

Custer County Commissioners
Special Meeting – Upper Big Lost River Ground Water District
October 6, 2025

The Custer County Commissioners Special meeting was called to order at 8:30 AM in the Commissioners Room at the Custer County Courthouse. Attending were Commissioner Chairman Randy Corgatelli, Commissioner Gordon Vaden, Commissioner Will Naillon, Clerk Lura Baker, Prosecutor Paul Rogers and Deputy Clerk Tina Hawkins.

Clerk Lura Baker provided information on the Upper Big Lost River Ground Water District Public Hearing. Commissioner Will Naillon made a motion to go into Executive session under #74-2306(1)(f) for legal review at 8:31 AM Commissioner Gordon Vaden seconded the motion and it passed with a unanimous Aye vote. Attending were those listed above. There were no decisions made during this session. The meeting returned to regular session at 9:05 AM. Prosecutor Rogers reviewed the proper protocol to be used during the hearing. With no further business before them the meeting was adjourned at 9:05 AM, to await the Public Hearing scheduled at 10:00 AM.

Custer County Commissioners
Public Hearing Minutes
Upper Big Lost River Ground Water District

The Public Hearing was Called to Order at 10:00 A.M in the Custer County Commissioners Meeting Room by Commissioner Chairman Randy Corgatelli. The proceedings were recorded.

Those attending were: Commissioner Chairman Randy Corgatelli, Commissioner Will Naillon, Commissioner Gordon Vaden, Clerk Lura Baker, Deputy Clerk Tina Hawkins. Attending in the audience were Byron Pehrson, Loy Pehrson, Randy Pehrson, Peggy Pehrson, Rick Mauthe, Ryan McAfee, Dwight Simmons, Bob Simmons, Bill Griffin, Cole Erb and Randy Nelson. Attending via Zoom connection were Bob Turner/ID Ground Water Appropriators and Brian Riffin/ID Dept. of Water Resources.

Chairman Corgatelli went over the public hearing rules of conduct and the order of testimony to be given in the matter of the Petition to form the Upper Big Lost River Ground Water District.

Petition for Creation of Upper Big Lost River Ground Water District: Loy Pehrson spoke on behalf of the ground water users in the upper portion of Water District #34 that are requesting to form a ground water district to enable them to get representation at the negotiating table. These water users have had a water association for 15 to 16 years that has been adequate, but are being informed by the IDWR that they need to be in a ground water district for administrative purposes of water assessments and water curtailment. We are requesting the formation of a ground water taxing district in the Upper Big Lost River drainage so we can be in compliance with the ID Dept. of Water Resources rules. It was never our intent to form a Water District just for the purpose of being heard or for expressing issues, we are trying to be in compliance with the new IDWR rules attached to the Idaho Snake River Plains Aquifer.

Commissioner Naillon asked when the new Snake River Plain water rules came out? Loy responded they have been out about a year now. I just received a letter from IDWR to Idaho water right holders that are newly included in the Snake River Plain, that are not participating in an approved mitigation plan(us) will be subject to curtailment after November 1, 2025 if they are found to cause injury to senior surface

water rights in the surface water collation delivery call proceedings. They are telling us they will not recognize us unless we are in a ground water district. This request is how they plan to manage all irrigators that use ground water.

Commissioner Vaden asked why they need a new ground water district when they are already within the boundaries of a ground water district. Loy responded with the history and explanation of the current Big Lost River Ground Water Dist. Those present were originally part of that water district, but when it finally settled out the original ground water district did not adhere to their original agreements, and those of us on the north end asked to be excluded because of those factors.

Commissioner Naillon asked if this affected consumption in any way? Loy responded it is all about management, not consumption. We are just asking to organize a ground water district and then WE will follow the statutes and rules that are published in booklet form by the State.

The Public Hearing was opened for support testimony.

Byron Pherson: Testified they began the paperwork right around July 4th but didn't get a response from the IDWR in a timely manner. We feel that the State doesn't want another Ground Water District, but seem to prefer keeping everyone tied tightly together. I understand that there is a small ground water district near Carey that only has about 5 members, so size isn't the issue. We need to have this completed by Nov. 1st to avoid being curtailed. I don't know just how the Lost River irrigators are going to mitigate live water. It is known that the Lost River doesn't ever reach the Snake River. I don't understand how the Lost River drainage is even connected, perhaps the bathtub effect. I did not want to belong to the other ground water district, as they assess a tax and unless you pay it you do not get your water. They then turn around and dole out the funds collected like it is popsicles. We plan to run our district on the bare minimum, and not overcharge our members. We will only request more money when we have a specific cost that is necessary.

