ESPA Tributary Basin Hearing: American Falls Tributary Basin

Unofficial Public Hearing Transcript

3/25/2025 at 1:04 PM

Brian Ragan 01:59

Okay I'll repeat what I had just talked about the moment ago. So, we are recording the audio of this meeting and we're recording right now the board of handouts back there, there's an agenda that has important information on it. Item five of the agenda has a physical mailing address, but also my email address, if you'd like to submit written comments up through April 7, but we also have the opportunity to provide oral testimony here tonight. Okay, well again, thank you, everybody. My name is Brian Ragan. It is 1:04 March 25, 2025, we're at the Arbonne elementary school, to discuss public hearings in Eastern State plain aquifer tributary basins. On March 7, 2025, the department mailed notice to all ground water right holders in this tributary basin of this Hearing, and we also posted notice on the town hall Idaho website. The purpose of the hearing is to present information and give the public an opportunity to provide oral, 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. Actually, yeah, I forgot to ask him that dim the lights a little bit. That's good. Okay, sorry about that and their screens, that was a little bit crooked earlier. So, I think that's both in too much as I mentioned, the agenda has a mailing address, but also the notice that was sent out at the mailing address where you can submit written comments. The meeting agenda, we'll go through some greetings and introductions. There will be two informational presentations. We'll have time for a question and answer session, and then we'll take public testimony, and then we'll adjourn. So, there are some other departmental staff in the room here today, if I could ask them to introduce themselves.

Steve Visosky 04:11

Hello. My name is Steve Visosky, water distribution section manager in the Boise office.

Blake Jordan 04:18

Blake Jordan, Water Resource Program Manager in Idaho Falls Office.

Jon Davidson 04:24

Jon Davidson, I'm glad water resource agent in the Idaho Falls office

Christian Stewart 04:29

Christian Stewart, water resource agent also in the Idaho Falls.

Meghan Carter 04:34

Meghan Carter. I'm a Deputy Attorney General, and I represent the Department of Water Resources. And I am out of Boise.

Brian Patton 04:40

Good afternoon. I'm Brian Patton, Deputy Director of Department of Water Resources.

Matt Anders 04:47

I'm Matt Anders. I'm a hydrologist with IDWR and I am out of the Boise office.

Mat Weaver 04:54

Mat Weaver, I'm the Director of the Department of Water Resources out of Boise and I just want to thank everyone for coming. We held a meeting yesterday on this subject in the Big Lost Basin. We had about 80 folks show up. And that evening, or last night, we were in Howe in the Little Lost and we had somewhere between 30 and 40 folks show up. So, after this presentation, we'll be over in the Portneuf basin, and then in the Raft tomorrow, and there are a lot of staff here, but that's because we think this is very important we recognize the disruption that this process can potentially cause ground water users in the upper basins. We want to make sure we have people here that can answer your questions and that you can provide testimony, so that we have your thoughts to consider if we take the next steps after this meeting, we've got some good presenters here that are going to be background on the legal, administrative and technical basis for the actions that we will potentially be taking. So, with that, I'll just turn it over to those folks.

Brian Ragan 05:56

Thank you, Mat, any water district staff here today that would like to introduce themselves here?

Richard Curry 06:04 Richard Curry, watermaster for 29O.

Brian Ragan 06:08 Any elected officials or county folks here?

Dan Bramwell 06:16 Mayor for Dubois, Idaho.

Brian Ragan 06:19

Thank you. Gail, would you guys introduce yourselves at all or? [audience response] No. [Brian] Okay. Have I missed anybody? Sir.

Bob Turner 06:31

My name's Bob Turner. Work with Idaho ground water appropriators. We provide services for 10 ground water districts, from the Thousand Springs area up to Ashton, over many acres of irrigation. We provide legal services. We deal with water dispute, water policy disputes. We have a technical working group of hydrologists that looks at the orders and the methodology, and we provide public relation activities and other services to the ground water users, mitigation plan development and so forth. So we provide that service to ground water users.

