



Public Hearings in Eastern Snake Plain Aquifer Tributary Basins

Audio is being
recorded

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March 24 to 26, 2025



IDAHO DEPARTMENT OF
WATER RESOURCES

Purpose of Hearing

To present information and give the public an opportunity to provide oral or written comments on the proposed action to include tributary basins into the Eastern Snake Plain Aquifer Area of Common ground Water Supply as per the requirements of Idaho Code §42-233c.



Meeting Agenda Items

Audio is being recorded

1. Greetings and Introductions
2. Informational Presentations
3. Question and Answer Session
4. Taking of Public Testimony
5. Adjourn

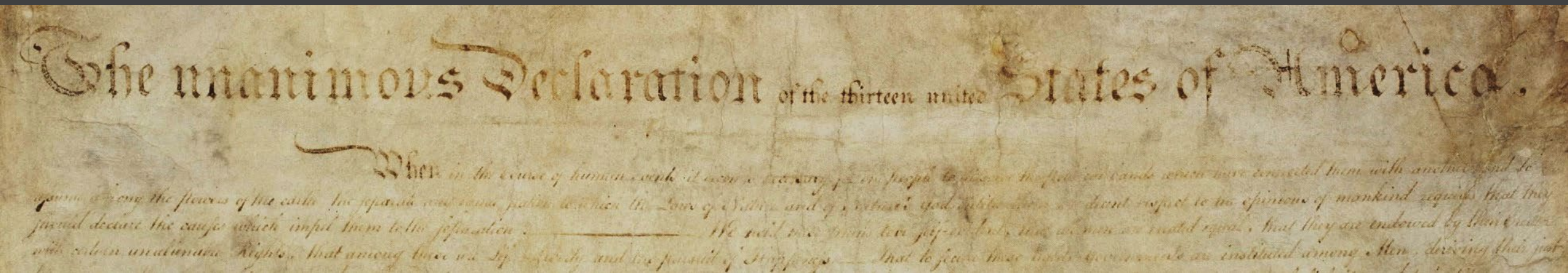
Presentation Topics

1. Prior Appropriation Doctrine
2. Water Districts
3. Idaho Conjunctive Management & Delivery Calls
4. Surface Water Coalition Delivery Call
5. Idaho Code §42-233c



“Priority of appropriation shall give the better right as between those using the water...”

Article XV, Section 3, of the Idaho Constitution.



Role of Water Districts and Review of Priority Administration

Webpage: <https://idwr.idaho.gov/water-rights/water-districts/>

- Water right details
- Watermasters
- Tracking databases
- Models
- Monitoring
- Staff



