

# IGWA Bulletin



Happy Summer Everyone,

I hope everyone is enjoying the summer. I'm not too sure where spring went, as it seemed we went from winter straight in to summer. This has seemed to be a very different year. I hope everyone is still busy, as it has seemed to slow down slightly around the treasure valley, but still pretty busy for now.

As for what is happening with the IGWA lately. I have attended two sessions of the, Negotiated Rule Making with IDWR, along with a couple other board members, and IGWA members. It appears as though they are not really trying to change much, but are cleaning up verbiage, and reviewing the rules as required by legislation.

One positive note is that it is looking like they are going to change the minimum well construction standards on Low Temperature Geothermal Wells from 86 to 140 degrees. Unless it is a flowing well it would still require bonding, and water rights as needed, but would be easier to construct. It may be possible to change those requirements as well in the future, but it cannot be done in the same year as the changes they are making now.

They were trying to require engineers, or geologists designs on waivers for certain setbacks such as septic's, and other possible contaminants. They are changing that, but I'm not sure what that outcome will be as they have concluded the public comment on the Negotiated Rule Making. Hopefully they will continue to include us in their discussions. They have been very open, and seem to be open to what we have to say.

We still have not gotten anywhere with DOPL on our Electrical License/Test. They keep saying the are going to talk it over with us and go over possibilities, but meetings keep being cancelled. We are still pushing, and hope to have an answer soon. Roger Batt has been invited to Idaho Water Users Association meeting and hopefully will be able to keep us up on their water rights, and subdivision plans in the future.

On another note. Our new website is about to come online. It is so much better and updated from what we had before. It should make it easier to register for upcoming events such as the winter convention, fall and spring workshops, virtual workshop, and additional classes to obtain your required CEC's. I hope you will take the time to look it over once it is available.

Cassidey has been working on a new way of certifying your CECs. We are hoping by the Winter Convention that we are able to scan your badge to get your CEC for each class. That is about all I got for now, I'm planning on attending the Fall workshop, and hope to see many of you there. If not, I'm looking forward to another great Winter Convention in January, and hope to have another record attendance.

Stay cool everyone.

Sam Kingrey  
President, IGWA





## Report from IGWA's Executive Director

The IGWA has been working with the Idaho Division of Professional Licensing to hold a meeting with the Electrical Board to present some of the issues our industry has with passing the electrical exam for domestic pump installation. We have been told that the meeting will take place in late August (date to be determined). As a result of this meeting, it is possible our industry could have its own electrical exam specifically tailored for domestic pump installation. The IGWA has also been engaged in two (2) Negotiated Rulemaking sessions with the Idaho Department of Water Resources regarding the Low Temperature Geothermal Rule. The last day for comments to be submitted on the Rule was July 10. The Rulemaking was a direct result of a February 2023 meeting between the IGWA and IDWR leadership and IGWA voicing concerns regarding the 85-degree rule and some of the issues our drillers have because of the Rule. In the final DRAFT of the 2024 Rule the IDWR is changing the minimum standard from 85 degrees to 140 degrees. Unless it is a flowing well. There will still be bonding requirements on anything over 85-degrees. This is something that is currently in statute and the Rule cannot conflict with state statute. A statutory change may be something the IGWA needs to investigate prior to the 2025 Legislative Session. This will be a topic the IGWA Board and membership will discuss to provide direction.

During the 2024 Idaho Ground Water Annual Convention we reported that the domestic well exemption Legislation drafted by the Idaho Water Users Association would be a critical issue for our industry. At that point in time the DRAFT would have required any subdivision with less than 5-acre lots to have a water right approved and a community or shared well developed. IGWA was part of some discussions in 2023 but did not agree with the final DRAFT that was presented to the IGWA Board on January 25, 2024 by the Idaho Water Users Association's Executive Director. Following our Convention and the meeting with the IWUA Executive Director on January 25, the Legislative DRAFT changed to only require a shared or community well in subdivisions with more than 10 lots that are 5 or less acres in size only in areas where people do not receive irrigation water from an

irrigation district, canal, or ditch company. An e-mail was sent out to the IGWA membership with this information and no responses were generated. During the 2024 Session the Legislation (Senate Bill 1370) did not move forward. The Idaho Water Users Association has started to discuss this topic again over the past few weeks and will be presenting a new DRAFT for IGWA and others to look at. We will be reporting more information to all of you on this issue once we find out what's in the latest draft.

