The Idaho Statesman
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Legislators must address dwindling aquifer

Staff

A plan to protect Idaho´s shrinking **groundwater** supply, unveiled this week, plunges the 2005 Legislature into the unknown. Lawmakers have no choice but to go there.

If they do nothing to settle Idaho´s water crisis, the result could be a catastrophic court battle between water users. Businesses and farms could lose their water, resulting in up to a $900 million economic loss that would affect all Idahoans, rural and urban.

Lawmakers have to try to head off the upheaval. Their hope is to piece together a plan that replenishes the Snake River Plain Aquifer, the underground lake of porous basalt that provides water to much of southern Idaho.

In spite of everything at stake, it´s remarkable that the discussion has reached this point.

It´s remarkable that we´ve reached a basic realization. The enormous aquifer is not a bottomless source of water. As more farmers have built wells to pump their water from underground, the aquifer has lost water over decades. Idaho needs to conserve what´s there and put more water back.

It´s remarkable that we have fundamentally changed the way we look at water. How we use water from the rivers and reservoirs affects the water that seeps into the aquifer. There´s an overdue understanding of the way "surface" water use interacts with the pumpers.

Most remarkable of all, we´re contemplating a major change in our economy, traumatic transition in our communities. The plan involves selling $80 million to $100 million in 30-year bonds , with most of the money paid to business owners and farmers who are willing to give up their water. Some businesses and farmers would take the money and shut down, affecting the farmworkers, supply stores and other retailers who depend on them.

The state would probably expect everybody to pay to head off the economic crash. Farmers who pump water from the aquifer would likely pay most of the costs for bonds that would be used to buy out businesses and other farmers. All taxpayers would share the administrative costs.

So what would Idahoans get for the money?

Would the plan really return up to 900,000 acre-feet a year to the aquifer -- enough water to

cover all of Ada County to a depth of 16 inches? Would Idahoans see the difference at Thousand Springs near Hagerman, the end of the course for their all-important aquifer?
The 2005 Legislature won´t have any guarantees. After all, it can take a century or more for Idaho´s precious water to seep through the aquifer and reach the cliffs at Thousand Springs.
Here´s something that is guaranteed. Thousands of Idaho jobs depend on the aquifer: industries and dairies, fish farms and traditional agriculture. What lawmakers do to protect the aquifer in the next few months will affect thousands of working families for years to come.
There´s no sure way to save an aquifer. However, lawmakers can´t just settle for a plan that garners political support in the short-term. They must strive for the best science -- the best formula for adding water to the aquifer.

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Plan to save water in Idaho aquifer goes to lawmakers

Rocky Barker and Wayne Hoffman
Staff

Deal aims to head off crisis that could cost $900 million

Rocky Barker and Wayne Hoffman
Staff
State leaders unveiled the outline of a water deal Monday they hope can avert a legal crisis that would dry up hundreds of acres of farms and businesses involuntarily and cost Idaho´s economy up to $900 million.
The deal would cost $80 to $100 million over 30 years and pay willing farmers and business owners to give up their water rights.
The proposal would seek to stop the depletion of the Eastern Snake Plain Aquifer and increase the flows out of Thousand Springs near Hagerman that replenish the Snake River as it runs past Boise. It is proposed by the Idaho Department of Water Resources, the Idaho Attorney General´s office and leaders of a legislative panel on water.
They say **groundwater** users in the areas affected will pay most of the costs for state bonds, which will cover the costs of most of the proposal. The federal government will pick up some of the costs from farm programs and rental fees for water used to aid migration of endangered salmon. But all water users in the Snake River watershed may be asked to pay a water fee, and some state tax dollars also are expected to be needed.
"I think every water user in the Snake River system will benefit," said Sen. Laird Noh, R-Kimberly , co-chairman of the Expanded Natural Resources Interim Committee.
If approved, the plan would become the framework for working out similar water disputes between **groundwater** and surface water users across the state. It also would accelerate the shift of water use from agriculture to urban and industrial uses. Idaho has the second highest per capita water use in the nation behind Wyoming. More than 90 percent of the water goes to farmers and ranchers for irrigation.
It could be a tough sell to those on other side of state
The reaction to the plan, revealed at a meeting of the Idaho Legislature´s Joint Finance-Appropriations Committee in Idaho Falls, was mixed. A spokesman for **groundwater** users was encouraged by the proposal but a key fish farming spring user said it did not provide enough certainty that aquifer levels would rise.

