

## Skinner, Corey

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**To:** Keen, Shelley; Skinner, Corey  
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Shelley & Corey,

Attached please find questions and supporting statements intended for consideration by the Big Wood River GWMA Advisory Committee on March 20, 2024. Please note, there are two sets of questions. One from me as an individual water user and one from me as Chariman of the CIEF Committee. Several members of that committee suggested I prepare them. Please let me know if you have questions or need more information.

Thank you both for your work on this project!

With kind regards,  
Larry Schoen

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Big Wood River (BWR) Ground Water Management Area (GWMA)  
Groundwater Management Plan (GWMP) Renewal & Amendments Process  
Questions for the Advisory Committee (AC)  
Submitted by Lawrence Schoen, Basin 37 water user, on behalf of himself  
March 8, 2024

**Question 1.** To what extent will the stream flow target at Station 10 on the LWR be increased to accommodate other senior surface rights?

**Proposed GWMP amendment:** To Section IV. Management Plan Goals, page 5 & Section V.1. Baseline Management Actions, E. Stream Flow Target, page 9.

Natural stream flow target(s) at Station 10 should be increased to support senior surface right deliveries, to the extent feasible in any given water year.

**Context:** The GWMP should be amended to address delivery of all senior rights. The current GWMP was crafted to address delivery of only the most senior downstream surface rights. Relatively senior surface water rights holders are not deriving any benefit from the GWMP as it is presently constructed, while groundwater users are guaranteed their water through September 15 or later.

Groundwater pumping directly impacts Silver Creek flows. I have 1886 & 1887 surface water rights out of a Silver Creek tributary. These rights are senior to any groundwater right. They are often referred to as “junior rights.” They are only junior to the most senior rights and are notionally “junior” only in a regime in which groundwater pumping is unregulated & unmanaged. That may have been the case for some decades, but we no longer live in such a regime.

In 2022, my 1887 diversion rights were curtailed at the end of June, while groundwater continued to be pumped until September 15, per the GWMP. (In 2021, before the plan was implemented, both the 1886 & 1887 rights were curtailed at the end of May, while groundwater continued to be pumped until October.) From my perspective, this is manifestly unfair & a violation of time priority doctrine.

I recognize that in the current scenario, everyone is expected to give a little. I am among them. Fairness dictates, however, that senior surface right holders should be able to divert water at least as well as any groundwater pumpers. What’s the point of a senior right within a time priority regime if we cannot?

The GWMP allows for mitigation through leasing of Snake River storage rights, which technically alleviates demand by downstream seniors. Inasmuch as I am not a member of BLWWUA, it is my understanding I may be ineligible to benefit from this solution embedded in the GWMP. If so, the only recourse in the context of the plan is to increase the natural stream flow target(s) at Station 10, to the extent feasible in any given water year. In any case, delivery via the enhancement of natural stream flows should be the higher priority of this plan.

**Data/Information needed:** Absent my own technical expertise, I am not in a position to propose a new stream flow target(s). For this reason and for the sake of credibility and multi-party acceptance, I suggest the department’s own technical advisory working group (TWG) that has been associated with this plan is best positioned to research and inform the Advisory Committee of what stream flow targets are most likely able to support what

deliveries. Perhaps tiered stream flow targets could be explored; for example, *X* cfs until a certain date, say June 1, then a presumably lower *Y* cfs target to the next date, etc. Some data suggest 40cfs as a minimum.

**Question 2.** How can the GWMP goals be amended to reflect more closely the goals of water users in this basin?

**Proposed amendment:** To Section IV. Management Plan Goals, page 5.

**Add phrases to Section IV. asserting the priorities of the plan. My suggested language is:**

**“The priorities of the GWMA-AC are two-fold:**

- 1. Sustain natural stream flow rights as best as possible, both to enable delivery of senior surface rights and to sustain the health of the aquatic ecosystems.**
- 2. Allow for fair and reasonable use of groundwater.”**

**Context:** Section IV. Management Plan Goals begins “The main goal of this Management Plan is “to manage the effects of ground water withdrawals on the aquifers from which the withdrawals are made and any other hydraulically connected sources of water.” Idaho Code § 42-233b. This neutral re-statement of statutory language in the GWMP does not go far enough to describe any consensus of the GWMA-AC--which ostensibly represents local interests of water users--on the goals the Plan is trying to meet. Furthermore, it does not go far enough in recognizing the high priority basin users place on the health of the “hydraulically connected sources of water,” i.e., Silver Creek, the Big Wood River and their tributaries.

