

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Bob Muffley, Acting Executive Director**

**122 5<sup>th</sup> Ave. West**

**Gooding, Idaho 83330**

**Phone: 208-934-4781 Fax: 208-934-5648**

**FAX COVER SHEET**

**TO: Marvin Bingham**

**FROM: Bob Muffley**

**RE: Your fax of 7/16/04**

**DATE: 7/19/04**

**This FAX has a total of   1   pages including this cover sheet. If you do not receive all the pages, please call at the office number shown above.**

**MESSAGE:** Commissioner: I'm writing to let you know that I received your fax of 7/16/04 and have made copies for the attendees at our next meeting. I want to thank you for the time you took out of your busy schedule to share with the Commission your advise and the advise of your county attorney on this most important of issues. Based on your advise and the advice of other commissioners in the region, I have been asked by the Chairman to draft a letter concerning the formation of a Recharge Authority within the four county region including the City of Twin Falls. The points you raised will be incorporated into that letter. I will hopefully have the draft prepared for our meeting on Wednesday. As you are aware, This Commission can make commitments for the counties. We can only work on their behalf to expedite situations concerning our regions water resources. Be assured that the Commission will try to work out the best solution possible with the legislative interim committee, but the final say for any proposal remains with the county commissioners we represent.

Thanks again.

208-934-5648

Bob Muffley

From Marvin Bingham

Enclosed, is the report, to the Middle Snake Regional Water Resources Commission, intended for the upcoming meeting, July 21, 2004., a copy of the letter from Minidoka County Attorney, Jason Walker to Minidoka Commissioners, and a letter from me to the commission about Minidoka County's position on involvement in aquifer recharge.

If you have any comments, questions, or disagreements, please call me.

I am not sure if I will be at the meeting, or not, I have another meeting that day too. They are both important.

July 16, 2004

**TO: Middle Snake Regional Water Resource Commission**

**FROM: Marvin Bingham**  
Minidoka County Commissioner  
150 E. 1000 N.  
Rupert, ID 83350  
Ph. 208-532-4393 Cell. ph. 208-436-4390

**RE: Report to Commission of my consultation with Minidoka County Attorney, Jason Walker and others, regarding authority of counties to instigate and maintain, aquifer recharge capabilities.**

The following, is my understanding of the situations indicated, after reading the report to Minidoka Commissioners, from Mr. Walker, and discussing the situation with him. Also, discussion with other involved people.

**JOINT POWERS AGREEMENT:** Counties can enter into a Joint Powers Agreement, to accomplish together, anything that a county has authority to do singularly. Therefore, when authority can be established, that a county can do aquifer recharge, the Joint Powers Agreement can be used to combine our efforts into one entity.

**AUTHORITY:** Counties do not have any authority, to form an aquifer recharge district, or to levy any kind of fee, on water users, to fund recharge. Only water users, and water right holders, can form a district, then only with approval of more than 50%, of water right holders. County Commissioners could not bind water users into an agreement.

Counties can, and do, have water rights on property, the same as individuals. So, it is reasonable, that a joint county agreement can hold a water right for aquifer recharge. If authority can be established, that a county can do recharge, then there is no reason why a joint county effort cannot be successful. The Idaho Legislature, probably needs to clarify, and establish that authority.

**SOLUTIONS:** Legislative action is needed, to fund aquifer recharge, establish clear authority, and determine what entities can participate. Consensus is, that the more local the administrative entity, the better, therefore counties may be the best one.

These considerations need to be decided, and implemented, by the end of the next legislative session. Sites need to be prepared, and money needs to be raised, We need to get prepared. Who knows, we may actually get some extra water, one of these years.

There is a 1980 water right of 1200 cfs., that is held by the Lower Snake River Aquifer Recharge District. David Blew, IDWR., says that this is available for the recharge efforts being considered.

**CONCERNS:** There is a potential, for water quality liability, by recharging the aquifer. There is the possibility, of not enough support for a funding source. There is potential disagreements over where, and how, to use the available water, and probably several other things. Let us still press on, with our efforts, until we get some permanent agreements in place, and the water level in the aquifer, rising. Each problem can be solved, as we go along.

July 16, 2004

TO: Middle Snake River Water Resources Commission

FROM: Marvin Bingham  
Minidoka County Commissioner

RE: Formation of an aquifer recharge district

At the June meeting of the Middle Snake River Water Resources Commission meeting, there was discussion about proceeding ahead with plans to form an aquifer recharge district, by the counties involved in the commission. I was asked to seek approval of Minidoka County for this project.

Minidoka County strongly supports aquifer recharge, as one of the solutions, to the problem of inadequate water supply, along the Snake River drainage of southern Idaho.

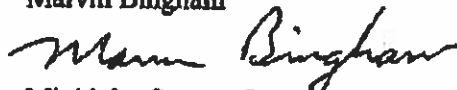
We are not, at this point, ready to support the Middle Snake River Water Resources Commission, as the entity to form an aquifer recharge district. Our county attorney reported to us that there is no authority, for counties to form such a district or assess fees to fund it. Water users, only, can form districts, under current law. However, as we have discussed many times, everyone in the state, is at least a domestic water user. Counties can, and do, hold water rights, on lands owned.

There may be the need, for change in Idaho law, to allow for additional authority, for counties or other appropriate entities, to do recharge. We will likely be supportive of changes in law, that will accomplish this. The Idaho legislature, needs to establish a source of funding, that will be shared equally by all water users, including domestic.

If authority can be established, for counties to do aquifer recharge, and if it is determined to our satisfaction, that counties are the best entity to accomplish it, then we will most likely be supportive.

Thanks, to all of you members, who have spent much time helping solve Idaho's water problems. It will be a constant effort, but lets keep going, and we will find a way to do more aquifer recharge.

