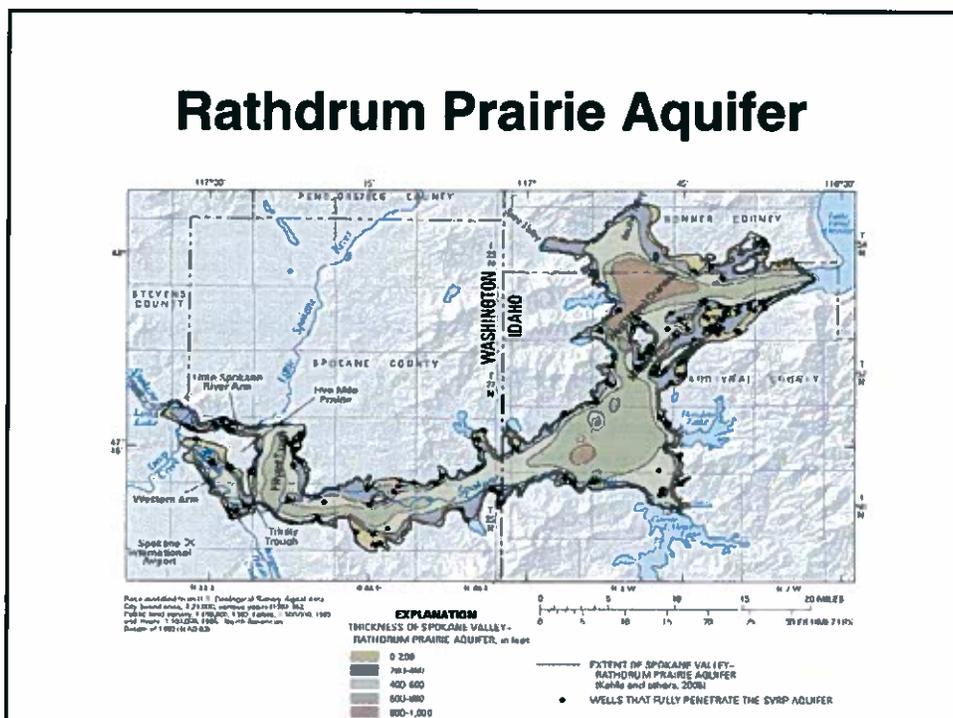
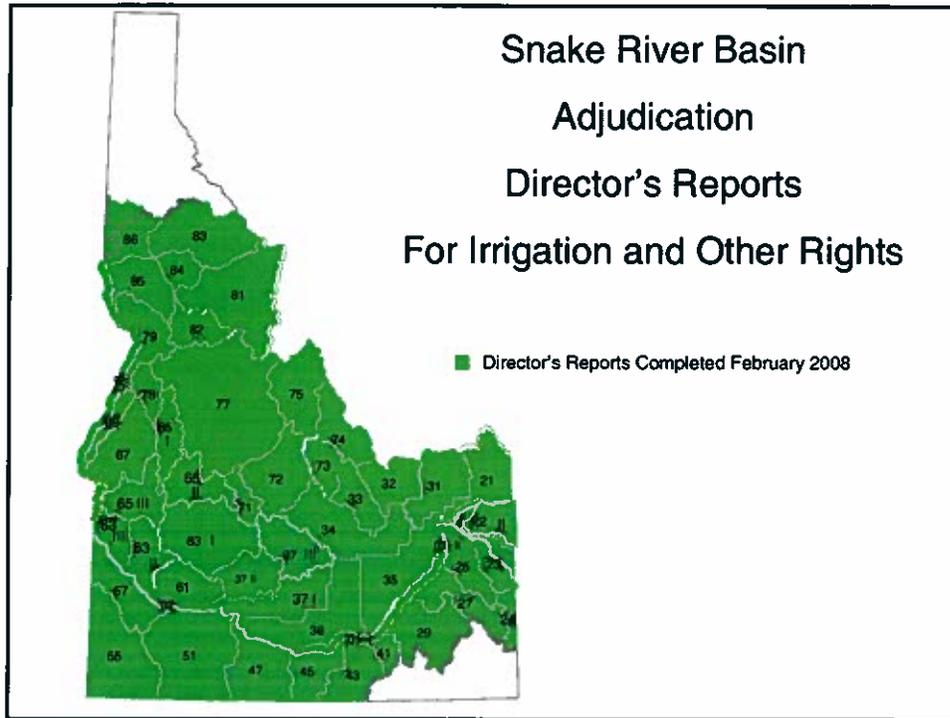
