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Idaho Water Law Updates

What Municipal Managers Need to Know

Presented by Merissa A. Moeller

PNWS-AWWA Conference, Tacoma, WA – May 5, 2026

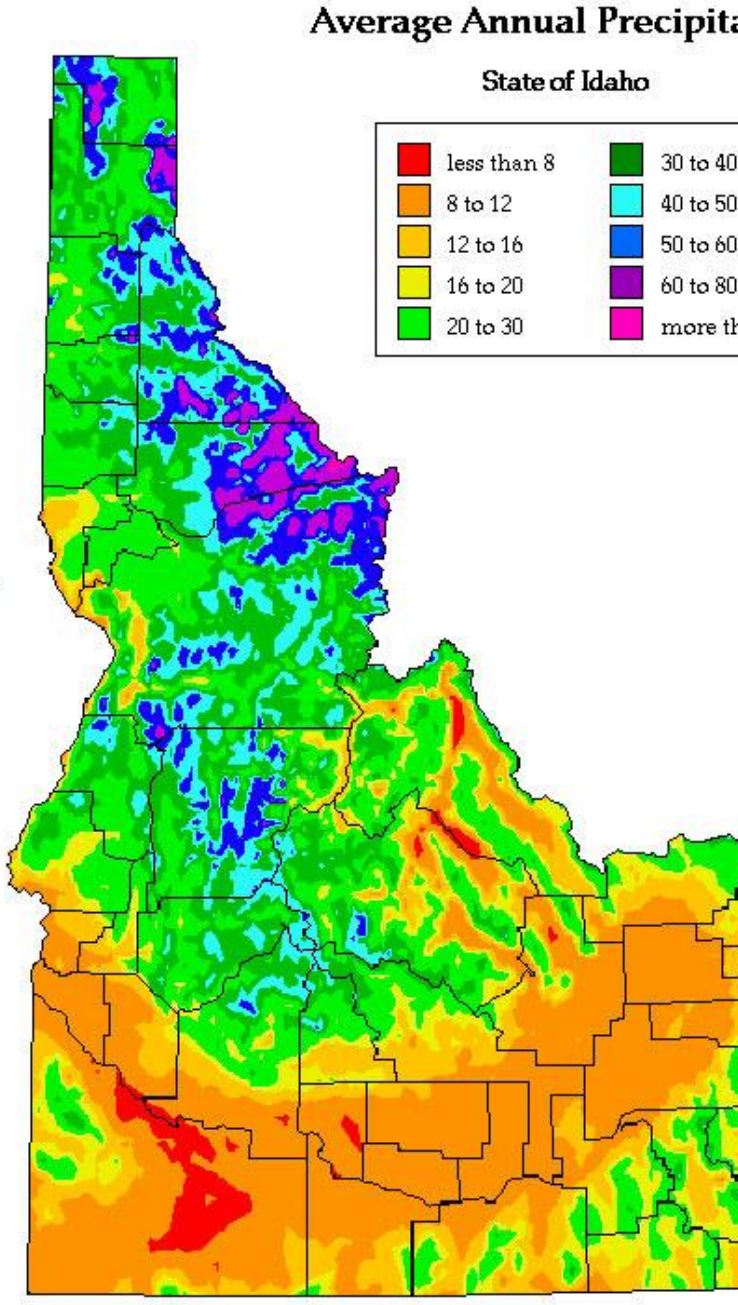


Google Earth Timelapse – West Boise & Meridian 1984 through 2020

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Source: Idaho Department of Water

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Discussing Water Rights, A Western Pastime