Marvin Bingham



Minidoka County Commissioner  
150 E. 1000 N.  
Rupert, Idaho

**OFFICE OF THE PROSECUTING ATTORNEY  
MINIDOKA COUNTY**

**P.O. Box 368  
Rupert, ID 83350  
Office: (208) 436-7187  
Facsimile: (208) 435-3966**

**NICOLE L. CANNON  
Deputy**

**JASON D. WALKER  
Prosecuting Attorney**

**ALAN GOODMAN  
Deputy**

July 15, 2004

Minidoka County Commissioners  
P. O. Box 368  
Rupert, Idaho 83350-0368

**RE: Magic Valley Regional Aquifer Recharge Authority**

Dear Commissioners:

Pursuant to your request of July 12, 2004, I have reviewed an agreement for the formation of the Magic Valley Regional Aquifer Recharge Authority. As we discussed, it appears that this is a very rough draft and that a number of the Idaho Code citations should be corrected to accurately reflect the code sections applicable to this endeavor. More importantly, however, I have a great deal of concern with respect to Minidoka County's authority to enter into such an endeavor on behalf of the water users for Minidoka County. The formation of an aquifer recharge district as contemplated by the agreement is governed by Idaho Code §42-4202. In its pertinent part, this statute requires that the formation of an aquifer recharge district may only be created by petition. Specifically it reads: "The petition shall be signed by no less than fifty (50) percent of the water users located within the proposed boundaries of the district." The provision goes on to define water users for the purposes of this act and includes individuals or entities exclusive of privately owned electrical generation companies who are the holders of title or evidence of title to property but without the boundaries of a municipality. It also includes municipalities, meaning cities that provide water to those people living within the boundaries of the municipality. Obviously, the county could enter into ~~an~~ it, as an individual or entity, but only with respect to its own water rights. The Commissioners could not bind the remainder of the county water users as defined in the code.

You will note that Idaho Code §42-1401 does provide for a pilot project, including Jerome, Lincoln, Gooding, and Twin Falls Counties. However, Minidoka County is not included in that aquifer recharge ground water district. In fact, one would have to question whether or not the goals set forth by the legislature in that statute would be of benefit to the users in our particular area.

Minidoka County Commissioners  
July 15, 2004  
Page 2

It would appear that either a legislative change would need to be made, which would allow the county to bind the water users within its district, or under Idaho Code §42-4202, 50% of the water users located within the proposed boundaries of the district would need to sign a petition for the creation of an aquifer recharge district.

Another concern would be the financing or assessments associated with the operation of such an aquifer recharge district. I have been unable to find any statutory authority which would allow the counties to assess a per-acre charge on water users who would be forced into such an aquifer recharge district.

Based on these findings, it is my strong recommendation that the Commissioners not enter into the agreement for the formation of the Magic Valley Regional Aquifer Recharge Authority at the present time. I recommend a slow and cautious approach, which may include lobbying the legislature to make amendments to the statute which would benefit all parties involved. If you have additional questions, please let me know.

Very truly yours,

**/S/ JASON D. WALKER**

Jason D. Walker  
Prosecuting Attorney

JDW:jb

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Lew Pence, Chairman  
Bob Muffley, Acting Executive Director  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
PH: 208-934-4781 Fax: 208-934-5648**

July 22, 2004

*Letter sent to  
all six counties*

**Twin Falls County Commissioners  
P.O. Box 126  
Twin Falls, ID 83303-0126**

**Dear Commissioners:**

**Attached is the proposed budget of the Middle Snake Regional Water Resource Commission for the budget year beginning October 1, 2004. Please review the budget and let me know if you have any questions.**

**The Commission was somewhat surprised by the amount of carryover from previous years. We believe, however, that it is probably a blessing. The carryover comes from projects that were planned, but for one reason or another didn't develop. That happens when your dealing with water issues. This year the Commission plans to use some of the carryover for education on water quality issues. We will work closely with the IDEQ these efforts. Most of the money, however, will be earmarked for education on both groundwater and above ground water quantity issues. We are of the opinion that some people don't understand the critical nature of our current water situation and many others don't care. The public needs to understand this issue and its probable economic impacts. We will be looking at several different ways to do this. The Commission has discussed putting together educational forums made up of experts throughout the state and the region. We are also discussing the possibility of producing a "TV ready" video program to be used by television stations that broadcast within our region. The videos could also be used as programs for various groups that meet throughout the region.**

**The Commission has been working with the legislative sub-group which is working on our water issues. Our Executive Director, Bob Muffley has also been chosen to work on a subcommittee of that group. We will be closely monitoring this process and offer our advise when needed. It will be difficult to put together informative educational programs until the legislature makes their final decision. This should happen early next year. We believe that part of their decision will be the creation of a recharge district involving the counties north of the river and the City of Twin Falls. Twin falls and Cassia counties will probably not be part of that effort. It doesn't mean, however, that water conservation and recharge efforts won't be needed in these two counties. For this reason, our Commission will be spending most if its time next year on educational programs concerning water quantity issues in all six counties. I'm sure we will also be helping to coordinate the formation of a recharge district on the north side of the Snake, but will not spend any of our funds in this effort. The legislature and the actual participants in the recharge district**

**will need to front these costs as well as the ongoing costs of a recharge district.**

**The Commission is in the process of revising the water quantity and the economic portion of the Coordinated Water Resource Management Plan. We hope to have the draft completed by the first of next year and go to public hearings soon after. This portion of the plan hasn't been revised since 1995, but we have been pleasantly surprised by the fact that much of it remains pertinent today. The economic portion of the plan has also remained the same since 95. We found, however, that the value of an acre foot of water has remained fairly stable since that time.**

**The Commission greatly appreciates your support on the important issues concerning the water resources in our region. Don't hesitate to call me if you have questions or need our help on specific water issues in your county. That's our job and we hope we're doing it to your satisfaction. I also want to remind everyone to be sure to use the vulnerability map that was created to benefit the county planners. This is a wonderful tool, but can only be helpful if its put to good use. If you need help with the computerized program, call your county extension agent.**

**Thanks again for your support and we look forward to working with each of you in another very busy year. Let me know if you have any questions concerning the attached budget. My phone number is 934-5302 or my cell phone is 308-4446**

**Sincerely**

**Lew Pence  
Chairman**



XO(TM) Web Site Hosting Web Mail

From: Muffley Realty and Insurance <bmuffley@muffleyagency.myrf.net>, bmuffley@muffleyagency.myrf.net
To: Kenneth D Skinner <kskinner@usgs.gov>
Subject: Re: error on report
Date: Mon, 15 Mar 2004 12:16:45 -0500 (EST)

Kenneth: I believe it would probably be best to list all six counties since they were actually responsible for the funds. Since the Middle Snake Regional Water Resource Commission was responsible requesting the help of the USGS in developing the project and worked with the USGS throughout the process, However, I believe that it should also be mentioned if possible.

