

Water rights bill passed

Measure will start adjudication process

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March 23, 2006

BOISE – The state would begin trying to sort out who owns the rights to how much water all through North Idaho under legislation that won final passage in the Legislature on Wednesday and was headed to the governor's desk.

"There is nothing more sacred in the state of Idaho than water," Sen. Mike Jorgenson, R-Hayden Lake, told the Senate. "Water up north is just as sacred, just as precious and more beautiful than what we have down here. I'm sorry to say that, but it is true."

HB 545 starts the process to adjudicate all the water rights in North Idaho, a legal process that could take nine years. It passed the Senate 30-5 Wednesday, after earlier clearing the House on a 64-1 vote.

Adjudication is a complicated and costly court process that sorts out who has rights to how much water, based on dates of claims and other factors. The state is just completing the largest adjudication in the nation, sorting out rights in the Snake River Basin in southern Idaho.

With the addition of the North Idaho adjudication, which would include the Coeur d'Alene/Spokane river basin, the Palouse River basin and the Kootenai/Clark Fork river basin, all the water rights in the state will have been adjudicated. The idea is to use the existing water court from the southern Idaho case and move right on to the North Idaho issues.

Sen. Dick Compton, R-Coeur d'Alene, said the state of Washington is trying to claim North Idaho water that flows down the Spokane River, and the adjudication will help Idaho defend its water against downstream claims.

"Unless we have some pretty good legal basis to hang our hat on, they're going to get their way," he told the Senate.

But Sen. Skip Brandt, R-Kooskia, who unsuccessfully led opposition to a water rights agreement with the Nez Perce Tribe last year, said, "A state agency has employees that now need something to do, so we're going to walk through a door again that we can't back out of."

Sen. Joyce Broadsword, R-Sagle, agreed and voted against the bill.

At a glance

HB 545

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The bill was co-sponsored by 12 North Idaho legislators, but a handful of northern lawmakers opposed it.

In addition to Broadsword, Sens. Gary Schroeder, R-Moscow, and John Goedde, R-Coeur d'Alene, opposed it in the Senate.

Goedde said controversial legislation the House is working on to take water from Idaho Power Corp. to recharge the Snake plain aquifer will turn Idaho water rights law on its head by favoring junior water rights over senior water rights.

"There's a chance the whole adjudication process is going to get tossed out" in the House," he said.

In the House, the only "no" vote came from Rep. Dick Harwood, R-St. Maries.

But Harwood changed his mind Wednesday and joined in a unanimous vote in the Joint Finance-Appropriations Committee to fund the North Idaho adjudication in next year's state budget.

"I think this is a necessary evil. I think we have to do this," he said.

The approved funding is \$1.3 million for next year, and it could add up to as much as \$16 million in state general funds by 2015. People who file claims also will pay fees to partially finance the process.

Jorgenson said adjudication will give Idaho an inventory of all its water rights and will trigger a federal law that says federal and tribal claims have to be brought to the Idaho water court, rather than to federal court.

That, he said, would "put the state of Idaho in a superior position when it comes to resolving these issues."

Sen. Shawn Keough, R-Sandpoint, who pushed for the funding in the joint budget committee, said after its unanimous approval there, "It's a recognition that northern water quantity and water quality issues are as important as those in the south."

The final decision now is up to the governor. His press secretary, Mike Journee, said Wednesday, "We'll take a look at it and review it, and make our decision then."

The bill's sponsors are Reps. Jim Clark, R-Hayden Lake; George Sayler, D-Coeur d'Alene; Eric Anderson, R-Priest Lake; George Eskridge, R-Dover; Mary Lou Shepherd, D-Prichard; Phil Hart, R-Athol; Marge Chadderdon, R-Coeur d'Alene; Frank Henderson, R-Post Falls; and Bob Nonini, R-Coeur d'Alene; and Sens. Keough, Jorgenson, and Compton.