IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

June 10, 2026

CASSIA COUNTY BOARD OF COMMISSIONERS
c/o PLANNING & ZONING ADMINISTRATOR
1459 OVERLAND AVE
BURLEY ID 83318

Subject: Legislative Changes Affecting Domestic Wells and Domestic Uses

Dear Commissioners:

During the 2025 and 2026 legislative sessions, the Idaho Legislature adopted significant revisions to Idaho's statutes governing domestic wells and domestic water uses. Senate Bill 1083a, signed by Governor Little on March 20, 2025, became effective on July 1, 2025. Senate Bill 1222, signed on February 17, 2026, became effective immediately upon adoption. This legislation affects Cassia County, as well as other counties throughout Idaho.

Because these statutory changes may affect how counties review land use applications, particularly applications for new subdivisions, I thought it would be helpful to provide copies of the revised statutes and summarize several of the more significant changes administered by the Idaho Department of Water Resources ("IDWR").

In general, the principal effect of Senate Bill 1222 is that, in areas subject to ground water management restrictions or moratorium orders, domestic wells within new subdivisions are generally limited to *in-home* use unless water rights authorizing irrigation are obtained.

Attached to this letter are copies of the applicable portions of Senate Bill 1083a and Senate Bill 1222. The guidance memorandum prepared by IDWR staff to assist in understanding and implementing these legislative changes is available electronically on the IDWR website at https://idwr.idaho.gov/legal-matters/statute-rules-guidance/ under "Application Processing No. 80." (Attached)

In the realm of domestic uses, the critical question for a property owner or developer is whether a proposed water use requires a water right. Under Idaho Code § 42-227, water uses from ground water that fall within the definition of "domestic purposes" set forth in

Idaho Code § 42-111 are exempt from the state's mandatory water right permitting process. These are commonly referred to as "exempt" domestic uses.

Senate Bill 1222 establishes an important distinction between parcels located outside of subdivisions and parcels located within subdivisions. Because the question of whether a parcel is located within a subdivision is now central to determining whether a proposed use qualifies as an exempt domestic use, Idaho Code § 42-111(1)(c) now defines the term "subdivision" as follows:

"Subdivision" means a tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. For purposes of this paragraph, "bona fide division or partition of agricultural land for agricultural purposes" means the division of land into lots, all of which are five (5) acres or larger and maintained as agricultural lands.

Domestic Uses Outside of Subdivisions

Neither Senate Bill 1083a nor Senate Bill 1222 changed the domestic exemption for residential and/or stockwater use on parcels located outside of subdivisions. The exemption threshold for such uses remains 13,000 gallons per day, together with irrigation of not more than one-half acre of lawn, garden, or landscaping.

In addition, the longstanding restriction against stacking multiple domestic exemptions on a single parcel remains unchanged. In other words, the owner of a parcel outside a subdivision remains limited to one domestic exemption per parcel.

For other types of uses (industrial, commercial, fish propagation, etc.) on parcels outside of subdivisions, Idaho Code § 42-111(1)(a)(ii) now states that the domestic exemption for such uses is now limited to 2.8 acre-feet (912,000 gallons) per year, with no restrictions on instantaneous diversion rate.

Domestic Uses Within Subdivisions

Idaho Code § 42-227 imposes additional restrictions on subdivisions located in areas where the Director of IDWR has issued a moratorium order on the development of new water rights or designated a critical ground water area or ground water management area (collectively known as "restricted areas").

Portions of Cassia County are located within areas subject to ground water management restrictions, specifically the Critical Ground Water Management Areas (Artesian City, Cottonwood, West Oakley Fan, Oakley Kenyon, and Raft River), Eastern Snake Plain Aquifer Ground Water Management Area and Snake River Basin Moratorium. Therefore, proposed

subdivisions located within affected areas of Cassia County may be subject to one or more of the Critical Ground Water Management Areas, Ground Water Management Area and Moratorium Area and the restrictions imposed by Senate Bill 1222.

Idaho Code § 42-227 also distinguishes between subdivisions for which a completed subdivision application was filed with Cassia County prior to July 1, 2025, and subdivisions for which applications were filed after July 1, 2025 ("new subdivisions").

