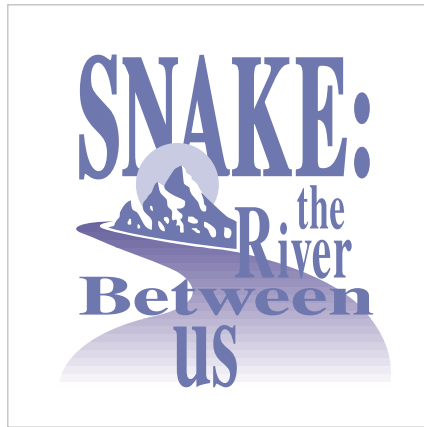


White



Paper

A White Paper on

SNAKE:
The River Between Us

A Policy and Issues Conference
Held at Boise State University, November 28, 29, 1995

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Copies of the white paper are available for \$5.00 each. Copies of the transcript of the entire conference on the Snake River are also available for \$22.50 each. Contact:

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Foreword

*By Cecil D. Andrus, Chairman, The Andrus Center for Public Policy,
Former Governor of Idaho and U. S. Secretary of Interior.*

On November 28-29, 1995, the Andrus Center for Public Policy at Boise State University and two of Idaho's most respected newspapers, the Idaho Falls *Post Register* and *The Lewiston Morning Tribune*, cooperated to convene a major policy and issues conference, focused on the Snake River.

The conference was the capstone of a year of thoughtful and detailed reporting of the controversy and promise that always seem to flow with the current of Idaho's greatest river. The two newspapers, one at each end of the Snake in Idaho, are to be congratulated for teaming up to explore the challenges of keeping the river a great and useful resource for all Idahoans. The reporting—and the subsequent conference—also did much to focus us on the spiritual and historical pull the Snake has on our Idaho experience. We know that the river has helped define our development as a state, and we know that its hold on our commerce, recreation, agriculture, and tourism is essential to our future.

As the conference, which we titled “SNAKE: The River Between Us,” unfolded, it became apparent that the mighty river needs less to be taken for granted and more to be seen as a resource in need of renewal. In all candor, the river in some places is sick and needs life support. In other areas, our well-intentioned zeal to use the river has kept us from taking a long and wise view of how *best* to use the river. There are strong clashes over recreation and fish and wildlife values. Water quality and quantity are in dispute. The debates are real, and they are important.

Four Issues

This paper discusses briefly four issues: the singular importance of ensuring water quality all along the river; the

challenge of bringing the many voices of Idaho together to address the relicensing of hydropower dams on the Snake; the need to provide for recreation in all its forms; and the development of local watershed councils as a means to effective, wise, local decision-making about the river.

The white paper details only a handful of the major ideas that emerged from the conference. It is not intended to be conclusive or authoritative; rather, it is hoped that those who read these pages will be motivated to act when they see the need and the opportunity. The concepts outlined here represent but a start toward better stewardship of the river in the interest of all Idahoans.

As with all of the West's vexing resource debates, the first step to wise stewardship is the realization that a challenge is going unmet. In our case, the challenge is the establishment of a healthy, well-used Snake River.

In *The Sound of Mountain Water*, the great western writer, Wallace Stegner, wrote:

“Angry as one may be at what heedless men have done and still do to a noble habitat, one cannot be pessimistic about the West. This is the native home of hope. When it fully learns that cooperation, not rugged individualism, is the quality that most characterizes and preserves it, then it will have achieved itself and outlived its origins. Then it has a chance to create a society to match its scenery.”

This white paper is offered in the hope that we are up to the challenge.

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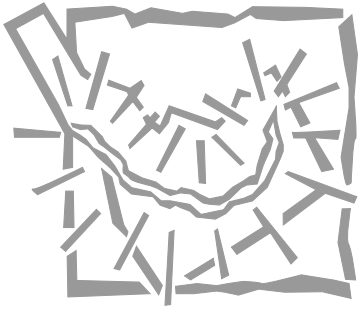
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**WHITE PAPER:
*SNAKE: The River
Between Us*
INTRODUCTION**

Looking across the Snake River Plain at the soul-stirring vistas of the snow-crowned mountains to the north, it is difficult to remember that southern Idaho is a high, cold desert. Much of the West is, in fact, an arid place where water, or rather its absence, is more limiting than the geography of awesome mountains and seemingly endless plains.