Water Districts



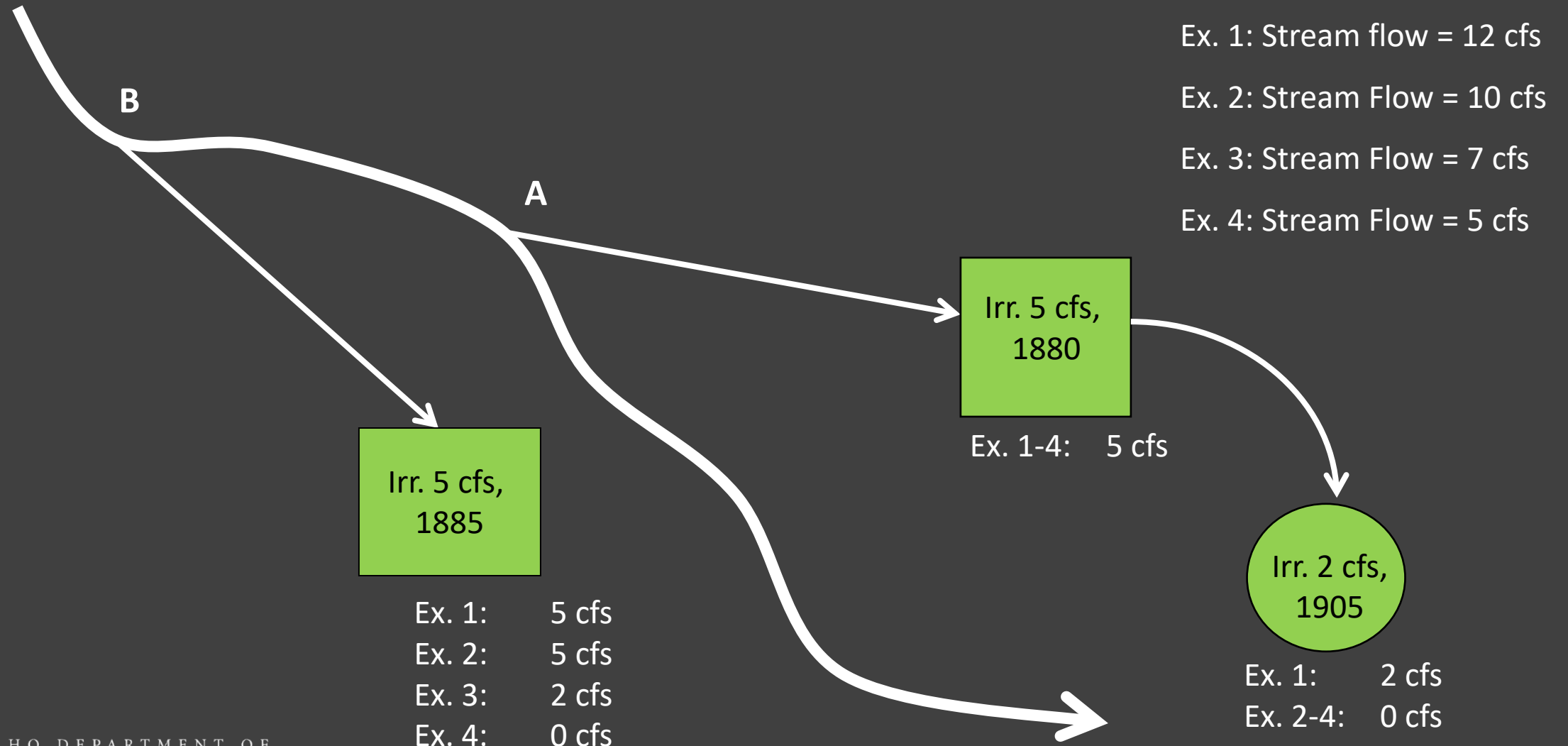
Created and supervised by IDWR to distribute public water sources based on priority and conditions of water right