The new statutory restrictions do not affect use of an individual domestic well on a parcel located within subdivisions where a completed application to create the subdivision was filed prior to July 1, 2025, regardless of when the subdivision plat is ultimately approved.

For new subdivisions filed after July 1, 2025, and located within restricted areas, exempt domestic use is now limited to in-home use only. An individual domestic well within a new subdivision may be used for in-home purposes without a water right, but irrigation use requires a water right authorizing irrigation. Likewise, a community well serving a subdivision may provide in-home domestic use without a water right, but irrigation use requires a water right authorizing irrigation.

Pursuant to Idaho Code § 42-111(1)(b), "in-home use" means:

"the utilization of water within a residence or household, including all activities that require water, such as drinking, cooking, bathing, and cleaning within and around the household. It does not include irrigation of lawns, gardens, landscaping, pastures, or other open spaces."

Accordingly, if a property owner within a new subdivision located in a restricted area proposes to irrigate lawns, landscaping, or other outdoor areas using a domestic well, the property owner must first obtain a water right authorizing that irrigation use.

Under the terms of the applicable moratorium orders, applications for new consumptive uses generally require mitigation sufficient to offset the proposed consumptive use. In practice, mitigation often requires the acquisition and retirement of existing consumptive water rights, which may be costly and difficult for individual property owners to obtain.

For this reason, counties may wish to consider whether irrigation water supplies and associated mitigation obligations should be addressed during the subdivision review process, rather than after lots are sold to individual property owners.

For example, assume a property owner proposes to subdivide a twenty-acre parcel into twenty one-acre residential lots to be served by individual domestic wells. Under the revised statutes, those domestic wells could generally provide water for in-home use

without a water right. However, unless irrigation rights are separately obtained, a lot owner could not lawfully irrigate lawns or landscaping using water diverted from the well.

The outcome would be the same if the subdivision were served by a community well rather than individual domestic wells. A community well may provide in-home domestic use without a water right, but any irrigation use would still require a water right and, where applicable, mitigation for consumptive use.

Enforcement Provisions

In conjunction with these statutory revisions, the Legislature also adopted Idaho Code § 42-1701C, establishing increased penalties for violations involving domestic use statutes.

If a property owner diverts water for irrigation from a domestic well located within a new subdivision in a restricted area without a water right authorizing irrigation, the Department may initiate an enforcement action that includes civil penalties. Penalties are calculated based upon the number of acres irrigated and may not exceed $5,000 per year.

The statute also authorizes IDWR to request county assistance in collecting domestic use penalties. If a county agrees to assist with collection efforts, the county may retain one-half of the penalties collected.

I hope this summary helps familiarize you with the recent statutory changes affecting domestic wells and domestic water uses. Please feel free to contact me if you have questions or would like additional information. IDWR staff would also be happy to attend a commission or planning and zoning meeting to discuss these changes in greater detail.

Respectfully,

Cherie Palmer

Cherie Palmer
Enforcement Coordinator
IDWR Water Resource Protection

Enclosures

LEGISLATURE OF THE STATE OF IDAHO

Sixty-eighth Legislature Second Regular Session - 2026

IN THE SENATE

SENATE BILL NO. 1222

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO DOMESTIC WELLS; AMENDING SECTION 42-111, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 42-227, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DRILLING AND USE OF WELLS FOR DOMESTIC PURPOSES; AMENDING SECTION 31-3805, IDAHO CODE, TO REVISE A PROVISION REGARDING THE APPLICABILITY OF LAW RELATED TO WATER DELIVERY WITHIN SUBDIVISIONS; AMENDING SECTION 50-1334, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE REVIEW OF WATER SYSTEMS; AND DECLARING AN EMERGENCY.

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

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

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

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

(a) (i) "Domestic purposes" or "domestic uses" means:

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

~~(ii)~~ 2. The use of water for any other purpose, if the total use does not exceed a diversion volume of two and eight-tenths (2.8) acre feet per year.

