

APR 11 2025

DEPT. OF WATER RESOURCES

March 25, 2025

IDWR PUBLIC HEARING – EXPANSION OF BASINS TO SNAKE RIVER

Hans Hayden
3746 Mid Crystal Rd
Arbon, Idaho 83212
208 221 9935

-I did give testimony at the Arbon hearing, but this may be more complete and understandable.
-I was impressed that the hearing was REAL. Those making decisions all came and really listened. Many hearings I've attended, the plan was already set and no one ever cared about what came from the hearing.

Although it seems inevitable that those pushing water calls on junior right holders will demand that all the water in the Snake River Basin be included.... It is problematic for many reasons.

1) Above Fort Hall reservation Arbon 29O calls:

The 29O water users located in Arbon Valley, the upper reaches of the Bannock Creek Drainage and upstream (as stated by IDWR engineers) of the Fort Hall Reservation boundaries which has rights senior to all other water right holders. This being the case, any water that is 'saved' for downstream users would almost always be picked up by the reservation holders, not others making water calls. Thus, no reward would be given to downstream holders for injunctive relief. It could only be argued that everyone must suffer equally, not that the call would solve a water deficiency.

2) Arbon water right reduction 29-O:

The 1990 Fort Hall Indian Water Rights Agreement. The articles of this agreement by and between the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, The State Idaho, The United States and certain Idaho water users. At this point the IDWR who has had no input into the negotiation of this agreement was handed the task of overseeing and administrating the equitable adjustment agreement if and when the trigger point of 2,400 AFA was reached or exceeded (this is a statement of clarification, many of the 29-O water right holders were not aware of this fact). This has happened in four of the last five years. The 2,400 AFA only represents 30% of their full legal entitlement, the increase to 4,500 AFA that was placed in the agreement proposal still only represents 57% of their full legal entitlement. There are wells and pivots that are not protected but have been held to the same management as the protected wells. The increase to 4,500 AFA was in part anticipation of further development of 150 acres that will be under two half pivots and to adjust to the protected acres developed after the 1990 court decision was reached. A large portion of the acres listed under the protected rights were not being irrigated or in government set aside programs. This development started as acres were removed from programs or properties changed hands. I believe that the exclusion of the water users above and to the south of the tribal boundary in the Arbon Valley Bannock Creek Drainage and with a shift in the proposed boundary location would be a logical and simple movement. These water right holders are and have been in a manner of water call or management curtailment since the court decision of 1990 was handed down. The decision

to include the protected users in the new boundaries would be a double-edged sword where they would be subject to water calls from the SRPA and the curtailment that the court ruling of 1990 imposes on them.

3) Eventually calls will need another solution:

- The agreement that was placed on water holders in 2024 will likely be extended to all the other users. I guess the number of users in the outlying tributary basins far exceeds those already included. The administration of this is a major factor. And with these calls from the Magic Valley have concluded, there will be others farther downstream and environment court challenges in the future. Will the calls never end?

- Those making the calls need to show a major improvement in their water use. As this has not been required in a couple of court cases in the past, maybe a legislative change should be considered.

- A water right is a property, but many things allow 'takings'. Emanate domain will be used in the future when cities run out of water or some part of 'nature' is used to take it all by court decree.

- The fact that 10 million dollars of water economics in one location is allowed to destroy 100 million in an upstream location and about 1/4 of the states ag economy will someday be the front news. Few communities will survive with dryland agriculture.

What is planning for this future problem. There will be a major drought, etc. at some time in the future. My farm history can show those from the 1920's until now and cycles will return.

- The history of first in time never says 'worth', but many places outside Idaho have taken land for 'higher' use and thus taxes. Don't think we will be able to stop this without planning. Eastern Idaho future is on the chopping block!

- This 'water call' plan worked when the stream was days to weeks away from the 'relief' on a 5 to 50 mile stream. It is not so easy to say that the water call from the far tributaries will have any effect in a reasonable time frame-even years. True, someday that water might make it to Twin or Parma, but it will not be the relief the courts counted on. So, more and more calls will be made with no or little effect. The IDWR is attempting to use a law made for surface water to be efficacious for ground water. Timing is everything when water is short, but ground water doesn't always flow quickly.

- The down streams users are moving to more water consuming crops, thus their demand will only continue to increase, and shortages are inevitable. Where does this end as the planning was not for these like long season corn when water allotments were established. People did not use ALL the water allotted in a year-now I would guess they can. Especially if seasons become longer as some claim.

4) Irony:

- If a person in Blackfoot flood irrigates and has about a 35% efficiency rate, he is helping the groundwater pumpers 'eventually', not sure the time to get it back into the river or the very long time to get it moved to groundwater in Magic Valley-but likely not this year.

This is helping the system by being poor water managers. But they will be cut back 11% which will cause a loss to those making a call, eventually. But he could increase his efficiency and likely still be ok with less water, but this would decrease the water in the ground system-a inverse of the proposed call's effect.

-If a person in Magic valley has no need to increase efficiency, he can just make those 10,000 people above him pay money AND water or stop irrigating completely. LAST I KNEW, EXTORTION and monopoly WAS ILLEGAL, but here it is condoned by the way we implement the law.

-If a Magic Valley user gets hit by an environmental or hydro power lawsuit, they scream like crazy and claim the guy should have alternative remedies that they have not used to solve the problem or that the snail darter is not worth the price. Even when the suit is really about white-water rafting or something else.

-The most unfair is a projection of a possible, maybe low water year and the water calls come 'JUST IN CASE'. This stops federal crop insurance and makes Banks run out the back door. And it leaves bankruptcy all around, even if it turns out false. Look at other western water problems—we cannot get into that situation in Idaho. No hope Questions must be planned for now so there is always a least traumatic answer.

-Was nice to see a negotiated settlement in 2024, I wonder what will happen if this does not solve everyone's problems. We can do better planning for the far future, but change will be a hard fight for everyone, thus it should start now including legislation changes to get everyone to a fairer discussion. There will be good and bad water years and decades.

Hans Hayden

surface and ground water user of 29-O district



Hans Hayden
3246 Mid Crystal Rd.
Arbon, Idaho 83212

BOISE ID RPDC 837

9 APR 2025 PM 1 L



Department of Water Resources
% Brian Ragan - Hearing on tributary basins - Eastern ID

PO Box 83720

Boise, Idaho

83720-0098

83720-0098

