

April 6, 2025

Smith's Mt. Borah Ranch LP  
5872 N US Highway 93  
Mackay, Idaho 83251  
(208) 588-2218

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DEPT. OF WATER RESOURCES

Idaho Department of Water Resources  
c/o Brian Ragan  
PO Box 83720  
Boise, Idaho 83720-0098

Brian Ragan and Idaho Department of Water Resources;

Here are our comments regarding Idaho Department of Water Resources' (IDWR) 'Proposed Action' to expand the Eastern Snake Plain Aquifer (ESPA) to include Tributary Basins that affect the ESPA.

Specifically, our comments regarding IDWR's 'Proposed Action' to 'Annex' the 'Big Lost Basin' Water District #34 into the 'Area of Common Ground Water' (ACGW) of the Eastern Snake Plain Aquifer (ESPA).

The following Position Statements expose IDWR's 'Proposed Action' to 'Annex' the Big Lost Basin as a Tributary into the ACGW of the ESPA is based upon Politics and is **not** based upon data nor science.

- (1) The Big Lost Basin is a self contained Aquifer completely distinct and separate from the ESPA
- (2) IDWR's 'Proposed Action' to 'Annex' the Big Lost Basin into the ESPA is based entirely and completely upon 'Assumption' rather than on Science or Data
- (3) The Rule of Futile Call and the Rule of Delivery Calls in the Conjunctive Management Rules of IDAPA 37.03.11 still applies
- (4) The problem of the shortage of surface water for Magic Valley Surface Irrigators is completely and entirely the fault of IDWR's over allocation and over appropriation of ESPA water resources in the ESPA upstream of the Magic Valley Surface Irrigators
- (5) IDWR's 'Proposed Action' to 'Annex' the 'Big Lost Basin' Water District #34 into the 'Area of Common Ground Water' (ACGW) of the Eastern Snake Plain Aquifer (ESPA). is a 'Political' decision, because it has no hard data and science for support

Argument supporting the Position Statements that expose IDWR's 'Proposed Action' to 'Annex' the 'Big Lost Basin' as a Tributary into the ACGW of the ESPA is based upon Politics and is not based upon data nor science.

- (1) The Big Lost Basin is a self contained Aquifer completely distinct and separate from the ESPA
  - (a) After the extreme drought of 2021, above average moisture primarily in the form of rain in the following years of 2022 and 2023 quickly replenished the Big Lost Basin Aquifer to the extent that in 2023 the gravel pits at Moore had standing water in them showing that the valley's sub water was at a very high level. This recovery of the underground water table level in the span of just 2 years after extreme drought proves that the Big Lost Basin is a self contained basin distinct and separate from ESPA.
  - (b) It is known that there are three rims in the Big Lost Basin that hold back water that make the Big Lost Basin distinct and separate from the ESPA. The first rim is at the 'Narrows' or at the Mackay Reservoir, the second rim is at 'Antelope Point', and the third rim is the 'Desert Rim' South of Arco.
  - (c) The excess water that leaves the Big Lost Basin either via the Lost River surface water or the ground water flowing over the Desert Rim South of Arco may enter the ESPA further West downstream from the Thousand Springs at Hagerman. There is no data nor science that shows where the Lost River ground water enters the ESPA.
- (2) IDWR's 'Proposed Action' to 'Annex' the Big Lost Basin into the ESPA is based entirely and completely upon 'Assumption' rather than on Science or Data
  - (a) There is absolutely no science or data that proves ground water from the Big Lost Basin enters into the ESPA north of the Magic Valley or the Thousand Springs at Hagerman.
  - (b) Multiple test drilling sites out on the desert have revealed that the lava tubes are formed and angled in all different directions. Big Lost Basin ground water may well flow through lava tubes in the direction of Gooding and Bliss and enter the ESPA further West of the Magic Valley and the Thousand Springs at Hagerman.
  - (c) The 'Burden of Proof' is upon IDWR to prove where the Big Lost Basin groundwater enters the ESPA before taking their proposed action.

- (3) The Rule of Futile Call and the Rule of Delivery Calls in the Conjunctive Management Rules of IDAPA 37.03.11 still applies
  - (a) Futile Call and Delivery Call rule wording explicitly implies that at some reasonable point in time (though not immediate) measurable relief should be able to be documented (science and data) or Futile Call comes into play
- (4) The problem of the shortage of surface water for Magic Valley Surface Irrigators is completely and entirely the fault of IDWR's over allocation and over appropriation of ESPA water resources in the ESPA upstream of the Magic Valley Surface Irrigators.
  - (a) The 1994 Lawsuit, *Musser v. Higginson*, revealed the fact that IDWR had been negligent and irresponsible in administering ESPA water resources to that point in time. Now in 2025, we are 30 years down the road and the ESPA is still in decline, what does that tell you concerning IDWR's administering of the ESPA since 1994?
  - (b) The fact that big potato farmers have been allowed to over pump and just pay a fine reveals the fact that IDWR continued it's poor management and administration of the ESPA by allowing the ESPA water resources to be abused by ESPA ground water users upstream from the Magic Valley Surface Irrigators
- (5) IDWR's 'Proposed Action' to 'Annex' the 'Big Lost Basin' Water District #34 into the 'Area of Common Ground Water' (ACGW) of the Eastern Snake Plain Aquifer (ESPA), is a '**Political**' decision, because it has no hard data and science for support.
  - (a) IDWR is implementing Crisis management to address a problem they created. IDWR is 'Reactive' rather than 'Proactive'. If IDWR had been proactive in management and administration of the ESPA, they would have;
    - (1) Addressed the over pumping by ESPA farmers since 1994
    - (2) City and municipalities with increased water usage from the ESPA since 2000 would also be required to participate in mitigation
    - (3) The percentage of mitigation for ground water users in Tributary Basins would be much less than those in the main ESPA

**Summary Statement:** IDWR's previous action and the proposed action concerning the Big Lost Basin in conjunctive management with the ESPA is agency overreach and abuse.

Meeting minutes taken from an IDWR water meeting in Arco on July 25, 2016 noted that IDWR's computer models regarding the Big Lost Basin were based upon 'Theory Only' and that the Supreme Court of Idaho accepted this as the best science available even though it was referred to as 'Junk Science'.

Nothing has changed, IDWR has no hard data nor science for their 'Proposed Action' !

**Furthermore; The Ramifications** of the Idaho Legislature, IDWR and Idaho Supreme Court trying to solve the water issue of the ESPA by annexing Water Basin # 34 will be disastrous. This focus is inside the picture frame and is driven by politics because the science and data are absent.

Outside the picture frame will have a domino effect that leads to failure:

- (1) Farmers / Ranchers cannot afford the mitigation costs suggested for this wrongful annexation of a separate basin.
- (2) Those "Operating Loans" for agriculture entities will fail with no water to raise crops for repayment.
- (3) Those Banks issuing 'Operating Loans' may suffer insolvency.
- (4) Those "Lands" with no water rights will now be worthless.
- (5) The County's appraisals for assessing tax revenue will deteriorate dramatically. Idaho's Rural Main Street's budgets will be devastated.

Smith's LP  
5872 Hwy. 90  
Mackay, Idaho

83251



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Idaho Department of Water Resources  
c/o BRIAN RAGAN  
P.O. BOX 83720  
BOISE, Idaho 83720-0098