Jackson Higgs 07:18

Jackson Higgs, I'm a hydrologist. I work with IGWA, but I also work with a lot of the ground water districts, including the American Falls Aberdeen Ground Water District, of which this valley is covered. Not all the

members here, or all the water right owners are members here, but there is currently a ground water district that covers this area.

Brian Ragan 07:40

Okay well, thank you, everybody. Now at this time, we'll get into the informational presentations. If I could ask you to hold your questions until we're done with those. During my presentation, I will be covering the prior appropriation doctrine, water districts, Idaho conjunctive management and delivery calls, surface water coalition delivery call and Idaho Code 42-233c. The prior appropriation shall give the better right as between those using the water. Now this quote comes from the Idaho constitution, and it identifies Idaho as a prior appropriation doctrine state. So, in other words, when it comes to administering water use, first in time is first in right. For example, if your recognized use of water predates your neighbors, call them neighbor number one. You're considered to be senior, and neighbor number one would be junior to you next. If the recognized use of water by neighbor one predates neighbor number two. Neighbor one would be senior and neighbor two would be junior so on and so forth down the line. Now I've been using the phrase recognized date of use, but the actual term is called the priority date. And another term to mention the water right, is a catch all for the authorizations to use waters of the state that were either decreed by a court or issued by the Idaho Department of Water Resources. And when this language was written into the Constitution, it adopted what was already the law before Idaho was admitted as a state and union in July of 1890. And because of this language, we must have lists of water rights with clearly described diversion limits, priority dates, water districts and watermasters across the state to administer these water rights. Tracking, spreadsheets and databases, accounting models and ground water models, surface and ground water monitoring networks and technical and legal staff all to figure out who is first in right, and to ensure those who have the senior water get the water they are legally entitled to. Now on the topic of the water districts, a water district is a governmental entity organized in accordance with the provisions of Chapter 6, Title 42 Idaho Code. And in Idaho, water districts are the statutorily authorized entities responsible for carrying out priority administration. The director creates water districts, overseen by watermasters in order to distribute water rights from surface and ground water sources in accordance with water right priority dates. Water distribution in water districts is accomplished by watermasters, who are elected annually by the water users within the district. And these watermasters are supervised by the director, and report to the director on an annual basis on how they measured and administered the rights in their districts.

Brian Ragan 10:36

Many of you are well versed in this water right administration, but if you allow me a few moments, I'd like to present two scenarios just to set the stage. This scenario shows a surface water system, and on the stream there are two points of diversion, A and B, and three water rights shown in green, and each water right has a diversion rate and a priority date. The total diversion rate for all three water rights is 12 cubic feet per second, and the amount of water available in the stream will determine how much water each user gets. So, let's look at a few examples. So, in example one, the stream flow is 12 CFS. So, the 1880 right gets their full allotment. The 1885 right gets their full allotment, and so does the 1905 right. In example two, stream flows is 10 CFS, the 1880 right gets its allotment, 1885, but there's nothing left over for the 1905 right. In example three, stream flow is 7 CFS. Again, the 1880 gets their full. 1885 is cut down to two CFS. And again, there's nothing left over for the 1905 right gets water. So, when there's not enough water to satisfy all rights, the senior water rights receive their full entitlement before the junior water rights receive any water. This is not a share and share alike system. Now this scenario is nearly identical to the previous, but note the addition of point of diversion C, which is a ground water right that began pumping in 1973 to irrigate four full pivots. And

here the pre-1973 watermaster records show that the stream flow was rarely less than 8 to 10 CFS, and the 1885 right was not cut or cut down to no less than 3 CFS. But the post-1973 watermaster records show that the 1885 right was cut by August in most years.