The IGWA is working on developing new online video presentations and exams to update the online Continuing Education Program. We are also working on developing a new IGWA website to allow for a better user-friendly experience and to provide more updated information to you as members. It is anticipated that the new online CEC video presentations and exams will be available to the drilling community on September 1 and the new IGWA website will go live mid-August. IGWA is hosting the annual North Idaho Workshop on Monday, September 9 at the Hampton Inn in Coeur d' Alene. Six credits will be available including 1 hour of Idaho Rules and Regs and 1 hour of Washington Rules and Regs.

If you wish to register for this event online see the link below.



Correspondence for this Workshop has also been e-mailed and will go into the regular mail. Please mark your calendars for the 2025 IGWA Annual Convention on January 23-24 at the Riverside Hotel in Garden City. We anticipate a good lineup of presenters and topics with 12 credits to be awarded including 2 hours of Idaho Rules and Regs. Thank you for being members of the Association and enjoy the rest of your summer!

Roger Batt  
Executive Director

## **NORTH IDAHO FALL WORKSHOP**

**WHEN: SEPTEMBER 9TH 2024**

**TIME: 8:00AM-3:00PM**

**WHERE: HAMPTON INN, COEUR D'ALENE, ID**

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## Scholarship Chairman Update

This year, we were thrilled to receive three outstanding applications for the IGWA scholarship program. To be eligible, applicants must be relatives of IGWA members and have successfully completed high school with a diploma. It's always a pleasure to support the educational aspirations of our members' families, and we look forward to expanding the scholarship program in the future.

This year we awarded a total of \$4,000 to the following scholarship recipients:

**Easton White - \$2,000**

**Addisen Pennington - \$1,000**

**Gabriel Navarro - \$1,000**

Do you know someone who should apply next year? The application will be emailed and posted to our website at <https://igwa.info/scholarship/> early in 2025. Applications will be due April 15th, 2025.

## Crisis Fund Chairman Update

Over the past few months, I have been working on establishing a set of bylaws for the Crisis Fund. These bylaws will streamline the process and make future use of the fund more efficient and official. Additionally, we've made significant improvements by creating a dedicated page on our new website, which includes an online application for those in need of assistance from the Crisis Fund.

Looking ahead, our next scheduled event is the auction at the Annual IGWA Convention, set for January 22-24. Stay tuned for updates on a potential clay shoot event this fall!

Charlie Fox  
IGWA Crisis Fund Chairman



## 2024 SCHOLARSHIP RECIPIENTS



### EASTON WHITE - \$2,000

*Easton White is a 2024 graduate of Emmett High School. He graduated Magna Cum Laude with a 3.8 gpa throughout all 4 years of high school. He played baseball all 4 years of high school, and played golf for 2 years. He was also involved in FFA, placing 2nd place in district for prepared speaking as well as placing 3rd in state twice for the electrical career development events. He was also a member of the national honor society for 4 years. His career plans are to go to college to expand his knowledge before returning to Emmett Idaho to take over his family's well and pump business.*



### ADDISEN PENNINGTON - \$1,000

*Addisen Pennington is a senior at the University of Idaho who is originally from Parma, Idaho. She is currently double majoring in Political Science and Criminology with a minor in Justice Studies. Addisen is a proud member of the fraternity Kappa Kappa Gamma, has served on the Panhellenic Communities Judicial Board at the University of Idaho, and was involved with ASUI, the university's student government. Addisen's plan after she graduates in December is to work for a law firm and prepare to attend law school in August of 2025.*



