



Amended Snake River Basin Moratorium Order

ESPA GWMA Advisory Committee Meeting – December 5, 2023

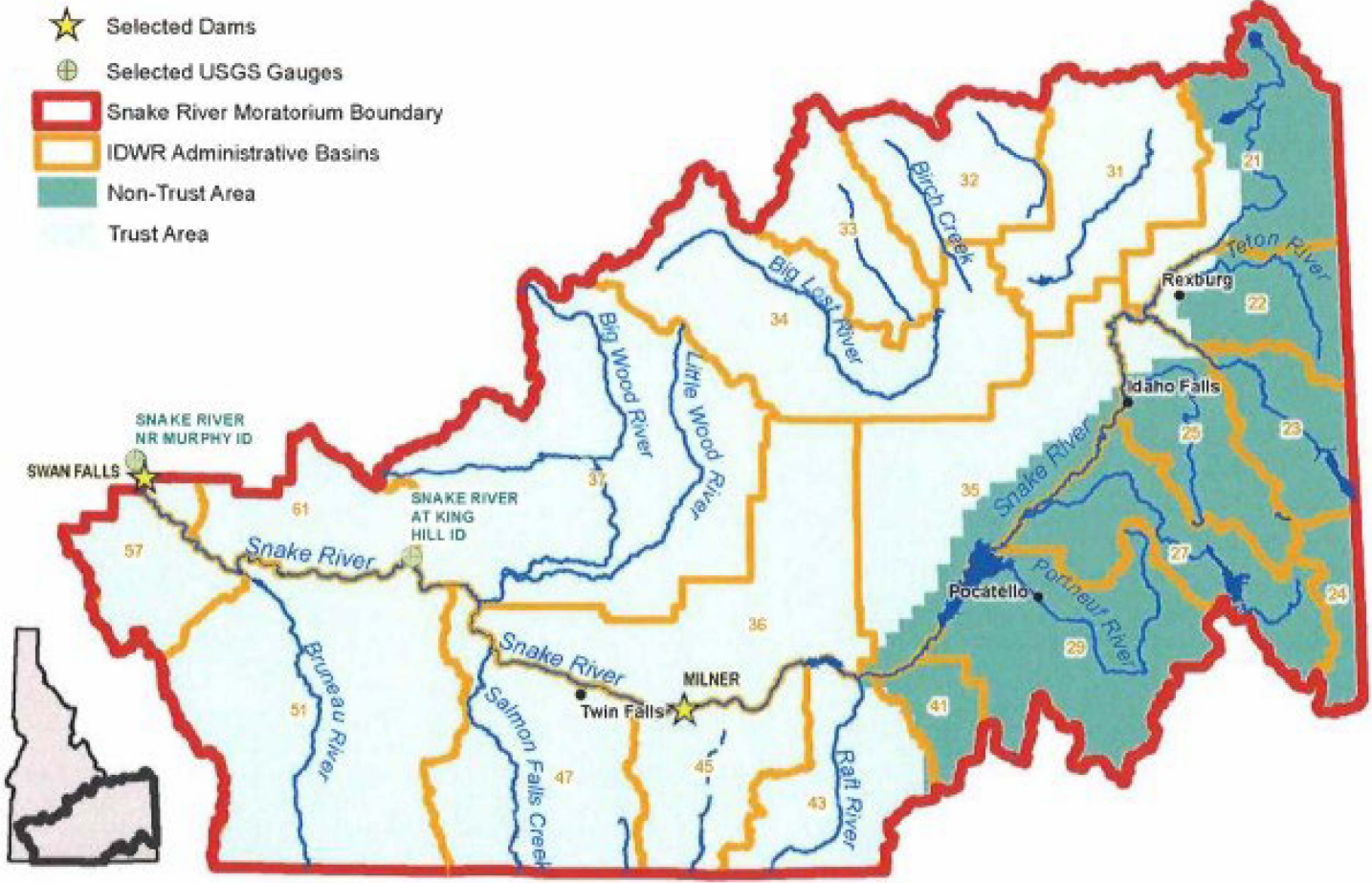
General Information

- ▶ Issued October 21, 2022.
- ▶ Supersedes 1993 Amended Moratorium Order for the Trust Water Area.
- ▶ Issued pursuant to Idaho Code § 42-1805(7) and Rule 55 of the Department's Water Appropriation Rules (IDAPA 37.03.08).