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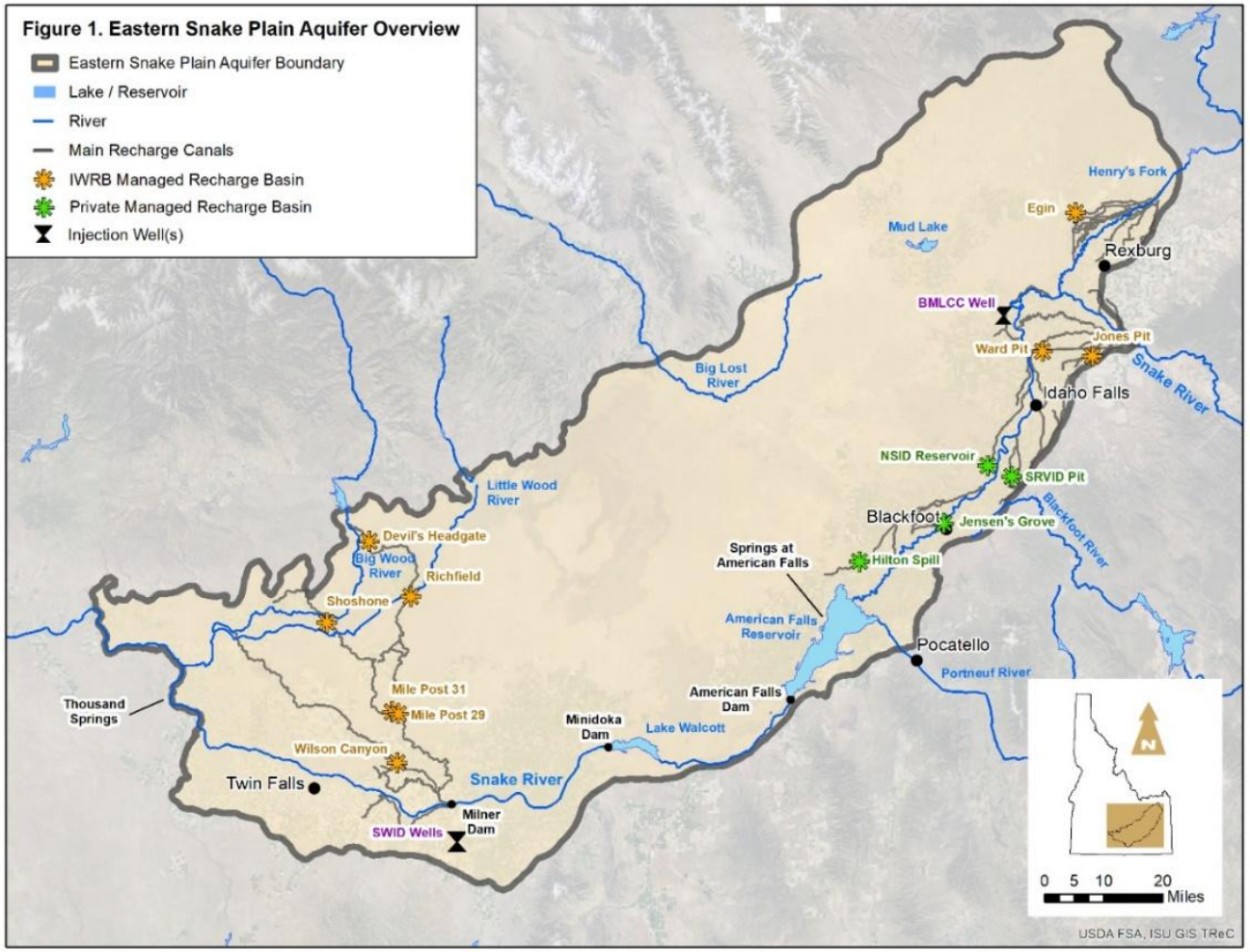
Themes

- Growth
- Supply Constraints
- Changing Industries?
- Changing Politics?

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Case Study: Adventures in Conjunctive Management

Eastern Snake Plain Aquifer (ESPA)



Source: Stewart-Maddox, Noah, Thomas, Paul, Parham, William, and Wesley Hipke. 2018. "Restoring a World Class Aquifer: A Brief History Behind Managed Recharge & Conjunctive Management." The Water Report, July 15, 2018.

Twin Falls:
- Population 55,000
- County Growth 19.1% (2014-2024)
- Major Employers: St. Luke's, Chobani

Pocatello:
- Population 56,000
- Regional Growth: "17th fastest growing metro area (2016-2021)"
- Major Employers: ISU, Healthcare

Idaho Falls:
- Population 69,000
- City Growth 8% (2022-2031)
- Major Employers: Healthcare, INL

Smaller Cities:
Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, Wendell

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More Adventures in Conjunctive Management

Conjunctive Management: A Primer

- Idaho follows the prior appropriation system, like Oregon and Washington.
- "Injury" is a key principle in prior appropriation, both for water right permitting and enforcement.
- All three states have "conjunctive management" (in theory).
- But Idaho *really* means it.

ESPA Background:

- Recent history (1800s-1900s) of Southern Idaho is irrigation from surface water.
- Groundwater development followed (1940s-1950s) → declining aquifer levels *and* surface water levels.
- Conflict and regulation ensued.