### GABRIEL NAVARRO - \$1,000

*Gabriel Navarro is a student athlete attending Cypress College in California studying Education. He graduated from Nampa High School in 2023 with a 3.7 GPA. Gabriel plans to continue to play college basketball and someday become a teacher and basketball coach.*



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## **IDWR UPDATE: Overview and Background on the Director's May 30, 2024 Final Order Curtailing Ground Water Rights Junior to March 31, 1954 - FAQ**

*\*Important note: the following references to "IGWA" refers to the Idaho Ground Water Appropriators, not the Idaho Ground Water Association.*

### **What happened?**

The Director of IDWR issued an order on May 30, curtailing ground water rights that pump water from the Eastern Snake Plain Aquifer that are junior to March 31, 1954 and located in ground water districts that were found to be deficient in complying with their existing, approved mitigation plans to address an injury volume of 74,100 acre-feet of water to senior water users.

### **Why was a curtailment order necessary?**

The surface water users and ground water users in the Eastern Snake Plain region have been in conflict and litigation for many years. This conflict prompted the development of the methodology for determining material injury to senior water users (Methodology). The Methodology has been implemented for many years to evaluate water supply and crop need conditions to determine the magnitude of injury to senior surface water users. In 2015, members of the Surface Water Coalition (SWC), and members of the Idaho Ground Water Appropriators, Inc. (IGWA), reached a settlement agreement that was submitted and approved by the Department as a mitigation plan (2016 Stipulated Mitigation Plan).

Under the existing water delivery call by the SWC, the Director of IDWR must use the Methodology to evaluate water supply conditions in April of each year and determine if there is a water shortage. This year, the Director determined there would be a shortage to the Twin Falls Canal Co. (senior surface water users) of 74,100 acre-feet of water. IDWR notified junior ground water users on May 10 that they would need to show how they will mitigate for the water shortfall.

At that time, four ground water districts were found to be deficient in meeting an existing mitigation plan, while nine other entities were found to be in compliance with their existing mitigation plans.



**The nine entities found to be in compliance were:**

1. Aberdeen American Falls Ground Water District
2. A & B Irrigation District
3. Coalition of Cities
4. Southwest Irrigation District
5. Henry's Fork Ground Water District
6. Madison Ground Water District
7. Magic Valley Ground Water District
8. North Snake Ground Water District
9. Water Mitigation Coalition

**The four ground water districts found to be in non-compliance were:**

1. Bingham Ground Water District
2. Bonneville-Jefferson Ground Water District
3. Jefferson-Clark Ground Water District
4. Carey Valley Ground Water District