Bob

----- Kenneth D Skinner <kskinner@usgs.gov> wrote:

>
>
> Bob, my apologies about this. Our reports unit is preparing a fix to send
> out to everyone who has received a copy of the report or our press release.
> It is possible that some of the newspapers may print an article before they
> receive our revised press release, but I hope not. If so, we will request
> that they print a correction.
> The revised version will list DEQ and each of the six counties. Let me
> know if this is ok or if you would prefer it to list the Middle Snake
> Regional Water Resource Commission instead. Let me know soon however since
> our reports unit will be sending out a correction soon.
>
> Again, sorry about the mix-up,
>
> Ken

> |-----+----->
> | | Muffley Realty and |
> | | Insurance |
> | | <bmuffley@muffleyagenc |
> | | y.myrf.net> |
> | | |
> | | 03/12/2004 11:46 AM |
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> | cc:  
> | Subject: error on report

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> Ken:  
>  
> Thanks you for the copies of the probability report. I wish I would  
have  
> seen the proof, however, before the report was printed. You list that  
the  
> report was prepared in cooperation with Jerome county which is not  
correct.  
> Jerome County issued the check for the study, but the money came from  
the  
> Middle Snake Regional Water Resource Commission. this Commission  
received  
> its money from Cassia, Gooding, Lincoln, Jerome, Minidoka and Twin  
Falls  
> counties which make up our region. I'm afraid that the other counties  
> making up our region will be upset by this since each of them paid the  
same  
> amount as Jerome county through this Commission.

> I hope a change can be very soon. Please let me know.

> Bob

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>  
>  
>

BRENT T. ROBINSON  
JASON D. WALKER

KELLY ARTHUR ANTHON  
BRIAN J. COFFEY

ROGER D. LING, OF COUNSEL

LING, ROBINSON & WALKER

ATTORNEYS AT LAW  
815 "H" STREET  
P. O. BOX 396  
RUPERT, IDAHO 83350-0396

AREA CODE 208  
TELEPHONE 436-4717  
FAX 436-6804

March 15, 2004

Mr. Bob J. Muffley  
Executive Director  
Middle Snake Regional Water Resource Commission  
122 5<sup>th</sup> Avenue West  
Gooding, Idaho 83330

RE: **Joint Powers Agreement of Counties**

Dear Mr. Muffley:

At the recent meeting held on March 10, 2004, several questions were asked in regard to the joint powers of counties and other government agencies. In retrospect, I realize I did not answer the one vital question that must be asked on this issue. Section 67-2328, Idaho Code, provides in part, under subsection (a) that:

Any power, privilege or authority, authorized by the Idaho Constitution, statute or charter, held by the state of Idaho or a public agency of said state, may be exercised and enjoyed jointly with the state of Idaho or any other public agency of this state having the same powers, privileges or authority; but never beyond the limitation of such powers, privileges or authority; and the state or public agency of the state, may exercise such powers, privileges and authority jointly with the United States, any other state, or public agency of any of them, to the extent that the laws of the United States or sister state, grant similar powers, privileges or authority, to the United States and its public agencies, or to the sister state and its public agencies; . . .

This section further provides: ". . . but nothing in this act shall be construed to extend the jurisdiction, power, privilege or authority of the state or public agency thereof, beyond the power, privilege or authority said state or public agency might have if acting alone."

Section 67-2333, Idaho Code, further provides: "Nothing in this act shall be interpreted to grant to any state or public agency thereof the power to increase or diminish the political or governmental power of the United States, the state of Idaho, a sister state, nor any public agency of any of them." The term "public agency" includes "any county, city,

Mr. Bob J. Muffley  
Executive Director  
Middle Snake Regional Water Resource Commission  
March 15, 2004  
Page 2

school district, special district or other municipal corporation or political subdivision of the state of Idaho.”

I could find no authority by which a county has the authority to establish and finance a “recharge district.” Of course, the Legislature of the state of Idaho could expand upon the powers of counties to appropriate and store water under ground, but I have no reason to believe that a county now could act as an aquifer recharge district, irrigation district, canal company or water district. It is also my opinion that no vote of the residents of a county could grant the county with the authority it does not have by statute or by the Constitution.

I certainly hope that my omission of this legal authority and my opinions from my presentation did not cause any of the counties to have the wrong impression. If you need any further clarification of these points, please feel free to contact me.

Very truly yours,

  
Roger D. Ling

RDL:jb

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Lew Pence, Chairman  
Bob Muffley, Acting Executive Director  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
PH: 208-934-4781 Fax: 208-934-5648**

February 3, 2004

*Copy of letter  
sent supporting  
Gooding SCD project*

**Todd Maguire  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706**

**RE: 319 grant proposal from the Gooding SCD for Bliss Group 1 Nitrate Priority Area**

**Dear Mr. Maguire:**

**The Middle Snake Regional Water Resource Commission was asked to comment on the efforts of the Gooding Soil Conservation District's efforts to initiate agricultural BMP implementation within the Bliss Group 1 Nitrate Priority Area. This Commission contracted with the USGS to develop a nitrate probability map for our 6 county region. The mapping was completed in 2003 and indicates a high probability of ground water nitrate problems in some of the area north of Bliss. This Commission's Coordinated Water Resource Management Plan for this region recognizes the need for better agricultural practices in areas with probable elevated nitrate levels and would like to see the various soil conservation districts in our region develop tools to deal with these problems. The project being proposed by the Gooding SCD meets this goal.**

**The Gooding SCD has formed a partnership on this project with the ISDA, SCC, NRCS, University of Idaho Cooperative Extension Service and this Commission to create this demonstration project. The partnership is very important because the Commission has determined that the only way to alleviate nitrate problems within the region is for federal, state and local agencies to work together in helping local land owners develop the necessary techniques to deal with elevated nitrate before they become a danger to public health. Demonstration projects such as this are extremely necessary because we need to find out what works and what doesn't. Those management practices that are found to be beneficial can then be applied in other parts of our region found to have elevated nitrate levels.**