"It´s a conceptual proposal," said Karl Dreher , director of the Idaho Department of Water Resources. "They´ll be people that support it. They´ll be people that oppose it. I don´t know how it will play out."

Gov. Dirk Kempthorne has not added his support to the proposal yet.

"It´s exactly what it is: a straw man. But we´ll have discussions about what it is and what we need to do," Kempthorne´s Chief of Staff Brian Whitlock said .

Dreher said he´ll have to sell urban lawmakers, especially those in southwestern Idaho, who may question why their taxpayers are being forced to pay to resolve a water problem on the other side of the state.

"They´re part of this. We plan to reason it through with them," Dreher said. "They need to keep in mind that one day they´re going to have these kinds of troubles."

Stabilizing 10,000 square miles worth of aquifer

The Eastern Snake Plain Aquifer underlies about 10,000 square miles of southern Idaho from Ashton to King Hill. It acts like a big bath tub filled with more than 200 million acre feet of water, enough to cover the entire state with four feet of water.

Its annual discharge is estimated at 8 million acre-feet. The aquifer is recharged by rain that falls on the ranges to the north and south and flows into the Lost River, Birch Creek and others rivers whose discharge is absorbed into porous sediment.

Surface irrigation water also is another important source of recharge for the aquifer. But irrigation has dropped over the past 50 years because sprinklers and other technology have increased efficiency. **Groundwater** pumped out of the aquifer, along with drought, have contributed to the dropping aquifer levels and reduced spring flows.

The proposal seeks to stabilize the aquifer by reducing demand, depletion and by putting water back in the aquifer artificially. Farmers who pump water out of the aquifer will be asked to convert from **groundwater** to surface water for irrigation. Others will be offered federal money to idle their land.

Deal will offer 'high-lift pumpers' $11 million

Farmers and other water users who get their water from the Snake River or its tributaries above Hells Canyon will be offered the opportunity to sell rights to their water to the state. The offer is expected to attract many farmers who pump water out of the Snake River canyons hundreds of feet to their fields above. These farms are becoming economically marginal due to rising costs of electricity.

These "high-lift pumpers" would be offered $11 million to quit using water as part of the separate Nez Perce Water Agreement, which would provide benefits for endangered salmon, legal cover for Idaho water users, and cash, water and land for the tribe.

Canals in the Hagerman area would be lined and other efficiency programs put in place, paid for with federal funds. Some spring users, including fish farmers, will be asked to sell or reduce their rights.

Overall, the plan aims to increase the aquifer water level by 600,000 to 900,000 acre feet --twice to three times the amount of water stored in Lucky Peak Reservoir -- annually.

Lynn Tominaga , executive director of the Idaho **Groundwater** Appropriators, Inc., which represents farmers and others who pump water from aquifers, supports the framework, but isn´t sure the goal -- 600,000 to 900,000 additional acre feet of water annually -- is realistic. He also worries that major players who have expressed opposition to artificial recharge -- Idaho Power Co. and the Bureau of Reclamation -- haven´t been involved in the negotiations.

"We have some players who are not at the table," he said.

Dreher's plan seen as possibly 'least disruptive'

Randy MacMillan , vice president for research and environmental affairs for Clear Springs Foods, the nation´s leading trout producer near Buhl, said his company has requested any plan provide reasonable certainty that spring flows will increase. He also sees funding as unreliable.

