

Restrictions mulled for ESPA tributary wells

By JOHN O'CONNELL
Capital Press

BOISE — Idaho Department of Water Resources Director Gary Spackman is considering the formation of a groundwater management area that could force irrigators near Eastern Snake Plain Aquifer tributaries to join efforts to stabilize declining groundwater levels.

State statute grants the director authority to form a groundwater management area when groundwater conditions become critical, preventing water rights from being filled.

Hundreds of water users attended 10 public meetings, hosted in communities around Eastern Idaho and Magic Valley July 25-27. Spackman will continue accepting written comments on the concept

through Sept. 1 and plans to render a decision sometime thereafter.

"Water calls are a poor way to manage the Eastern Snake Plain Aquifer," Spackman said in a press release. "We are looking to find ways to manage the ESPA in a more proactive fashion."

If the director deems the situation is indeed critical, he'll then have to determine the management area's scope.

IDWR hydrology section manager Sean Vincent said including the 20 tributaries in the management area would impose new burdens on hundreds of thousands of acres that have thus far been exempt. Precise figures on acreage and the number of irrigators near the tributaries should be forthcoming in the next few weeks, he said. Vincent said IDWR's technical

data show the tributaries are directly linked to the aquifer, though it could take decades for the effects of stabilization efforts from some tributaries to be fully realized in the ESPA and adding them to the management area would increase complexity.

"I think it may be just an issue of fairness," Vincent said. "If they are having an impact to the water budget and they are junior groundwater pumpers, some would say they should be administered as well."

Late last season, the Surface Water Coalition and groundwater districts represented by Idaho Ground Water Appropriators Inc. reached a water call settlement requiring well users to reduce consumption, purchase supplemental water, convert some users from groundwater to surface irriga-

tion and recharge the aquifer by injecting surface water into the groundwater table.

The state also committed to building its infrastructure and conduct annual recharge to help stabilize the aquifer, which has been declining for about 60 years.

IDWR officials say management area language governing groundwater districts would be based on the agreement terms, ensuring they would notice little change. Newly regulated users would be invited to help IDWR develop plans and terms.

IGWA Executive Director Lynn Tominaga said his organization will take an official position later this month on the creation of a management area.

Though Tominaga said members are concerned about the potential for a new layer of

bureaucracy, he added, "Most of the IGWA districts favor anybody who is taking water out of the aquifer having to be part of the solution."

Rich Rigby, special assistant to Spackman, said IDWR expected strong resistance to the concept and heard plenty of opposition during meetings.

"The aquifer is too important of a resource to let slide," Rigby said.

Mike Telford, who farms 4,000 acres of well-irrigated land in the Big Lost drainage, will face new restrictions if a management area encompassing tributaries is created. But some of his wells are now producing half of their former volumes, and he believes it's time to act.

"Most everybody understands there's a problem," Telford said.

CME makes changes to cattle futures

By CAROL RYAN DUMAS
Capital Press

The CME Group has announced changes to live cattle futures aimed at improving the transparency of cash markets.

The changes include a seasonal price discount at the Worthing, S.D., delivery location, revised grading and quality specifications and the delayed listing of additional contracts.

The changes are a result of CME's internal analyses, an independent study by Informa Economics and feedback from the cattle industry, said Dave Lehman, CME managing director of commodity research and product development.

A seasonal discount of \$1.50 per hundredweight will be applied to live cattle offered at Worthing for the October contract only. The discount will ensure the futures contract delivery terms are reflective of the underlying cash market and ensure Commodities Futures Trading Commission compliance, Lehman said.

"CFTC rules require exchanges specify delivery differentials reflective of commonly observed cash-price differentials," he said.

CME's own analysis, confirmed by the Informa study, shows cash prices in the Iowa-Minnesota region are significantly lower than CME's other delivery territories in the fall months. The October discount will mirror the underlying cash market, he said.

Cattle production has grown faster than processing capacity in the region, and more cattle move to markets in the fall. Drought in the Southern Plains and availability of corn and distillers grains moved production north, he said.

The number of slaughter cattle in the fall exceeds processing capacity, and lower prices in the cash market take into consideration the additional freight cost to ship cattle to slaughter, he said.

Several state cattlemen's associations have raised concerns that the discount would negatively affect cash-negotiated trade in the Upper Midwest, penalizing producers in the region.

Lehman said he thinks the discount is misunderstood.