**This Commission and many others in the Middle Snake region are in full support of the Gooding SCD's Bliss priority area project and ask for your positive consideration of their request. The benefits from this and other efforts could have long range implications for protecting and enhancing water quality within the region.**

Sincerely

*Lew Pence*

**Lew Pence, Chairman**

# MIDDLE SNAKE REGIONAL WATER RESOURCE COMMISSION

Lew Pence, Chairman  
Bob Muffley, Acting Executive Director  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
PH: 208-934-4781 Fax: 208-934-5648

February 2, 2004

Cassia County Commissioners  
1459 Overland Avenue  
Burley, ID 83318

*Example of Letters  
Sent to all County  
Commissioners on 2-2-04*

Dear Commissioner:

Two motions were made at our meeting on 12/21/04 making recommendations to our member counties. The first motion, made by Neal Bowman of Lincoln County and approved by the Commission, was a recommendation to the member counties to work together to form, or help to form, a ground water recharge district within our region. The Commission has been researching the current ground water situation for many months and what we have learned is not good. Over the last 40 years the western portion of the Snake Plain Aquifer has been on a downward trend. We are now of the opinion that this trend will continue. We have seen evidence indicating that the aquifer has continued to decline even when droughts are followed by wet years. The economic impacts to the region which could be caused by this situation are tremendous. This Commission believes that while ground water recharge will help the current situation, it certainly is not the entire solution. We will also need to look harder at conservation and the water needs of future development. Regional water budgeting will most assuredly become increasingly important. Be that as it may, this Commission now believes that the formation of a regional water recharge district within the very near future is imperative if we are to maintain the economic viability of the region. We, therefore, ask the county commissioners in our region to form a working group made up of county commissioners, pumping district officials, local canal companies, the Idaho Department of water resources, this Commission and others to form and adequately fund a regional ground water recharge district.

The second motion also involves our current ground water situation. The Motion made by Dan Suhr of Jerome County and approved by the Commission to send our economic data on the recent "call" for water by certain spring right holders to the regions county commissioners. It is our understanding that county commissioners will be meeting soon with the region's legislators in Boise and we believe the economic report produced by Bob Ohlensehlen and William Hazen by use of an economic model developed by the University of Idaho is important for them to see. This report clearly shows that the strict enforcement of the "first in time- first in right" laws of Idaho could do tremendous harm to the region's economy. This Commission understands the importance of this law, but also believe that, if necessary, economic implications should be taken into consideration when looking at the possibility of whether a "call" can be considered "futile" under the law in the short term. The rules under which this Commission operates rightly states that the Commission can

**not lobby elected officials on issues impacting the region. This strictly falls under the purview of the region's county commissioners. We are responsible, however, for seeing to it that you have the best information possible and we believe the attached report speaks for itself.**

**I would like to thank you for your continued support of this Commission and be assured we will assist you in these matters all that we can.**

**Sincerely**

A handwritten signature in cursive script that reads "Lew Pence".

**Lew Pence  
Chairman**

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Lew Pence, Chairman  
Bob Muffley, Acting Executive Director  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
PH: 208-934-4781 Fax: 208-934-5648**

**December 18, 2003**

**Senator Laird Noh  
3442 Addison Ave. East  
Kimberly, ID 83341**

**Dear Senator:**

**I am writing to thank you for your participation in yesterday's commission meeting. Your comments helped bring together the important water issues facing our region and the state. I was particularly interested in your comments concerning the Endangered Species Act. I guess I didn't fully appreciate its importance to our regional issues.**

**The Commission will, most probably, be making recommendations to the region's county commissioners at our next meeting which may be of interest to you. The actions will involve the formation of a regional recharge district as well as a change in code to the definition of a futile call.**

**The Commission and our county commissioners have been working very closely with David Blew of the IDWR for the past several months to come up with a way to form a recharge district for the region. The Director of IDWR proposed that the Department seek a change in state law which would allow for the formation of a recharge district by the counties without a vote of the public. The Director, however, chose not to introduce the legislation during the next legislative session. We believe that because of the extended drought situation and the recent call by spring users that his decision is a mistake. We may, therefore, recommend to the county commissioners that they form their own regional recharge district through a joint powers agreement.**

**The second issue, which would involve legislative action, is a change in the definition of a futile call. Since 1992 the region's water quantity plan has called for the addition of economic implications to the definition. This Commission and our county commissioners believe that a call for water by a few individuals should not be allowed if the economic implications of that call are detrimental to the region's business climate and/or tax base. We are currently gathering economic data on the possible affect of the call through an economic model of the region developed by the University of Idaho. We hope to have that information prior to our January meeting. If, after studying the data, we feel that the economy will be sufficiently impacted, we will recommend to the county commissioners that**



they seek legislation to change Idaho code on this matter. Item 5 of the policy statements in the water quantity portion of the Coordinated Water Resource Management Plan states "Encourage the establishment of rules for conjunctive management that recognize the constitutional provision of FIRST IN TIME IS FIRST IN RIGHT unless, in the short term, strong scientific evidence and or local economic data suggest that a call for water by a senior right is futile."

Thanks again for speaking to the Commission yesterday and please let me know if you have any suggestions concerning possible recommendations outlined above.

Sincerely

A handwritten signature in cursive script that reads "Lew Pence".

