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Irrigators want thousands of wells shut down Call could force farms, industries to stop pumping

Five Magic Valley canal companies and irrigation districts demanded Idaho officials to force thousands of farms, businesses and communities to stop pumping from wells and deliver the water they are due.

Twin Falls and Northside Canal companies, who together provide water to 362,000 acres of farmland in the Magic Valley, are among the largest owners of rights to spring water that flows from the Eastern Snake Plain Aquifer. Their "call for water," the legal maneuver made Tuesday, signals a breakdown in negotiations on a plan designed to stabilize the storage of groundwater in the Lake Erie-sized aquifer and increase spring flows.

"If this isn't resolved it will be litigated," said House Speaker, Bruce Newcomb, R-Burley, who irrigates his crops with groundwater pumped from the aquifer.

The companies and districts did not say how much water they are demanding so the economic impact remains unclear. But their water rights have such high priority that state officials could order hundreds of thousands of acres dried up, and wells for hundreds of businesses and thousands of homes shut off, a University of Idaho model shows.

However, Karl Dreher, Idaho Department of Water Resources Director, said he needs the companies and districts to show him how much the reduction of spring flows has hurt the people they serve.

"About a million acres of land are irrigated on the Eastern Snake Plain Aquifer with groundwater junior in priority to the natural flow rights held by the Twin Falls Canal Co.," Dreher said. "Until we are able to see what their allegation of injury is and to evaluate it, it is premature to say what portion, if any, of that million acres may or may not be subject to curtailment."

The two canal companies established their water rights in 1900, from 60 to 80 years before farmers sank thousands of wells into the aquifer to irrigate their crops. These senior rights have priority under Idaho water law. The other three irrigation districts all have similar senior water rights.

But until a decade ago, groundwater and surface water rights were administered separately. Senior surface right holders, including the canal companies and districts, regularly shut off junior surface water users. But groundwater users were allowed to continue pumping water even during the worst droughts.

"The last few years senior spring users have been short of water," said Sen. Charles Coiner, R-Hansen, a Twin Falls Canal Co. board member. "We feel we have to shift the burden of curtailment to junior users." The canal companies and irrigation district want to continue to negotiate, Coiner said.

"We're not closing our doors to discussion," he said.

But Tim Deeg, an American Falls farmer who has been one of the leading negotiators for groundwater pumpers, was not optimistic.

"It's going to make it very difficult to continue negotiations," Deeg said. "I'm real disappointed."

Twin Falls Canal Co. and the groundwater pumpers had an interim agreement in effect until Dec. 31. Under the agreement, the pumpers had paid for the leasing of water to offset the loss of spring flows due to the companies and districts.

Dreher will have to decide how much of the drop in spring flows is due to drought, how much is due to pumping and how much water can reasonably be expected to be delivered over time if wells are shut down. He said he will shut down wells no matter what the economic impact.

Dreher made a similar order in 2004 in the Thousand Springs area near Hagerman and Jerome. His order in 2004 was pulled after the Idaho Legislature negotiated a one-year deal.

Since then, an interim committee, Dreher and other state officials have been crafting a proposal aimed at stabilizing the aquifer with a combination of programs to dry up lands irrigated with groundwater, convert lands to surface irrigation, reduce the need for water by spring users and by artificially seeping billions of gallons of water into the aquifer. Lawmakers were hoping they could endorse such a plan this session. John Simpson, an attorney for the canal companies, said now the issue is out of lawmakers' hands.

"Before the Legislature can resolve it, the parties or the director must resolve it," Simpson said. "That does not preclude the parties from continuing to talk."

The water calls place a cloud of uncertainty over the economy of the Magic Valley and eastern Idaho, Newcomb said.

"It raises the spectre so people all across the state see this is serious business," Newcomb said.

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Bankers help get aquifer talks going once again

Pressure from Gov. Dirk Kempthorne and leaders of the House and Senate has prompted groundwater and spring users to return to the table to try to settle their dispute.

The dispute over how to divvy up water from the Lake Erie-sized Eastern Snake Plain Aquifer threatens to send the southern Idaho economy into chaos. Lawmakers want groundwater and spring users to reach an agreement so they can introduce legislation that would make it work.

House Speaker Bruce Newcomb, a Burley farmer who uses water from both sources, has vowed to push through legislation that would settle the issue with or without the parties' agreement. But ultimately, it may be bankers that have moved the parties back to the table.

Across southern Idaho, farmers are negotiating with their bankers for the annual loans they need to buy the seed, fertilizer, fuel and feed they will need to grow their crops and raise livestock.

But for those whose water comes from the Eastern Snake Plain Aquifer, either from pumps or springs, this annual event has turned into a disturbing drama. Drought has raised the potential that farmers who depend on Snake River water and flows from springs that seep into the river might not have enough this year.

That prompted seven canal companies and irrigation companies to make a call for water, a legal maneuver demanding state officials shut off thousands of groundwater pumps of other farmers to increase spring flows. Bankers responded by asking farmers for the first time to present the priority date of their water right, which indicates whether they might lose their water supply.

On Tuesday Idaho Department of Water Resources Director Karl Dreher delayed a decision on the call until April 1, when the water supply picture will be clear. That presents a problem for the bankers and the farmers.

"That's well past the date when banks will have had to make decisions," Dawn Justice, president and CEO of the Idaho Bankers Association.

On Friday, representatives of the seven canal companies and irrigation districts who made the call and of the groundwater farmers who would have to find them water met in Kempthorne's office with the governor, Senate Pro Tem Robert Geddes, R-Soda Springs and Newcomb.

"It went real well," said Albert Lockwood, an Eden farmer on the board of the Northside Canal Co., which was one of those who made the call.

The two sides agree on long-term projects aimed at stabilizing the spring flows that have been dropping since the 1950s.

A key element of this program is the purchase of water rights from another set of farmers who pump water directly out of the Snake River high on to plateaus above the canyons.

These farmers can no longer afford the high pumping costs. The state could use their water to meet its responsibility for flushing water downriver to aid endangered salmon migration.

That would free up water in the reservoirs of eastern Idaho and Jackson Lake in Wyoming so groundwater farmers could lease it to meet spring water users' needs.

This would reduce the amount of croplands that would have to be dried up. But purchasing this water could cost the state more than \$80 million.

Kempthorne and lawmakers met last week to discuss where this money would come from. Issuing bonds paid back by the farmers and industries involved is the most likely funding mechanism.

That might help in the long run but it won't put water on the fields this year.

The problem is the water supply this year is so short that even canal companies like Northside that always had enough water for all their shareholders, may come up short this year.

"For us it's probably the toughest year ever," Lockwood said.

They need water this summer or some of their farmers — who have senior or superior water rights over those of groundwater pumpers — would have to dry up their fields. Yet many of Northside's farmers also use groundwater and would have to shut off their pumps to meet the call if it were to take place.

In the end all of the farmers have to go to the bank. And the bankers need answers soon.

"Bankers tend to be a conservative lot," said Justice. "Uncertainty is a difficult place to be."