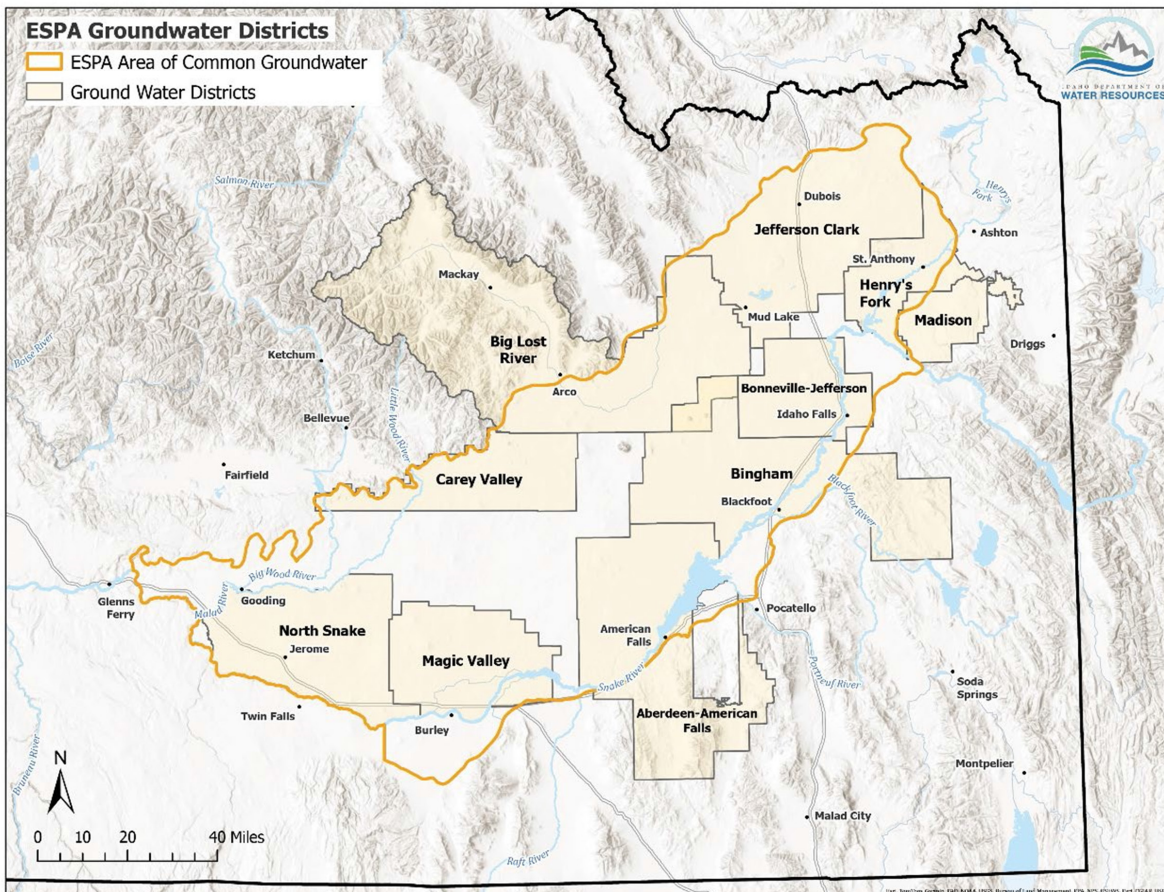


Figure 1. Ground water districts within the ESPA Area of Common Ground Water Supply

## Why is there a conflict between the SCW and IGWA?

In Idaho, water rights are assigned a priority date based on the date the water was developed or put to beneficial use. Generally, surface water rights are senior and ground water rights are junior. Often, surface water users will have senior water rights dating to the early 1900s compared to ground water users, whose water rights date to the 1940s and 1950s.

Under Idaho Water Law, the priority of water distribution followed by the courts is called prior- appropriation, or “first in time, first in right”. Idaho is a prior-appropriation state, which means senior- priority water rights receive their water first followed by junior water rights. If there is not enough water to fill all water rights, junior users can potentially be curtailed when senior users submit a delivery call to the Department for their water. Much of the conflict centers around water rights – first in time, first in right – and the health of the Eastern Snake Plain Aquifer (ESPA). The ESPA is a Lake Erie-sized aquifer that provides multiple benefits for everyone who lives in the Magic Valley and Eastern Idaho, including drinking water, water for irrigation, water for business, industry and cities.

The ESPA has been in decline since the 1950s. There are more than 5,500 water wells drawing water from the ESPA and the aquifer is being overdrawn by about 200,000 acre-feet a year. The graph below illustrates ESPA storage volume over time. Storage volume increased in the early days of Idaho’s history when farmers used surface water to

