

To: Hailey City Council
From: Wendy Pabich, Ph.D
613 North 4th Avenue
Hailey, ID 83333
Date: August 27, 2011
Subject: Quigley Canyon Annexation Proposal

I am writing in continued opposition to the proposal to annex Quigley Canyon into the City of Hailey. Many of the comments about related water issues I submitted during the first round of hearing for this project in 2009, still stand. While I will focus on the water questions, I also concur with many of the objections raised by other neighbors over annexation of this property, including those related to the disastrous results of the Cutters and Sweetwater annexations and the flailing real estate market and economy in this valley. We certainly do not need more development or further annexations.

It is imperative that the City undertake an independent appraisal of the value of the Quigley water rights prior to agreeing to any deal for water rights in lieu of annexation fees. In considering the value of these rights, several factors cannot be overlooked:

- 1) Prices for water rights, like those for property, have declined and values need to be assessed relative to current market conditions.
- 2) While the volume of ground and surface water rights on the property totals over 11 cfs, together these rights are subject to a combined use limitation, allowing a maximum flow of 5.53 cfs and maximum irrigated acreage of 967.7 AF. The rights provide no value over this maximum volume and acreage.
- 3) Use of these rights is limited to the irrigation season (generally April 15-October 31). The water rights cannot be used to cover domestic water use during the winter months. Any attempt to extend the season of use would be considered an illegal expansion of use. Thus, the value of these rights is only as irrigation rights during the irrigation season.
- 4) With the exception of the one senior water right on the property (37-19736, 1880 for 2.28 cfs), all rights are very junior (1967 and later) and will provide little value to the City.
- 5) Surface rights on the property all derive from Quigley Creek and, while they have a combined total volume of 7.55 cfs, they too, are subject to the combined use limitation of 5.53 cfs. Further, this volume is a *paper* volume and has little relation to the actual flows of Quigley Creek. The delivery history of Quigley Creek suggests that flows dip below 2 cfs in August and mean flow of the Creek throughout the length of the irrigation season is 2.46 cfs. Further, the most senior right is routinely cut in early August. All of this implies that the junior surface water rights on Quigley Creek are meaningless – there simply is no water to provide for them – and the one senior right is deliverable only until some point in the late summer. In assessing the value of this senior right, only delivered water (i.e., “wet” water – something less than 2 cfs for only part of the irrigation season), rather than the water on paper (i.e., “dry” water) should be considered.

- 6) The volume of 37-19736, alone, is sufficient only to irrigate 114 acres and only until it is cut in August. Its value needs to be assessed relative to the actual acreage it is capable of irrigating, not that related to the larger Place of Use allowed for the right.
- 7) The defined Source for 37-19736 is Quigley Creek and the Place of Use is in Quigley Canyon. If ownership of the right is transferred to the City of Hailey, the City will be required to use water from the designated Source on the designated ground. If the City were interested in changing the Source to the Big Wood or another tributary to the system, or likewise, to change the Place of Use to irrigate City property elsewhere, it would be required to file for an administrative transfer with IDWR. During this process, the applicant would be required to demonstrate no injury to any water right holder – even a junior water right holder – were the right to be transferred. At a minimum, this would require the Department to limit the volume of the water right to the flows that can be proven to come from Quigley Creek, not what is shown on paper. The likelihood that the applicant could prove no injury to an existing right in the Big Wood system is slim. Further, any such application would surely meet with administrative Protests from downstream water users. As a result, were the City to obtain any of these Quigley Creek water rights during an annexation process, the rights would be useful only to draw water from Quigley Creek and only to irrigate lands out Quigley Canyon. Thus, the value of this right is limited to the irrigation it can provide from Quigley Creek and in Quigley Canyon.

The take home message is that the value of these rights is limited to something less than the 2 cfs that can be delivered from Quigley Creek and only through some part of the irrigation season (often early August), and can only be drawn from Quigley Creek to irrigation lands in Quigley Canyon. Prior to any agreement, these water rights need to be appraised in light of these limitations. The question remains as to why the City would contemplate waiving millions of dollars in annexation fees simply to continue irrigating the private lands that are currently being irrigated with these rights? How is this the taxpayer's obligation?

I also note that in the proposed annexation agreement, the developer suggests they be entitled to lease back from the City some portion of these rights at less than \$1,000 per year. At the same time, they are asking the City to waive annexation fees on the order of \$3.35 million. Again, how can this possibly benefit the City? The developer will sell the rights to us for several million dollars and then we will lease them back at \$1,000 per year? Even if this were a very generous mortgage arrangement at 2% interest, the developer would be paying the City over \$12,000 per month or about \$148,000 per year. Why should we as taxpayers be asked to give these fees away?

Finally, the City has noted that with the removal of the golf course, the project will no longer be using treated City wastewater for irrigation. Perhaps this is the time for Hailey to be proactive and require for this and all future developments that irrigation needs (where feasible for the City) be met using a second water delivery system that uses recycled wastewater. We are, after all, in the arid West, and not immune to the water crises occurring all around us.

Thank you for your consideration.