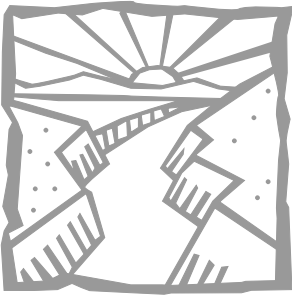
More than 100 years ago, John Wesley Powell, in his *Century* magazine article, “Institutions for the Arid Lands,” made some observations that are still pertinent to our deliberations about the Snake River:

“Lands can be staked out, corner-posts can be established, dividing lines can be run, and titles to tracts in terms of metes and bounds can be recorded. But who can establish the corner-posts of flowing waters? When the waters are gathered into streams, they rush on to the desert sands or to the sea; and how shall we describe the metes and bounds of a wave? The farmer may brand his horses, but who can brand the clouds or put a mark of ownership on the current of a river? The waters of today have values and must be divided; the waters of the morrow have values, and the waters

of all coming time. These values must be distributed among the people. How shall it be done?

“In a group of mountains, a small river has its source. A dozen or a score of creeks unite to form the trunk. The creeks higher up divide into brooks. All these streams combined form the drainage system of a hydrographic basin, a unit of country well-defined in nature, for it is bounded above and on each side by heights of land that rise as crests to part the waters. Thus hydraulic basin is segregated from hydraulic basin by nature herself, and the landmarks are practically perpetual. Thus it is that there is a body of interdependent and unified interests and values, all collected in one hydrographic basin and all segregated by well-defined boundary lines from the rest of the world. The people in such a district have common interests, common rights, and common duties and must necessarily work together for common purposes.”

John Wesley Powell was describing a process to address water-related issues in a manner by which all interests were to be taken into account. It is the same approach that is being employed today to make difficult decisions about the future of the Snake River.



I. ENSURING WATER QUALITY

Quality is an ambiguous term, even in regulation, because it means so many different things to different people. Often the use for water predicts what the perception of adequate water quality will be. The result is conflict over water quality that may have different criteria for different needs.

Generally, the highest water quality is required for aquatic life, followed by drinking water, primary contact recreation (swimming), secondary contact recreation (fishing), and agricultural water supply. It's easy to see that the needs of spawning fish are different from the needs of irrigation and have different water quality standards.

But balanced against the differing water quality needs for various beneficial uses is the limiting factor of quantity. Insufficient water quantity could destroy all the river's designated uses, and the Clean Water Act recognizes that diminished flows can themselves represent pollution. Unlimited quantities of poor quality water will not satisfy all the demands any more than small quantities of high quality water.

Balancing Water Quality and Quantity

Because of the number of various water uses, all with differing water quality and quantity requirements, dilution

can no longer mask the effects of pollution. We are expecting too much when we want to water crops and livestock; dilute municipal and industrial effluent; and provide wildlife habitat, drinking water, recreation, and aesthetic beauty—all in the same stretch of river. As a result, we are now faced with some difficult decisions.

“It is no longer possible to view a single use in isolation from other demands upon the river.”

Although each alteration or demand upon the river may seem to have minor consequences by itself, the cumulative impact of these

individual actions may greatly affect the health of the river. It is no longer possible to view a single use in isolation from other demands upon the river.

Seven Suggestions

The conference discussion of “Issues of Water Quality and Quantity” produced a number of suggestions that would have a positive effect on water quality in the Snake River and statewide:

1. Develop an aquatic database that will enable the public, agencies, and legislators to make decisions based upon science. That means expanding resources for monitoring and analysis and establishing a clearinghouse for the data. It would be an investment in the future.
2. Allow the state latitude in how it approaches the problems and, at the same time, ensure that a reasonable amount of pressure is put on people to protect water quality and manage resources responsibly. The best defense against federal usurpation of state prerogatives is a strong state offense. Citizen leaders must pursue issues aggressively on a state level.

3. Provide a forum for all interest groups to participate in managing and making decisions about Idaho's aquatic resources. Support a process that gives everyone a voice and that respects the legitimacy of each interest's needs. Consider cumulative impacts to our streams when we make decisions.
4. Look at the Snake River Basin holistically and design management plans to address surface and ground water conjunctively and to consider water quality and quantity together. Design measures of success with clear indicators and with methods to measure improvement incrementally.
5. Incorporate science more completely into our decision-making process by using the scientific method to test ideas, employing trained scientists to do the work, and presenting the results objectively. It also means educating the public, citizen leaders, and the legislators about water quality issues. A scientifically-educated citizenry is fundamental to our ability to make good policy decisions. Explore the possibility of forming partnerships between state resource agencies and state universities to address resource questions in a way that provides support to students and furthers Idaho's resource decisions. Citizens' monitoring groups can also be part of this educational and problem-solving process.
6. Realize that resources like water are in limited supply and that priorities will have to be set. Realize that some problems will take many years to resolve and that the impact of some decisions will be with us for up to fifty years.