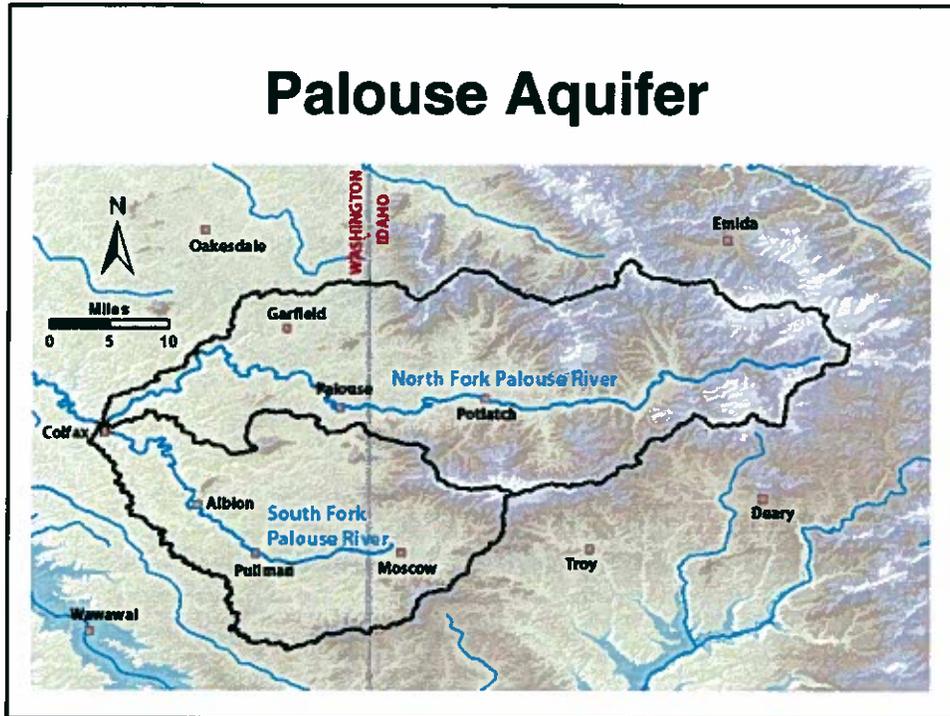


