] out Congress' overall objective to restore and maintain the integrity of the nation's waters in a manner that preserves the traditional sovereignty of States over their own land and water resources." This rule better captures the intent of section 101(b) of the CWA with respect to state authority and cooperation.

Agriculture remains Idaho's strongest industry. It accounts for 18 percent of all sales in our state and is the lifeblood of our communities. Agriculture does not exist without abundant and healthy water. We want sensible, predictable protection for one of our most precious resources. We appreciate the ways the proposed rule accounts for the unique dynamics of agricultural operations while providing greater regulatory certainty.

Thank you again for the opportunity to provide comments on the proposed WOTUS definition. We appreciate some of the much needed clarification provided in the proposal. The new rule has the potential to offer greater transparency and predictability for countless farmers, ranchers and agribusinesses.

Sincerely,



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MEMO

**TO: Idaho Department of Environmental Quality
Attn: Jess Byrne**
FROM: Delwyne Trefz, Acting Administrator
DATE: April 2, 2019
**RE: Proposed Waters of the United States (WOTUS) Rule
Federal Docket Id No: EPA-HQ-OW-2018-0149**

Mr. Jess Byrne,

As the state agency charged with leading non-regulatory efforts to conserve Idaho's water soil, air, plant and animal resources, the Idaho Soil and Water Conservation Commission (ISWCC) has a keen interest in seeing that the Waters of the United States (WOTUS) Rule protects water quality, recognizes Idaho's role in managing the waters within its boundaries, and does not place unnecessary burdens upon private land owners, managers, or users. By revising the definition of "water of the United States" to clarify federal authority under the Clean Water Act, the ISWCC appreciates that the proposed WOTUS Rule provides straight forward, understandable regulations that will help us to protect water resources within Idaho.

Based upon staff review of the proposed WOTUS Rule, the ISWCC supports the proposed rule. Staff also reviewed the comments submitted by the Idaho State Department of Agriculture (ISDA), and found that they accurately reflect comments the ISWCC's would make relative to the proposed rule. Therefore, we refer you to the ISDA letter, attached, for detailed, point-by-point comments. We concur with and fully support each of the points enumerated in the ISDA letter.

Thank-you,

Delwyne Trefz, Acting Administrator
Idaho Soil and Water Conservation Commission
322 E. Front St, Suite 560
Boise, Idaho 83702
208.332.1796 Phone
208.810.0770 Cell Phone
Delwyne.Trefz@swc.idaho.gov

Attachment: ISDA WOTUS Rule Comments

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MEMO

**TO: CHAIRMAN WRIGHT AND COMMISSIONERS TREBESCH,
ROEMER, AND OLSON**
FROM: CHUCK PENTZER
DATE: APRIL 2, 2019
**RE: CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP) ANNUAL
REPORT**

CREP is a part of the Conservation Reserve Program (CRP) operated by the Farm Service Agency (FSA). Partner state agencies include the Idaho Soil and Water Conservation Commission (ISWCC), the Idaho Department of Water Resources (IDWR), and the Idaho Department of Fish and Game (IDFG). The Idaho State Department of Agriculture (ISDA), and the Department of Environmental Quality (IDEQ), participate in an advisory capacity, serving as part of the CREP Working Group. The federal agency, Natural Resource Conservation Service, (NRCS) provides technical guidelines and information as well as providing important research from the Plant Materials Center in Aberdeen. Non-government entities such as the Idaho Ground Water Appropriators (IGWA) also contribute to this program by providing additional incentives for CREP enrollment to its members.

The main objective for CREP is to retire irrigated cropland from production to reduce ground water consumptive use and compliment other water saving efforts for the overall strategy to stabilize and replenish the ground water levels in the Eastern Snake Plain Aquifer. (ESPA) The program provides an annual rental payment over the 15-year contract term for every acre enrolled. This helps to remove production risks, provide protection from complete loss of income and safe guard the water right, even when a mandatory curtailment is issued.

