

**Testimony of Wesley Hipke
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**Before the Committee on Energy and Natural Resources
Subcommittee on Water and Power
United States Senate**

Legislative Hearing on S. 1570, the “Aquifer Recharge Flexibility Act”

**Washington, D.C.
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Good morning Chairwoman McSally, Senator Cortez Masto and Members of the Subcommittee.

My name is Wesley Hipke, and as the Managed Recharge Program Manager for the State of Idaho, I am privileged to testify on behalf of the Idaho Water Resource Board (Board). I thank you both for this opportunity to present this testimony on S. 1570, the “Aquifer Recharge Flexibility Act.” I also want to thank Sen. Jim Risch of my home state of Idaho for his tireless work on behalf of the Board and other states in the West on this important legislation.

The Eastern Snake Plain Aquifer (ESPA) underlies much of southern and eastern Idaho and is the state’s largest and most productive aquifer. The ESPA is a critical water resource in the semi-arid southern Idaho. The ESPA directly supports about 1 million acres of irrigated agriculture through direct pumping, and supplies water to all the cities, towns, businesses, industries, and homes that overlie the ESPA. In addition, through spring flows from the ESPA to the Snake River, the ESPA provides a partial water supply to about 600,000 acres in the Magic Valley that divert from the Snake River. Spring flows from the ESPA also provides water for the world’s largest concentration of commercial fish hatcheries in the Hagerman area, and provides flows for the Mid-Snake and Hells Canyon Hydropower Complexes which provide Idaho with clean energy.

With the assistance of stakeholders, Idaho either has developed or is in the process of developing comprehensive ground water models for aquifers throughout Idaho. These models further Idaho’s understanding of recharge benefits and aid in selecting and designing future recharge strategies and projects. Understanding the economic, legal, ecological and technical aspects of recharge is critical for the development of policy and planning consistent with state law and the State Water Plan.

In 2012, the Board adopted the Idaho State Water Plan “to guide the development, management and use of the state’s water and related resources,” including “the optimum use of the state’s resources will benefit the citizens of Idaho.” Policy 1L of the State Water Plan identifies that managed recharge may enhance water supplies and minimize climate variability impacts.

The ESPA has been in decline since 1952. These declines have resulted in lower spring flows – affecting not only ground water pumping, but surface water irrigation and Idaho’s aquaculture industry. For much

of the last 2 decades, southern Idaho water users have been embroiled in water disputes, including numerous court battles and at least 4 State supreme court appeals. These declines threatened a large percentage of Idaho's economy and created uncertainty about whether state instream minimum flow requirements established in the Swan Falls Agreement with Idaho Power could be maintained.

In 2015, the State of Idaho and the water users throughout the ESAP reached an historic agreement to stabilize and rebuild the ESPA. As part of that agreement, ESPA groundwater users collectively agreed to reduce ground water use by 240,000 acre-feet annually. This reduction is accomplished through a suite of actions including voluntary curtailments, conversions to surface water irrigation, per-acre diversion reductions and private managed recharge. In addition, Idaho's legislature tasked the Idaho Water Resource Board with developing a program to recharge an average of 250,000 acre-feet annually to the ESPA.

An average of about 1.4 million acre-feet annually are available from the Snake River at this location for aquifer recharge, but this amount varies widely from year to year. It occurs mostly in the winter and during flood control operations in the spring.

The managed aquifer recharge effort is a major undertaking for the state of Idaho. It has been estimated that constructing required infrastructure will cost about \$40M, and it will require \$3-to-\$4M annually thereafter to operate. While an expensive undertaking, Idaho is committed. Since 2016, Idaho has recharged over 1.2 million acre-feet into the ESPA and invested nearly \$20 million on infrastructure and improvements to date. Groundwater users have recharged an additional 400,000 acre-feet during that time – all record setting accomplishments for recharge efforts in Idaho. But, even with these record levels of recharge, more must be done to restore the ESPA and other aquifers in the state.

Based on studies conducted by the Board, many optimal ESPA recharge sites either require the use of:

- (1) federally owned property to conduct the recharge activities,
- (2) existing irrigation canals that cross federal lands where the easement specifies a purpose other than aquifer recharge, or
- (3) canal systems in federal ownership by the Bureau of Reclamation (Reclamation) where Congressional authorization did not include aquifer recharge.

Obtaining the necessary federal authorizations or permits can be expensive and time consuming, especially for existing infrastructure. However, by utilizing existing water infrastructure, including those lands and canals under federal ownership to recharge our aquifers, we can optimize the use of these systems for multiple uses and benefits while maintaining the cost of aquifer recharge at affordable levels.

S. 1570, if enacted, would help to provide greater flexibility in the Board's efforts to recharge the ESPA and other aquifers in Idaho by:

- Authorizing the use of excess capacity for non-federal project water to be delivered through federally-owned facilities for aquifer recharge purposes without requiring additional approvals or Congressional authorizations, protecting other water and power uses and existing contractual agreements in the process;
- Authorizing contract holders to use federal project water for aquifer recharge on eligible land;
- Authorizing aquifer recharge as a project use for federal Reclamation projects;

- Authorizing modifications of existing contracts, if necessary, to encourage aquifer recharge;
- Allowing for “in-lieu” recharge activities to be carried out under the Act;
- Providing a Sense of Congress that the Secretary of the Interior, through the Bureau of Land Management (BLM) should encourage the use of federal lands for aquifer recharge with no further approvals; and,
- Authorizing the use of existing easements or rights-of-way on or over federal lands for aquifer recharge efforts without additional authorization from the Secretary of the Interior where such use does not expand or interfere with the easement or right-of-way.

S. 1570 also requires that all activities authorized under the Act shall comply with all applicable federal law and the policies of the Bureau of Reclamation and, in particular, shall comply with all applicable state laws and policies.

In conclusion, managing declining groundwater aquifers is a critical issue for most Western states. Idaho is at the forefront in developing large-scale managed aquifer recharge to actively manage groundwater aquifers. With the enactment of S. 1570 in addressing the issues outlined here today, we can continue to move forward using managed aquifer recharge as a significant water management tool in Idaho and other areas of the West. Again, thank you for the opportunity to testify on behalf of the Idaho Water Resources Board in support of this important legislation and I would stand for any questions you may have.