"All it's intended to do is reflect price levels in the cash market. It will not affect that cash price," which is determined by supply and demand factors, he said.

And it will only impact a small percentage of the market. CME contract deliveries in October 2015 represented about 4,500 to 4,700 head, compared with about 300,000 head of total marketings in the region, he said.

CME's analysis, as well as the Informa study, found no statistical difference in prices at CME's 13 cattle delivery points except that they were higher in October in 12 locations relative to the Iowa-Minnesota region, the only price series available in the Worthing area, he said.

"The data clearly told us and confirmed our own analysis this area should be discounted in October," he said.

The new discount will be effective with the August 2017 contract, which will be listed for trading on Aug. 22, 2016.

CME is also updating its contract quality grade for both live and carcass deliveries to 60 percent choice and 40 percent select from 55 percent and 45 percent, respectively. The change is based on increasing quality grades across major fed-cattle regions and industry feedback.

It will also delay listing any contract months beyond October 2017 as it continues to work with industry on how cash markets can be made more robust and transparent, Lehman said.

Judge upholds protested water transfer

By CAROL RYAN DUMAS
Capital Press

TWIN FALLS, Idaho — A state district judge has affirmed a transfer of water rights from the Idaho-Nevada border to the Berger area south of Twin Falls.

The decision comes two years after local citizens began protesting the proposed transfer, which they contend will dry up their domestic wells.

At issue was a November 2015 amended final order by the Idaho Department of Water Resources that would shift a water right of 66 acre-feet annually from a ranch near Jackpot, Nev., to Cedar Ridge Dairy south of Twin Falls.

Upon judicial review, District Judge Eric Wildman on Aug. 3 upheld the order, stating substantial evidence in the record supports the transfer.

That ruling is a disappointment but no surprise to Richard Parrott, who petitioned for the judicial review to protect existing water rights in the Berger area, including those that supply his sixth-generation farm.

"He said I'm not affected. I say I'm representing those other people who are, and the Supreme Court allows it," Parrott said of the judge's ruling.

Parrott petitioned for the review in December after a lengthy protest with IDWR didn't render the results he and his neighbors had sought.

Wildman, however, ruled IDWR Director Gary Spackman's finding that the transfer will not result in injury to existing water rights in the Berger area is supported by substantial evidence.

Parrott disagrees, saying water has always been scarce on the Salmon Tract and that additional ground water use will further draw down water levels.

IDWR "proved it in their way but common sense doesn't dictate that nobody will get injured. The common sense is that with more and more withdrawals, somebody's well is going to go down," he said.

Aquifer flow

The heart of the issue is the hydraulic connectivity between the existing point of diversion near Jackpot and the proposed points of diversion 34 miles north at Cedar Ridge Dairy operations, both within IDWR Administrative Basin 47.

Wildman stated the director's finding of connectivity is supported by



Richard Parrott, with grandson Tucker and dog Taz, pauses on the Buhl, Idaho, farm where he now lives. He has been involved in a protest of a water transfer that will affect water rights in the Berger area, where his long-time family farm is located.

a partial decree by the Snake River Basin Adjudication District Court instructing all water rights within the basin to be administered as connected sources of water.

"That's a watershed on paper only. They treat the whole thing as one amount of water, but it doesn't physically mingle. Actual water coming out of the ground (in the Jackpot area) goes south, not north," Parrott said.

He argued that water was never found underground in the Berger area until irrigation began, the source of water in the area is seepage from the Twin Falls Canal Co. system and it will be affected by Cedar Ridge's additional use.

"Everyone downstream, underground, is effectively going to be dried up," Parrott said.

Wildman pointed out significant and conflicting evidence on the issue in the record but ruled Director Spackman found the weight of the evidence establishes that ground water in the two areas is hydraulically connected and that finding is supported by substantial evidence.

Wildman also said substantial evidence supports Spackman's finding that groundwater levels in the Berger

area are stable and that the proposed transfer will not result in unreasonable drawdown levels.

Earlier finding

Parrott argued that a decision by an IDWR hearing officer in March 2015 supported a different conclusion and restricted the dairy's use of the water to May 1 through Sept. 30 and advanced the 1970 priority date of the water right to the date of the transfer approval.

Hearing Officer James Cefalo said there was not enough information to determine the magnitude of impact to nearby domestic wells if the water was diverted during non-irrigation season. He also noted the distance between the existing point of diversion and proposed points of diversion and the need to protect existing water rights in the Berger area in the event of a water right administration.