Comprised of water users that hold water rights from a common public water source

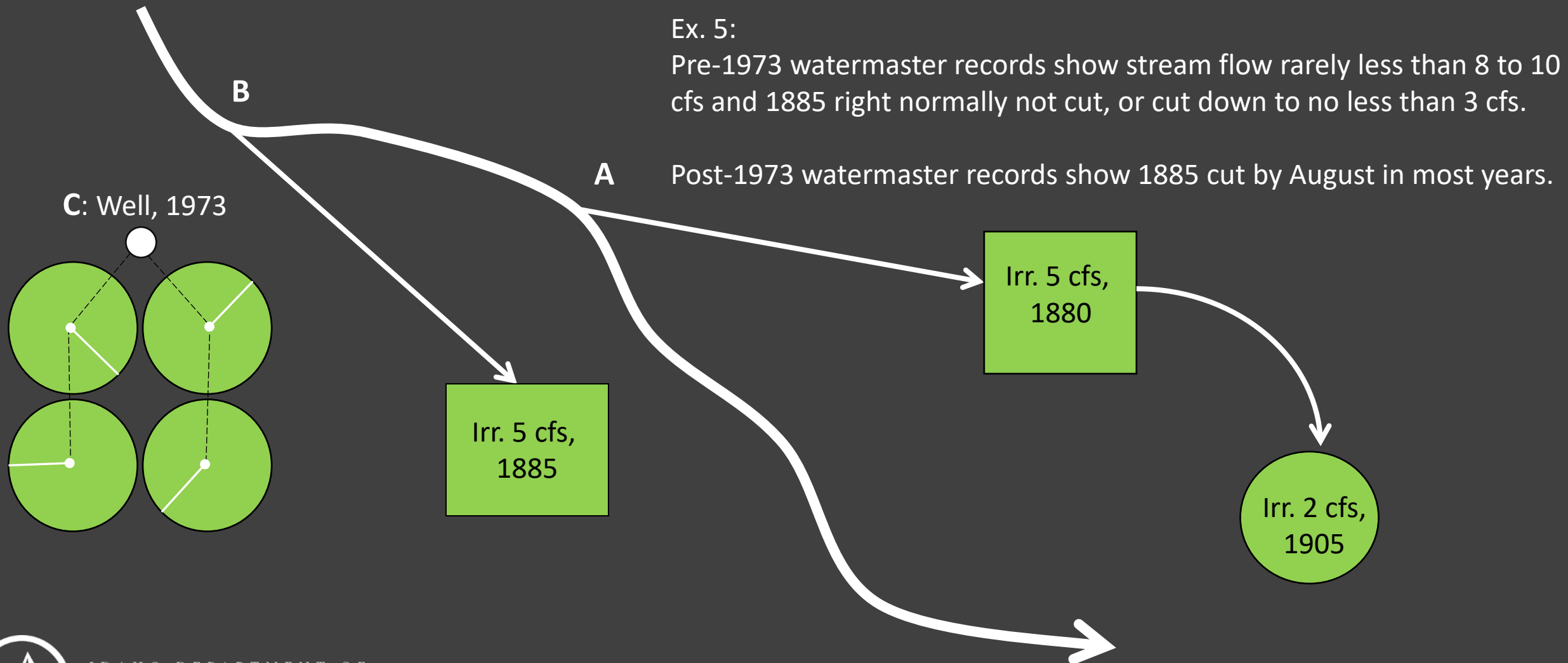
Elect watermaster and treasurer, and adopt budget and resolutions