7. Examine water law and provide legal incentives for conservation. Remove barriers to the use of water saved through efficient irrigation or in other ways.

None of these actions will be easy, and it may seem, in the short term, that putting off the hard decisions is good for the economy. In fact, however, the economy of the entire state will eventually suffer if we fail to make the necessary choices today.



II. BALANCING HYDROPOWER AND PUBLIC USES

The intense competition over the Snake River has historically been fought on a hundred different political and economic battlefields from state and federal courthouses to the Public Utilities Commission to the Bureau of Reclamation and the National Marine Fisheries Service. In the end, it is a system that takes all positions into account but too frequently puts no position in place. All of that may be about to change in a way that presents a great opportunity—or possibly a great risk—for Idaho.

The Federal Power Act requires a license to create or operate impoundments or dams on the nation's navigable streams. Over the next decade or so, Idaho Power Company's eleven hydropower facilities must be relicensed by the Federal Energy Regulatory Commission (FERC). The process is complex, expensive, and confusing to many, and it is vital to the course of operations of the river for the next half century.

High Stakes for Idaho

The stakes for Idaho—not to mention the power company—are enormous. The relicensing process will greatly influence the price of electricity, define the extent of recreation, and set the tone for future mitigation of damage to fish and wildlife.

To quote former Idaho Public Utilities Commission President Joe Miller on the relicensing process:

“We have a history of diverse interests and needs. In many ways, the Snake River has divided us. While there is probably general agreement about the need for balance in energy and environmental policy, there is yet no real consensus about the precise details of that balance, and many of the decisions about the future of Snake River hydro-power and related resource demands upon the river are being placed in the hands of a federal agency. We are at a threshold with decisions to be made.”

Decisions, indeed. Decisions of policy and decisions of process, decisions about whether and how Idaho can speak with one well-reasoned voice that carries real clout with a federal agency that has not always viewed kindly the prerogatives of a small western state. The challenge for Idaho is clear; what to do is less obvious.

The Challenge is Clear

First, it is in the long-term best interest of most Idahoans to attempt to preserve the multi-million dollar hydropower advantage that Idaho Power ratepayers enjoy as a result of the company’s—and the public’s—investment in the complex of dams. At the same time, most would agree that there is a need to reduce—indeed minimize—the environmental consequences that the hydropower system creates.

Second, although the interest of Idahoans is clearly most at risk, Idahoans do not get to make the decisions that will determine the future of the river far into the next century. The policy dilemmas we face and the balance that is struck will be resolved, for better or worse, in the Federal Energy Regulatory Commission process. With history as our guide, we know that FERC has not given much attention to the

public interest in matters of mitigation of damage inflicted by the dams on wildlife and other natural resources. In other words, barring some extraordinary effort to develop and articulate a “state position” on relicensing, FERC will decide, and Idaho will accept.

The state’s challenge, therefore, is to develop a true consensus position, a position submitted by the state to FERC, one that would enjoy considerable deference on both legal and practical grounds. Simply put, FERC will listen when Idaho speaks intelligently and collectively.

There are dangers in such an approach. It’s entirely possible, indeed likely, that not everyone—including Idaho Power Company—

“Simply put, FERC will listen when Idaho speaks intelligently and collectively.”

will like every sentence of the state’s “consensus” position. Conversely, to be credible with the feds, any Idaho position must strive for genuine, if illusive, balance. The state’s position cannot be one of acceding to the applicants.

Still, Idaho Power Chairman Joe Marshall has voiced a strong willingness to reach out and make this long, difficult, and critical process work for all Idahoans: “We feel strongly that the relicensing process should be a collaborative process,” Marshall said during the Snake River conference. “I think the population of Southern Idaho, through some kind of collaborative process, has to determine what we want out of the river and to establish some goals.”

Setting the Goals

How shall we arrive at an Idaho consensus position? How shall we set the goals?

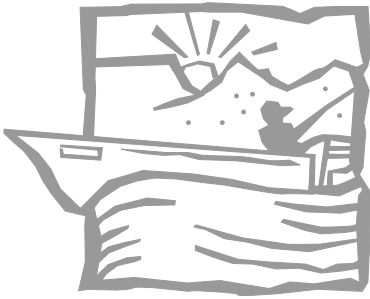
One approach may well be the formation of a blue-ribbon commission on relicensing—a thoughtful, public clearinghouse to give adequate voice to hydropower,

recreation, water quality, irrigation, and downriver interests. Dozens of Idahoans, by virtue of experience, perspective, knowledge, and interest, would be qualified to sit as members of the commission. Above all, their participation should be conditioned on their ability to be fair and to act in what will be the best interest of Idaho for the long haul.