Lew Pence, Chairman

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Lew Pence, Chairman  
Bob Muffley, Acting Executive Director  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
PH: 208-934-4781 Fax: 208-934-5648**

**1/15/2004**

**Noel Bowcut  
19 Granada Pl  
Burley, ID 83318**

**Dear Noel:**

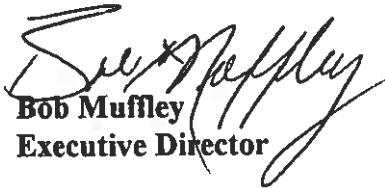
**I would like to congratulate you on your selection by the Cassia County Commissioners to represent both the County Commissioners and the citizens of Cassia county on the Middle Snake Regional Water Resource Commission. You may or may not be aware that this Commission was formed by a joint powers agreement between the counties of Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls. The purpose of the Commission is to create regional plans regarding water quality and quantity within the region and to keep the county commissioners informed as to all water quality and quantity issues that may have an impact on their decision making process. The bottom line is that we work for the county commissioners of our six county region. It is the hope of the Commission that our plans, once adopted by our county commissioners, will be used by county planning and zoning commissions when land use planning ordinances are created or amended. We are basically trying to give county planners the tools they need to protect the regions water resources.**

**You are probably aware that the Commission has recently revised the water quality portion of the Coordinated Water Resource Management Plan. This revision has now been adopted by all six boards of county commissioners. We are now working on the revision of the water quantity portion of the plan. I'm afraid the timing of you're appointment has placed you smack dab in the middle of this process. Chairman Pence and I will do our best to bring you up to speed, however, on the various issues we are dealing with. To help you in this regard, I will be sending you the minutes from our past meetings which dealt with the water quantity issues. These should help. Glen Larson of your county has been a member of the Commission for many years and is also the Vice-chair. Glenn has a great deal of knowledge and I'm sure he will help you all he can.**

**Once again, I would like to welcome you to the Commission. I'm sure you will learn more then you ever wanted to know about our most valuable of resources. Hope to see you at**

our upcoming meeting on the 21<sup>st</sup>. A copy of the agenda and the minutes from our last meeting are attached.

Welcome



**Bob Muffley**  
**Executive Director**



# United States Department of the Interior

U.S. GEOLOGICAL SURVEY

Water Resources  
230 Collins Road  
Boise, Idaho 83702-4520

January 16, 2004

Bob Muffley  
Middle Snake Regional Water  
Resources Commission  
124 5<sup>th</sup> Avenue West  
Gooding, Idaho 83330

Dear Mr. Muffley:

This letter is a progress report for the Department of Environmental Quality (IDEQ), U.S. Geological Survey (USGS), and Mid-Snake Counties cooperative study to assess the effects of nitrate loading from nonpoint sources on ground water in the Mid-Snake Region, South-Central Idaho. This report is an update from June 8, 2002.

Work during this period focused on review and publication of the nitrate probability model and the corresponding documentation report. Also, work continued on developing the MODFLOW preprocessor for the Eastern Snake River nitrate transport model.

The following discussion summarizes progress of the work for the review period, and plans for the next quarter.

## **PROGRESS REPORT**

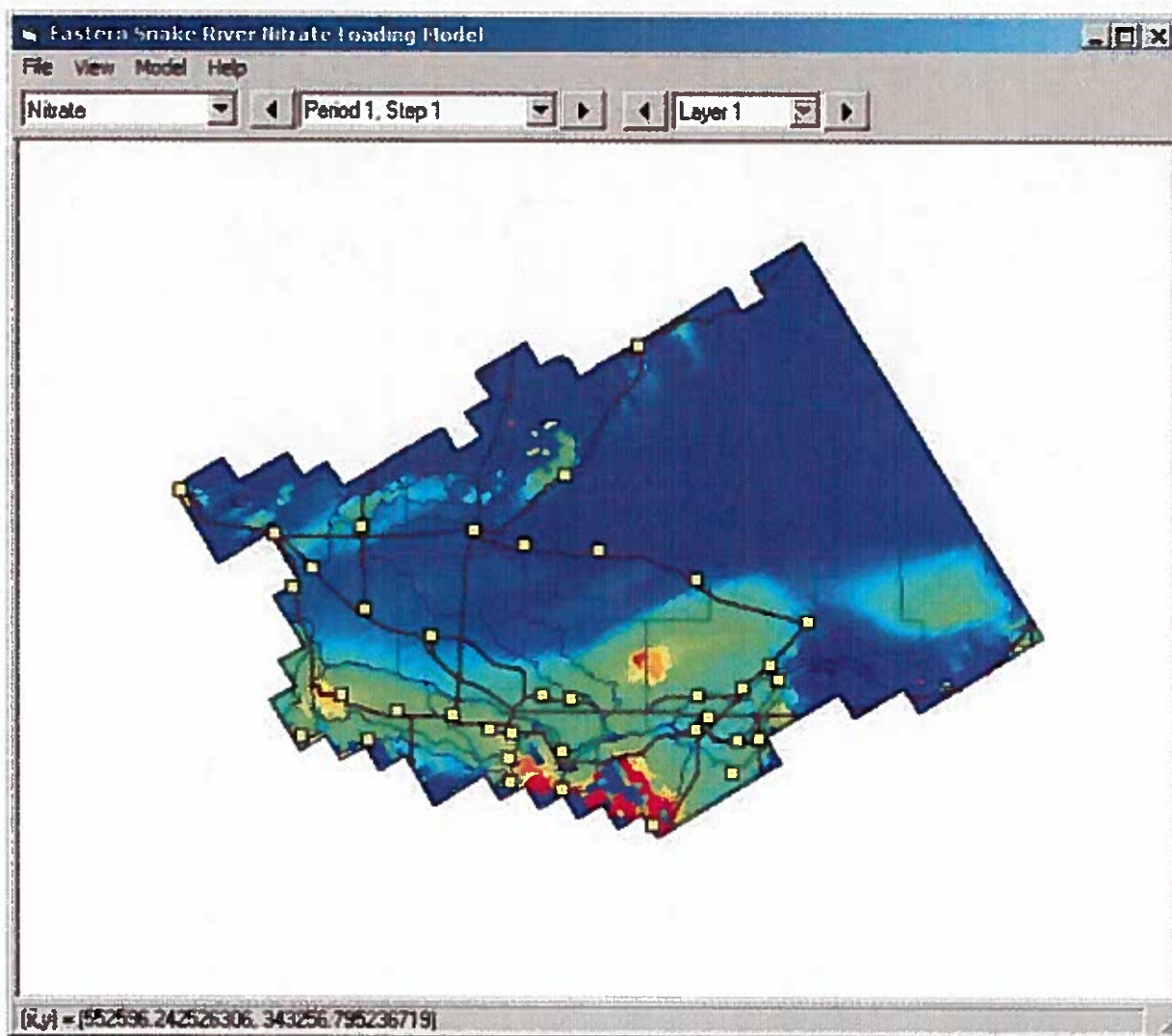
**Study Objectives** - A principal objective of the project is to improve our understanding of nitrate movement to and through the ground-water system of the six county study area: Gooding, Twin Falls, Jerome, Minidoka, Cassia, and Lincoln Counties. Additional objectives are to evaluate the utility of selected models incorporating the improved understanding in order to assess future effects of nitrate loading on ground water in the study area and potentially in other areas of the State.