Measure and report on volume of water diverted within district

Regulation of Rights by Priority Date



Regulation of Rights by Priority Date

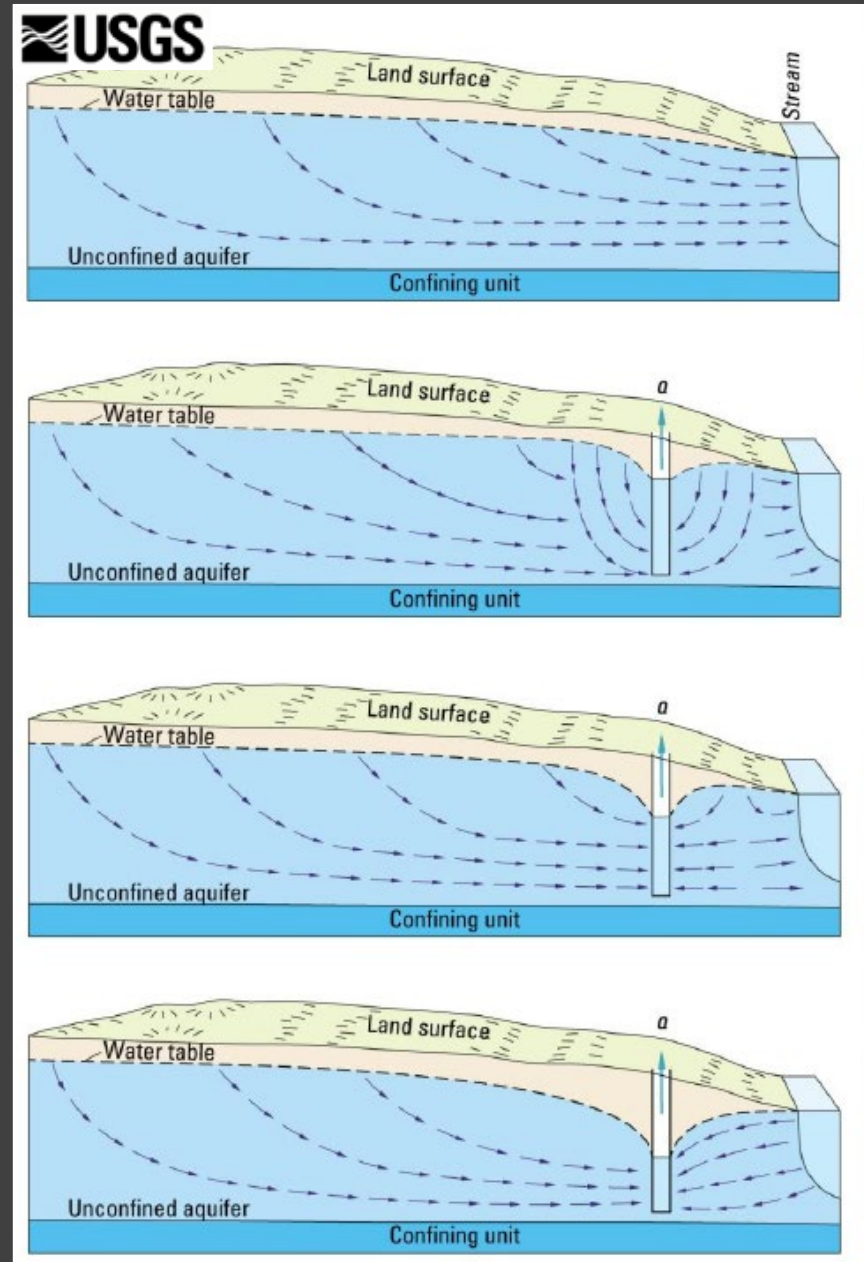


Can User B call for delivery of water against User C (owner of ground water right)?

Can groundwater pumping reduce streamflow volumes available to surface water users?

- A. Pre-pumping condition
- B. Reduction in aquifer storage predominate
- C. Captured ground water discharge
- D. Captured ground water discharge and induced infiltration

How does Idaho water law address this question?



Idaho Conjunctive Management & Delivery Calls



Prior to mid-1990's, surface and ground water administered separately on the ESP

Musser v. Higginson (1994)

- Claimed insufficient SW supplies and requested full delivery
- Request denied citing no authority to administer SW and GW sources together (conjunctively)
- Legal challenges resulted in...



Musser v. Higginson (1994)

1. Courts concluded under the prior appropriation doctrine, the Director has a “*clear legal duty*” to administer surface and ground water rights together
2. Conjunctive Management Rules (IDAPA 37.03.11) adopted in 1994 & approved by legislature in 1995



Topics Covered by Conjunctive Management (“CM”) Rules of IDAPA 37.03.11

1. Definitions
2. Filing Delivery Calls
3. Responding to Delivery Calls
5. Determination of Material Injury
6. Mitigation Plans



CM Rules – Definitions

- 💧 **Conjunctive Management Defined (010.03)**
 - “Legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources, including areas having a common ground water supply.”



Wheel line on spuds Aberdeen area, 2015

CM Rules – Definitions

- 💧 Delivery Call (010.04)

- 💧 “a request from the holder of a water right for the administration of water rights under the prior appropriation doctrine”

- 💧 Area Having A Common Ground Water Supply (010.01)

- 💧 “A ground water source within which the diversion and use of ground water or changes in ground water recharge affect the flow of water in a surface water source or within which the diversion and use of water by a holder of a ground water right affects the ground water supply available to the holders of other ground water rights”

CM Rules – Definitions

💧 Material Injury Defined (010.14)

- “Hindrane to or impact upon the exercise of a water right caused by another person as determined in accordance with Idaho Law, as set forth in Rule 42”



CM Rules – Mitigation Plan

💧 Mitigation Plan (010.15)

- Document submitted by owner(s) of junior priority ground water rights
- Identifies actions and measures to prevent, or compensate holders of senior priority water rights for, material injury caused by diverting ground water in an area having a common ground water supply