"I´m not sure we´ve completely found the answer yet," Senate Finance Chairman Dean Cameron said.
Cameron said he´s concerned about bonding to pay for the project but declined to say how he would pay for it.
"We need to consider all sources of how that´s funded," he said. Asked if the penny sales tax, set to expire June 30, should be extended to pay for it, Cameron said, "I don´t think so."
House Appropriations Chairwoman Maxine Bell of Jerome said Dreher´s plan may be "the least disruptive, the least offensive.
"Frankly we cannot just stay status quo." She´s hopeful **groundwater** pumpers and fish farmers will agree.
"I´m concerned that both sides are frightened and that both sides won´t move toward the middle," she said.
One Treasure Valley lawmaker agreed with Dreher that his constituents have a serious stake in resolving the crisis.
"We have to look at it from a long-term aspect," Caldwell Rep. Darrell Bolz said. "or the value of their businesses. State officials estimate a minimum shutdown could cost the state´s economy more than $900 million.
What is their plan?
Officials hope to increase the amount of water stored in the Eastern Snake Plain Aquifer by 600,000 to 900,000 annually. The idea is to buy off willing owners of farms and other businesses to reduce the depletion of the aquifer and the demands of spring users. This also will provide additionIt´s not just a problem for the water users in the Upper Snake River."
See Water on page 3
Questions and answers about the aquifer plan
What are the committee leaders and state officials trying to do?
They are trying to prevent a long-drawn out court fight between water users with rights to spring water that flows out of the eastern Snake River Plain Aquifer and others who pump **groundwater** out of the aquifer.
Why is that a problem for the state?
If the **groundwater** users who are legally threatened are shut off, more than a hundred thousand acres of farm land, dairies and industries could lose their water immediately without any concern for the effects on the economy al water for recharging the aquifer and converting farms from **groundwater** to surface water. That way people who are ready to go out of business or are economically struggling go dry instead of the most productive lands and businesses.
How would they do this?
The proposal calls for the state buying from willing sellers 200,000 to 500,000 acre feet of water flowing in rivers or stored in reservoirs on the Snake River or its tributaries above Hells Canyon. For comparison, Luck Peak Reservoir holds about 306,000 acre-feet. This water will be used to recharge the aquifer and offset other programs that will reduce depletion of the aquifer.
The state would recharge 200,000 acre-feet annually into the aquifer using Snake River flows into canals and pumping stations.
Another 100,000 acre-feet of water would be obtained by converting farms that now depend on **groundwater** to surface water, reducing the depletion of the aquifer.
Programs to increase efficiency of water use in the Thousand Springs area near Hagerman, such as canal lining, is expected to reduce demand by 100,000 to 150,000 acre feet. Another 150,000 to 250,000 acre feet would be obtained through purchasing water rights and idling farmland through the federal Conservation Reserve Expanded Program.
There is a monitoring element to the plan, increased enforcement, management and administration programs.
Who pays?