Discussion Items

- Overview of geographical area
- Legislation
- Petition to Commence the CSRBA
- Commencement Order
- Deferrable rights
- Adjudication process

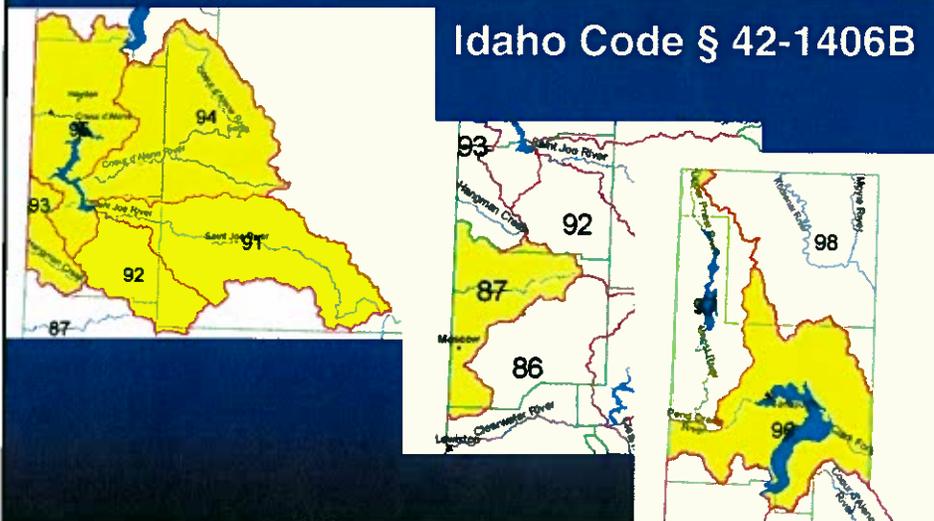


Palouse Aquifer



Scope of Northern Idaho Adjudications

Idaho Code § 42-1406B



2008 Idaho Legislature

- Removed Basin 98 from adjudication process.
- Petition must include a request for the deferral of domestic and stockwater rights as defined by Idaho Code § 42-1401A (4) and (11).
- Reduce filing fee for deferrable domestic and stockwater right to \$25.
- Petition must request that a commencement order be issued only if the court determines it is possible to defer the domestic and stockwater rights within the terms of the McCarran amendment.

Jurisdiction

- Idaho Code 42-1406B provides that special jurisdiction for the adjudication resides with the Fifth Judicial District in Twin Falls county.
- Chief Justice Eismann signed order on August 8th, 2008 assigning District Judge John Melanson to the case.

Petition to Commence Coeur d'Alene Spokane River Basin Adjudication

- Petition filed by State of Idaho on July 8, 2008
 - Sought to include all surface and ground water in the adjudication.
 - Sought to include the United State and the Tribes as parties in the adjudication.
 - No water uses excluded.
 - Requested that court defer small domestic and stockwater claims consistent with Idaho Code 42-1406b and find it consistent with McCarran Amendment.

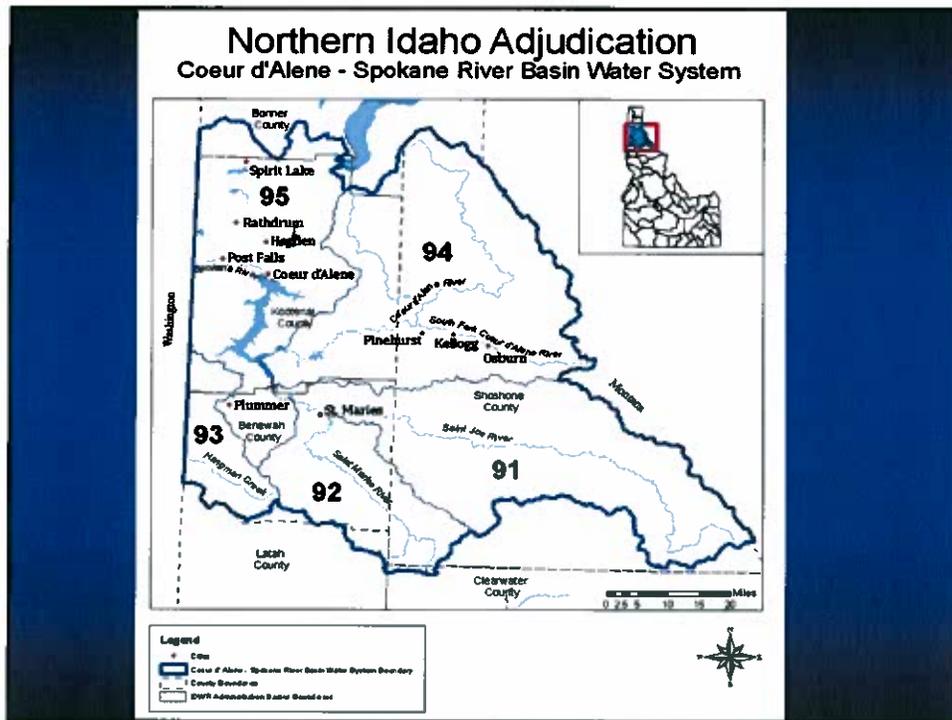
Commencement

- Commencement hearing was held on August 28, 2008.
- Coeur d'Alene Tribe made special appearance to challenge petition.
- Court issued Commencement Order on November 12, 2008.
- No appeal was taken from the Order.