On average, each acre enrolled:

- provides 2 ac-ft. of water savings each year
- saves 2 Tons per acre per year from water erosion
- saves 6 Tons per acre per year from wind erosion

ISWCC prepares an annual report each year that updates the year's activities and status of implementation. The ISWCC also compiles the matching dollars from State agencies. This presentation will include information for activities from October 1, 2017 thru September 30, 2018. The report was sent to the state FSA office on December 15, and then forwarded to the FSA office in Washington D.C.

The report is located on the Commission's website at:

https://swc.idaho.gov/media/1879/fed_fy18_idaho_crep_annual_report.pdf

Attachments:

- PowerPoint presentation.

ACTION: For information only.

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Idaho's Conservation Reserve Enhancement Program Eastern Snake Plain Aquifer



ISWCC CREP REPORT
April 11, 2019

Idaho Soil & Water
Conservation Commission

FY 2018 CREP Annual Performance Report (CEP-68R)

Conservation the Idaho Way: Sowing the Seeds of Stewardship

Idaho CREP

- This program provides a voluntary reduction of groundwater consumptive use in exchange for annual rental payments
 - The water savings help to increase groundwater levels in the ESPA and increase spring water discharge to the Snake River
 - CREP is one of several groundwater reducing strategies available to landowners
 - Provide native grassland habitat during the contract period
- CREP follows CRP rules and incorporates state involvement with ISWCC, Idaho Department of Water Resources (IDWR), and Idaho Department of Fish & Game (IDFG).

Multi-Agency Involvement

(FSA) Administers the program:

- Determines eligibility, irrigated cropland within program boundaries
- Annual rental payments are made by Commodity Credit Corp.

(IDWR) Ensures water right information is valid:

- Verifies the water right is associated with the offer
- Calculates and reports water savings

(ISWCC) Provides technical assistance:

- Develops conservation and grass seed plans (NRCS specs)
- Ensures data transfer with agencies and participants in timely manner
- Primary holder to the original Agreement not to divert (ANTD)

Primary CREP Staff

- Chuck Pentzer, State CREP Coordinator

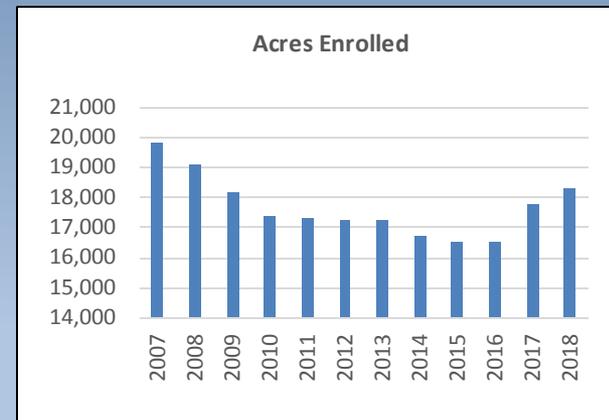
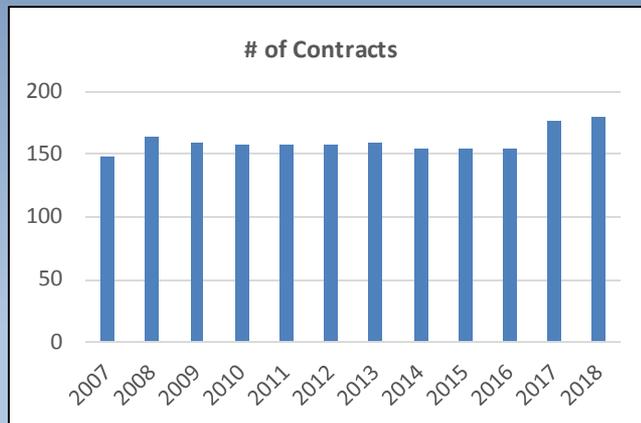
 - Rob Sharpnack, Shoshone