**Data/Information needed:** None, other than robust discussion among the AC, parties to the agreement and the public.

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**Big Wood River (BWR) Ground Water Management Area (GWMA)  
Groundwater Management Plan (GWMP) Renewal & Amendments Process  
Questions for the Advisory Committee (AC)  
Submitted by Lawrence Schoen, CIEF Chairman, on behalf of the CIEF Committee  
March 8, 2024**

**Question 1. Should the CIEF be part of the new GWMP?**

**Context:** Text within the GWMP related to the Conservation, Infrastructure & Efficiency Fund (CIEF) is found in Section V. Water Use Management Implementation Strategies, 1. Baseline Management Actions, C. CIEF, pages 7-8; and, Section V.1.D. Snake River Storage Delivery, pages 8-9; and Section V.2. Additional Management Actions B. Additional Snake River Storage Delivery, page 11.

The function of the CIEF is described only in Section V.1.C.4 as follows: “CIEF funds will be used primarily for infrastructure improvements and other permanent measures that improve the efficiency of delivering senior water rights, protect groundwater levels, or increase surface water flows, and for purchasing storage water.”

**Data/Information needed:** The CIEF represents a policy approach to mitigation. As such, amendments to this section are dependent less on data than on the outcomes of discussions related to the policies. Nevertheless, these questions need to be asked and answered. What follows is intended to represent a holistic approach to continued operation of the CIEF, but may prove not to be comprehensive.

**Question 2. If yes,...**

- a) Should contributions to the CIEF be increased at the outset to reflect the generally higher costs in 2025 than 2022 of project engineering, project construction, construction materials & equipment and of water leasing?
- b) As part of a long-term GWMP, should these contributions be indexed to inflation?
- c) What should be the consequences of any party to the plan failing to contribute or contribute timely to the CIEF fund under the agreed plan terms?
- d) Shall the Idaho Water Resources Board continue contributing to the CIEF and if so, to what extent?
- e) Should Section V.C.6. Be amended to add after “CIEF Funds will be collected, held, and administered by the Wood River Resource Conservation and Development Council (“WRRCDC”).” the following: “...to the extent that agency is willing and able to do so.”?
- f)

**Question 3. If no, what should be the disposition of funds still held by the CIEF on December 31, 2024?**

**Question 4. Should the role of the CIEF with respect to Sections V.1.D., Snake River Storage Delivery remain the same or be modified?**

**Context:** Concern has been expressed about the bifurcated nature of how storage water leases are to be acquired, with distinct roles for both Galena Groundwater District (GGWD) & the CIEF Committee. In both sections D.1. & D.2., GGWD is responsible for “acquiring” these leases. In section D.2. the funds to pay for the lease are to come from the CIEF.

These are base management actions. At the very least, these roles need to be coordinated. Some among Big & Little Wood Water Users Association (BLWWUA) feel the CIEF may be better positioned to negotiate timely and cost-effectively for the leases. In 2022, the CIEF Committee Chairman was asked to and did sign a lease for storage water. In hindsight, this was in error, as it is stipulated in Sections V.1.D.1.&2. that GGWD is responsible for acquiring any lease.

Should the AC consider that responsibility for acquiring storage water leases should fall to the CIEF, the CIEF Committee’s legal status must be taken into account.

**Question 5. Should the role of the CIEF with respect to Section V.2.Additional Management Actions in Dry Years, B. Snake River Storage Delivery, item 2. be better defined and if so, how?**

**Context:** Actions in this section are mandatory, once triggered by the stipulated low flows. The section reads: “The additional Snake River storage water may be paid through the CIEF.” The section does not define who is responsible for acquiring the additional leases specified by Section V.2., nor, given use of the word “may,” who is ultimately responsible financially for these transactions.

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