

# Adjudication Program Updates

Presentation to the Idaho Water Users Association

August 31, 2020



## Presenters

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IDWR Water  
Allocation Bureau  
Chief
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IDWR Eastern Region  
Manager

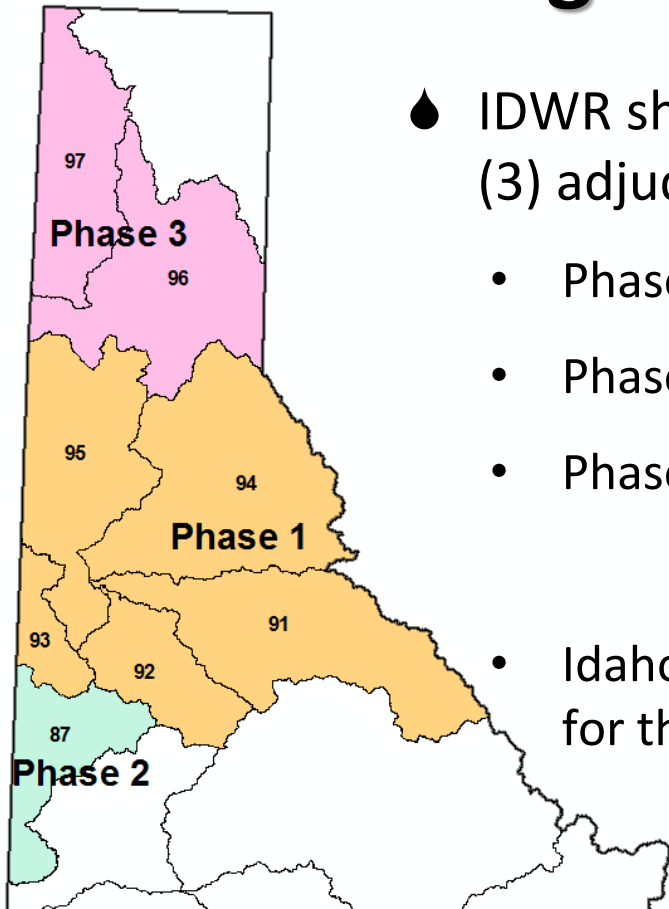
## Presentation Topics



- Progress Update on the Northern Idaho Adjudications (NIA)
- Bear River Basin Adjudication
- Questions and Comments



# Idaho Code § 42-1406B. Northern Idaho Water Rights Adjudications



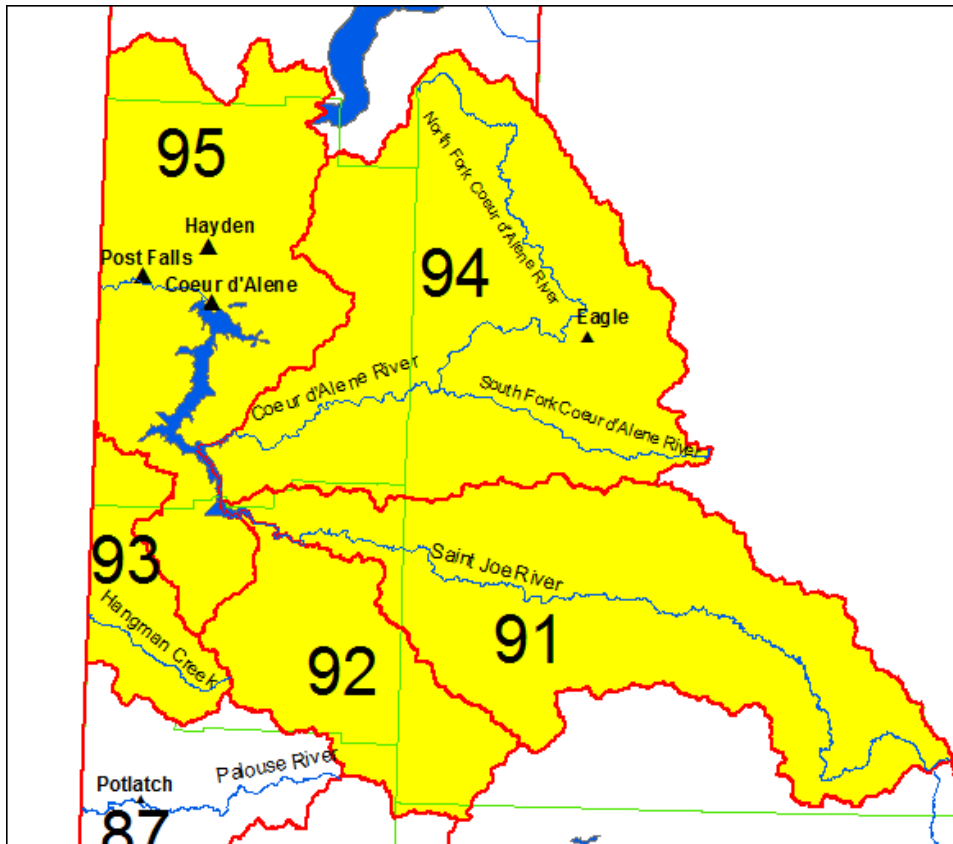
- IDWR shall petition the district court to initiate three (3) adjudications within the:
  - Phase 1 - Coeur d'Alene-Spokane River Basin (CSRBA)
  - Phase 2 – Palouse River Basin (PRBA)
  - Phase 3 – Clark Fork-Pend Oreille River Basin (CFPRBA)
- Idaho Code § 42-1414 – Claim filing fees the same as for the Snake River Basin Adjudication in 1987