~~(b)~~ (ii) "Domestic purposes" or "domestic uses" shall not include water for the following purposes, unless the use meets the diversion ~~rate and~~ volume limitations set forth in paragraph (a) (i) 2. of this subsection:

~~(i)~~ 1. Mobile home parks or recreational vehicle parks;

~~(ii)~~ 2. Apartments, condominiums, and similar developments with multiple dwelling units;

~~(iii)~~ 3. ~~Except~~ Subdivisions, except as provided in subsection (3) of this section~~, subdivisions, as defined in chapter 13, title 50, Idaho Code~~; or

~~(iv)~~ 4. Commercial or business establishments or mixed-use establishments where the water is used primarily for commercial or business purposes.

(b) "In-home use" means the utilization of water within a residence or household, including all activities that require water, such as drinking, cooking, bathing, and cleaning within and around the household. It

does not include irrigation of lawns, gardens, landscaping, pastures, or other open spaces.

(c) "Subdivision" means a tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. For purposes of this paragraph, "bona fide division or partition of agricultural land for agricultural purposes" means the division of land into lots, all of which are five (5) acres or larger and maintained as agricultural lands.

(2) Except as provided in subsection (3) of this section, multiple water rights for domestic uses or domestic purposes shall not be established or exercised in a manner to satisfy a single combined water use or purpose that would not itself come within the definition of a domestic use or purpose under this section. The purpose of this limitation is to prohibit the diversion and use of water, under a combination of domestic purposes or domestic uses as defined in this section, to provide a supply of water for a use that does not meet the exemption of section 42-227, Idaho Code, and is required to comply with the mandatory application and permit process for developing a right to the use of water pursuant to chapter 2, title 42, Idaho Code.

(3) Multiple water rights for domestic purposes or uses may be established and exercised from the same point or points of diversion if the use is limited to residential, in-home use. This subsection does not affect any other permitting requirement or other requirement that may apply to the use of water within a subdivision. ~~For the purposes of this section, the term "in-home use" means the utilization of water within a residence or household, including all activities that require water, such as drinking, cooking, bathing, and cleaning within and around the household. It does not include irrigation of lawns, gardens, landscaping, pastures, or other open spaces.~~

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

42-227. DRILLING AND USE OF WELLS FOR DOMESTIC PURPOSES EXCEPTED. (1) Except as provided in subsection (4) of this section, excavation and opening of wells and the withdrawal of water therefrom for domestic purposes or uses as defined in section 42-111, Idaho Code, shall not be subject to permit requirements under section 42-229, Idaho Code. Rights to ground water for such domestic purposes may be acquired by withdrawal and use.

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

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

(4) For purposes of new diversions for use within subdivisions, as defined in ~~chapter 13, title 50, Idaho Code,~~ section 42-111, Idaho Code, where the completed application to develop the subdivision is filed pursuant to chapter 65, title 67, Idaho Code, on or after July 1, 2025, in any area where the director of the department of water resources has issued a moratorium order on the development of new water rights or has designated a critical

ground water area or ground water management area, ~~an application for~~ a permit, pursuant to section 42-229, Idaho Code, shall be required for the diversion of water for any new domestic purposes or uses, as defined in section 42-111, Idaho Code, other than for in-home uses, as defined in section 42-111, Idaho Code, or watering livestock.

SECTION 3. That Section 31-3805, Idaho Code, be, and the same is hereby amended to read as follows:

31-3805. DELIVERY OF WATER WITHIN SUBDIVISIONS. (1) The provisions of this section shall apply to any ~~proposed~~ subdivision, as defined in chapter 13, title 50, Idaho Code, within the state of Idaho or to a subdivision subject to a more restrictive county or city zoning ordinance. A completed application to develop a subdivision filed pursuant to chapter 65, title 67, Idaho Code, that was filed on or before June 30, 2025, is governed by the law as it existed at the time of filing.

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

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

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

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

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

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

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

(b) For proposed subdivisions located outside an incorporated city, the irrigation system must be approved by the board of county commissioners, with the advice of the irrigation entity charged with the delivery of water to such lands.

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

(a) That the subdivision or a portion of it is located within the service area of the irrigation entity and the name and contact information for the irrigation entity;
(b) That a system for the delivery of irrigation water to lots within the subdivision has been provided;
(c) That the system has been approved as required by subsection (4) of this section;
(d) That the purchaser of each lot shall remain subject to all assessments levied by the irrigation entity; and
(e) That unpaid irrigation entity assessments are a lien on the land within the irrigation entity.