 - Brian Reed, Idaho Falls

 - Carolyn Firth, Burley

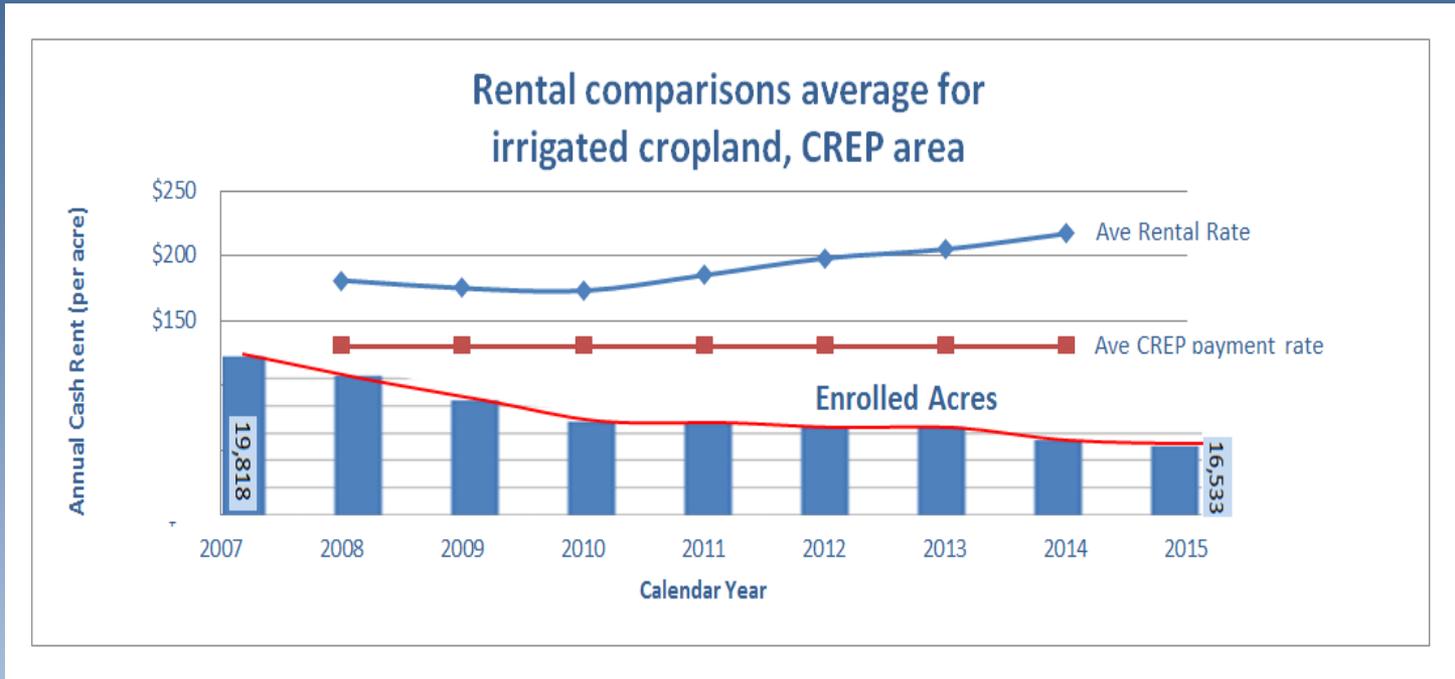
Administering County	No. of Contracts	No. of Acres
Bingham	56	6,398
Minidoka	64	4,808
Cassia	20	3,197
Power *	6	1,193
Jefferson/Clark	21	1,167
Bonneville	5	798
Jerome *	6	625
Twin Falls	1	43
TOTAL	179	18,229