Brian Ragan 12:48

So, the question is, can the owner of the 1885 surface water right call for delivery of water against the owner of the 1973 ground water right? The answer is yes. And I hope that these following slides, which I'll show ground water and surface water interaction in the presence of a pumping well, will explain why the answer is yes. This figure and text, courtesy of the United States Geological Survey, shows the effect of a pumping ground water well adjacent to a stream, and the lettered explanations correspond to the lettered figures. Figure A shows no ground water well. In figure B, pumping ground water from a well can cause depletion to the surface water system because the sucking action of the pump influences and pulls water towards the well. This is called the cone of depression. This conical influence can extend outward and intercept surface water sources and other water that would have otherwise ended up in the surface water system. And this is shown in figures B, C and D. The volume of water in the stream decreases because the well has captured water that would have made it to the stream, and because water in the stream has been flowing out of the bottom and the banks towards the pumping well. The recognition that surface and ground water sources interact resulted in the need to manage the two sources as one source, or to use the proper term and manage the two sources conjunctively. Now has Idaho always administered surface and ground water sources on the eastern snake plain conjunctively, the answer is no. Prior to the mid-1990s surface and ground water was administered separately on the eastern snake plain, and this changed in 1994 due to the case Musser vs Higginson. Now, in this case, the Mussers owned a surface water right with an 1892 priority date that was delivered by a spring source from the Curren tunnel in southern Idaho. The source of the spring was ground water emanating from the aquifer. In 1993 the Mussers claimed that not enough water was available to satisfy their full water right. And they requested full and immediate delivery of water rights, but the director of the Department of Water Resources denied the request, citing no authority to administer surface and ground water sources together. Now after this, the director started the process to create rules that describe how to administer ground water in the Eastern snake plain aquifer and surface water in the Snake River together or conjunctively. And at the same time, the Mussers sought assistance from the court, hoping to compel the director to deliver water rights and distribute ground water based on priority. And the Court ruled in favor of the Mussers. So in the end, the Mussers were supplied water from another source. However, two important consequences of this matter were that the courts concluded under the prior appropriation doctrine, the director has a clear legal duty to administer surface and ground water rights together, and we had the conjunctive management rules adopted in 1994 approved by the legislature in 1995.

Brian Ragan 16:00

The conjunctive management rules lay out the process of administering surface and ground water rights based on priority in an area having a common ground water supply. These rules establish the procedures to regulate the distribution of water from streams, rivers, lakes, ground water and other natural sources as necessary to carry out the laws in accordance with the priorities of the rights of the users. And these rules go over definitions, filing and responding to delivery calls, determining material injury and mitigation plans. A few definitions: conjunctive management is the legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources. Conjunctive management describes the concept of administering ground and surface water sources together, including inside areas having a common ground water supply. A delivery call is a request from the holder of a water right for the administration of water rights under the

prior appropriation doctrine, an area having a common ground water supply. This is the actual definition, but it's not easy for me to read as a whole, so I break it down into its components. So, it is a ground water source and a surface water source that are hydrologically connected, and due to this connection, when ground water volumes fluctuate, so do surface water volumes and these fluctuations affect the amount of surface and ground water available to people using those common waters. Two aspects to note, areas of common ground water are delineated by boundaries, which can be represented on maps. And areas of common ground water also define the extent of those areas subject to delivery call actions. Material injury, that's the hindrance to or impact upon the exercise of a water right caused by another water user. And last definition, mitigation plan, this is a document submitted by owners of junior priority ground water rights. These mitigation plans identify actions and measures to prevent or compensate holders of senior priority water rights for material injury caused by diverting ground water in areas having a common ground water supply. I do want to point out that mitigation plans, when in place, allow Junior users, users to divert out of priority if they're meeting the terms and conditions of that plan. So currently, there's only one defined area having a common ground water supply in Idaho, and it's located below the Eastern Snake Plain. That's this area there. It's not showing up too well, but on your agenda, there's another, another map. The area bounded by the orange line on this map was the original Eastern Snake Plain Aquifer Area of Common Ground Water Supply boundary, as per the 1994 conjunctive management rules. You can see that up through here.