Commissioner Naillon asked if there were more irrigators that want to join your new ground water district? If so what does it take to change a district boundary once it is organized? Loy responded that there is a paperwork process that you can use to change ground water districts if you want to. The State has already created a process that can be used. We are not soliciting for additional members, nor are we turning anyone away.

Randy Pherson: Provided the history of the original ground water district that was formed in the Arco area. Mitch Sorensen personally came to my home and informed me that they did not have enough votes/water shares to pass the ground water district petition if everyone didn't participate. I told Mitch that the Upper Lost River is in a different water table than the lower Lost River and we didn't feel the Upper water table had any affect on the Arco area. We wanted to form our own Ground Water Pumpers Association, so the IDWR could understand that these two areas need to be in separate districts. Mitch stressed that they couldn't form the Ground Water District without the Upper Basin water users. He agreed to let us out of the district if we would assist them with getting enough votes to get the district formed. Once I received his assurance that we could get out of the lower water district, I helped get the votes that formed the original ground water district. As soon as it was formed, I went to the IDWR and got the paperwork for being removed from the district, as per our agreement. It took quite a paperwork process to get removed from that district, that I do not want to repeat. All we are asking for, is to be able to put this petition up for an election. I do not want to be a part of that original ground water district, and I have a real issue with the state sending this last letter, as I feel it is influencing the election. I highly recommend you approve this petition for election.

Rick Mauthe: I want to focus on the States hand in this issue. When we applied for this petition to form the Upper Big Lost River Ground Water Dist., we feel you pushed us off, and didn't have the manpower to get the paperwork completed. Well now you have the time and manpower to send out a 10-page letter that I feel is an attempt to influence the Board of Commissioners. The information you provided on the small number of users us very misleading, as the amount of water shares/irrigated acres involved is substantial. I'm guessing that some of the small water users in the original ground water district didn't even know they were in a district until they received their assessment notice. I resent that you state our best option is to join the existing ground water district, as we have already tried to belong and couldn't. I understand that you have never had to deal with this situation before, but we are not trying to do anything illegal. I strongly recommend that the Commissioners pass this petition request. The Howe area is not in this ground water district, as well as other small 10-member districts. I have read the plans of the original ground water district and they seem to be quite chaotic. They have different strategies and philosophies than we do and I don't want to be involved.

Others attending in support but not testifying: Randy Nelson, Ryan McAfee, Cole Erb, Bob Simmons, Bill Griffin.

Neutral: Dwight Simmons attended but did not wish to testify.

Opposition: There was no opposition testimony.

Byron Pehrson: I do not understand why Howe is not included in the Snake River Plain aquifer. They are located in Butte County, so why didn't the State include them? Yet they come all the way north to Mackay and clear over the Mud Lake with a ground water district. 90% of this huge district is on the desert and includes the INL. I think all those wells out on the INL should be included in a ground water district. I think they use billions of gallons of water for their purposes, and that directly affects the Snake River Plains.

Loy Pehrson asked if they would be able to provide rebuttal to anyone that was in opposition? Chairman Corgatelli checked to see if there was any opposition testimony, but seeing none there will be no rebuttal.

Commissioner Naillon asked Brian Riggin/IDWR about the Nov. 1st letter and if it connects to the Nov. 4th election. Will this cause a problem? Brian responded that this letter is the 3rd letter that has been sent out to everyone involved in the newly included ground water districts in the E. Snake River water supply that was changed July 1, 2024. This affected 1800 ground water rights and the director issued a stay of directive until Nov. 1, 2025. The first letter was sent in May 2024 as well as another letter in May of 2025, this is the final letter of notice before the Nov. 1, 2025 deadline. This doesn't mean that on Nov. 1st the ground water wells will be shut down. It just means that if there is an injury determination through the surface water collation delivery call proceedings, any junior ground water rights that are not in a ground water district with an approved mitigation plan, may be subject to curtailment. The timing of the letter is not connected to the election.