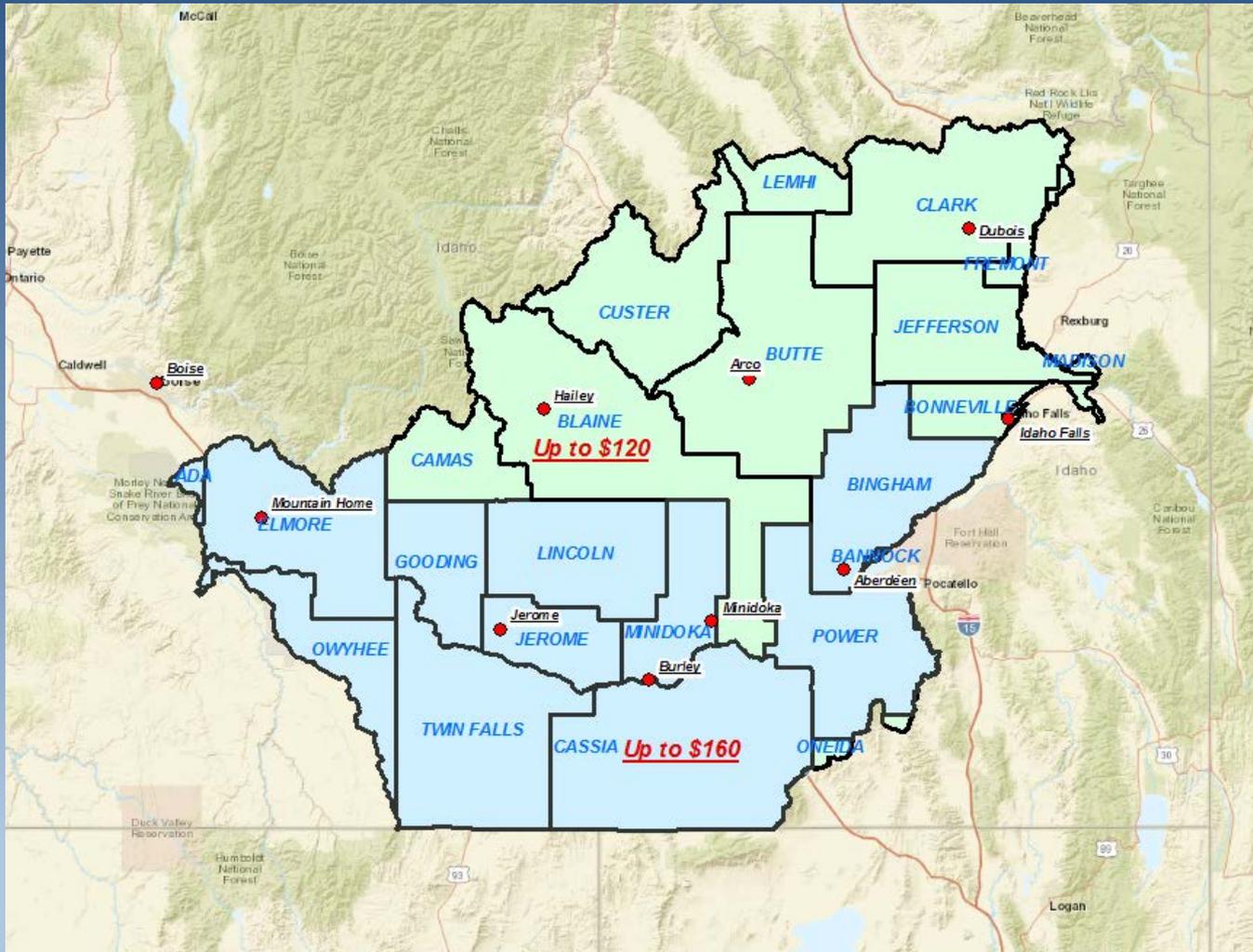
Fiscal Year (FY)	Number of Contracts	Number of Acres
2007	148	19,818
2008	164	19,110
2009	159	18,189
2010	158	17,422
2011	157	17,333
2012	158	17,237
2013	159	17,227
2014	155	16,729
2015	155	16,533
2016	154	16,504
2017	177	17,781
2018	179	18,229