Parrott argued Cefalo's decision should be reinstated.

But Wildman upheld the water director's statutory authority to approve the transfer under the conditions he saw fit, which in this case did not limit the season of use or advance the priority date. In addition, the court can only affirm or set aside the final order and re-

mand it back to the director for further proceedings; it can't reinstate the hearing officer's earlier decision, he said.

Retaining the 1970 priority date is particularly troublesome because it will limit the recourse for water-right holders in the area who will be junior to that 1970 right, Parrott said.

Late in the case, Parrott argued that the transfer should be invalidated on the grounds that the water-right holder applying for the transfer hadn't used the water for the previous five years, which constituted forfeiture of the right.

But that issue was not raised by any of the protesters or in any of the proceedings, and the court can't consider substantive issues raised for the first time on appeal, Wildman said.

The transfer is a political decision — "use up all the water and turn it into taxes." It defies common sense, leaving citizens to pay for the dairy's prosperity, Parrott said.

Parrott said he'll continue the fight but isn't sure if the next step is to appeal Wildman's decision or take the case to the Idaho Supreme Court.

For the history of the case: <https://www.idwr.idaho.gov/legal-actions/district-court-actions/Parrott-v-IDWR.html>

Washington targets wolves to stop depredations

Livestock losses mount in Ferry County

By DON JENKINS
Capital Press

The Washington Department of Fish and Wildlife will kill wolves for the third time since the animals began recolonizing the state, targeting a pack that has killed at least four calves and a cow this summer in Ferry County.

WDFW Director Jim Unsworth authorized lethal removal Aug. 3 after department investigators that day confirmed that a calf found dead northeast of Republic had been killed by wolves in the Profanity Peak pack.

Later that day, investigators found another dead calf and determined it as the pack's fifth victim.

Previously, in July, WDFW confirmed the pack had killed two calves and a cow. Ac-



Courtesy of USFWS, William Campbell
The Washington Department of Fish and Wildlife has authorized the killing of wolves from the Profanity Peak pack because of incidents of livestock depredation.

ording to department policy, WDFW considers lethal removal after four depredations in one year by a pack.

WDFW has classified three other livestock deaths in the area as "probable" depredations by the pack. Those incidents did not count toward the threshold that triggers lethal removal.

WDFW wolf policy coordinator Donny Martorello

said the department planned to remove part of the pack and has a specific number in mind, though the number won't be disclosed until WDFW completes the operation, he said.

In 2014, the department announced it planned to remove up to four wolves from the Huckleberry pack in Stevens County and faced criticism for ending the operation after shooting one wolf.

The Profanity Peak wolf pack has six adults and five pups, according to WDFW.

WDFW officials said that wolves could be trapped, or shot from the ground or a helicopter.

Measures such as increasing human presence around the herd have failed to stop the attacks and depredations would be likely to continue, according to WDFW.

"I'm disappointed there was another depredation, but happy to see the department is ready to step in," Washington Cattlemen's Association Executive Vice President Jack

Field said.

Stevens County rancher Scott Nielsen, vice president of the Cattle Producers of Washington, said the confirmed depredations probably are only a portion of the number of cattle killed by the pack.

He said that if WDFW had initiated lethal removal sooner, fewer wolves would have to be shot to break the cycle of depredations.

"They've let it go on way too long. If they mess around with one or two wolves, the pack will continue killing cows," Nielsen said. "If they had acted sooner, it would take less to stop that feeding habit."

Besides the one wolf in the Huckleberry pack in 2014, seven wolves from the Wedge pack were shot in 2012.

In those cases, the U.S. Department of Agriculture's Wildlife Services assisted WDFW. Since then, a federal judge has ruled the federal agency can't help Washington

lethally remove wolves without doing a more thorough study of the environmental impacts.

"We have the capacity to do it, and we'll be carrying it out," Martorello said.

Martorello said the department planned to give at least weekly updates on the operation, but does not plan to provide daily updates. The department says limited updates are for the safety of its staff, ranchers and the public.

WDFW counted 90 wolves in the state at the end of 2015. The wolves, including the Profanity Peak pack, are mostly concentrated in the northeastern corner of the state.

Conservation groups said they were disappointed that Washington wildlife managers plan to kill wolves, but some environmentalists agreed that reaction was relatively muted compared to previous times the state has culled a pack to stop attacks on livestock.