Commissioner Naillon then asked Brian if the boundaries of the newly created ground water district need to be changed because of new members joining, what are the legalities and process? Brian understands that boundaries can be changed, but is not an expert on the process. Bob Turner added some facts. Once a ground water district is formed, other users can petition to join the new district for mitigation purposes. This process doesn't involve the County as the Ground Water District handles the process. Rick Mauthe verified that the new membership process stated above is included in the By-Laws of the Upper Big Lost River Ground Water District.

Clerk Lura Baker asked Brian if the upcoming Nov. 4th election would not hurt the proposed ground water district? Brian explained that after Nov. 1st any junior ground water user that is not covered by an approved mitigation plan would be subject to curtailment. Irrigation water rights are not typically being used after Nov. so they wouldn't be affected until 2026 irrigation season. Commissioner Naillon clarified the question and asked if the formation of the new ground water district would be compromised in any way by this Nov. 1st deadline? Brian responded the process can continue with no bearing on the formation of the ground water district.

Commissioner Vaden asked Brian the IDWR position on the formation of a new ground water district within an existing ground water district. Brian responded that it is a bit unusual, and has not been done before. It doesn't appear to be illegal and the Commission can decide to move forward and create the district. It appears to be unnecessary, but it is not up to the Idaho Dept. of Water Resources. It is a decision of the County Commissioners.

Byron Pehrson reported that he has been told that it will cost a ground water irrigator a lot of money to get into an established ground water district. He felt it was very unfair to overcharge someone just because you weren't already in a ground water district. Rick Mauthe added that just because you apply to join a ground water district, they do not have to let you join.

Commissioner Vaden asked if the UBLRGWD has a "sunset clause" in their By-Laws? Loy and Byron responded that yes they do, and if you want to get in or out, it is up to the irrigator.

Loy Pehrson asked to be allowed to give a rebuttal to the State. I just heard the IDWR state that they do not have any say in the formation of a new water district, that it is up to the Board of Commissioners. I wonder then "WHY" did they give a recommendation to the Commissioners?

Brian Riggin/IDWR in response to the timing of the report paperwork. It was not until the middle of July that we received the official boundary description and list of ground water rights from the consultant. The unique shape of this district made this process very time consuming. We did not shelve the project. Historically the Department has generated this report, required by statute, for the Commissioners to have information to consider. The Department was not trying to influence the Board of Commissioners, as we have no idea how informed or uninformed any Board of Commissioners is. That is why we include recommendations, it is not to influence the Commission, it is to provide necessary information.

Bob Turner/IDWR: I believe it is important for the new district to get formed as soon as possible, so they can start working on getting their share of the direct delivery of water to the surface water collation each year. They need to come up with a mitigation plan and the reductions and such.

Testimony was closed.

Deliberation was then held.

Commissioner Naillon wants to be sure that all due diligence has been completed for this petition. I believe this report from IDWR states that the petition is complete and legal. I am also concerned that these residents don't feel adequately represented by the original ground water district.

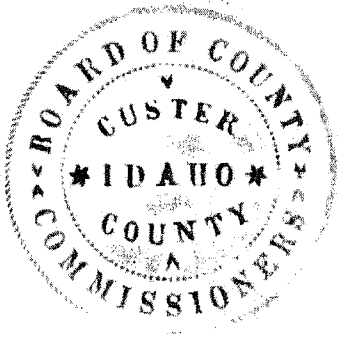
Commissioner Vaden agreed. They have had water fights between upper and lower Lost River forever. If they have done everything required to start their own ground water district, I see no problem.

Commissioner Naillon I agree that two ground water districts is seemingly redundant. But if you are a water user that is not feeling represented this is an option.

Commissioner Corgatelli I feel they have crossed all their T's and dotted all the I's, and I would like to ask for a motion.

Commissioner Gordon Vaden moved to approve the Election order for the Upper Big Lost River Ground Water District. Commissioner Naillon seconded the motion and the motion passed unanimously.

With no further business before the Board the Public Hearing adjourned at 10:45 A.M.



on behalf

Chairman, Randy Corgatelli

Attest: Clerk, Lura H. Baker