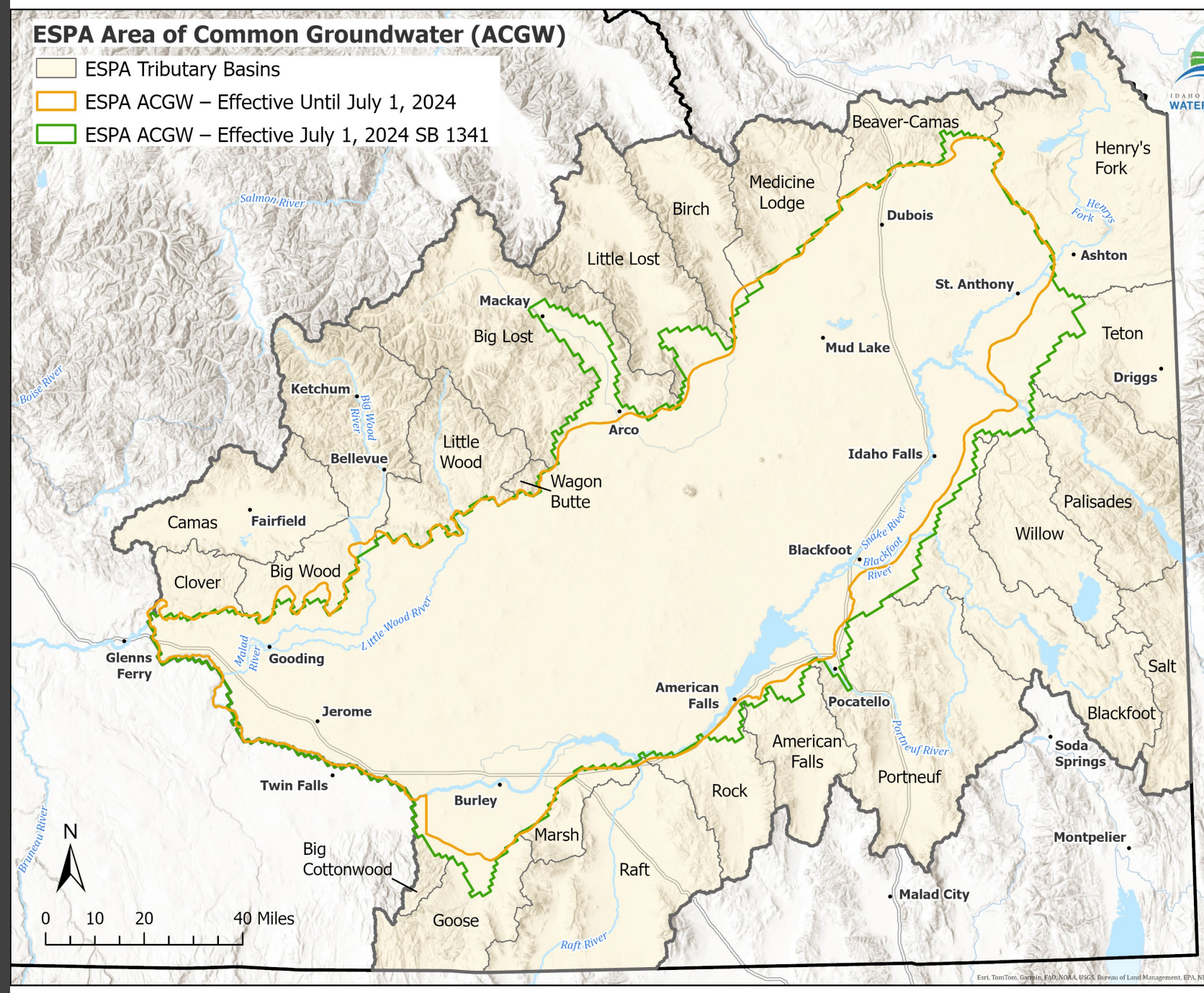
Mitigation plans allow junior users to divert out of priority if they meet the terms and conditions of the plan.