The commission could be authorized to call upon the expertise that already exists in the state at the Public Utilities Commission, the Department of Water Resources, the Department of Fish & Game, the Department of Parks and Recreation, the Northwest Power Planning Council, and other places. The commission's charge could be, simply stated, to find honest balance among all the affected parties. It would be a difficult task to pull off, but not impossible.

To succeed, the commission would have to adopt the philosophy so ably demonstrated by the Henry's Fork Watershed Council [see section IV]. It would have to admit at the outset that every position has merit, that everyone is entitled to be heard and respected, and that shared development of consensus is a desirable outcome.

With the stakes surrounding relicensing so high, Idahoans may discover that speaking with one reasoned voice is highly preferable to having our many voices go unheard by those who will decide our fate if we are unable to decide it ourselves.



III. RECREATION ON THE RIVER

The Snake River, the reservoirs behind its dams, and the scenic canyons, forests, and deserts along its banks are magnets for recreation. Because the river and its surrounding lands are diverse, so too are the opportunities for recreation. For most of Idaho's history, our population has rarely been large enough to prompt serious conflicts among those enjoying the beauty and excitement of the Snake River. Beginning in the 1980s, however, interest in the river grew.

As the number of motor boaters, rafters, kayakers, fishermen, and water skiers increased, conflicts arose. Moreover, float boaters and fishermen, seeking quiet solace away from the sights and sounds of civilization, found it hard to coexist with the growing number of jet boats, especially in wild sections of the river, such as Hells Canyon. Personal watercraft, jet skis, also have increased in popularity, bringing new turmoil to the tumultuous debate.

Jet Skis, Jet Boats, Float Boats

During our conference, we heard much about the debate over jet boats versus float boats in Hells Canyon and about the new threat jet skis pose to the already-crowded conditions of the South Fork of the Snake River, east of Idaho Falls. Thanks to the leadership of Representative

Golden Linford and Senator Laird Noh, who were presenters at the conference, the Legislature passed and Governor Batt signed a new law to allow local units of government to regulate jet skis.

Some of the problems presented by jet skis can be resolved through education programs and increased public awareness. However, these small, powerful craft cannot be controlled by education alone. Although there are thousands of acres of reservoirs and lakes where jet skis can be operated with safety and with few conflicts, there are places they don't belong. Randy Berry, an outfitter on the South Fork explained how disruptive jet skis can be to fishing in the pristine South Fork Canyon. Others warned about the dangerous situation presented when jet skis and kayakers try to use the same waters and run the same rapids.

Counties and lake associations should move quickly to enact local regulations to regulate jet-ski use on the waters in their jurisdictions. As jet-ski use increases, regulations will become harder to impose. Stretches like the Henry's Fork, the South Fork, the reach below Gem Lake to American Falls, the Snake River Canyon at Twin Falls, and other sensitive areas should be closed to jet skis and controls placed on their use on lakes and reservoirs.

The conflicts between jet boats and float boats is another matter. Courteous jet boaters are compatible with float boaters and fishermen on most stretches. That doesn't mean they have to be in all parts of the river together all the time. We hope the Forest Service efforts to limit jet boat numbers will allow more peaceful stretches of the river.

Balancing the Uses

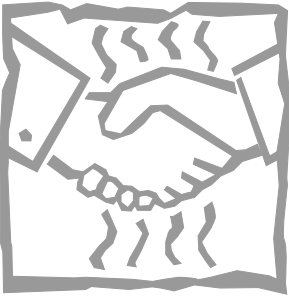
As the popularity of all river uses increases, limitations appear inevitable. Floating permits may be necessary soon

on the South Fork, and jet-boat use cannot continue to increase without ruining the recreation experience of all users.

If balancing the uses is the issue, how can that balance be determined? Should current uses prevail over historical uses? Where does the balance lie among water quality, water quantity, water timing, fisheries, conflicting recreational uses, and all the rest? In the effort to balance the uses, there is a danger of overlooking the basic issue, the one on which all the rest of the uses depend: protection of the river's resources.

“...protection of water quality and quantity is basic to recreation.”

In taking the long view of recreation problems on the river, two conclusions are inevitable: First, protection of water quality and quantity is basic to recreation. Second, with the increasing population and industrial pressures on the river, no group, interest, or use can have everything it wants any longer.



