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RECEIVED
SEP 01 2016
DEPARTMENT OF WATER RESOURCES

Gary Spackman
Director
Idaho Dept of Water Resources
P. O. Box 83720
Boise, ID 83720-0098
Via E-mail

August 26, 2016

Re: Proposal to designate ESPA Groundwater Management Area

Dear Director Spackman,

Thank you for the opportunity to comment on this proposal. These comments are intended to address particularly the potential inclusion of the Upper Big Wood River area in a new Eastern Snake Plain Aquifer Groundwater Management Area (ESPA-GWMA). They are my own and do not necessarily reflect the opinions of the Blaine County Board of Commissioners.

As a County Commissioner, I appreciate the complexity of decisions you are called upon to make. One could spend weeks or months researching this particular topic and be left with as many questions as at the outset.

The sum of evidence points to establishment of a groundwater management area for the Eastern Snake Plain Aquifer . Eventually, a critical GWMA may become justified. Inclusion of the upper Big Wood River (BWR) tributary basin (and perhaps even the upper Little Wood River (LWR)) outside the mapped area of ESPA common ground water supply is not justifiable at this time. Importantly, better alternatives to groundwater management in this tributary basin likely exist, which could have more positive and less costly outcomes for both upper and lower basin water users.

I. Without reviewing in detail the statutes and administrative rules, there appears to be a fundamental conflict in the language, with respect to what can, appropriately, be included in the proposed ESPA-GWMA. Rule 50 refers to an area of common groundwater supply (ACGWS). The Department has mapped the ESP-ACGWS.

The definition of an ACGWS, however, refers to waters that are hydraulically connected. On this basis, it would seem to make sense to extend the proposed GWMA to the limits of the watershed, also mapped. In many cases, the ESPA is connected to tributary basins not via groundwater, but via surface water. Groundwater in these tributary basins is at best minimally connected to the ESPA, but may influence the surface waters feeding into it.

The outline of these two mapped areas, however, do not coincide. This leaves you with a conundrum, which has its roots both in the science of these basins, as well as the laws and rules. To varying degrees, including tributary basins outside the ACGWS and largely disconnected via underflow will lead to litigation and delay in solving the problems at hand.

II. The Big Wood River basin is already a GWMA. Other commenters have addressed concerns about how a new ESPA-GWMA--to include the existing BWR-GWMA--would affect conjunctive management in the existing Big Wood River GWMA.

You are aware that recently two groundwater districts have formed encompassing the entire upper Silver Creek and upper Big Wood to Galena Summit. This was inevitable, regardless of whether it was hastened by water calls from the Big Wood and Little Wood Water Users Associations. Although those calls have been dismissed, they may arise again; or, as seems inevitable, senior surface water users in the upper basin itself will call for administration of groundwater there.

My suggestion is that all water users in the upper basin, many of whom are senior to users below Magic Reservoir, will be able to focus more sharply and achieve better outcomes if this tributary basin is allowed to manage these issues outside the much larger ESPA-GWMA. This process already has begun. Water users from above and below Magic already are working proactively, cooperatively and collaboratively to devise mitigation strategies. Their goals include to protect the interests of all water users sharing the resource under prior appropriation doctrine, as well as to account for the impacts these changing patterns of water use will bring to the economies and the environment of their communities. Unquestionably, not all issues will be resolved simply, or without new rules or laws.

This work is occurring in the context of the existing BWR-GWMA.Rather than overlay the ESPA-GWMA and impose a new groundwater management plan (GWMP) on the existing GWMA, it may be more effective to convene an advisory committee of the BWR-GWMA and update its management plan, which dates to 1991. Aside from the ongoing collaborative efforts, how better to achieve real results among interested parties and avoid costly water calls by distant water users, under the cloud of questionable hydraulic connections and the attendant flood of costly legal actions, not to mention the years it would take to settle them?

III. Finally, you've received a number of comments debating the merits of recharge versus curtailment. In my and many others' opinions, recharge alone will not resolve diminishing ESPA groundwater levels. Recharge water has to come from somewhere. Barring consistently greater precipitation area-wide, the water used to recharge the ESPA, unless unappropriated, must be rediverted from other existing uses.

On the other hand, curtailment perceived narrowly implies only blunt negative effects on the curtailed users and their communities. The Idaho Groundwater Appropriators-Surface Water Coalition Settlement Agreement demonstrates that the concept of curtailment can be broadened to include reducing diversions by changing agronomic practices, improving land use and land management strategies and related means. While these approaches entail changing current practices, they also allow for mitigating the negative impacts and even opening the door to unforeseen economic and environmental benefits.

Here's an example of a broad-scale, integrated--by which I mean private, non-profit, public, multi-agency involved--solution: higher water-consumptive crop lands are converted to lower water-consumptive pasture lands; the "saved" water is repurposed to groundwater recharge; herds are maintained, while livestock spend more time on private pasture and less on public grazing allotments; public land grazing continues, but public land managers gain grazing management flexibility as to location, timing, residual stubble height, etc.; curtailed lands are not abandoned or left to weeds and owners don't lose all their income (They could remain productive or be converted to habitat.); Idaho beef and lamb is marketed as grass-fed, sage-grouse friendly; public land managers have more options for restoring sage grouse habitat.

It's just a concept, but one intended to illustrate an approach to conserving water and the impacts it may have and that they may not be all negative. Water management in Idaho need not be entirely driven by water calls and legal actions, in crisis mode, on a reactive basis. Collectively, we have enough experience and scientific evidence to know that we are foreseeably in conditions of water scarcity and we need to adapt. Whatever the legal framework in which we do, the facts and the future should motivate us to open our minds to new ideas and give ourselves the scope for collaborating to develop and implement new, creative solutions to the enormous challenge of restoring and preserving our aquifers.

Once again, thank you for the opportunity to comment.

Respectfully,

Lawrence Schoen
County Commissioner
Blaine County, Idaho