That´s the big question still not fully worked out. The state would pay for the majority of the program through a 30-year bond that covers the $80 to $100 million used mostly to buy water or rights from willing sellers. Most of this cost will be paid by the water users who hold the junior rights -- mostly **groundwater** pumpers in the area. All water users in the Snake River watershed would pay for their protection from additional calls for water to aid endangered salmon. Most of the cost is expected to be limited to those water users in southeastern and south central Idaho. But Treasure Valley residents and even residents in the Payette, Salmon, Weiser and Clearwater drainages may be asked to contribute to the Endangered Species Act costs, said Sen. Laird Noh, R-Kimberly, co-chairman of the Expanded Natural Resources Interim Committee.
Some of the administrative costs will fall to all state taxpayers.
What is the legal justification for all this?
Under the Idaho Constitution and all western law, water rights are distributed through the doctrine of first come, first served, or prior appropriation. That means the people who first diverted water out of rivers, or pumped water out of the ground or put springs to use, have the first right to that water. They can make a call to shut off people with later rights. Since water was first diverted from rivers, those with surface rights -- mostly farmers -- have the oldest rights. Spring water is treated legally in Idaho as surface water and many spring users have older rights. This first come, first served right is balanced by the state´s interest to put as much water as possible to economic use. That means a senior water user can´t just hold on to their water if they aren´t putting it to use nor can they expect to shut off junior users if delivering water to them forces unreasonable economic consequences.
How did we get into this crisis?
For years, Idaho managed surface and **groundwater** separately. Eventually, when the state recognized legally that the aquifer and the rivers were tied together, there were entire groups of water users depending on the same water, especially as drought increased the depletion of the aquifer and the flows of the springs. Some say the state is now over appropriated. Others say the junior users must pay or be shut off. The legal battle to decide who is right would be expected to take years and cost millions of dollars. In the end, supporters say, some kind of settlement deal, along the lines of this one, would be the result. Others worry the deal is simply a buyout for struggling farmers.
Treasure Valley effects
How it affects us:
Treasure Valley water users may be asked to pay a fee.
The balance used in the deal between protecting senior water rights and maximum economic use of water would become the framework for settling future water disputes here.
A deal could avert a water legal crisis that could cost the state´s economy $900 million annually. Such an economic blow would hurt tax collections statewide and reduce education funding and state services.
Some state tax dollars may be necessary.
To offer story ideas or comments, contact reporter Rocky Barker at rbarkeridahostatesman.com or 377-6484.
Cutline:Jerry Nance and his faithful dog ride along one of his alfalfa fields in Dietrich where precious water is pumped from the Snake River Basin Aquifer. Nance is a junior water right holder.

Montana State Legislature

Exhibit Number: 1

The following exhibit is colored photographs that cannot be scanned. The exhibit is on file at the Montana Historical Society and can be viewed there.

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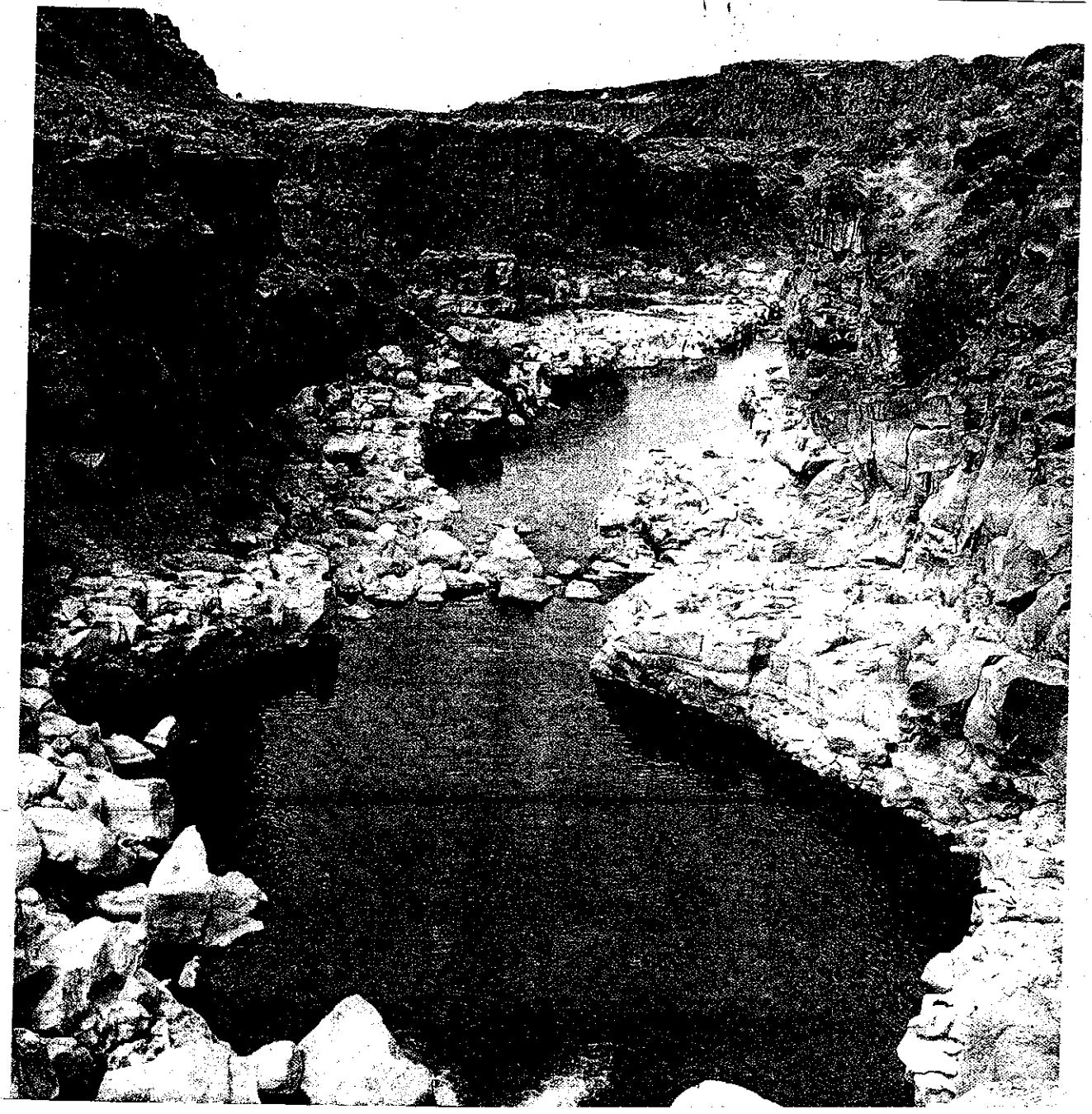
IDAHO STATESMAN SPECIAL REPORT



SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 1/31/2005
BILL NO. SB269

Decisions made this winter could cost you money and change Idaho's rural landscape and economy

Stories by Rocky Barker • The Idaho Statesman • **Photos by Darin Oswald**

The waters of the Snake River and the huge underground Snake Plain Aquifer have made Idaho's desert bloom, nurtured a cherished agricultural way of life and generated some of the least expensive electricity in the nation.

But the supply of water once thought to be virtually infinite has been depleted in recent years by drought, increased pumping of groundwater for crops and more efficient irrigation that puts less water back into the aquifer.

The need for water for domestic use, recreation, industry and endangered species like salmon has focused attention on the growing demands on this crucial resource.

Now, the Idaho Legislature faces major decisions about two conflicts over water.

What lawmakers decide will directly affect thousands of farms and businesses in southern Idaho. For the first time the state may allow fields to dry up and return to desert. That would change southern Idaho's rural landscape. State and local tax revenues could plummet as farms and businesses shut down. That would put new burdens on taxpayers statewide. At the same time, leaving more water in streams and reservoirs could benefit fish and recreation.

The decisions to be made this winter will create ripples for decades.

They could lead to a shift of water rights from agriculture to industrial and urban users, reflecting the shifting balance of political power in Idaho and ensuring the availability of water for a growing population and expanding economy.

Water, now a publicly owned resource, may become a commodity that can be bought and sold. If, as Western historian Marc Reisner wrote, "Water travels uphill toward money," Idahoans could one day be priced out of the market by higher bidders such as private industry or other states.

In this special report, you will learn the history, science, politics, economics, and environmental and social costs of the decisions lawmakers will make.

Cover Photo: Cauldron Linn below Milner Dam near Burley focuses the mighty Snake River into a narrow corridor that can be an ominous sight and sound during normal flow as billions of gallons flow through the narrows. But when Milner Dam diverts nearly all the river for agricultural use, the silence can be just as ominous.