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

50-1334. REVIEW OF WATER SYSTEMS ENCOMPASSED BY PLATS. Whenever any plat is subject to the terms and requirements of sections 50-1326 through 50-1329, Idaho Code, no person shall offer for recording, or cause to be recorded, a plat unless he or she shall have certified that he or she is in compliance with section 31-3805(2), Idaho Code, ~~where applicable,~~ and that at least one (1) of the following is the case:
(1) The individual lots described in the plat will not be served by any water system common to one (1) or more of the lots, but will be served by individual wells.
(2) All of the lots in the plat will be eligible to receive water service from an existing water system, be the water system municipal, a water district, a public utility subject to the regulation of the Idaho public utilities commission, or a mutual or nonprofit water company, and the existing water distribution system has agreed in writing to serve all of the lots in the subdivision.
(3) If a new water system will ~~come into being~~ be developed to serve the subdivision, ~~that it~~ the entity in charge of that system has or will have sufficient contributed capital to allow the water system's wells, springboxes, reservoirs, and mains to be constructed to provide service without further connection charges or fees ~~to the landowners of the lots~~ required to lot owners, except for connection of laterals, meters or other plant exclusively for the lot owner's own use.
Failure to comply with this section is a misdemeanor subject to the provisions of section 50-1329, Idaho Code. The certification must be filed or recorded as part of the plat document preserved for public inspection. ~~Property~~ Lot owners in the ~~area encompassed by the plat will~~ subdivision shall be entitled to the benefits of ~~the third provision~~ subsection (3) of this section when that option is chosen.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

LEGISLATURE OF THE STATE OF IDAHO
Sixty-eighth Legislature First Regular Session - 2025
IN THE SENATE
SENATE BILL NO. 1083, As Amended
BY RESOURCES AND ENVIRONMENT COMMITTEE

41 42-1701C. ENFORCEMENT OF DOMESTIC PURPOSE AND DOMESTIC USE LIMITA42 TIONS. (1) If the director of the department of water resources becomes aware
43 of water use that exceeds the authorized limits of an appurtenant water right
44 for domestic purposes or uses as defined in section 42-111, Idaho Code, re45 gardless of when the use was established, the director may:
46 (a) Notify the property owner, in writing, of the alleged excess use;
47 and
4
1 (b) Provide the property owner ninety (90) days to remedy the excess
2 use or provide information that the water use does not exceed authorized
3 limits of the appurtenant water right for domestic purposes or uses.
4 (2) If, after notification by the director pursuant to subsection (1)
5 of this section, the property owner fails to remedy the excess use or to pro6 vide information that the use does not exceed authorized limits within the
7 time prescribed and to the director's satisfaction, then the director shall
8 issue a notice of violation to the property owner, identifying the informa9 tion supporting the determination of excess use.
10 (3)(a) Any person to whom a notice of violation has been issued pursuant
11 to subsection (2) of this section shall be liable for a civil penalty
12 pursuant to this section.
13 (i) For excess irrigation, a penalty of five hundred dollars
14 ($500) for every one-tenth (0.1) of an acre in excess irrigation
15 above the authorized limits shall be assessed.
16 (ii) For excess use other than irrigation, the lesser of the fol17 lowing shall be assessed:
18 1. One hundred dollars ($100) for every day water is di19 verted at a rate that exceeds the maximum authorized diver20 sion rate; or
21 2. One hundred dollars ($100) for every acre-foot diverted
22 in excess of the maximum authorized annual diversion volume.
23 (b) Penalties shall be renewed each year until the excess use has been
24 remedied to the director's satisfaction but shall not exceed five thou25 sand dollars ($5,000) in any given year.
26 (4) The director may request that the county in which the property is
27 located collect the penalty for excess use. If the county agrees to collect
28 the penalty:
29 (a) The director shall provide the county with a copy of the notice of
30 violation issued pursuant to this section; and
31 (b) The county shall retain half of the penalty proceeds and deliver the
32 other half to the director.
33 (5) Unpaid penalties shall be filed as a lien against the property until
34 paid in full.
35 (6) Once a penalty has been assessed for a particular irrigation sea36 son, as provided in this section, it shall be due and payable even if the ex37 cess use is subsequently resolved.