Conservation the Idaho Way: Sowing the Seeds of Stewardship



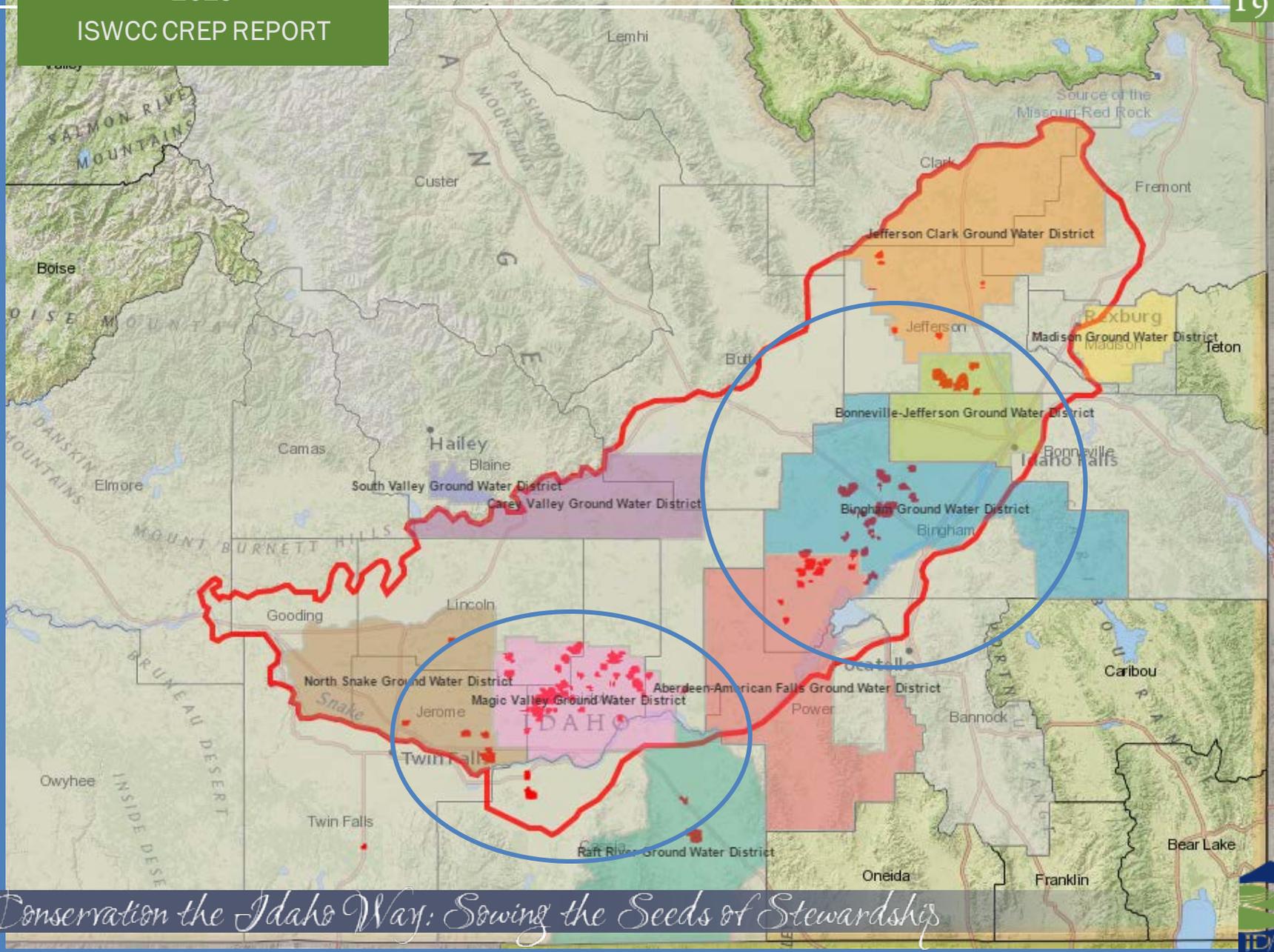




Conservation the Idaho Way: Sowing the Seeds of Stewardship



2019
ISWCC CREP REPORT



Conservation the Idaho Way: Sowing the Seeds of Stewardship



Increasing incentives helps to make CREP a viable option

50,000 acres available to enroll
- 17,781 acres currently enrolled
32,219 +/- acres that can be enrolled

~64,000 Ac Ft. additional water savings annually (25% of
reduction goal)

What's next?