# Issues Driving the Northern Idaho Adjudications

- Protection against competition for finite resources
  - Supplies are not always sufficient to meet demands
  - Competing Priorities
- North Idaho population growth
- Confirming private property rights
- Only way to confirm beneficial use rights and statutory claims
- Recording water right changes
- Water sources are shared with downstream, out-of-state interests



# Phase 1 - Coeur d'Alene – Spokane River Basin (CSRBA)



- Claims submitted – 12,849 (tribal and other federal reserved claims not included)
- Last Director's Report -- February 2019 (Basin 95 Part 2)
- Decreed – 9,429
- Pending – 3,322
- Remaining Objections – 73 Objections to 56 Contested Claims, all in Basin 95

Data from 7/21/2020

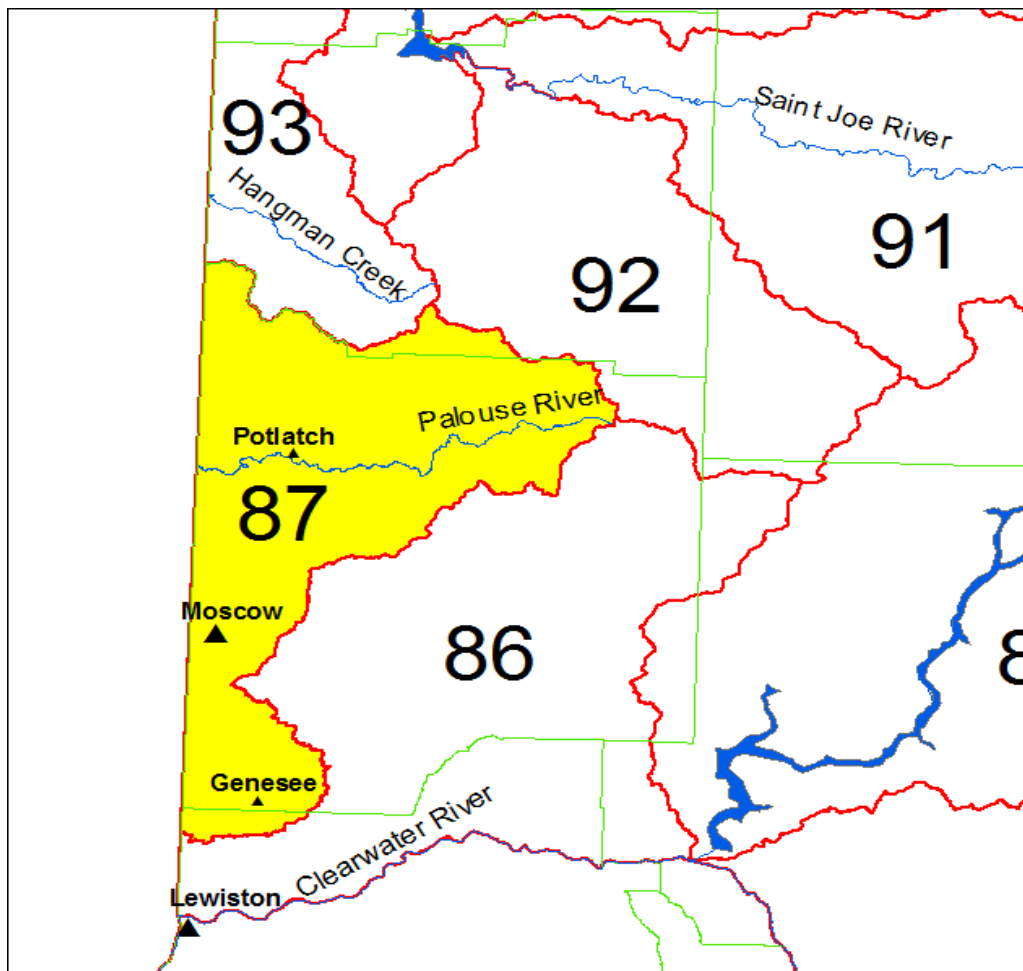


# Coeur d'Alene – Spokane River Basin Outstanding Issues



- Tribal Federal Reserved Claims – 284
- USFS Federal Reserved Claims – 265
- Avista Power Claims
- State of Idaho's Right to Maintain Coeur d'Alene Lake

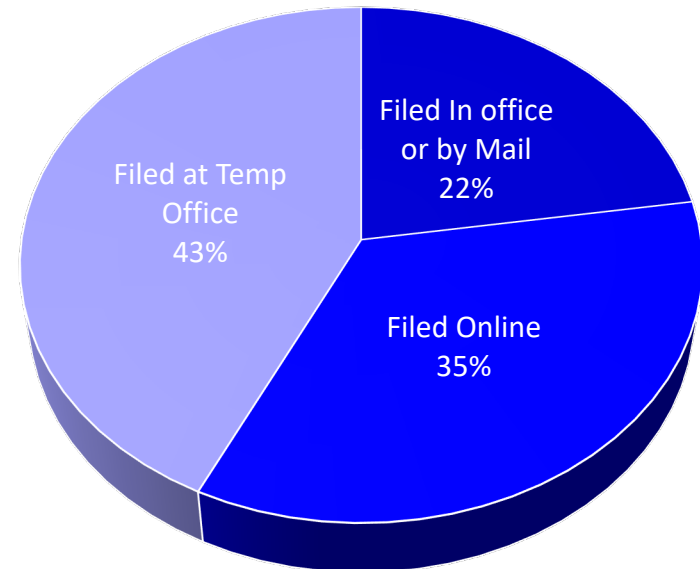
## Phase 2 - Palouse River Basin (PRBA)



- April 10, 2019 - Commencement Notices mailed
- May 14-16 & June 11-13, 2019 - Temporary office held in Moscow to assist with claim filing
- August 30, 2019 - Claim filing deadline
- April 2021 - Anticipated mailing of the Preliminary Director's Report