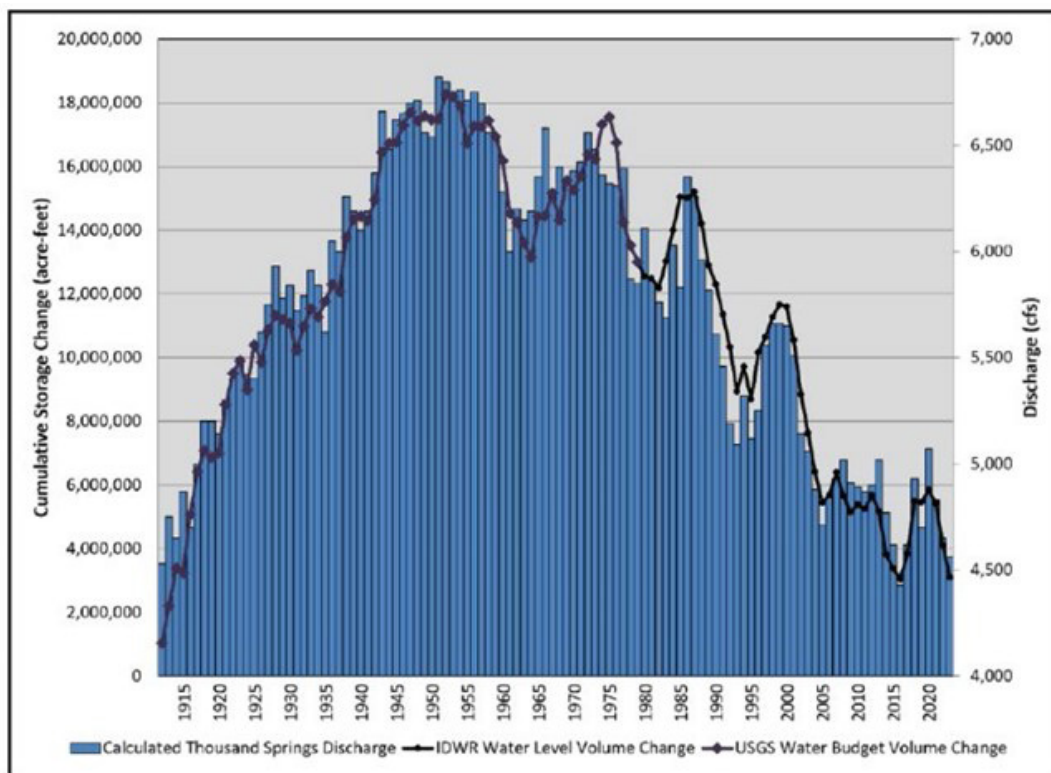


Figure 2: ESPA storage volume change (black line) and discharge from the Thousand Springs complex (blue bars) from 1912-2023.

to water their crops, thus increasing the amount of water in the ESPA due to aquifer recharge from farm fields. Around the 1950s groundwater pumping became more feasible, and many farmers started watering their fields with groundwater pumped from the ESPA. As shown in the graph, a steady decline in ESPA storage volume begins in the 1950s. The amount of discharge at the Thousand Springs complex is an indicator of aquifer health. Discharge at Thousand Springs fluctuates according to ESPA storage volumes.

**Didn't the 2015 settlement agreement between the Surface Water Coalition and the Idaho Ground Water Appropriators, Inc. over water rights in the ESPA region, brokered by Lt. Gov. Scott Bedke, resolve the water rights dispute?**

Yes, it did for a number of years. In 2016, IDWR approved the SWC's and IGWA's Stipulated Mitigation Plan following their 2015 settlement agreement. The 2016 Stipulated Mitigation action Plan called for ground water reductions of 240,000 acre-feet per year by ground water districts in the ESPA region or 13% across the region. However, some ground water districts are now seeking to mitigate under the 2009 mitigation plan, which calls for delivery of storage water to the SWC.

**Did ground water users have any other options for safe harbor from the Director's curtailment order?**

The ground water districts have two mitigation plans that were approved by the Department that are available to them this year:

[2016 Stipulated Mitigation Plan](#)

[2009 Storage Water Delivery Plan](#)

Three ground water districts have met the terms of the 2016 Stipulated Mitigation Plan and have shown that they are in compliance with the plan. These ground water districts are protected from curtailment under the plan. The remaining districts have not shown that they are in compliance with either mitigation plan.

**Could the Director have waited to issue a curtailment order? Farmers have already planted their crops, right?**

The IDWR Director is required by the Idaho Constitution, Idaho Law, and numerous court decisions to administer water rights. The SWC members submitted a delivery call for their water that requires the Director to take action to protect the SWC's senior water rights. If juniors cannot show that they are in compliance with an approved mitigation plan, the Director has no choice but to curtail junior users.