IV. DEVELOPING WATERSHED COUNCILS

For decades, farmers and fishermen have been at odds over management of the Henry's Fork of the Snake River.

Farmers, who fuel the economy of much of eastern Idaho, depend on irrigation from water withdrawn from the river to grow potatoes, wheat, and other crops. Sportsmen depend on stable flows of clean water to sustain one of the most famous fly fishing streams in America.

This apparent conflict came to a head in the early 1990s when the Idaho Water Resource Board sent the Henry's Fork River Protection bill to the Idaho Legislature. Irrigators, led by the Fremont-Madison Irrigation District in St. Anthony, opposed the plan. Sportsmen and environmentalists, represented by the Henry's Fork Foundation, supported it. The bill finally passed in 1992 after raucous debate and compromise, but the two groups were still sitting across the river throwing rocks at each other.

A Better Way

Then, in the fall of that year, an event took place that changed everything. The Idaho Department of Fish & Game and the Bureau of Reclamation had decided cooperatively to lower Island Park Reservoir to the minimum level to poison the overpopulating trash fish. Excessive road-building and forest fires on the upper

tributaries of the river in the Targhee National Forest had filled the reservoir with far more sediment than either agency knew. In two weeks, 50,000 tons of muddy sediment were flushed into the storied, blue-ribbon trout-fishing stretches of the Henry's Fork, covering popular fishing holes and destroying fish habitat.

In his remarks at the conference, Dale Swenson, executive director of the Fremont-Madison Irrigation District, explained, "At that point in time, there was a lot of blaming going on; everyone was pointing a finger at someone. Perhaps the saddest thing about the whole situation is that everybody stood by and watched that happen, including our state and other agencies."

Swenson and Jan Brown, executive director of the Henry's Fork Foundation, who had formerly been formidable enemies, decided something had to be done. They brought their boards of directors together to seek a better way of addressing issues in the watershed. "We made a conscious decision at the time to bury the hatchet and to recognize that both sides have legitimate interests and needs in that basin," Swenson said.

"The key is group education with all sides learning about each other and the issues together."

That recognition is the first and most important step necessary in the development of forums like the Henry's Fork Watershed

Council. Without mutual trust and respect, new community-based entities like watershed councils won't work. The Henry's Fork Watershed Council works because it provides a safe and friendly forum for discussing contentious issues. The key is group education with all sides learning about each other and the issues together.

The Henry's Fork Watershed Council's success provides a prototype for the development of similar councils up and

down the river. Those councils may have different participants and different formats, but the lessons of the Henry's Fork Watershed Council can help other councils move quickly toward collaborative management of their drainages.

The members of the council begin each meeting sitting in a circle in what they call "community building." After three minutes of silence during which they are urged to reflect on why each participant is there, all attendees are encouraged to say whatever is on their minds. Personal attacks are forbidden. "We urge 'I' statements rather than statements about what someone else is doing or thinking," Swenson said.

When a subject like water quality protection is addressed, at least a day is spent together just learning about the issue. Experts and just plain folks are brought in to explain the problems and possible solutions. If a consensus can't be reached that day, a second meeting is scheduled. In each meeting, the group breaks into three groups to facilitate useful discussion and consensus-building. There is a citizens' group, an agency roundtable, and a technical team. Agencies are an integral part of the council since they still have the statutory authority to carry out management programs in the watershed.

The ultimate success of the council will come when the agencies routinely funnel their public involvement, research, planning, and ultimately decision-making through the watershed council.

An important and early action of the council was to develop its "Watershed Integrity Review and Evaluation" criteria. This checklist of watershed health and vitality, mutually developed, is used to evaluate the merits of programs and projects brought before the council. Through

this evaluation process, the council is able to bring science, local values, and coordination to the various initiatives within the watershed.

Council's Success Provides Prototype

The Henry's Fork Watershed Council works because key opponents showed the political courage to reach out a hand to each other and take risks together. Then they expanded their group and convinced citizens and agency representatives to make a true commitment to talk and work together. Moreover, the participants go into the discussion with the recognition that they, not distant government

agencies, are responsible for the watershed. The only way they can exercise that responsibility is with their neighbors and others with a stake in its future.

“Get out from in front of the television, and make a difference.”

“We must reassert our authority as citizens to make responsible decisions, get along, educate ourselves, sponsor needed research, lead restoration efforts—whatever it takes,” said Jan Brown. “Get out from in front of the television, and make a difference.”