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DEPARTMENT OF
WATER RESOURCES

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Idaho Department of Water Resources
Attn: Richard Rigby
P.O. Box 83720
Boise, ID 83720

RE: Proposed Conjunctive Management Rule Modification to Rule 50.

Dear Mr. Rigby,

This letter is to respond to the Department's request that all interested parties file their comments as to the proposed request by Clear Springs to modify the Conjunctive Management Rules. This firm represents numerous upper valley water users. Although most of our clients are surface water users, we also represent several ground water users located within the boundaries of surface water's authorized place of use. Furthermore, many of our surface water users are very interested in recharge which is directly impacted by the conjunctive management rules. Therefore, we intend this letter to be a response by both our surface water user clients and our ground water user clients.

We strongly oppose the new proposed designations which would in any manner extend the boundaries of the ESPA. Basically, our reasoning is as follows:

The area of Common Ground Water Supply in the Conjunctive Management Rules (CMR) is defined as: *"[T]he aquifer underlying the Eastern Snake River Plain as the aquifer is defined in the report, Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake River Plain, Idaho, USGS Professional Paper 1408-F, 1992 excluding areas south of the Snake River and west of the line separating Sections 34 and 35, Township 10 South, Range 20 East, Boise Meridian."* (CMR 050.01). The rationale for defining this region as an area of Common Groundwater Supply is that this aquifer *"supplies water to and receives water from the Snake River."* (CMR 050.01.a)

Hydrologically, the existing boundary is consistent with the stated rationale. The area within the USGS boundary is characterized by common patterns of geological materials and consistent patterns of water-level gradients. It is a solidly defensible description of the regional aquifer system. This is not true of the ESPAM1.1 boundary. The interfaces between the regional aquifer and the Big Lost River, Little Lost River and Rexburg Bench areas are characterized by local areas of steep water table gradients and low aquifer transmissivity, as represented in the ESPAM1.1 model calibration data and results. In addition, the interface between the Rexburg Bench and the regional aquifer is marked by a distinct change in topography and geologic materials. Hydrologically, it is not reasonable to expect that these areas could *receive water from the Snake River*.

If the defined area of Common Ground Water Supply is to be extended beyond the USGS boundary, the existing rationale must be abandoned. Candidates for alternate rationale are found in CMR 010.01, *"diversion and use of ground water... affect[s] the flow of water in a surface water source"* and in CMR 031.03.a, *"The ground water source supplies water to... a surface water source."* The ESPAM1.1 model boundary is not appropriate under either of these criteria because it arbitrarily includes some areas and excludes others, with no hydrologic or technical difference in the potential for diversions from ground water in those locations to affect the Snake River.

Because of the above, it makes no sense to expand the boundaries to an arbitrary line outside of the USGS boundary unless one extended it to the top of the peaks. Otherwise, there is no rational means of calculating a base upon which to determine any impacts and as stated above, it goes beyond the definition of the supplying water to or diverting water from a water source. We would hope that the existing rationale is not abandoned and in order to insure that it is not, we believe that no change in the boundary be made.

We would respectfully request that we be copied on any further notifications or hearings which address this subject matter as we wish to participate fully.

Thank you for the opportunity to state our position.

Sincerely yours,

Jerry R. Rigby

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