

March 31, 2022

Tim Luke  
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Idaho Department of Water Resources  
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Re: Comments on draft Big Wood Ground Water Management Area Management Plan

Dear Tim,

These comments are provided on behalf of the City of Bellevue, the City of Hailey and Sun Valley Company (“Cities and SVC”) regarding the latest March 2022 draft of the Big Wood Ground Water Management Area (“BWRGWMA”) Management Plan (“Draft Plan”).

Generally, the Draft Plan conforms to the main “Term Sheet” and the “Cities-SVWSD-SVC Term Sheet” included in Appendix D to the Draft Plan. The following comments and suggested revisions are provided to try to help clarify certain areas in the Draft Plan.

- A Table of Contents in the beginning of the Draft Plan would be helpful.
- Additional text should be added in Section II, footnote 5, page 3, to reflect the holding of Judge Wildman on judicial review which found the Director’s curtailment was unlawful, and further noting that the Idaho Department of Water Resources (“IDWR”) has appealed Judge Wildman’s decision to the Idaho Supreme Court.
- A sentence should be added after what is presently the final sentence in Section II, page 4, as follows: “As stated in the Cities-SVWSD-SVC Term Sheet, appended hereto in Appendix D: ‘In the event of conflict between the Cities-SVWSD-SVC Term Sheet and th[e] Term Sheet, the terms of the Cities-SVWSD-SVC Term Sheet shall apply with respect to the parties thereto.’”
- To address a concern raised by TJ Budge, the third sentence in Section IV, Management Plan Goals, which is shown in redline in the March 2022 Draft Plan, should be revised to eliminate the reference to “mitigation,” with the revision reading as follows: “In doing so, the parties have agreed upon management ~~and mitigation~~ actions that include, among other elements described herein . . . .”
- To further address TJ Budge’s concerns, the words “mitigate” or “mitigation” should be deleted throughout Section V, leaving simply the words “manage” or “management.” For example, Section V.1’s heading should be changed from “Baseline Mitigation Actions” to “Baseline Management Actions,” and Section V.2’s heading should be changed from “Other Mitigation Actions in Dry Years” to “Other Management Actions in Dry Years.”
- Section V.1.A.3.c states, “Fallowed acres shall be identified by the end of year three (2024) and stabilized through the Conservation Reserve Enhancement Program (‘CREP’) or other long-term arrangement.”

Does this mean that fallowed acres must be permanently fallowed (*i.e.*, past the end of the 3-year plan term)?

- Section V.1.B.2 states, “A Sept. 30 turn-off is authorized for specific circumstances, contingent on the water use being within individual groundwater user’s reduction targets. [FN 6] Examples of specific circumstances may include potato crops, pasture, or landscape nurseries.”

[FN 6] states, “Individual GWD water users will have assigned irrigation season pumping targets depending on forecasted water supply and recommended consumptive use reductions. For example, a user assigned a reduced seasonal pumping target of 200 AF who pumped only 175 AF by September 15, may pump up to 25 AF by September 30.”

Does this mean that all groundwater users within a Ground Water District (GWD) will get “assigned irrigation season pumping values”? Or is it only groundwater GW users with “specific circumstances” such as potato crops, pasture, or landscape nurseries? In any case, who decides what each user’s “pumping targets” will be, and how will they decide?

- Section V.1.C.1 should say the Cities-SVWSD-SVD Term Sheet is in Appendix D (not Appendix E).
- Section V.1.C.1 should contain the following sentence or something similar: “Consistent with the provisions of the Term Sheet and the Cities-SVWSD-SVD Term Sheet in Appendix D, the Cities’, SVWSD’s, and SVC’s contributions to and obligations under this Management Plan are set forth in the Cities-SVWSD-SVD Term Sheet, which shall control with respect to the parties thereto in the event of a conflict with other provisions of this Plan.”
- Section V.1.C.1 provides that the Cities’, SVWSD’s, and SVC’s contributions to the CIEF in 2022 must be made by April 15.

Will the Management Plan be approved by April 15? Perhaps April 30 is a more appropriate deadline.

- Section V.1.C.5 provides that “one representative from the Non-Government Organizations within the Wood River Basin” will be on the CIEF Committee.

The CIEF Committee’s voting members should be comprised of (a) representatives of the senior surface water users (*i.e.* Big Wood Little Wood Water Users Association and Big Wood Canal Company), (b) ground water users who contribute funds to the CIEF, and (c) the Idaho Water Resource Board (assuming it contributes matching funds). The Non-Government Organizations’ participation on the CIEF Committee should be limited to a non-voting, *ex officio* role. To the extent the Non-Government Organizations may provide “cost share” assistance (see Section V.1.C.8.b), such assistance can be conditions for use on specific projects.

- Section V.1.C.6 and Appendix E describe the role of the Wood River Resource Conservation and Development Council (WRRCDC) in administering the CIEF. What are the details of the WRRCDC's "sliding fee schedule" referenced in Appendix E?
- In Section V.1.E (and perhaps elsewhere in the Draft Plan), references to Plan sections should include full context, such as referencing Section V.1.A (instead of "section 1.A"), Section V.1.B (instead of "section 1.B"), and Section V.2 (instead of "section 2").
- In Section V.1.F, the reference to "section 3" of the Cities-SVWSD-SVC Term Sheet should be "item 3" (because the Cities-SVWSD-SVC Term Sheet does not have "sections"). Also, we suggest that the Cities', SVWSD's, and SVC's 2022 cloud seeding payments to WRRCDC be made at the same time as their 2022 CIEF contributions (i.e. by April 30).
- In Section V.2, the footnote "1" under Table 1 is not connected to any footnote marker in the text or table.
- In Section V.2, Table 1, the value for "Dry" years in the "Avg. of Apr-Sep Volume Forecasts (KAF)" columns should be "156-210" (instead of "155-210") to avoid overlap/confusion with the value for "Very Dry" (which is 100-155). Footnote 10 should be modified to reflect this as well.
- In Section V.2.B.1, is it intentional that additional storage water in dry years is delivered only to Little Wood River users, and not to Big Wood River users?
- In Section V.2.B.4, the reference to "Item 1.D.3 of this Term Sheet" instead should be to "Section V.1.D.3 above."
- In Section VII, should the last bulleted item be reinstated in a modified form to state that the Draft Plan does not moot IDWR's appeal to the Idaho Supreme Court?
- In Section IX, the reference to "this Term Sheet" should either be "the Term Sheet" or "this Plan."
- In Section X, and again to address TJ Budge's concerns, the words "mitigate for" should be replaced with the word "address."

Please let us know if you have any questions about these comments.

Sincerely,

Candice M. McHugh

Michael P. Lawrence

Chris M. Bromley



Attorney for City of Bellevue

Attorney for City of Hailey

Attorney for Sun Valley Co.