Commencement Order Highlights

- The question of whether the deferral of small D&S water rights violates the McCarran Amendment is a justiciable question – not a request for an advisory opinion.
- It is possible to defer the adjudication of the small D&S and still comply with the terms of the McCarran Amendment.
 - Because all water users (including D&S) are joined in the adjudication.

Boundary for
Coeur d'Alene
Spokane River Basin
Adjudication

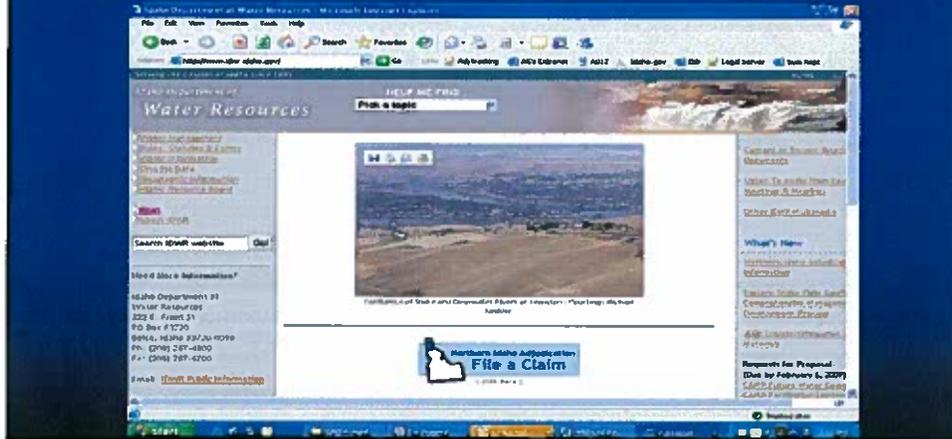


Notice of the commencement of the adjudication

- First notices being mailed out this week.
 - Approx. 1,300 water users in Kootenai County with zip code 83869 (Spirit Lake)
- First round of legal notices being published this week.