*Craters of the Moon National Monument & Preserve
United States NPS*

Snake River Moratorium





Key Findings of Fact

- ▶ The ESPA has been stressed by periodic drought, reduction in aquifer recharge due to changes in diversion and use of surface water throughout the basin, and by ground water pumping for irrigation and other consumptive uses. (¶ 4)
- ▶ Since 1952, there has been a long-term declining trend in ESPA ground water levels and the volume of water in aquifer storage. These trends result largely from the combination of the decreased incidental recharge associated with diversion of surface water onto the [Snake River Plain] and increased consumptive ground water pumping. The Department estimates the ESPA lost approximately 14 million acre-feet (MAF) from aquifer storage during the period 1952 to 2022, an average reduction of approximately 200 thousand acre-feet per year (KAF/yr). (¶ 5)

Key Findings of Fact

- ▶ Consumptive use of ground water and surface water in basins tributary to the ESPA reduces inflow to the ESPA and Snake River via tributary streamflow and/or ground water underflow. (¶ 9)
- ▶ Ground water pumping from the ESPA, and from aquifers tributary to the ESPA, including perched aquifers, depletes the flow in the Snake River, both upstream and downstream from Milner Dam. New consumptive uses of ground water from the ESPA and tributary aquifers will further deplete the flow in the Snake River. (¶ 69)



*Lost River Range
Wikipedia*



Key Order Provisions

- ▶ [T]his Moratorium Order suspends further action on the processing and approval of presently pending and new applications for permits to appropriate water from the Snake River upstream from Swan Falls Dam and all surface and ground water sources in the trust water area and the non-trust water area.
- ▶ The moratorium does not apply to any appropriation of ground water by beneficial use pursuant to Idaho Code § 42-227 for domestic purposes, including livestock watering, as such term is defined in Idaho Code § 42-111. (¶ 2)
- ▶ The moratorium does not apply to applications for drilling permits to replace or deepen existing wells authorized by valid existing water rights. (¶ 4)

Key Order Provisions

- ▶ The moratorium does not apply to applications for transfer, including applications to add points of diversion to valid, existing water rights. (¶ 5)
- ▶ The moratorium does not change or affect the designation of any critical ground water area established pursuant to Idaho Code § 42-233a or any ground water management area established pursuant to Idaho Code § 42-233b. (¶ 6)



Arbon Valley



Key Order Provisions

- The moratorium does not apply to any application proposing a non-consumptive use of water as the term is used in Idaho Code § 42-605A. This exception to the moratorium shall not apply to applications for non-consumptive uses of water that will reduce the supply of water available to existing water rights because of the location or timing of return flows. Applications for ground water recharge shall be evaluated on a case-by-case basis to determine whether the proposed use is non-consumptive and whether it will reduce the supply of water to holders of existing water rights with priority dates senior to the priority date of the application. Applications for municipal water use and for domestic use from community water systems shall be considered fully consumptive. Applications for domestic purposes from non-community water systems shall be evaluated on a case-by-case basis to determine whether the proposed use is non-consumptive. Irrigation proposed in connection with a domestic use will be considered consumptive. Domestic, commercial, industrial, or other water uses that result in the discharge of wastewater to a municipal or publicly owned treatment works will be considered consumptive. (¶ 3)



Key Order Provisions

- ▶ The moratorium does not prevent the Director from reviewing for approval on a case-by-case basis an application which otherwise would not be approved under terms of this moratorium if:
 - ▶ a. Protection and furtherance of the public interest, as determined by the Director, requires consideration and approval of the application irrespective of the moratorium; or
 - ▶ b. The Director determines that the development and use of the water pursuant to an application will have no effect on prior surface and ground water rights because of its timing, location, insignificant consumption of water, or mitigation provided by the applicant to offset injury to other water rights. For example, the Director may consider applications proposing to appropriate surface water from the Snake River or its surface water tributaries upstream from Milner Dam when unappropriated water is flowing past Milner Dam or from the Snake River or its surface water tributaries downstream from Milner Dam when flows at the USGS gaging station on the Snake River near Murphy exceed the decreed minimum stream flow water rights.

(¶ 8)

Questions / Discussion



Rainey Creek in Swan Valley
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