

Interim Subcommittee Water Management
Best Western Inn
Burley, Idaho
August 10, 2004

Attendance: Co-chairmen Bert Stevenson and Stan Williams, Representative Wendy Jaquet, Clive Strong (Office of the Attorney General/ AG), Lynn Carlquist (North Snake Ground Water District), Ron Carlson (WD 01), Don Hale (Committee of 9), Tim Deeg Idaho Ground Water Appropriators/IGWA), Bob Muffley (Middle Snake River Water Resource Commission), Randy McMillian (Clear Springs), Chuck Coiner (Twin Falls Canal Company), Larry Pennington, North Side Canal Company, Darla Walton (BOR), Lynn Tominaga (IGWA), and members of the public

Presenters: Brian Patton, Idaho Department of Water Resources (IDWR)
David Blew, IDWR
Lynn Tominaga, IGWA
Clive Strong, AG Office

Co-chairman Stan Williams called to order the Interim Subcommittee on Water Management at 1:38 p.m. **After introductions, Representative Bert Stevenson moved to adopt the minutes of the last meeting.** Randy McMillian asked for time to review the minutes and also how the minutes are distributed. Co-chair Stevenson explained a draft copy of the minutes is reviewed by the co-chairman and then posted on Legislative Services home page. The next set of minutes will be e-mailed to the subcommittee members.

Brian Patton, IDWR, reported on the “Thousand Springs Reach Water Management Projects”. (See attached PDF presentation: “ESPA Water Management Plan”) Patton summarized 10 projects along with their cost of construction (\$9,129,000), cost of continued operation and maintenance (\$910,000), and water savings (157,900 ac/ft). In response to numerous detailed questions by the committee, Patton said he was not asked to do a cost benefit for the projects and that there hadn’t been enough study or monitoring to determine what impacts additional pumping would have on the springs. He estimated that 8,000 ac/ft. of water could be pumped from the river to replace spring water for irrigation. These projects were not prioritized. If there had been a priority ranking, Patton would have recommended lining canals or ditches first because the transmission loss is 30%-40% and maintenance costs are low.

David Blew, IDWR, discussed “Managed Recharge Projects”. (See attached PDF: “ESPA Water Management Plan”) Potential recharge projects at Mile Post 31, K Canal, W Lateral (Wendell), Janss and W37 along with delivery system improvements could recharge on average 219,000 AFY over a 20-year period. Construction costs are estimated at \$1,485,000; continuing maintenance and operating costs would be an additional \$1,112,920. In response to the subcommittee’s query as to why more information wasn’t developed on recharge sites outside WD 130, Blew said the ~~present~~ analysis focus was completed because of the legislative agreement and access to recharge

sites along the Northside Canal Company or American Falls Reservoir District #2. He also referred the subcommittee to the 1998 IDWR and Bureau of Reclamation study on recharge sites. Blew's recharge calculations do not take into account Endangered Species Act (ESA) flow augmentation. Four out of the seven sites studied are on federal lands and would probably need National Environmental Protection Act (NEPA) studies done at additional cost which approximately could \$50-300,000 depending on size.

Lynn Tominaga, IGWA, presented information on two agricultural set-aside programs: the Conservation Reserve Enhancement Program (CREP) and a Utah Conservation EQIP. Lynn said developing and implementing a statewide water management policy is a far-reaching endeavor and will require considerable time and resources and will involve many different opportunities.

As envisioned, a Conservation Reserve Enhancement Program (CREP) focusing on water and energy conservation may be one piece of a much larger puzzle and could also serve as a pilot project for similar water management programs across Idaho and the West. (See attached PDF: "CREP Background") Several key aspects of CREP appear well suited to the ESPA including voluntary land retirement as opposed to mandatory curtailment, retiring and converting some marginal ground to vegetative cover while keeping most working ground in production and, with ground set-aside for 10 years, an opportunity for immediate mitigation, further aquifer study and the implementation of other short and long-term measures. CREP offers the flexibility to design a program consistent with western water law and the needs of rural communities whose tax base is dependent on agriculture.

Another set-aside program is based on an EQIP Water Banking Program established in Utah in response to the severe drought there. Producers pumping from wells to irrigate their crops are offered an incentive to stop pumping. This incentive payment is intended to keep water in the aquifer and is based on a cost share rate of 60% or \$6/acre-inch. In Idaho the incentive payment would be \$114/acre for hay.

Tominaga also presented the concept of an Aquifer Management Authority (AMA) to the subcommittee, a concept already discussed before the July 24th meeting of the Interim ESPA committee. As proposed by IGWA, a water management authority could provide oversight of water management activities across the ESPA under the auspices of the Idaho Water Resource Board. Although the powers such an authority could hold are yet to be defined, the AMA could be similar to a Joint Powers Agreement set up in Idaho Code for governmental entities. Membership would consist of cities, counties, ground water districts, surface water users, spring owners, and commercial/industrial users who would act as a board of directors. Each entity would have taxing authority to fund the AMA.

Clive Strong, Idaho AG's office, outlined the "Parameters for ESPA Settlement" in a presentation before the subcommittee. He outlined and discussed a number of options, but was unable to provide specific details.

There are three elements of the ESPA water budget that the parties can influence: 1) water supply, 2) water management, and 3) water demand. Surface water users want ground water pumping curtailed by 2,058,000 acre feet per year (AFY). Ground water users want surface water users to chase their water. The other mitigation alternative is financial compensation.

Clive thought the best outcome would be no mandatory curtailment. Strong wants to see if a settlement can be achieved through some kind of voluntary market mechanism or uniform reduction among all water users. He thinks the issue can be settled through incremental negotiations, taking one piece at a time.

He also discussed the risks both parties face, risks that include uncertainty of the future water supply along with the cost and delay involved in litigating an outcome. If litigation is pursued, it's unlikely that all ground water users would be curtailed due to the intermix of priority dates, but they could be found liable for ground water depletions. However, depletion may not equate to injury. It is also unlikely that a court would find that a senior surface water user must chase its water.

Representative Bert Stevenson moved to accept the minutes of June 16th subcommittee meeting. Seconded. Passed on a voice vote.

Members of the subcommittee then discussed how to present its work and whether or not recommendations would be made to the ESPA Working Group. Because negotiations are on-going between the parties and other subcommittees are planning to meet, no decisions will be made at this time. The water management subcommittee will adjourn subject to the call of the co-chairmen.

With no further business before it, the subcommittee adjourned at 4:10 p.m.

Respectfully submitted,

Lynn S. Tominaga
Recording Secretary