



1725 Riverton RD · PO Box 1268 · Blackfoot, ID 83221 · (208) 684-9634

April 14, 2023

Since signing the 2015 IGWA/SWC Settlement Agreement (Agreement) Bingham Ground Water District (BGWD) has been committed to the stated objectives in the Agreement of mitigating material injury, stabilizing and enhancing the ESPA, and minimizing economic impacts to the state's economy. Efforts were immediately undertaken to limit groundwater pumping and accomplish significant recharge in both wet and dry years in anticipation that modeled predictions of increasing aquifer levels would be realized. From 2016 through 2021 BGWD alone provided almost 150,000 acre-feet of recharge through local canal partners, 97% of which occurred within the BGWD boundaries to maximize offsetting impacts to groundwater pumping within the district. Other ground water districts and the Idaho Water Resource Board (IWRB) similarly provided large volumes of recharge. Despite these efforts, which far exceeded modeled expectations, the aquifer did not respond as predicted and target levels are unlikely to be achieved within the prescribed timeframe outlined in the Agreement.

Along with recharge, ground water district members also set out to reduce groundwater pumping from their average usage between 2010-2014 in order to comply with the Agreement. Logically it was assumed that since the baseline usage was computed from a 5-year average the reduction performance would be evaluated on a similar average basis. However, after the 2021 irrigation season the SWC attorneys asserted that the pumping reduction from the average must be accomplished every year and Director Spackman agreed with the SWC. The Director's decision is somewhat ironic since the state's own recharge target of 250,000 acre-feet/year was measured on a long-term average. While the state's recharge goal was not binding it was nonetheless a bedrock on which the ground water districts based their decision to enter into the Agreement. Using a multi-year average as a baseline for a single year reduction means that any irrigation season with a crop water requirement that is significantly higher than the 5-year average, such as 2021, will result in required acreage reductions similar to, if not exceeding, the reductions which would be required under a curtailment. Since there is no way to accurately predict the seasonal crop water requirement, and water can't be given back half-way through a hot, dry irrigation season, groundwater users have no choice but to assume the worst and permanently eliminate groundwater usage on many thousands of acres. The significance of this consequence is exacerbated by the fact that ground water districts are required to lease 50,000 acre-feet of reservoir storage and provide this to the SWC without receiving any mitigation credit from that water. So the very water that ground water users would otherwise be able to acquire to mitigate for curtailed water rights, they are instead required to provide to the SWC on top of the pumping reductions. This creates an untenable situation for BGWD members wherein the safe harbor provided under the Agreement is impossible to attain without imposing the same reduction upon themselves that would be imposed by curtailment and thus rendering the safe harbor meaningless. The terms of the current Agreement make it impossible for BGWD to comply and therefore the District must subject itself to the determination of the State in compliance with the constitutional principles of prior appropriation and beneficial use as laid down in the Conjunctive Management Rules and Methodology Order.

BGWD acknowledges that surface water users face real cutbacks in times of water scarcity and wish to provide solutions which will bring true drought resilience to the State of Idaho at a time when western states are experiencing more frequent water shortages which threaten food supplies and economic stability. Through conservation efforts in our own region BGWD remains committed to securing the water resources necessary to fairly mitigate injury to senior surface water users and to ensure that tens of thousands of acres threatened by



1725 Riverton RD · PO Box 1268 · Blackfoot, ID 83221 · (208) 684-9634

curtailment are able to continue providing vital ag commodities and hundreds of millions of dollars in economic benefit to all Idahoans.