Brian Ragan 19:22

The green line on the map. That's the map that's on your agenda. This was modified on July 1 of 2024 as per Title 42, Chapter 233c, of Idaho code, and is shown as the green line on this map and the agenda. We have the tributary basins around the Eastern snake plain. And on May 28, 2024, notice was sent to owners of ground water rights in those areas to be included between the orange and green boundaries. Though that's this area here, and here, there's some little sticks on this edge as well. And on June 28, 2024, the director issued an order stating that ground water rights in these newly included areas will be phased into delivery call action starting November 1, 2025, so doing so provided these users 18 months to react to the boundary change. That deadline is fast approaching. Most Idaho conjunctive administration delivery calls are on the eastern snake plain, and the Department has conjunctively administered the Eastern Snake Plain for three decades. Spring user delivery calls are mostly resolved or quiet at this time, but the surface water coalition delivery call is ongoing. I like to spend a slide or two on that. The Surface Water Coalition is a collection of seven surface water delivery entities we have American Falls Reservoir District 2, North Side Canal Company, Twin Falls Canal Company, and the Minidoka A and B, Burley, and Milner irrigation districts. And combined, they irrigate about 545,000 acres. All the surface water coalition entities divert water from the Snake River between American Falls Dam and Milner Dam, shown on the map between the red arrows, although their places of use are further west. This delivery call was filed in 2005 and between 2005 and 2008 the parties worked to develop methods for determining the material injury. Between 2008 and 2016 we saw the implementation of the court approved methodology for determining the in-season injury and the end of season injury to storage carryover. Between 2016 and 2024 there were a number of approved mitigation plans for the Idaho Ground Water Appropriators, cities and other groups, and as Bob mentioned, IGWA is a coalition of ground water districts representing mostly irrigators. And then from 2024 to the present, those ground water users are operating under existing or modified mitigation plans. So, for my final slide, it takes us back to the beginning, and the purpose for holding this public hearing Idaho Code 42-233c was enacted on July 1, 2024, and it redefined the Eastern Snake Plain Aquifer Area of Common Ground Water Supply. It granted authority to expand the ESPA Area of Common Ground Water Supply into tributary basins that affect the ESPA

and it required public notice, public hearings, and an opportunity for public comment prior to the expansion. And that's the end of my presentation. I asked Matt to come up and tell us what he's going to be talking about.

Matt Anders 23:19

Alright everyone. My name is Matt Anders. I'm a hydrologist with the Department of Water Resources. I'm going to spend about 10 minutes going over the connection between the hydrologic connection between the tributaries and the Eastern Snake Plain Aquifer. So here we are back at the same map that Brian showed. The polygon in the middle is the Eastern Snake Plain. The, uh around it are the tributaries, outlined in gray here and then labeled with their name. The orange line was the old area of common ground water up to July 1, 2024, and the green line is the new area of common ground water since July 1, 2024. The change between those two lines was essentially the area of common ground water got a little bit larger and it extended up some of the tributary drainages, such as the Big Lost, the Little Lost and a bit in the American Falls as well. So, let's talk about the Eastern Snake Plain Aquifer first. So here we are in eastern Idaho again, this green line is the area of common ground water as of July 1, 2024, so flow with the aquifer is northeast to southwest, depicted by these thick lines here and here. And the aquifer discharges to the Snake River in two places here, in this kind of orangish line, thick line here, this is the Thousand Springs reach of the Snake River. The other place where the aquifer discharges is this purple, thick purple line here we refer to that as the near Blackfoot to Minidoka reach of the Snake River. This portion, this reach, is critical to the surface water coalition. In the July through September timeframe, almost all of their natural flow is coming from the aquifer, discharging from the aquifer to the river. And since about 1980 we've seen a decline in that discharge. So now let's start talking about the tributary basins. We're back to our original map. So, what these tributary basins are is they're surface water drainages that were delineated by the USGS in the 70s, the ground water drainage areas in the in this area generally match the surface water boundaries. There are some places really don't match. Oftentimes, that's what we've referred to as drainage, or ground water divides in the valley bottoms. For example, the Bancroft Lund area over here in the Portneuf, the Arbon Valley, which is up valley from where we're sitting right now. There's a ground water divide there as well. Sometimes those can get challenging about where they actually are. So here I've zoomed in on the American Falls tributary drainage. The orange line is here. This is the old area of common ground water. This green line is the new area of common ground water.