ESPA ACGWS

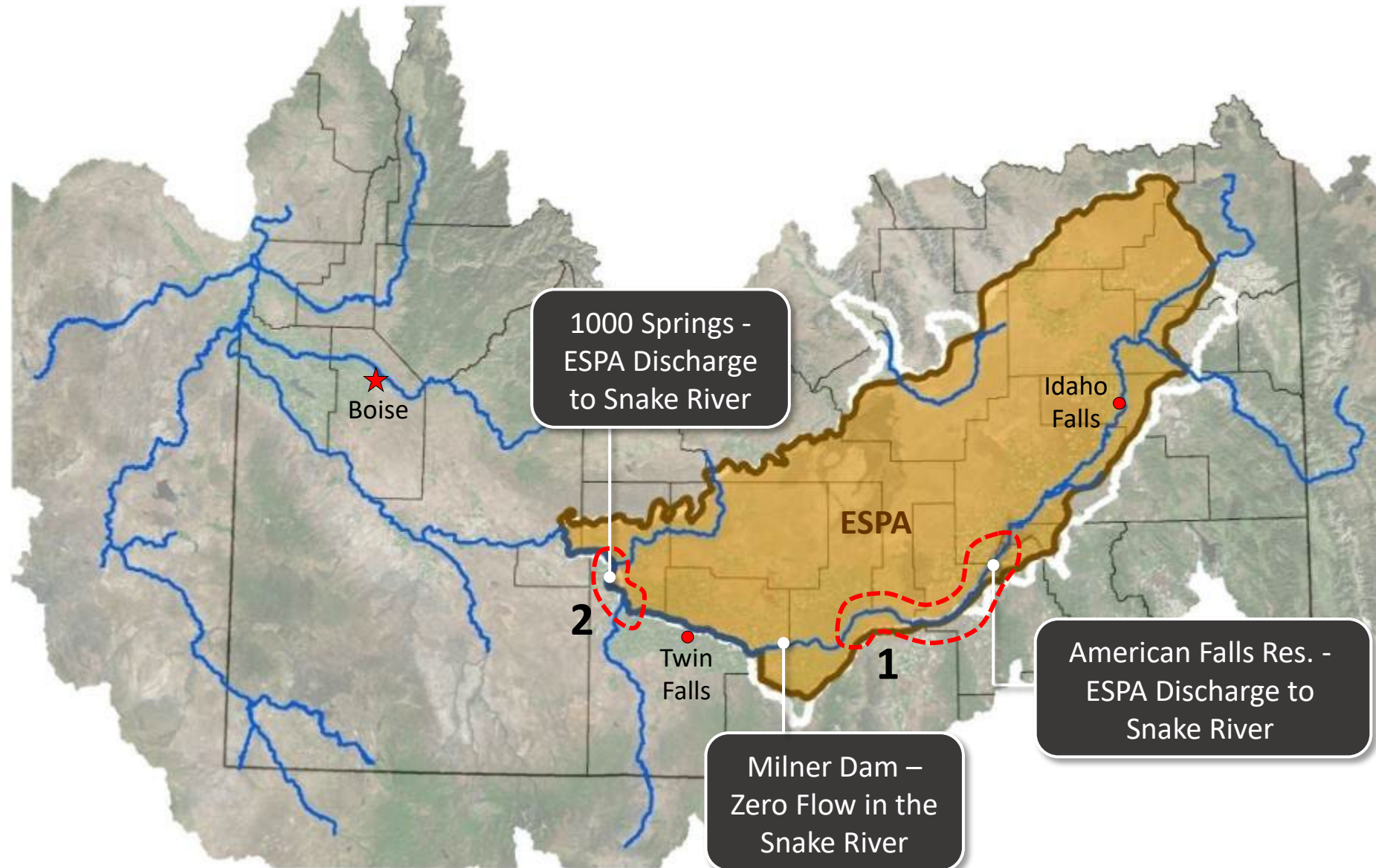
- Defined in 1994 CM rules
- Modified July 1, 2024 in IC § 42-233c

