

Email #1 regarding SWC / IGWA
Sept. 19, 2022

Eastern Idaho Water Rights Members and Friends:

The Coalition sent the following email to East Idaho Legislators and Candidates with the full input of Bob Turner from IGWA. Please take time to read this and forward it as you see fit. We will be preparing an Op Ed and letter and will ask for your organizations to individually sign on at some point. We also plan to use our upcoming annual meeting to discuss this important issue. While this current dispute between IGWA and the SWC doesn't directly impact the agreement the cities have with the SWC, it certainly affects the economy of the area and could set bad precedent for interpreting the cities' agreement.

Thanks, Keith

Dear East Idaho Legislator:

Background on Critical Water Issue

The Eastern Idaho Water Rights Coalition would like to inform you about a critical on-going water issue that is impacting well pumpers on the Eastern Snake Plain Aquifer. You are probably aware of a settlement agreement reached between the Surface Water Coalition (SWC) of Magic Valley Canals and the Idaho Groundwater Appropriators (IGWA), which was signed in 2016 to settle a long-standing dispute. The basic point was that the SWC believes their senior water rights, principally of spring flows into the American Falls Reservoir, are being reduced by junior right groundwater pumpers across the ESPA.

The agreement worked as planned for the first 4 years. Pumpers were able to reduce their pumping and in addition they also did a lot of recharge to give them a cushion for dry years that were sure to come. As you recall, 2021 brought severe drought conditions and was very hot. Pumpers were not able to reduce their pumping and there was little water available to recharge. They believed they were still in compliance with the agreement due to excess cutbacks in the previous four years as well as approximately 700,000 acre-feet of recharge they had paid for.

Nevertheless, early this year the SWC filed notice that IGWA was in breach of the agreement for 2021. Countless meetings between the two parties were not able to reach an agreement. The SWC took their claim to the Department of Water Resources (IDWR), which administers all water rights in the state. IGWA maintains that there was no breach of the agreement. Unfortunately Director Spackman agreed with the SWC that IGWA was in breach. Numerous negotiating meetings followed without resolution. Recently the SWC demanded that 500,000 acres of groundwater pumping on the ESPA be curtailed immediately to allow more water to flow into American Falls. Director Spackman said there would be a curtailment the first of this past week if the parties could not come to an agreement.

Needless to say, shutting off water to hundreds of thousands of acres at this point in the season, with so much invested, would have been disastrous. Potatoes have to be irrigated prior to harvest, sugar beets, corn, and pastures still need irrigation to finish out their season. Ground must also be irrigated to plant fall wheat and work the soil for next year. Impacts would have reached far beyond the farm. What seems to be lost is that more than ever the world needs all the crops we can harvest this year.

This past weekend an agreement was reached. While not agreeing that any breach had been made, IGWA agreed to do all it can to provide an additional 30,000 acre feet of water to the SWC in 2023 and 15,000 in 2024, at a potential cost of millions of dollars. This agreement does nothing to resolve the underlying disagreements or resolve any potential curtailment next spring. Negotiations will continue, but to this point the SWC has refused to consider some very valid points that IGWA has made.

I will send you several emails detailing some of these issues, which we need you to understand. If an agreement can't be reached, there is no time for lengthy lawsuits. Farmers, the businesses that supply them, and the processors that depend on their crops need to have certainty – as soon as possible. Most farmers will start making huge investments in fertilizer, seed, and machinery work this fall. As it stands they have no certainty they will be able to run their pumps next year as they have for generations. Most of all, everyone needs to realize that while we are in a drought, and water supplies are tight, overall we have adequate water, it is the management of the supply that needs to be resolved. We very likely may need you help, either by contacting Governor Little, Speaker Bedke, or Director Spackman. If that doesn't work we may have to pursue a legislative solution.

Thanks for your time. We will get the next email to you soon detailing the first issue of contention.

Keith Esplin, Executive Director
Roger Warner, President
Eastern Idaho Water Rights Coalition