Matt Anders 26:28

So, I'm going to show you some numbers here, and it's going to represent the American Falls tributary drainage above, you know, south of this green line. So, this is a cross section illustrating the relationship between the tributary drainages and the Eastern Snake Plain Aquifer. So, on the left here, I have a tributary drainage. On the right I have the Eastern Snake Plain and this dashed line here is the transition zone between the two. So, we see three connections between those, between the tributaries and the Eastern Snake Plain. The first is a surface water connection, tributary stream is coming down out of the tributary, runs out onto the Eastern Snake Plain and discharges to the Snake River. Relatively straightforward. We can see it. We can measure it. The other two connections are underground connections, and they are more difficult. Can't see them. They're difficult to measure. So, the first one is seepage. So, I have seepage labeled right here on my on my figure. So as the tributary stream comes down out of the tributary and goes out on the Eastern Snake Plain. Some of these tributaries start seeping water through their bed, through the bed of the stream, and that water is joining with the Eastern Snake Plain Aquifer. The other connection that we see is underflow, underflow labeled right here. So, we have, we have aquifers in the tributary drainages, they're running downhill, or they're flowing downhill towards the Eastern Snake Plain Aquifer. When they get to the Eastern Snake Plain, they merge with the Eastern Snake Plain Aquifer.

So tributary drainages are contributing water in various amounts. Some of them have large, a large amount of water. Some of them have a little, some of them are only intermittent, you know, just a few times of the year. So, this pie chart illustrates the total amount of water being added to the Eastern Snake Plain Aquifer in any given year. The two pie slices that we're interested today are this blue slice and this orange slice, the blue is the tributary underflow from all the tributaries added together, and that's about 950,000 acre-feet a year. The orange slice is the seepage from the tributaries added together. That's about 650,000 acre-feet a year. When you add those together, that's 20% of the water going into the Eastern Snake Plain Aquifer on any given year is coming out of the tributaries. So, when we pump ground water and use it for a beneficial use, oftentimes there's a consumption of that water, meaning it's gone to the system. It's used, but we can't get it back. It doesn't go back to the aquifer. It doesn't go back to streams. The largest form of consumptive use that we have in the tributaries and on the Eastern Snake Plain is pumping ground water and putting it on crops for irrigation. The portion of the water that we irrigate with that evaporates off the ground or it transpires through the through the plants as they're growing, that water is lost to the atmosphere. We don't have access to that anymore.

Matt Anders 29:53

So, on the left, this pie chart here, the biggest piece of consumptive use from the Eastern Snake Plain and its tributaries is from the Eastern Snake Plain Aquifer itself. About 2.4 million acre-feet a year are consumptively used out of the aquifer. In the tributaries outside the area of common ground water, there's about 287,000 acre-feet of consumptive use, in two of the tributaries, the Big Lost and the Little Lost that are inside the area of common ground water, It's a little less than 100,000 acre-feet of consumptive use. So, what I've done is I've taken this, these slices that represent the tributaries, and I've created a new pie chart on the right, and I've labeled each one of the tributaries and how much consumptive use they have. So today we're in the American Falls, which is down here. So, the average consumptive use in the American Falls tributary is 2000 acre-feet each year. This is one of the handouts that was in the back. If you didn't get one, we can get you one before I go. So now I've taken all of these numbers from this pie chart, and I've put them on this map right here. This gives you a spatial representation of where the consumptive use is happening in the different tributaries. This is also a handout that's available to you. And then this is my last slide. So consumptive use in the tributaries is reducing the water inputs to the Eastern Snake Plain Aquifer. It's reducing, you know, the direct connection, the surface flow, underflow and seepage. More importantly, that consumptive use is reducing the discharge in the near Blackfoot to Minidoka reach, which is the critical reach for the Surface Water Coalition. So, the way to interpret this map, let's see American Falls. American Falls is right here, and their number is the number there is 2000 acre-feet. So, of the consumptive use happening in the American Falls tributary each year, that consumptive use is causing a reduction in the near Blackfoot to Minidoka reach of 2000 acre-feet per year. With that, I'll hand it back to Brian, and we can move on on the agenda.