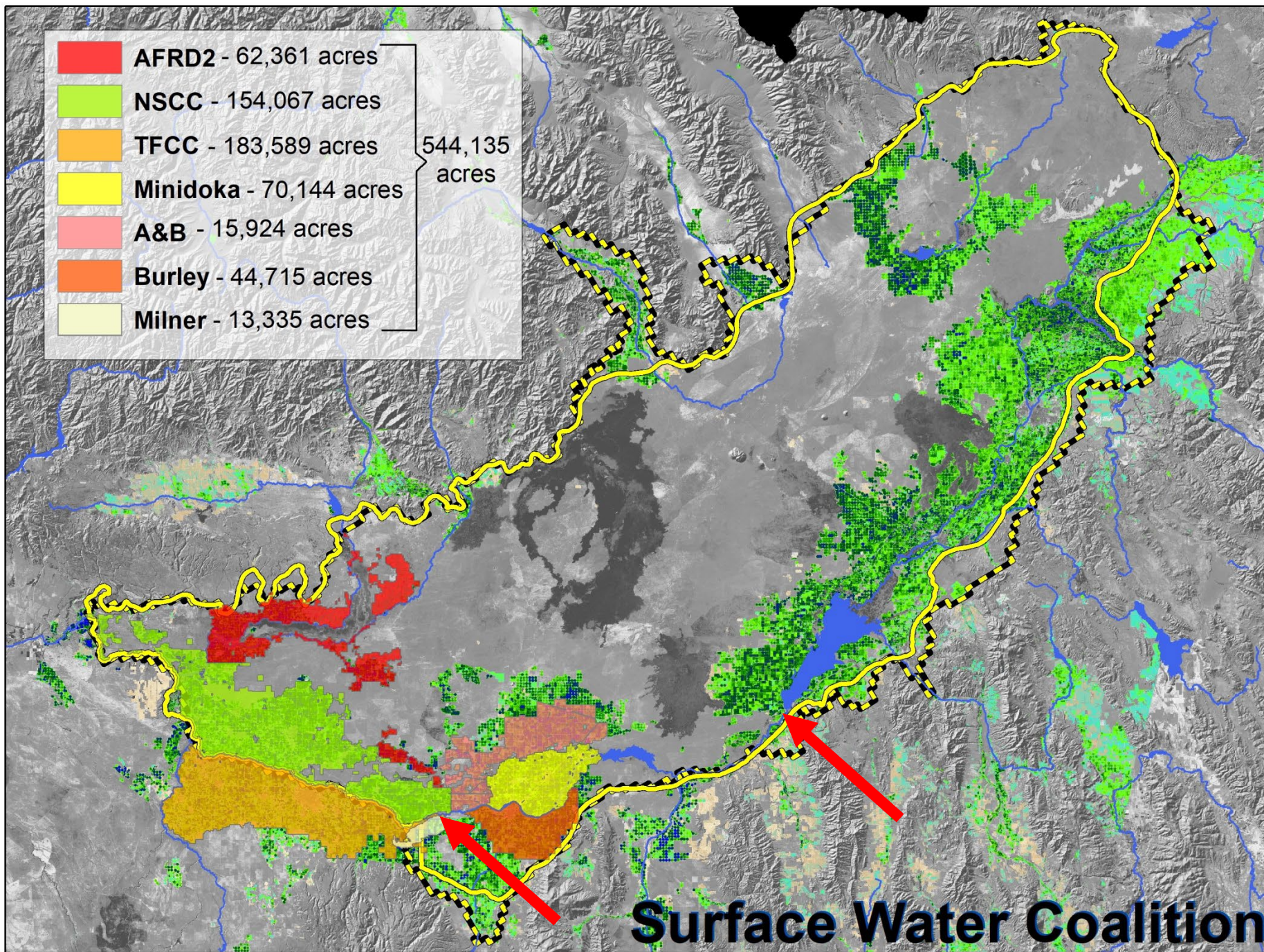
Establishes boundary to delivery calls pertinent to ESPA



Eastern Snake Plain Delivery Calls

1. Surface Water Coalition Delivery Call
2. Spring User Delivery Calls (x11)





Surface Water Coalition Delivery Call – History

- 💧 2005: Delivery Call Filed
- 💧 2005 to 2008: Parties worked to develop methods for determining material injury
- 💧 2008 to 2016: Saw implementation of the court-approved “Methodology” for determining:
 - In-season injury, and
 - End-of-season injury to storage carryover
- 💧 2016 to 2024: Six approved mitigation plans for Idaho Ground Water Appropriators (coalition of GWDs representing mostly irrigators), cities, and other groups.
- 💧 2024 to present: ground water users operating under existing or modified mitigation plans



Idaho Code § 42-233c

(enacted July 1, 2024)

1. Redefined Eastern Snake Plain Aquifer Area of Common Ground Water Supply
2. Grants authority to expand the ESPA ACGWS into tributary basins that affect the ESPA
3. Requires public notice, public hearing, and opportunity for public comment prior to expansion



Questions or Discussion?



Next Steps...

1. Written comments accepted through April 7, 2025
2. Director will review the record, decide what action to take, then issue Order

Ground Water Districts in and around the East Snake Plain

