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May 31, 2022

DEPARTMENT OF
WATER RESOURCES

Director
Idaho Dept. of Water Resources (IDWR)
P.O. Box 83720
Boise, ID 83720-0098

May 27, 2022

Dear IDWR Director:

We are writing to formally comment on IDWR's proposed action to revise water district 170 and sub-district 75 in the Upper Salmon River Basin. We reside in the Mountain View Acres Subdivision which receives surface water from the Salmon River via a lateral ditch system in accordance with the Kane-Ramey Ditch Association water right.

Our comments are based on a letter we received from IDWR on May 9, 2022, exactly two weeks before a May 23, 2022 scheduled public hearing (which Lynn Bennett attended). *After* receiving the letter, we learned that other water users were notified of and attended an IDWR public information meeting and presentation in February 2022. We do not know why we were excluded from that earlier notification process and opportunity to learn about the proposal. We subsequently met with the Salmon Field Office IDWR contact David Graybill, who answered many of our questions and provided us with additional information via email.

IDWR has apparently been working on this redistricting process since 2014, yet the agency only provided the affected water users with two weeks' notice to prepare oral comments and less than a month to submit written comments. This is not an acceptable way to treat We the People. Why didn't the IDWR provide an announcement of the February public meeting in the local paper and send out a letter notifying ALL water users? Why didn't IDWR publically announce the hearing so our elected representatives could attend? Why hasn't IDWR had regular public meetings since 2014 about redistricting as the adjudication and district formation process advanced state-wide?

The IDWR letter announcing the public hearing contains no explanation of (1) the purpose and need for the proposed redistricting actions (other than to satisfy requirements of a WSR Agreement) or (2) the ground and surface water use impacts of the proposal or (3) the anticipated change in financial impacts to water users. Without this disclosure, how are we to know if the proposed actions are beneficial to water users, or if an alternate proposal would be better?

Neither does the letter/map identify the current sub-district for our place of use and point of diversion, if any (it is unclear if 75C includes the Mountain View Acres portion of the Kane-Ramey Ditch). This is a deficit in the proposal which was only clarified through our meeting with David Graybill. Discussion and a map of subdistrict 75B are also omitted. What if water users believe that sub-district 75B should be modified? We don't even know the boundaries in order to comment! ***These deficits in the proposed action and maps indicate the need to re-issue the proposal for further citizen input following this round of public hearing and written comments. The entire process to present, including the WSR Agreement signed in 2004, has excluded local water users' input.***

We are outraged that the Idaho legislature robbed local citizens of our right to be self-governing by passing statutes requiring water districts throughout the state, paid water masters to oversee delivery of water according to the stipulations of our water rights, and local committees to administer the process of fee collection to pay for the district water masters. These statutes in effect increase the authority of the executive branch by adding yet another layer of government over us, along with new annual fees of undisclosed amount to fund new state employees. If citizens are fully educated about our water rights, including points of delivery and places of use, we are fully capable of self-policing our use of water without paid overseers. ***These statutes punish everyone, not just the few water users who have exceeded their water rights in the past and need oversight. Is it really***

necessary for every acre of Lemhi County to be placed within a water district and monitored by an IDWR water master?

The State of Idaho (in agreement with others, including the City of Salmon **but not the Lemhi County Commissioners!**) also signed an agreement *without local citizens' input* to apparently require wild and scenic river in-stream flows for **undesignated** sections of the Salmon River that are upstream of where the designated section begins at North Fork. However, it appears that many water rights on the Salmon River are senior to that new "right" obtained by the Federal government (the Forest Service). Senior rights theoretically have to be delivered before the Federal government receives its water. Do you **guarantee** that the senior water rights in the Upper Salmon River Basin will prevail over the Salmon WSR stipulated rights? What is meant in the agreement by "hydraulically connected"? Are currently unconnected streams in the proposed combined district 75A and elsewhere at risk of being forced to reconnect in the future (e.g., Perreau, Jesse, Gorley, Bob Moore, Deriar, Fenster, Hyde creeks)? Are ground water points of use in those drainages and others deemed to be hydrologically connected to the Salmon River?

If every acre in Lemhi County is to be included in District 170 and its associated subdistricts, isn't it only fair to **hold the Forest Service and BLM accountable to PROVIDE historic levels of water through proper management of vegetation resources (watersheds)** within said district? Water resource management is a PRIMARY directive of the Forest Service enabling legislation and the Multiple Use Sustained Yield Act of 1960. Yet the Salmon-Challis National Forest has destroyed watershed production capability on millions of acres through actions such as let burn fires and failure to meet Forest Plan targets for wood product harvest (managing forest stand density (trees/acre)) and removal via shelterwood harvest units (thinning decreases stand density and evapotranspiration).