Brian Ragan 32:31

Okay, go ahead and flip the lights on. That was the informational presentations. I think we're into the question and answer portion of the meeting, so I'll open it up for questions from the audience, yes.

Hans Haden 32:42

He just said 2000 acre-feet that is being consumed. Question several in here, are you counting in the reservation as part of that? Cause we have no control over that. So, neither do you, because if you don't take if they're inside of that, we just took everything outside of that down to about five. There's 10 times more being used there than

there is any place else. So, you can't just say, Okay, you're going to hit me for 2000 acre-feet, but it's all being caused by them.

Matt Anders 33:29

So, we don't that's just [inaudible].

Hans Haden 33:34

So, you're saying that 2000 acre-feet, it's outside the reservation, would go into the Snake River aquifer.

Matt Anders 33:43

Yes, I'm saying that, that all the consumptive use reduces flow to the Eastern Snake Plain Aquifer.

Hans Haden 33:52

That isn't what I asked about. I asked is that 2000 acre-feet going into the aquifer? You're saying, if I reduce by 2000 acre-feet, you're going to get it. That's not correct. You only get a percentage of that 2000 acre-feet. Why would you get it all? Why would you get it all?

Matt Anders 34:13

Because it's staying in the aquifer. It's eventually going to make its way down there, if people aren't pumping it out.

Hans Haden 34:21

But that's the presumption that you have, that you there's they change the law that I have to prove it's not going, instead of you have to prove it is going. That's a little bit of a problem, because that changes everything that's there. Two other questions: Let's just take, for example, a person out of Blackfoot, and he has a consumption, you say, is using 200 acre-feet someplace in the field. If he quits using it, or he changes from his flood irrigation, that is 25% efficiency. He's benefiting the aquifer, because most of that's going on the ground, some evaporates, most of it's going to go on the ground. Okay, so then he's actually benefiting the people in Twin Falls. But you tell him he has to quit putting water on when he's actually benefiting them, because they will cut him back reverse that if he goes to sprinkler irrigation, he's not putting it in now, so suddenly that drops the Snake River Plain, I mean the Snake River itself down. So Twin Falls calls a water call on him for not wasting water. Because it became more efficient. Number two of that scenario, you go downstream to Twin Falls and they're flooding or doing something else, and they're 40% efficient. You're saying that the person because they 're 40% efficient, the person upstream get a 75 to 80% efficient because of the way he's farming, gives a water call to add to this person's poor 40% efficiency. Is there anything in the law that takes that into effect whatsoever? Because I've never seen it.

Brian Patton 36:13

The issue of efficiency has been litigated several times, most recently at the Idaho Supreme Court, and the efficiency of the Surface Water Coalition canals, including Twin Falls, was found to be sufficient. So that question, that very question you're asking, has been litigated all the way through the court system.

Hans Haden 36:35

But you still didn't answer the question that he's 40% efficient so he can make a water call, which, if he suddenly became 80% efficient, he wouldn't get a water call.

Brian Patton 36:47 Of course, I've answered that question for...

Hans Haden 36:49 Saying that you can be inefficient.

Brian Patton 36:51 The courts have said that Twin Falls and the rest of the Surface Water Coalition...

Hans Haden 36:56 Say it straight, you said that he has the right to be inefficient.

Brian Patton 37:01 Their current efficiency has been found by the courts to...

Hans Haden 37:05 To be sufficient.

Brian Patton 37:06 If it has been found to be sufficient.

Hans Haden 37:09 So that's a problem that the Supreme Court that said, "Yes, you can go ahead and be inefficient."

Brian Patton 37:15 The way to change that is to change the law, as the law currently...

Hans Haden 37:19 Correct so someday that has to become part of this scenario, but it won't be in my lifetime.

Brian Patton 37:24 And that would be a great thing to put on record during the...