### **How does IDWR determine how many acres will be curtailed?**

The number of curtailed acres is a function of the curtailment priority date. The curtailment priority date will be different each year and may change mid-season depending on current water supply, aquifer conditions, and irrigation demand.

### **How can there be curtailment in a year when there is a good snowpack or full reservoirs?**

The April Forecast Supply order, a part of the Methodology, is an early season prediction of the SWC's water supply for the upcoming irrigation season, based on aquifer conditions, natural flow, storage water, and aquifer discharge to the Snake River. Snowpack is only one component of the SWC's water supply. In 2023, the ESPA and spring discharge, both of which affect Snake River surface water flows, were at record low levels. Because of this, there can be curtailment in a year when there is a good snowpack or full reservoirs.

### **Are junior ground water users immediately subject to curtailment?**

Ground water users that are members of ground water districts that are not in compliance with an approved plan are immediately curtailed. Ground water users that are not members of a ground water district have 15 days from May 30, 2024, to join a ground water district that is operating in compliance with an approved mitigation plan.

### **What happens if I am a ground water user and I'm a member of an organization that is operating in compliance with an approved mitigation plan?**

If you are a member of an organization or entity that is operating in compliance with an approved mitigation plan, you are not subject to curtailment.

### **What happens if I am a ground water user and I am not in compliance with an approved mitigation plan?**

You are subject to curtailment.

### **What is the Current Status of Curtailment in the ESPA?**

For up-to-date information on the 2024 Surface Water Delivery Call,

see the following website:

<https://idwr.idaho.gov/legal-actions/delivery-call-actions/swc/2024-surface-water-coalition-delivery-call/>



Erik Boe, P.E.  
Chief, Water Compliance Bureau

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# National Ground Water Association Government Affairs Activities for 2024

In 2024, the National Ground Water Association (NGWA) and its members has been actively engaged in various government affairs activities, engaging lawmakers in addressing the nation's groundwater challenges and influencing policies that impact the groundwater industry and its people.

## **Smart Water Policies Fly-In**

The year began with the 2024 Smart Water Policies Fly-In, where advocates for the groundwater industry gathered to discuss and promote critical water policies. This event provided a platform for industry leaders to engage with policymakers, emphasizing the importance of sustainable water management practices. The Fly-In highlighted the need for passage of comprehensive Farm Bill, increased funding for Managed Aquifer Recharge, and grant programs that support private water systems and remediation of emerging contaminants.

## **Encouragement from Bicameral Momentum on the 2024 Farm Bill**

In May, the NGWA expressed optimism regarding the progress of the 2024 Farm Bill, driven by recent bicameral momentum. The organization acknowledged the collaborative efforts of both the House and Senate in advancing this crucial legislation. The Farm Bill holds significant implications for groundwater management, particularly in agricultural contexts where water usage and conservation policies can greatly impact drillers. NGWA made passage of a comprehensive farm bill a center point of their annual Fly-In in D.C.

## **Input to the White House on America's Groundwater Challenges**

July saw NGWA providing substantial input to the White House on America's pressing groundwater challenges. This initiative aimed to inform the administration about the critical issues facing the nation's groundwater resources, including contamination, over-extraction, and climate change impacts. By contributing their expertise, NGWA seeks to shape national policies that address these challenges and ensure the protection and sustainable use of groundwater for future generations.

## **Impact of the Supreme Court's Chevron Doctrine Ruling on Groundwater Policy**

In a landmark decision, the Supreme Court's ruling on the Chevron Doctrine is set to have significant implications for future groundwater policy. NGWA closely monitored this ruling, understanding its potential to alter the regulatory landscape. The Chevron Doctrine, which pertains to judicial deference to administrative agency interpretations, has been a cornerstone in environmental regulation.

Throughout 2024, NGWA continued to take a proactive approach in government affairs, engaging in key policy discussions and advocating for the groundwater industry's interests. If you are interested in learning more, or becoming involved in NGWA Government Affairs, please email [govaffairs@ngwa.org](mailto:govaffairs@ngwa.org).

Ben French  
NGWA Government Affairs Staff



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