**Nitrate probability model** -The report documenting the probability model has been through review and is currently being printed. The printed copies are due back in February 2004. An online version is now available at <http://idaho.usgs.gov/public/reports.html>.

**Computer simulation models for ground-water flow and nitrate transport** - A simple, dedicated preprocessor is being developed for the MODFLOW-based Eastern Snake River nitrate transport model, by Dave Pollock a research hydrologist in the USGS Office of Ground Water in Reston, Virginia. The preprocessor will allow users to modify nitrate loading input to the model either by specifying values for simple, pre-selected zones or simple polygon zones that

users can digitize interactively on the screen. Results are displayed in a color-shade map. Users can view nitrate concentration, change in nitrate concentration relative to the original condition, or head for any model layer or time step. The map display can be exported as a Windows metafile (WMF), which can then be imported into applications such as MS PowerPoint to create slides or plots. Basemap layers showing streams, roads, cities, or county boundaries can be displayed for reference.

The following figure is an example of the interface showing how results from the model are displayed. The model interface is nearly complete and will result in a user friendly method to run various nitrate loading scenarios.



**PLANS THROUGH April 2004**

A news release and paper copies of the nitrate probability report will be sent out in February 2004. Work will continue on the flow and transport model and will be used to determine potential future trends in nitrate concentrations in groundwater resulting from changes in nitrate loading at the surface. The MODFLOW preprocessor will allow a user to increase or decrease nitrate input to predefined zones of the model area, run the transport model, and then display the results. Results can then be exported to an image file (wmf) to bring into other applications. The interface model should be completed by April 2004, after which its functionality can be presented to cooperators.

Please call me at (208) 387-1343 or email me at ([kskinner@usgs.gov](mailto:kskinner@usgs.gov)) if I can provide additional information.

Sincerely,

A handwritten signature in black ink that reads "Kenneth D. Skinner". The signature is written in a cursive style with a large initial "K".

Kenneth D. Skinner  
Hydrologist (student)

Copy to: Tonia Mitchell, IDEQ  
Steve Lipscomb, USGS  
Mary Donato, USGS  
Dave Clark, USGS

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Lew Pence, Chairman  
Bob Muffley, Acting Executive Director  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
PH: 208-934-4781 Fax: 208-934-5648**

1/15/2004

**Richard Poteet  
788 E 800 N  
Rupert, ID 83350**

**Dear Richard**

**I would like to congratulate you on your selection by the Minidoka County Commissioners to represent both the County Commissioners and the citizens of Minidoka county on the Middle Snake Regional Water Resource Commission. You may or may not be aware that this Commission was formed by a joint powers agreement between the counties of Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls. The purpose of the Commission is to create regional plans regarding water quality and quantity within the region and to keep the county commissioners informed as to all water quality and quantity issues that may have an impact on their decision making process. The bottom line is that we work for the county commissioners of our six county region. It is the hope of the Commission that our plans, once adopted by the county commissioners, will be used by county planning and zoning commissions when land use planning ordinances are created or amended. We are basically trying to give county planners the tools they need to protect the regions water resources.**

**You are probably aware that the Commission has recently revised the water quality portion of the Coordinated Water Resource Management Plan. This revision has now been adopted by all six boards of county commissioners. We are now working on the revision of the water quantity portion of the plan. I'm afraid the timing of you're appointment has placed you smack dab in the middle of this process. Chairman Pence and I will do our best to bring you up to speed, however, on the various issues we are dealing with. To help you in this regard, I will be sending you the minutes from our past meetings which dealt with the water quantity issues. These should help. Don Murray of your county has been a member of the Commission for many years. Don has a great deal of knowledge and I'm sure he will help you all he can.**

**Once again, I would like to welcome you to the Commission. I'm sure you will learn more than you ever wanted to know about our most valuable of resources. Hope to see you at**

**our upcoming meeting on the 21<sup>st</sup>. A copy of the agenda and the minutes from our last meeting are attached.**

**Welcome**



**Bob Muffley**  
**Executive Director**



**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Bob Muffley, Acting Executive Director**

**122 5<sup>th</sup> Ave. West**

**Gooding, Idaho 83330**

**Phone: 208-934-4781 Fax: 208-934-5648**

**FAX COVER SHEET**

**TO: Dave Parish**

**FROM: Bob Muffley**

**RE: Meeting with Commission**

**DATE: 11/7/03**

**This FAX has a total of   10   pages including this cover sheet. If you do not receive all the pages, please call at the office number shown above.**

**MESSAGE: Thank you for agreeing to have someone meet with us on the 19<sup>th</sup> of this month. We very much appreciate it. The Commission is currently looking at revising the water quantity portion of the regional coordinated water resource management plan. Since your agency is highly involved in regional water issues we feel it is important to get your agencies position on various important issues. I am sending, with this fax, a copy of our old water quantity plan which hasn't been revised since 1995. We would appreciate your comments on this plan along with your comments on the ground water recharge issue as well as the Salmon flush issue.**

**Thanks again and let me know if you have any question.**

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Bob Muffley, Acting Executive Director  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
Phone: 208-934-4781 Fax: 208-934-5648**

**FAX COVER SHEET**

**TO: Chris Ketchum**

**FROM: Bob Muffley**

**RE: Speaker for planning group**

**DATE: 6/5/03**

**This FAX has a total of   9   pages including this cover sheet. If you do not receive all the pages, please call at the office number shown above.**

**MESSAGE: I have attached a copy of our current water quantity plan per our phone conversation. We are interested in hearing about any current Reclamation policy as well as any possible future changes in that policy which may impact water quantity within our region which includes Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties. We are also very interested in future recharge in the region and where your agency stands on this issue. Specifically the lining of canals and the use of canal systems for this purpose.**

