



City of Ketchum

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September 30, 2016

Idaho Water Resource Board
P.O. Box 83720-0098
Boise, ID 83720-0098

Dear Idaho Water Resource Board Members,

Thank you for the opportunity to comment on the proposed Sustainability Section in the State Water Plan. Idaho's lakes, rivers, and ground waters constitute the lifeblood of our way of life, economy, natural environment, and people. Protecting these resources is critical to Idaho's future. We commend the Board and its staff for working to safeguard our common heritage.

The addition of an explicit Sustainability Section to the State Water Plan is a necessary first step towards designing appropriate legislation, policies, and programs to promote more sustainable use of Idaho's water resources and protect our environment. However, more concrete steps need to be taken to translate rough goals to measurable results. Toward that end, we ask that the state provide new tools that will allow us to sustainably manage our water resources locally. The current legal, institutional, and policy framework is insufficient to do so, and in various ways works in opposition to efforts to conserve water and protect our rivers, lakes, and aquifers. Measurable declines in aquifer levels and streamflows in the Wood River Valley and continued legal challenges suggest potential over-allocation of our local water supply.

It appears that many of Idaho's basins may be over-allocated, with too many water rights allocated for too little wet water. The state needs to own this problem and provide solutions that actually address this physical imbalance rather than merely shuffle it around. There are relatively few strategies that can truly improve this hydrologic deficit. Among them are:

- **Retiring existing water rights:** The state should develop mechanisms by which water rights can be retired, reduced, or transferred to in-stream flows when they are no longer needed, while retaining priority and economic value. Examples of state and federal programs that provide funding to permanently retire irrigation water rights include the Kansas Department

of Agriculture Water Right Transition Assistance Program, the US Department of Agriculture (USDA) Conservation Reserve Enhancement Program (CREP) for the Colorado Rio Grande Basin, and the US Bureau of Reclamation (USBR) Newlands Project Water Right Retirement Program (for the benefit of Pyramid Lake in Nevada).

- **Promoting water use efficiency upgrades and water conservation:** Programs and policies—including tax incentives, market mechanisms, and anti-forfeiture rules—should be put in place to incent water use efficiency and water conservation, while protecting water rights. Idaho’s current legal and policy framework does not allow for water conservation without fear of jeopardizing water rights. The state might consider adopting programs like the State of Oregon’s Allocation of Conserved Water Program, which allows water rights owners to implement conservation and efficiency measures and apply to the state for new water right for that volume of water saved—75% of which will go to the water right owner as a new water right holding the same rights and privileges as any other, and 25% of which will go to the state for an in-stream flow right. Other states, including California, Montana, Texas, and Washington, also have conserved water statutes.
- **Protection of Idaho’s free-flowing waters:** The State Water Plan and the proposed Sustainability Section provide numerous references to the importance of protecting our free-flowing waters, yet, existing mechanisms to protect in-stream flows and fisheries are relatively weak. Implementation of robust statutes, programs, and policies to promote permanent protection of in-stream flows (for example, by allowing for transfer of existing water rights while preserving their priority dates) are necessary to make good on these promises. *Environmental Water Rights Transfers: A Review of State Laws* (Prepared by Water in the West for The National Fish and Wildlife Foundation; August 2015; <http://waterinthewest.stanford.edu/sites/default/files/WITW-WaterRightsLawReview-2015-FINAL.pdf>) provides an excellent comparative analysis of in-stream flow laws and policies across the west. Idaho has a relatively restrictive statutory regime and would do well to study the success of programs in Colorado, Montana, and elsewhere.
- **Recognition of value of Idaho’s free-flowing waters:** We would like to see explicit recognition in the State Water Plan of the economic value of free-flowing waters to our state’s economy. Idaho Department of Commerce reports that “According to the U.S. Travel Association, Idaho’s \$3.4 billion tourism industry employs more than 26,000 Idahoans and generates almost \$500 million in local, state, and federal tax revenues.” The importance of river recreation to Idaho’s economy is undeniable. A study by Headwater Economics (High Divide Region—Summary of Recreation Economy, November 2014), which included analysis of Butte, Clark, Custer, Fremont, and Lemhi counties, Idaho (along with Beaverhead and Madison Counties in Montana), shows that in these counties, Idaho’s recreational economy—much of which is centered around our rivers—provides for more jobs than does the agricultural economy. For example, 46 percent of private employment in Clark County consists of travel and tourism-related jobs, while agriculture provides 14 percent of this job base. Similarly, travel and tourism provide 36 percent of the jobs in Custer County, compared to 9 percent from agriculture. An analysis of the value of the outdoor recreational economy to Central Idaho (McKean and Taylor, *Outdoor Recreation Use and Value: Snake River Basin of Central Idaho*, Idaho Experiment Station Bulletin 2000, University of Idaho) suggests that anglers and non-angler river recreationalists spent \$298.8 million per year (1998 dollars) visiting central

Idaho. Protection of our unfettered water resources should be given the priority required to sustain them for both their inherent value and worthy contribution to our state's economy.

- **Reduce the Domestic Exemption volume:** The state has been reticent to address the challenges posed by the Domestic Exemption, which provides homeowners, by rights, well water use up to 13,000 gallons per day and irrigation of ½ acre. The most obvious problems with this policy include that of parity (this volume provides a duty of water of 2" per acre, while agricultural uses are generally allowed 1" per acre); an overly generous limit (in comparison, average household water use in the U.S. is about 300 gallons per day); and the lack of accounting and enforcement of domestic water use in watershed planning. By way of example, analysis of IDWR records through 2009 suggests that the number of wells and volume of water allocated to domestic exemption rights in the Wood River Valley far exceeds that of municipal rights (Figure 1), yet, there is little discussion of the cumulative impact of domestic water use and little effort to track and regulate these uses.

Our community cares deeply about these issues and is working hard to develop collaborative approaches to more sustainably manage our water resources and avoid protracted and expensive legal proceedings. We need the state to assist us in this effort by removing legislative and administrative hurdles and providing tools to incent efficient water use and water conservation. We would like to become a model community that manages its water sustainably for future generations and the health of our natural environment, and need your help to do so.

Thank you for considering our concerns as you work to incorporate sustainability concerns into the State Water Plan.

Sincerely,

A handwritten signature in purple ink, appearing to read "NJonas".

Nina Jonas, Mayor
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