- **Currently, FSA is not authorized to receive any new offers**
- **Staff will continue to assist with current contracts for vegetative cover establishment, maintenance**
- **Planning for upcoming expiring contracts**
 - **Re-enrollment or back to production?**

Upcoming expiring Contracts

# of Contracts	# of Acres	September
58	7,619	2021
64	7,685	2022
15	509	2023

State of Idaho CONSERVATION RESERVE ENHANCEMENT PROGRAM



THANK YOU/QUESTIONS?

Counties: Bannock · Bingham · Blaine · Bonneville · Butte · Camas · Cassia · Clark · Custer
· Elmore · Fremont · Gooding · Jefferson · Jerome · Lincoln · Madison · Minidoka ·
Owyhee · Power · Twin Falls

Conservation the Idaho Way: Sowing the Seeds of Stewardship





MEMO

TO: CHAIRMAN WRIGHT, COMMISSIONERS ROEMER, OLSON, AND TREBESCH
FROM: TERRY HOEBELHEINRICH, LOAN OFFICER
DATE: APRIL 2, 2019
RE: RCRDP ADMINISTRATIVE RULE UPDATE

The Senate and House approved Concurrent Resolution #110 to reject sections 103 (subtext only), and section 151.01 of the RCRDP Pending Administrative Rule. See Senate Concurrent Resolution #110, attached. The pending rule will take effect when the legislature adjourns in early April.

Section 103 now requires a loan be approved, loan documents signed and liens filed before construction can begin. Prior to this change, we allowed the applicant to start the project at their own risk as long as they did not complete the project before the credit decision was made. Staff expects this change will lengthen the time interval between loan inquiry and project completion. The delay is expected to reduce the desirability of the program and reduce overall loan activity. If this proves true, this is the opposite result of what we hoped for when we started the Administrative Rule change a year ago.

The rejection of Section 151.01 retains the \$200,000 maximum loan limit. For unknown reasons, the Senate Ag and House Ag Committees did not want the Commission to have the authority to set a maximum loan limit. Rather they wanted the limit to be set by administrative rule, which the respective Rules Committees can approve or reject. The Commission was encouraged by the Committees to begin another administrative rule change over the next year to set a new loan limit. There was no discussion or consensus of what constituted an acceptable loan limit from either the House or the Senate. Off the record and outside of any official Committee meeting, one senator suggested a couple of loan limits, but even he did not settle on an acceptable maximum loan limit.

It is staff's recommendation not to proceed with another RCRDP administrative rule change in the coming year. There are several reasons for this.

Given that the Senate and House Ag Committee's did not discuss what constituted an acceptable loan limit, the Commission has no idea where to set the limit. There are numerous possibilities of loan limits that could be set during the Rules process. If the Committees (for unknown reasons) did not want the Commission to have the authority to set a loan limit, why would they accept a loan limit developed by the same Commission during another Administrative Rules process in the coming year? The risk is great that if the Commission did set a maximum loan limit some or all of the members of the Committee would not agree and a proposed new loan limit would be rejected next year.

If the Administrative Rules are proposed to be changed by the Commission, the House and/or Senate can reject any part of the rule they previously rejected or accepted. The House Ag Committee reversed their decision to approve the RCRDP rule over a period of a couple of weeks this legislative session. During the House Ag Committee meeting to consider the Senate's Concurrent Resolution, they began to look at and reconsider the changes in the definition of 'eligible applicant'. Keep in mind the Senate Ag Committee never questioned the 'eligible applicant' change in the rule.

So the content of Committee discussions can cover portions of the rule that the Commission never intended to change.