**Our next meeting is scheduled for June 18<sup>th</sup> at the County Planning & Zoning building in Twin Falls. The address is 246 3<sup>rd</sup> Ave. East and we would like to schedule your agencies speaker between 1:30 to 2:30 pm.**

**Thanks and let me know if we can go ahead and schedule you in. I will need to get an agenda to my Commission members no later then June 11<sup>th</sup> so I'll need to know right away. If this is not possible we would like to schedule you for the 3<sup>rd</sup> Wednesday in July.**

file

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE PETITION OF THE )  
INDEPENDENT ENERGY PRODUCERS OF )  
IDAHO FOR AN ORDER INCREASING THE )  
SIZE AT WHICH A QF IS ENTITLED TO )  
PUBLISHED AVOIDED COST RATES. )** **CASE NO. GNR-E-03-1**  
**)** **ERRATA TO**  
**)** **ORDER NO. 29241**  
**)**

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On May 15, 2003, IPUC Order No. 29241 was issued by this Commission. The following change(s) should be made to that Order:

Page 1, Paragraph 2, last sentence

**READS:**

“Under PURPA there are no limitations on the size of eligible wind, solar, waste or geothermal facilities; the size limitation for eligible cogeneration facilities is 80 MW. 18 C.F.R. § 292.204(a); § 292.203.”

**SHOULD READ:**

“Under PURPA there are no limitations on the size of eligible wind, solar, waste or geothermal facilities; the size limitation for non-eligible small power production facilities is 80 MW. 18 C.F.R. § 292.204(a); § 292.203. Cogeneration facilities qualify as QFs regardless of their size or the fuel input used, as long as they satisfy operating and efficiency standards. 18 C.F.R. § 292.203(b), § 292.205.”

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

*file*  
**Lew Pence, Chairman  
Bob Muffley, Acting Executive Director  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
PH: 208-934-4781 Fax: 208-934-5648**

**June 10, 2003**

**Cassia County Commissioners  
Cassia County Courthouse  
Burley, Idaho 83318**

**Dear Commissioners:**

**Bob Muffley informed me of your concerns with regard to the Coordinated Water Resource Management plan and his written response to that concern. Since the majority of counties have already adopted the plan, as written, we would be unable to address your concerns in the current document. This doesn't mean, however, that your concerns can't be addressed in the future. We are currently in the process of updating the water quantity and economic portions of the plan. We hope to hold public hearings on this update within the next 12 to 18 months. If the majority of counties decide that your county's concerns with the water quality portion of the plan are acceptable, those changes can be made as well. The plan is a fluid document that must be continually updated to meet regional needs. It must be remembered, however, that the majority rules. It takes 4 of the 6 counties to change the content of the planning document.**

**It appears that your primary problem with adopting the plan is the section on hydro development. Bob has already stated the reasons why this wording was adopted in the planning document, but I should also mention that there are other hurdles for development of the remaining rapids below Milner dam. The section of the Snake River Between the Milner and Bliss dams has been designated water quality limited by the EPA. This would make further development extremely difficult, if not impossible. The Federal Energy Regulatory Commission has also demonstrated a reluctance to addressing new facilities on this stretch of the river. The Snake River is a working river, but many have recognized that the Middle Snake has been nearly worked to death. Twin Falls, Jerome and Gooding counties want to protect existing hydro facilities on this stretch of river and it appears that the best way to do this is to allow no new facilities upstream from the upper and lower Salmon Falls dams and the Bliss dam. If this stretch of the river becomes a swamp these facilities would be useless. If we find strong evidence to the contrary and 4 of the 6 counties agree, the plan can be changed.**

**The bottom line is that I would hate for you to throw away the baby with the bath water. This planning document allows the counties to work with state and federal regulators, law makers and others because we're working from a strong regional position as apposed to simply individual counties. None of the individual counties within the region have**

sufficient resources to keep up with everything being done by the regulators and others. This Commission, because of the regional plan, has the clout to open doors so our regional voice is at least heard. Since we are regional, we can also steer state and federal assets to the places they can do the most good. An excellent example of this is the huge amount of money we were able to raise to give our region the much needed nitrate probability mapping system. No other region of the state and very few in the nation have this kind of tool at their disposal. Other examples in support of working as a region is the important work we are doing with the IDWR and others on the, extremely important, recharge issue and our effort, working with the University of Idaho, to bring together a working group of scientists to see if we can develop new ways to reduce the impact of nitrate and chemical contamination to our ground water supply. We will, in the future, be working with both the INEEL and the USGS to develop geological map of our aquifer so the counties can see the result of various land uses decisions before those land uses occur. This may sound like science fiction, but we're told that such a tool could be developed within 10 years.

I urge you to adopt the plan as written and continue to work with the other counties to address the regions water quality and quantity concerns. Water is our most important resource and if we don't act together to protect this valuable resource, be assured that others will do it for us. Please let me know if we can be of further assistance in your deliberations.

Sincerely

Lew Pence, Chairman

FILE

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Lew Pence, Chairman  
Bob Muffley, Acting Executive Director  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
PH: 208-934-4781 Fax: 208-934-5648**

**June 10, 2003**

**Minidoka County Commissioners  
P.O. Box 368  
Rupert, Idaho 83350**

**Dear Commissioners:**

**I have been thinking about our conversation during the public hearing for the Coordinated Water Resource Management Plan yesterday and have verified some of the discussion topics with my Executive Director. Bob stated that the plan has been adopted by Twin Falls, Gooding, Jerome and Lincoln counties. Since the majority of counties have adopted the plan, as written, we would be unable to address your concerns in the current document. This doesn't mean, however, that your concerns can't be addressed in the future. We are currently in the process of updating the water quantity and economic portions of the plan. We hope to hold public hearings on this update within the next 12 to 18 months. If the majority of counties decide that your county's concerns with the water quality portion of the plan are acceptable, those changes can be made as well. The plan is a fluid document that must be continually updated to meet regional needs. It must be remembered, however, that the majority rules. It takes 4 of the 6 counties to change the content of the planning document.**