How to file a claim

- See www.idwr.idaho.gov

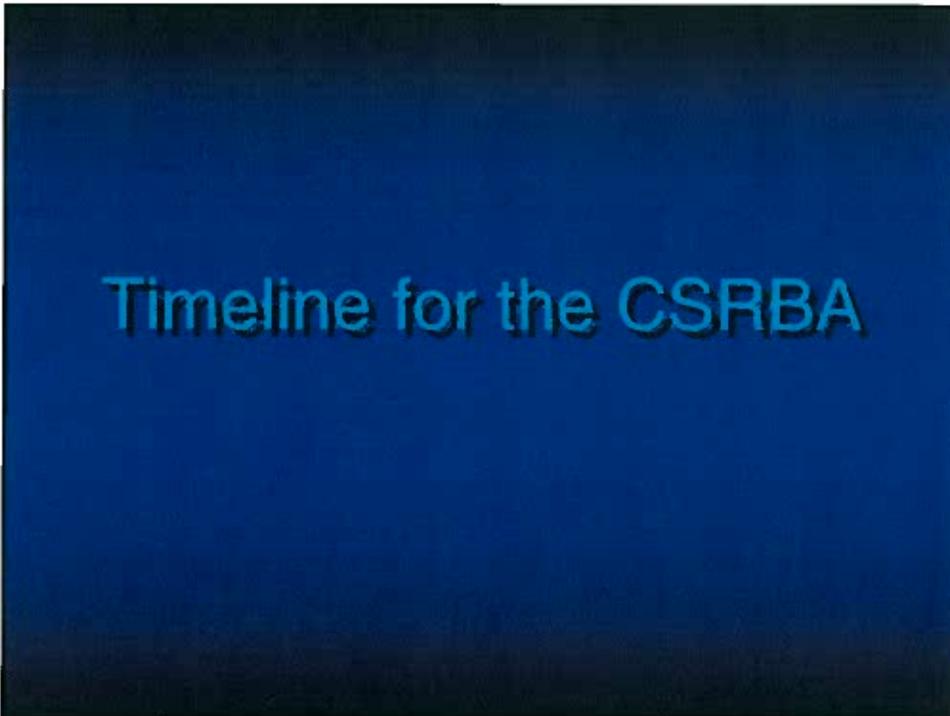


Two ways to submit claims

- New way:
 - On-line claims taking program.
- Old fashion way:
 - Fill out paper copy and submit.

Contact IDWR if you need help
filling out the claim form

The screenshot shows a web browser window with the URL http://www.idwr.idaho.gov/water/North_Id_Adjud. The page title is "Northern Idaho Adjudication". On the left sidebar, there is a "Public Information" section with a "Go!" button. The main content area features a "FILE A CLAIM" heading with the instruction: "Enter your information into our online database. Our step-by-step process will help you file your claim." Below this is a "FILE ONLINE" button. A note states: "Note: Many water rights previously recorded or licensed with IDWR in the Spirit Lake, Athol, Dayview and Blanchard areas have been renumbered. Select an option below to find out if your water right has been renumbered:" with links for "Search By Name" and "Search By Old Water Right Number". Further down, it says "You may also input your information into the following forms (or print and complete by hand):" and lists "Notice Of Claim To A Water Right Acquired Under State Law" and "Form Instructions". A section titled "RESEARCH A CLAIM" is partially visible at the bottom. The right sidebar contains "Related Documents" including "Northern Idaho Adjudication Background and Issues Presentation from IDWR" by David Tutthill, dated September 26, 2007, and "Northern Idaho Adjudication - PowerPoint Presentation IDWR Water Rights Adjudication Bureau Chief Don Shiff" dated July 21 - 24, 2008.



Projected Milestones – By Fiscal Year – Northern Basins

Fiscal Year	Basins 91-95	Basin 87	Basins 96-97
FY08	Prepare infrastructure		
FY09	Conduct meetings, commence, take claims, conduct field examinations		
FY10	Take claims, conduct field examinations, prepare recommendations	Conduct meetings, commence, take claims	
FY11	Prepare recommendations, file Directors Reports	Conduct field examinations	Conduct meetings, commence, take claims
FY12	File Directors Reports, Dispute Resolution	Prepare recommendations	Conduct field examinations
FY13	Dispute Resolution	File Directors Reports	Prepare recommendations
FY14		Dispute Resolution	File Directors Reports
FY15			Dispute Resolution

Projected Counts

Basin	Decrees	Licenses & Permits	Statutory Claims	Totals	No. of Recorded Wells	Predicted Adj Counts
87		186	113	299	1594	1500
91		113	69	182	495	
92		141	65	206	849	
93		33	42	75	303	
94		411	210	621	1885	
95	716	1632	665	3013	7326	
Total 91-95	716	2330	1051	4097	10858	13000
96	24	1598	493	2115	9698	
97		335	168	503	1799	
Total 96-97	24	1933	661	2618	11497	9000
Totals						23500

Deferral of Small Domestic and Stockwater Rights in the CSRBA

Stipulation between US and State regarding small D&S rights

- Like in the SRBA, the United States and the State of Idaho entered into a stipulation that provided for the deferral of small domestic and stockwater (“D&S”) rights in the CSRBA
- The CSRBA court adopted the stipulation.

What does this mean for the claimant?

- A claim to a water right in the adjudication may, but is not required, to be filed for small domestic and stockwater rights at this time.

What types of water rights are deferrable?

- Only small domestic and stockwater rights as defined by Idaho Code § 42-1401A (4) and (11) are deferrable.

