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## MEMO

To: Rathdrum Comprehensive Aquifer Management Plan Advisory Committee

From: Lynn Tominaga/Executive Director

Date: July 16, 2010

Subject: Public Comments on Rathdrum Prairie CAMP

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The Idaho Groundwater Appropriators (IGWA) is a statewide association of ground water users comprised of nine ground water districts, three irrigation districts, and numerous municipals, commercial and industrial ground water users. Idaho Groundwater Appropriators members irrigate over one million acres of agricultural land and our members include municipal water suppliers that provide water to over 100,000 businesses and households.

IGWA offers the following comments intending that they will help the committee to produce an efficient and effective comprehensive aquifer management plan. IGWA suggests the committee should consider how and to what extent policies for maximum beneficial use and full economic development will guide water management on the Rathdrum Prairie aquifer. The optimum use management should maximize the range of existing and future beneficial uses that can be supported by the available supply.

**Optimum Use Management:** Optimum use management employs the most cost effective strategies to support existing beneficial uses. CAMP should provide local, state, and federal policy makers with the most flexibility to adapt measures to currently unforeseeable structural changes in water uses and needs.

**Existing and Future Uses.** Optimum use management allows for improving existing water distribution system and providing exchanges for substituted water supplies can be viewed as more cost effective than curtailment or litigation. Thus, it is of utmost importance to support existing beneficial uses, drinking water, and water quality issues which are important in protecting existing and potential future uses.

**Rathdrum Prairie Conclusions.** With respect to the Rathdrum prairie aquifer, it is our belief this plan will address a misconception that withdrawals from Idaho ground water dramatically affect the aquifer or spring discharges on the Washington State side. The committee has heard current information and ground water modeling which shows that even with doubling of the population and consumptive uses on the Idaho side of the aquifer that water usage or impacts to the Spokane River on the Washington side has little or no impact on quantity. The Idaho groundwater model predicts less than 31 the cubic feet per second of impact to the Spokane River after 50 years in the state of Washington. This does not mean that this usage should be ignored but that Idaho's planning effort and state water plan for the Rathdrum prairie aquifer must show a concerted effort to mitigate consumptive use impacts. This will show the state of Washington that Idaho is serious about managing its water supply. This will provide the necessary documentation and show any court or potential litigation that Idaho's planning policy and implementation will address Idaho's impacts on the state of Washington.

**Reasonably Anticipated Future Needs.** I would suggest that the advisory committee further explore the use of Idaho Code 42-222 sometimes call the "Growing Communities Doctrine" or "Reasonably Anticipated Future Needs," as a means of protecting future water demands. While this might entail more expense in developing a planning horizon, it can be used a defense against out of state appropriation by showing the need and planning for water use over an extended time period. The biggest obstacle will be political subdivisions (such as cities, irrigation districts, aquifer protection district, state agencies, counties and others) and developers working together in each other's impact areas to develop a regional planning horizon. If communities can work together and thus prevent legal battles over who has control in their jurisdiction then it will speed up implementing the planning horizon.

**Efficiency Improvements.** IGWA would like to see additional or more specific efficiency improvements whether it be infrastructure, water conservation, or different water uses or supplies which might include water substitution, or reuse or reclaimed water as a new source of supply. This will be a giant undertaking for any one entity because it involves the cooperation of multiply units of government, tribes, and even the state of Washington. It would need the financial resources from federal, private, and public sectors to accomplish this task.

**Institutional Constraints.** Institutional constraints exist that will need to be reviewed and addressed as “one way or another” in any management scenario. The way we define problems often limits the way we think about solving them. There are no magic bullet answers to complex water management problems. A comprehensive solution will involve many measures implemented in different locations over different time scales.

**Adaptive Management.** This CAMP, for the next 50 years, needs to be done as an adaptive management plan which should suggest policies or a check list of items which could be accomplished in ten years. This will allow the document to change or be modified depending on the policies which are or are not being accomplished; and be able to identify other policies which are working and those that need to be modified or changed. After phase I, the plan needs to be evaluated and reassessed to see if the goals have been met or if they need to be changed based on economic conditions, funding, unforeseen conditions, or if the goals have changed for the aquifer. Phase I should identify those policies and how do you accomplish them. The committee would need to meet once or twice a year to see whether progress has been made on those policies and suggest actions to be accomplished.

**Potential Solutions.** Some potential solutions could be: 1) Building a series of small reservoirs in the basin to catch present snowpack or rain fall which then could be released during critical times for flow augmentation. This could relieve low flow conditions during critical times (in conjunction with releases from Post Falls Dam) but these small reservoirs could improve fish and wildlife habitat in those basins. 2) The city of Spokane could move its production Wells further from the river. Moving those diversion points could impact or spread the impact over time limiting the peak diversion during this critical time. 3) Releasing water from the Post Falls Dam could satisfy the depletion amount but limited research suggests that releases from the lake and limitation of AVISTA's Post Falls FERC license could cause problems because of flow restrictions or high water temperatures which might create bigger problems. 4) Artificial recharge with river water during periods when flows exceed minimum flow levels which could use the Spokane Valley Rathdrum aquifer as an underground reservoir which would increase base flows in the river during critical summer months. 5) Pumping water from Pend Oreille Lake and supply water to new uses as a source of water within the basin.

**Informal Agreements.** It is IGWA's last suggestion that the committee recommend informal agreements between the two states and the tribes which would explore a less formal approach to water allocation based on Memorandums of Understanding (MOU) and other mechanisms which are simpler, more flexible, more efficient, more incremental, and more of an adaptive management approach than a legal or congressionally passed act activities. The biggest drawback to informal agreements is that they do not have the regulatory force of law behind them. It is only if the state or local units of government who can enforce the informal agreements through state law or ordinances. This is an advantage or disadvantage depending on which side of the issue you are on in terms of trying to enforce the agreement.

**Potential State Legislation.** State action that could be taken to protect Idaho water from out of state appropriation could entail passing state law which 1) the state law regulates evenhandedly with only “incidental” effects on interstate commerce, 2) the statute serves a legitimate local purpose such as water conservation, water quality, land use purposes, maximum optimum use and economic benefits, and if so, 3) whether alternate source of water has been identified or not by the state seeking appropriation of water from Idaho. Does it have an alternative supplies or means which could supply its own needs?

Idaho Groundwater Appropriators was formed in 1994 in large part to provide a common voice for Idaho ground water users before state agencies, Idaho state legislature, Governor’s office, and Idaho’s Congressional Delegation. Since 1994, IGWA has represented or provided technical and legal assistance to its members in department negotiated rulemaking and several landmark cases before the Idaho Supreme Court.