**It appears that your primary problem with adopting the plan is the section on hydro development. I've already stated the reasons why this wording was adopted in the planning document, but I should also mention that there are other hurdles for development of the remaining rapids below Milner dam. The section of the Snake River Between the Milner and Bliss dams has been designated water quality limited by the EPA. This would make further development extremely difficult, if not impossible. The Federal Energy Commission has also demonstrated a reluctance to addressing new facilities on this stretch of the river. The Snake River is a working river, but many have recognized that the Middle Snake has been nearly worked to death. Twin Falls, Jerome and Gooding counties want to protect existing hydro facilities on this stretch of river and it appears that the best way to do this is to allow no new facilities upstream from the upper and lower Salmon Falls dams and the Bliss dam. If this stretch of the river becomes a swamp these facilities would be useless.**

**I understand your concern with regard to the wetland issue. Minidoka has a particular problem in this area. Perhaps there is some way to change the wording to adequately address your specific concern when the plan is next revised.**

The bottom line is that I would hate for you to throw away the baby with the bath water. This planning document allows the counties to work with state and federal regulators, law makers and others because we're working from a strong regional position as apposed to simply individual counties. None of the individual counties within the region have sufficient resources to keep up with everything being done by the regulators and others. This Commission, because of the regional plan, has the clout to open doors so our regional voice is at least heard. Since we are regional, we can also steer state and federal assets to the places they can do the most good. An excellent example of this is the huge amount of money we were able to raise to give our region the much needed nitrate probability mapping system. No other region of the state and very few in the nation have this kind of tool at their disposal. Other examples in support of working as a region is the important work we are doing with the IDWR and others on the, extremely important, recharge issue and our effort, working with the University of Idaho, to bring together a working group of scientists to see if we can develop new ways to reduce the impact of nitrate and chemical contamination to our ground water supply. We will, in the future, be working with both the INEEL and the USGS to develop geological map of our aquifer so the counties can see the result of various land uses decisions before those land uses occur. This may sound like science fiction, but we're told that such a tool could be developed within 10 years.

I urge you to adopt the plan as written and continue to work with the other counties to address the regions water quality and quantity concerns. Water is our most important resource and if we don't act together to protect this valuable resource, be assured that others will do it for us. Please let me know if we can be of further assistance in your deliberations.

Sincerely

Lew Pence, Chairman

File

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

**Bob Muffley, Acting Executive Director**

**122 5<sup>th</sup> Ave. West**

**Gooding, Idaho 83330**

**Phone: 208-934-4781 Fax: 208-934-5648**

**FAX COVER SHEET**

**TO: Kerry McMurray**

**FROM: Bob Muffley**

**RE: Attached memo on hydro development**

**DATE: 6/5/03**

*Faxed  
6/5/03*

**This FAX has a total of 3 pages including this cover sheet. If you do not receive all the pages, please call at the office number shown above.**

**MESSAGE: Let me know if you have any questions concerning the following comments.**



# Memo

Middle Snake Regional  
Water Resource Commission  
122 5<sup>th</sup> Ave. West  
Gooding, Idaho 83330  
(208) 934-4781 (208)934-5648 FAX

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**TO: Cassia County Commissioners**  
**SUBJECT: Goal A, Objective AO1: Hydro development**  
**ATTENTION:**  
**DATE: 6/4/03**  
**FROM: Bob Muffley**

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I read about Commissioner Christensen's concerns with regard to the section of the Coordinated Water Resource Management plan which states "Allow no development of hydro power facilities on the Middle Snake River which will eliminate the free-flowing reaches of the river or which will contribute to water quality degradation." First I should say that the document is not against hydro development unless it is situated on the Middle Snake River itself. There is no impact to plants which are located on tributaries or canal systems within the region. Nor does it impact the river as it runs through Cassia and Minidoka counties since I don't believe there are any places in that area to put additional hydro facilities. This statement has been included in the document since it's adoption in 1992, I believe, for very sound scientific reasons. During the early 90's there were proposals to place hydro facilities on all the remaining rapids between the Milner and Bliss dams. Our predecessor, The old Mid. Snake Study Group, was working with all of the developers to address our water quality concerns. The developer for the Boulder and Empire rapids between Gooding and Twin Falls counties had hired the engineering firm of CH2M Hill out of Boise to do their engineering and hydrological studies. I, as chairman of the old study group, received a request from the hydrologist for CH2M Hill to give a presentation to the group. At that time the study group included a county commissioner from Twin Falls, Gooding, Jerome and Lincoln counties. I assumed his presentation would be aimed at addressing our water quality concerns for the projects, but was actually something very different. He started his presentation by telling the group that there should be no development of the remaining rapid between the Milner and Bliss dams. He then drew diagrams of how the river system works to graphically show the group why his opinion was scientifically justified. He finished his presentation by telling the commissioners that if all the proposed facilities were developed, the Snake River, between the dams, would most probably become a swamp within 20 years. He went on to explained why the river would no longer have the ability to cleans itself. His meaning seemed to be perfectly clear. The development of any of the remaining rapids would hasten

the demise of this valuable resource. We county commissioners were stunned by what we had heard. To make sure we had heard him correctly, I asked him if he was saying that there should be no further development on the remaining rapids. He said that was correct. Because of the seriousness of what he had told us, I felt I should verify the information with another hydrologist. I personally spoke with Chuck Brockway concerning the things we had heard and he told me the assessment by the hydrologist for CH2M Hill was probably correct.

The four counties, at that time, decided that the plan must reflect this situation and that is the reason for its inclusion in the plan. The four counties believe that the river, between the dams, is an extremely valuable resource for both current hydro power generation and recreation and these existing uses must be protected. It also helps to explain why the Idaho Power Company has never tried to develop the remaining rapids. Twin Falls, Jerome, Gooding and Lincoln counties are not apposed to hydroelectric development and if new technology is found that would allow for future development, I'm sure they would be willing to readdress this portion of the plan at that time.

I hope this explanation of why the plan reads the way it does is sufficient. If not, however, let me know. I'm sorry that Chairman Pence and I will not be able to attend your next meeting since we will be attending the public hearing in Minidoka county. If you think that we should be present we will try to make the necessary arrangements.