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Even More Adventures in Conjunctive Management

ESPA Regulatory Overview

- 1992 – ESPA designated as Critical Ground Water Area.
  - Moratorium on all new consumptive water rights (domestic, municipal, industrial).
- 1990s – Snake River Adjudication / IDWR develops conjunctive management rules
  - Senior surface water users may "call" on junior groundwater users.
  - Junior users may be curtailed or join mitigation plan.
- 2005 – Surface Water Coalition delivery call → curtailment, litigation
- 2019 – Settlement Agreement with "Coalition of Cities"
- 2024 – IDWR curtailment order – all rights junior to March 31, 1954 (cities exempt)
  - → last-minute mitigation agreement (Surface Water Coalition, Groundwater Districts)
  - Legislature also significantly expanded geographic boundary of ESPA
- 2026 – IDWR pre-curtailment order – all rights junior to Oct. 11, 1900 (unless you mitigate)

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Takeaways for Municipal Water Managers

In ESPA:

- Long-term water supply is highly unpredictable and subject to politics.
- No new water rights → transfers are the only option for additional supply. But transfers must be mitigated…
- Junior groundwater rights are only as stable as your mitigation plan.
- Every year is a new year…

Elsewhere:

- What would it mean for this style of conjunctive management to come to your basin?

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Case Study: Narrowing the "Domestic" Well Exemption

Idaho Code § § 42-111 and 42-227

Idaho's "Domestic" Well Exemption (pre-2025):

- No water right required for:
  a. Single groundwater well for household and related purposes, up to 13,000 gallons per day.
  b. "Any other use" up to 0.4 cfs and 2,500 gallons per day.

S1083 (2025):

- No water right required for:
  a. Single groundwater well for household and related purposes, up to 13,000 gallons per day.
  b. "Any purpose up to 2.8 acre feet per year" (approx. 912,000 gallons).
     - **Slight expansion of exemption.**

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Narrowing the “Domestic” Well Exemption

Idaho’s “Domestic” Well Exemption (pre-2025):

- “Multiple ownership subdivisions, mobile home parks, and businesses” fell under (b) “any other use” up to 0.4 cfs and 2,500 gallons per day.
  - 50 lots = 50 wells.

S1083 (2025):

- “Mobile home parks” and “businesses” still fall under (b) “any other purpose” but now up to 2.8 af / yr.
- Apartments, condominiums, and similar developments now explicitly included.
- **I.C. § 42-227:** For “new diversions” within “new subdivisions” in areas subject to groundwater restrictions, you need a water right for uses other than “in-home” or livestock watering.
  - 50 lots ≠ 50 wells, unless you get a water right.
  - And IDWR can enforce.

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Narrowing the “Domestic” Well Exemption

Idaho Code § 31-3805:

- A new statute!
- The historic flipside of the exemption: subdivisions can serve multiple homes through a shared “exempt” system.
- Now, for any subdivision within a municipal provider’s service area or area of city impact, a shared system must be designed to municipal provider’s standards and be planned to integrate into the municipal system “when appropriate.”
- Strong preference for lots to be irrigated with surface water, including through irrigation district service.

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Takeaways for Municipal Water Managers

- A case study in Idaho's shifting rural-urban politics
- Evidence of continuing urbanization and growth
- Narrow: IWUA supported, not particularly controversial at legislature
- Tradeoffs: increased pressure on municipal providers but increased oversight?
- Meanwhile, continued role of irrigation districts in urbanizing parts of the state?

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Other Happenings

March 2026: Temporary moratorium on new groundwater rights in SW Canyon County

- Restraint on future urban growth and economic development in this area? Increased demand for nearby municipal water?

March 2026: Coeur d'Alene Tribe + State of Idaho water rights settlement

- Settles Tribe's senior rights.
- Tribe agreed to recognize and protect state-law water rights senior to Sept. 6, 2023 and protect an additional 10,000 af / annually for future growth in North Idaho communities.

April 2026: H895 enacted

- Data centers that begin construction after July 1 "may not use water for cooling purposes as a consumptive use" **unless** supplied by a municipal or other public provider.

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Conclusions

- Kelsey said it well: “Water rights are hard!” Politics are also hard.
- It’s a time of significant change in Idaho.
- Idaho is unique, but its approach toward water law also has the potential to impact neighboring states.
- Make friends with your lawyer. ☺

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Questions?

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