Small Domestic Water Rights

- Domestic use includes the use of water for homes, organization camps, public campgrounds, livestock, and any other purpose in connection therewith, including the irrigation of up to ½ acres of land, if the total use is not in excess of 13,000 gallons per day.
- Other uses that do not meet the definition of domestic uses above are limited to a diversion rate of .04 cfs and a diversion volume of 2,500 gallons per day.

Stockwater uses:

- The use of water solely for livestock where the total diversion is not in excess of 13,000 gallons per day.

Key Points of Deferral Order:

- Deferred water right holders are joined to the adjudication. They are bound by terms and decisions of the adjudication.
- Only those domestic and stock water rights that qualify as domestic and stock water uses under Idaho Code § 42-1401A (4) and (11) would be deferrable. **No other water uses can be deferred.**

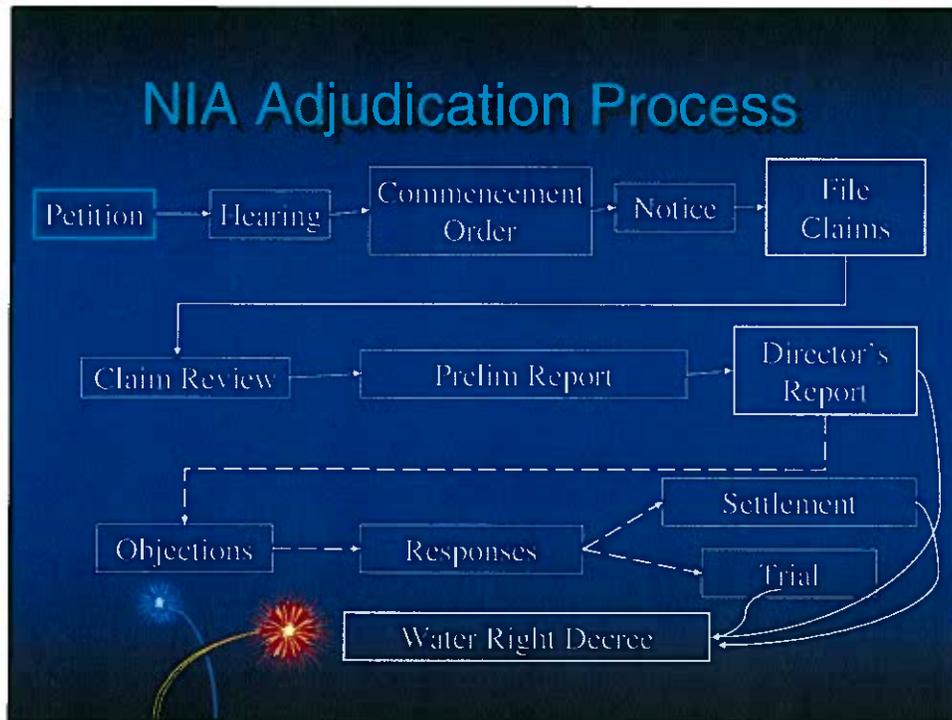
Benefit to having water right adjudicated

- IDWR can only administer decreed and licensed/permitted water rights.
 - Idaho Code, Section 42-607
- An unadjudicated beneficial use water right goes to the bottom of the priority list.
 - Nettleton v. Higginson, 98 Idaho 87 (1977).

IDWR will be encouraging claims

- If someone wants their deferred right administered or delivered in the future, they must get their water right decreed.
- Only costs \$25 now.
- If someone wants to change an element of a deferred water right through an administrative proceeding, they will first be required to have the water right decreed.

Adjudication Process



Future Activities

- February 6, 2009 in C'dA
 - Scheduling Conference on Filing of Federal and Tribal Claims Based on Federal Law
- The CSRBA court may establish a steering committee.
 - Contact CSRBA Staff Attorney Eric Wildman if interested in participating.

For more information:

www.idwr.idaho.gov