Since the House Ag Committee reversed their decision to approve the RCRDP rule over a period of a couple of weeks, the Committees can also change their mind over the coming year about any component of the RCRDP rules.

Like the Section 103 change, the program could be changed in more radical and adverse ways and we could find the program is compromised even more than it already is.

It is staff's opinion that the program is worse off now than before the rule making process began a year ago. The risk is too great that another Rule Committee decision will adversely affect the RCRDP.

RECOMMENDED ACTION: For consideration and possible action to authorize staff to initiate Proposed Rule changes to RCRDP Rules.

ATTACHMENTS:

- Senate Concurrent Resolution #110
- Executive Order No. 2019-02 Red Tape Reduction Act

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LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature First Regular Session - 2019

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 110

BY JUDICIARY AND RULES COMMITTEE

1 A CONCURRENT RESOLUTION
2 STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO
3 SOIL AND WATER CONSERVATION COMMISSION RELATING TO THE RESOURCE CONSER-
4 VATION AND RANGELAND DEVELOPMENT PROGRAM.

5 Be It Resolved by the Legislature of the State of Idaho:

6 WHEREAS, the Legislature is vested with authority to reject executive
7 agency rules under the provisions of Section 67-5291, Idaho Code, in the
8 event that the Legislature finds that the rules are not consistent with leg-
9 islative intent; and

10 WHEREAS, it is the finding of the Legislature that certain rules of
11 the Idaho Soil and Water Conservation Commission relating to the Resource
12 Conservation and Rangeland Development Program are not consistent with leg-
13 islative intent and should be rejected.

14 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular
15 Session of the Sixty-fifth Idaho Legislature, the Senate and the House of
16 Representatives concurring therein, that IDAPA 60.05.01, relating to the
17 Resource Conservation and Rangeland Development Program, Section 103., and
18 Section 151., Subsection 01., adopted as a pending rule under Docket Number
19 60-0501-1801, only, be, and the same are hereby rejected and declared null,
20 void, and of no force and effect.



Executive Department
State of Idaho

State Capitol
Boise

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 2019-02

RED TAPE REDUCTION ACT

WHEREAS, Idaho's strong economic growth is vital to ensuring our citizens and our children are able to find great jobs and raise their families in Idaho; and

WHEREAS, excessive regulation at all levels of government can impose high costs on businesses, inhibit job growth, and impede private sector investment; and

WHEREAS, burdensome regulations continue to be a hardship for many small business owners; and

WHEREAS, Idaho's Administrative Code has grown to 736 chapters, totaling more than 8,200 pages, and containing more than 72,000 restrictions.

NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order that:

1. *Each executive department of the state of Idaho as set forth in section 67-2402, Idaho Code, including each division, bureau or self-governing agency that has the authority to issue administrative rules shall designate an existing employee of the agency as its Rules Review Officer (RRO) to undertake a critical and comprehensive review of the agency's administrative rules to identify costly, ineffective, or outdated regulations.*
 - a. *Agencies must submit the name and contact information of the RRO to the Division of Financial Management no later than March 1, 2019.*
2. *Through the end of fiscal year 2021, prior to proposing a new rule for publication in the Idaho Administrative Bulletin, each executive department of the state of Idaho as set forth in section 67-2402, Idaho Code, including each division, bureau or self-governing agency, shall submit to the Division of Financial Management:*
 - a. *A business/competitiveness impact statement that identifies the impact the proposed rule will have on individuals and small businesses; and*

- b. *At least two existing rules to be repealed or significantly simplified, or a statement clearly and thoroughly stating why existing rules cannot be simplified or eliminated.*
3. *The Division of Financial Management shall produce an annual report to the Governor's office outlining the progress made in eliminating burdensome regulations and streamlining state government.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 21st day of January, in the year of our Lord two thousand and nineteen.

BRAD LITTLE
GOVERNOR

LAWRENCE DENNEY
SECRETARY OF STATE

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