We wish it to be noted that flood irrigation from water carried by the Kane Ramey ditch system (and other lateral ditch systems) *benefits* Salmon River fisheries and recreation by (1) providing a green belt to prevent wildfire impacts to the river system, especially in the valley bottom portions of the landscape and (2) recharging the water table to provide more sustained flows for months after peak runoff. Flood irrigation also recharges the aquifer to provide ground water use during months when there is scant rainfall or frozen ground (October - March). **Any decisions made by IDWR to regulate flood irrigation water use should keep in mind that retaining water in the Salmon River (letting it flow past points of use) rather than dispensing it at currently approved cfs rates reduces the above flood irrigation benefits to the River, increases risk of wildfire to communities (due to less irrigation and drier shrub/grass areas adjacent to the wildland urban interface), and jeopardizes ground water supplies for domestic uses.**

The IDWR redistricting proposal does NOT address implications of the proposal such as the above concerns and severely limits our ability to comment.

In addition, has IDWR considered the following concurrent WSR action by the federal government?

The Salmon-Challis National Forest (SCNF) started a wild and scenic river eligibility study in 2017 and has issued a draft proposed eligible rivers report so far. During the process they asserted that WSR designations would not affect water rights. That is a lie. The current Salmon River WSR in-stream flow agreement was signed long before the eligibility study. Prior designation has already affected water rights because a right was apparently applied for by and reserved to the Federal government that affects water use on miles of the river that are NOT designated! That agreement is why this redistricting process is occurring! The North Fork Salmon River and Panther Creek are among the draft study's list of proposed eligible rivers. You can be sure if those waters are found eligible and designated by Congress, the agency will be seeking a water right for those new WSR and less water from those streams will be available for future home and ranch water rights applications. Has IDWR commented to the SCNF on the adverse effects these designations would have on prospective future **Idaho residents'** water rights approval? Or do you plan to give even more of our water away to the Federal government? Is IDWR aware that the state legislature and county commissioners recently passed resolutions opposing any more WSR or wilderness designations in the State of Idaho?

Our specific comments on the proposed redistricting are threefold. (1) If we must have water districts, sub-district 75C should be retained and expanded to include all Salmon River surface water points of diversion and associated lateral ditch systems for the Salmon River section between 75D (Carmen Creek) and 75B (Williams Creek). 75C would also include the proposed 75A surface and ground water points of diversion *east* of the Salmon River and Highway 93. 75A would contain all remaining surface and ground water points of diversion in the proposed 75A/75E combined water district. The 75C administrative unit is logical because practically speaking, in drought conditions the upland creeks in 75A will be unlikely to provide any WSR streamflow input and connectivity to the river (since almost all of them are already unconnected and the others will only support senior water rights and may be dewatered), and ***only the Salmon River water in 75C will be available to provide WSR in-stream flow in that section of the River.*** Forming a Salmon River 75C district now will establish baseline data for those points of diversion collectively and organize the water rights users so we are aware of the seniority of our water rights and how waters are delivered in priority order, *in advance* of drought conditions when we will be seeking to utilize water under our rights and also retain WSR in-stream flows. (2) If the IDWR water master's statutory authority extends to ground water monitoring, well water use should not be monitored at all and fees to monitor ground water pump irrigation systems should be assessed separately to those users by IDWR, not apportioned among the ditch system users of the sub-district or the collection responsibility of the ditch system water masters. (3) Any efforts/methods to collect fees from water users to pay for associated costs of administering this redistrict proposal and efforts associated to monitor user flows for the purpose of assuring minimum river flows **MUST credit the water users for all water flows returning** to the river system via waste water ditches or the like. All costs for return flow monitoring **MUST** not be charged to the water users because they did NOT use the water.

Besides considering our suggestion of how sub-district 75C should be defined and managed, we ask the State of Idaho IDWR Boise and Salmon offices to begin representing the interests of the people of Idaho by becoming informed of and regularly commenting on proposed actions of the Salmon-Challis National Forest that affect water resources. The SCNF is the largest land management entity within Lemhi and Custer counties, and has much more substantial impacts on water flow to the Upper Salmon River than the private land owners. SCNF mis-management has resulted in sagebrush and tree stocking densities and fire-induced clear cut equivalent acres that dramatically reduce seasonal and year-round flows to the Salmon River and its tributaries.

God supplies all the water on the planet and bestows rain and snow on this Basin in levels sufficient to meet the needs of food producers (ranches, gardens, orchards, green houses), home owners, fish, and recreationists. God also provides us with the water delivery systems of creeks, rivers, wells, pumps and irrigation ditches. If we ask Him, He promises to grant us the wisdom to justly administer all these resources He has provided us (James 1:5). May God help IDWR staff and the residents of District 75 to be good neighbors as we work together to develop just and effective water resource management.

Please contact us if you have questions about the content of this letter.

Sincerely,

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