Hans Haden 37:28

So, I'm putting that in the testimony right here. Okay, the second thing, how about if you put a well someplace, and I pump 200 acre-feet out, depending on where it's at in this whole system, it may be a one to one because I'm right next to where it's running into the river. Okay, so there's some of those. I agree. How about all the rest of them? And you're making the claim that if I stop 200 you're going to eventually get 200 but that's really not the case. You don't know what percentage of my 200 acre-feet that I got a water call on and had to shut down is ever going to make it someplace to benefit the other person. And in the broader scenario, how many years does it take to get there? 10-20 I don't know if he shuts down his well, how long it's going to ever take before his finally gets there, because we don't know where that stream comes out, where it comes up, and whether it's just sitting half the time there and it's not even moving. So, you make water calls against me for 200 acre-feet. It's technically not fair, because you can't say I gave them that 200 acre-feet, therefore Twin Falls can make a water call, nothing happens.

They make a bigger water call, nothing happens. Now you're trying to expand the Snake River Plain to take in every little corner, around the edges that aren't one to one ratios. And so, I want my testimony is adding everybody in as the same as somebody that's got us a well right next to a spring that's running into the Snake River Plain is not fair. And you can comment on that if you want.

Brian Ragan 39:20

No, I think you're right. Depending on where you're located, to important stretch of the Snake River, you have very degrees of impact. But I think we're in agreement you are going to have some impact somehow.

Hans Haden 39:29

There'll be something, yes, and in our case, our impact goes directly to the water that's running in and being used on the reservation. There's not much of Bannock Creek that doesn't get used on the reservation. And because my neighbor is also irrigating out of the creek, that I run some of my water from, I change my irrigation practices to make sure that he who has first in time on a reservation right has the water in August and September, I stop irrigating and I only grow crops, I quit doing alfalfa because he needs the water then. So, I do these mitigations, and it's going to the reservation, and then Twin Falls will have a water call on me, possibly because of what you're doing here, but it has nothing to do with them. It is only going to go to the reservation. It does not have to do with them. So, what right do I then have to stop that water call, because they're saying I have a one to one, and it's not happening. I can prove it.

Brian Ragan 40:37 You're talking surface water now. Do you have ground water rights?

Hans Haden 40:41

Both, your saying we're all hooked together so it doesn't matter, but the surface water is one to one.

Brian Ragan 40:50 Sure that's a great comment for the record. Yeah, thank you. any other questions?

Brian Ragan 41:02

Yes, sir.

Rich 41:02

On your comment on the reduction of the water going in the aquifer since 1980, has that reduction occurred from farm irrigation, or has it occurred from housing development?

Brian Ragan 41:26

What comment was that?

Rich 41:28

You said that the discharge reductions from 1980 has reduced.

Matt Anders 41:38

That was me, I said that the discharge from the aquifers near Blackfoot to Minidoka reach has been going down since.

Rich 41:38 Correct

Matt Anders 41:44 Irrigation municipalities.

Rich 41:44 But has the irrigation acres increased?

Matt Anders 41:51 Oh, the irrigation acres increased since 1980

Brian Patton 41:56 Not since '92

Rich 42:00

So we're looking at housing development or whether that has potentially reduced this but yet the growers are going to be held accountable for it.

Brian Patton 42:12

For non-irrigation uses from the aquifer, for cities, houses, industry are about 3% of the total use. So small, it's there. It's a real number, but irrigation is about 97%. But to your point, cities are part of cities within the area common ground water supply or part of the water call. They've had to develop a mitigation plan and do things. They've had to develop their own recharge program, you know, to compensate for their impacts. Industries, you know, a lot, some of the industries, Land West and Simplot, etc., have a mitigation plan where they do certain actions to compensate for their impacts on the aquifer.

Rich 43:00

So what I look at is water users from Shelly area, Blackfoot, the water calls, and it's not reducing or taking away the seniority rights of the water owners, but when they make a water call, everybody should have to take a cut, even the ones that make the call, if there's a shortage of water and that you can't just shut these growers off, I mean, financially to the communities in the State is devastating.

Brian Patton 43:44

And that's the purpose of developing mitigation plan, okay? And that's what, that's what these guys would, what IGWA have done for the ground water districts and ground water pumpers on the plain, they developed a mitigation plan that both them and the Surface Water Coalition canals, Twin Falls, etc., have agreed to and as long as long as they do the things that the plan says they're going to do, then they can continue pumping ground water.

Rich 44:14

But impressive law, like Hans was saying, that if Twin Falls makes the water call, if they're included in this area, they can shut him off, and he's not subject to a reduced irrigation level. He's done.

Brian Patton 44:32

There's if, if the growers, if the Department decides to include this valley in the Area of Common Ground Water Supply, then the ground water pumpers would have the option of probably joining one of the ground water districts and getting coverage that way through the plan that already exists, and these guys would be the ones to talk to about how that work could happen. I.

Brian Ragan 45:03 Anything else, Rich? Someone else? Yeah, end up maybe

Hans Haden 45:09 good. You said, if you decide to you,

Brian Patton 44:15

If, if the, if the Department decide, were to decide to include this valley in the Area of Common Ground Water Supply.

Hans Haden 45:21

So is this already, already a foregone conclusion that we would be, that we would be included, or is it still a discussion

Brian Ragan 45:31

That's the purpose of this meeting is there's a proposed action to include this tributary basin we're holding the hearing to present the proposal, get feedback from the water users, and that will help inform the director when he makes his decision on what to do, yes or no. But that so the fact

Hans Haden 45:47

So the fact that we're above the reservation and they use everything that comes down there anyway, should be part of whether they decide to include this in Snake River, because we have our own deals with the red lip, as some of you know right now, with what's going on with the reservation, and we would probably have to give up something to solve that problem ourselves. And as soon as we give that up, then we'll get a water cut and we go. Now, wait a minute. We got to hit both sides. That's not fair.

Brian Ragan 46:23

I think all the unique aspects of the tributary basins will be taken into consideration as part of the record.

Unidentified Speaker 1 46:33

So geologists are right there. What point in this valley does the water start flowing down towards the same throughout the paint, and where does it flow towards you?

Matt Anders 46:48

So, we have two, we have two reports that we're relying on right now, one from the USGS in the late 90s and one from the Curren Valley, let's say around 2010, we think that the divide is right at the top the ground water divide is very top. As you go up and over, I can't remember what river is when the stream goes up and then it turns west.

Unidentified Speaker 1 47:18

So how much of this valley is it?

Matt Anders 47:26

It's about, it's about 15 miles above where we are right now. That is the divide, and then everything below that.

Brian Ragan 47:40

Okay, any other questions? Okay, we'll get into the testimony portion. Grab those sign-in and sheets. Would you...You. Hans, indicated.

Hans Haden 48:12 So, if is what I've done sufficient to testify?

Brian Ragan 48:16 Yes, you want to just introduce your name. Okay, your full name.

Hans Haden 48:19

My name is Hans Haden. I have both ground water and surface water rights,

Brian Ragan 48:23

perfect. Thank you. Anybody else want to provide testimony here for the record again, you can submit written testimony up through April 7. But even if you wrote no on here, anyone would like to come up and provide testimony? Okay? Well, with that, we'll go ahead and adjourn this hearing. Thank you everybody.

Hans Haden 48:47

I will just say one thing, thank you for having the hearing, even though sometimes it'd be confrontational, because we want answers, but somebody's trying to do something, and it was like watching what went on last summer in the Snake River Plain. At the beginning, it was okay. Every city, from American Falls to Driggs is going to go bankrupt if you shut off all the water. You know there has to be another way to do it, and eventually, they hopefully have come up with a way to mitigate it, and I have good friends, including people like Adam Young, who's been a bunch of so kind of follow along with it. So at least somebody is trying to find an answer, rather than just kill Eastern Idaho, because it's based on agriculture that's based on few of us pray for rain and everybody else gets in that snow. So we have been sending a lot of it down, but last week...

Brian Ragan 49:55

Well, thank you for your comments and all the insightful and good questions. So, with that well adjourn this year, thanks everybody.