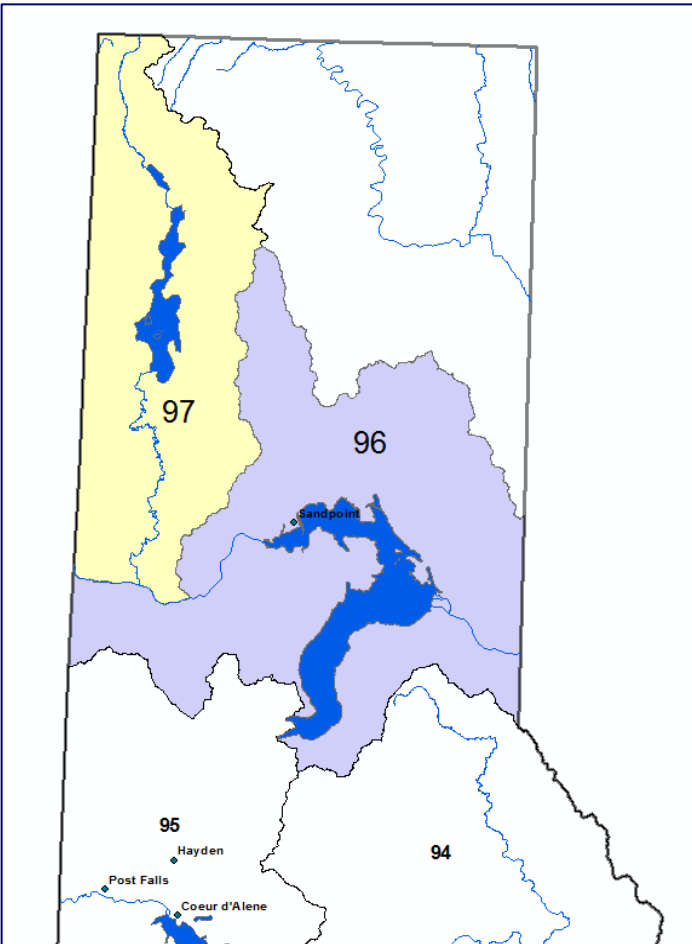
## Multiple Ways to File 1,928 Claims

- IDWR assisted over 650 customers with filing 665 claims during the 6 days of temporary office held at the Latah County Fairgrounds in Moscow.



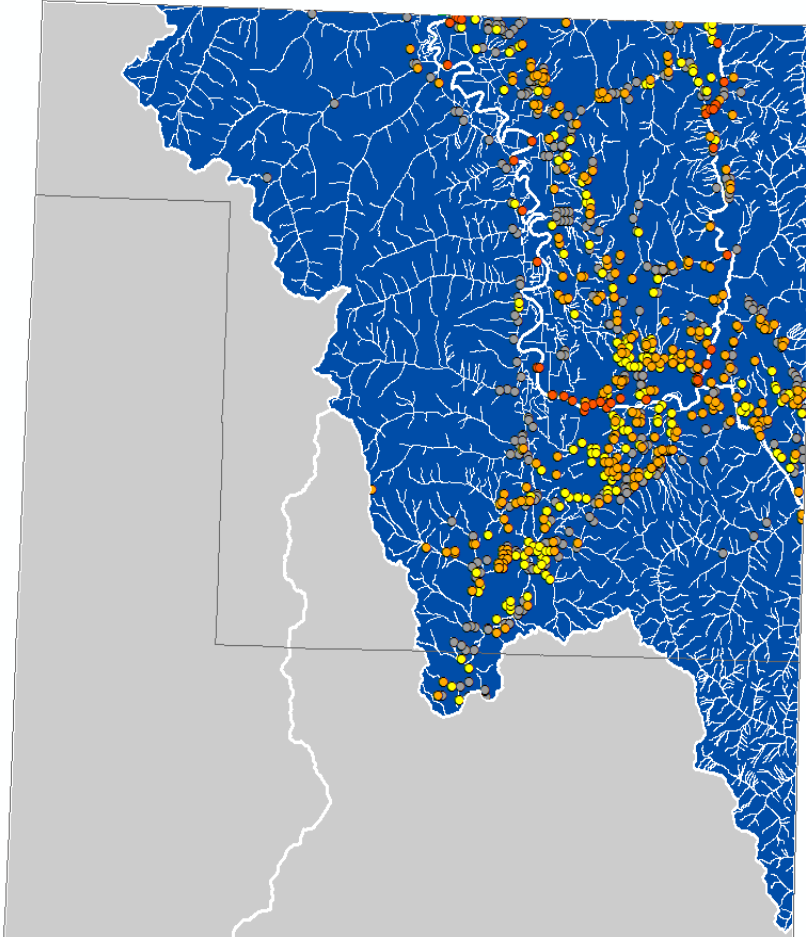


# Phase 3 - Clark Fork-Pend Oreille River Basin (CFPRBA)



- ◆ IDWR received funding authority from 2020 Legislature
- ◆ Anticipating 9,000 claims.
- ◆ The Attorney General's will petition the Adjudication Court to commence the CFPRBA (Anticipated Fall 2020).
  - Include all surface and ground water uses.
  - Water users can choose to defer (postpone) filing for small Domestic & Stockwater rights (I.C. § 42-111).
  - Federal agencies will be included.
- ◆ IDWR anticipates mailing commencement notice to property owners and beginning to take claims in late summer or early fall of 2021.
  - This is when the majority of claimants file their claims.
- ◆ Anticipate submitting last Director's Report in 2030

## Kootenai River Basin



- Currently not part of the NIA
- Anticipate possibly 3,000 claims
- Process would take around 4 years

# Bear River Basin Adjudication

- Overview of Basins
- Unique Features
- Potential Issues
- Moving Forward



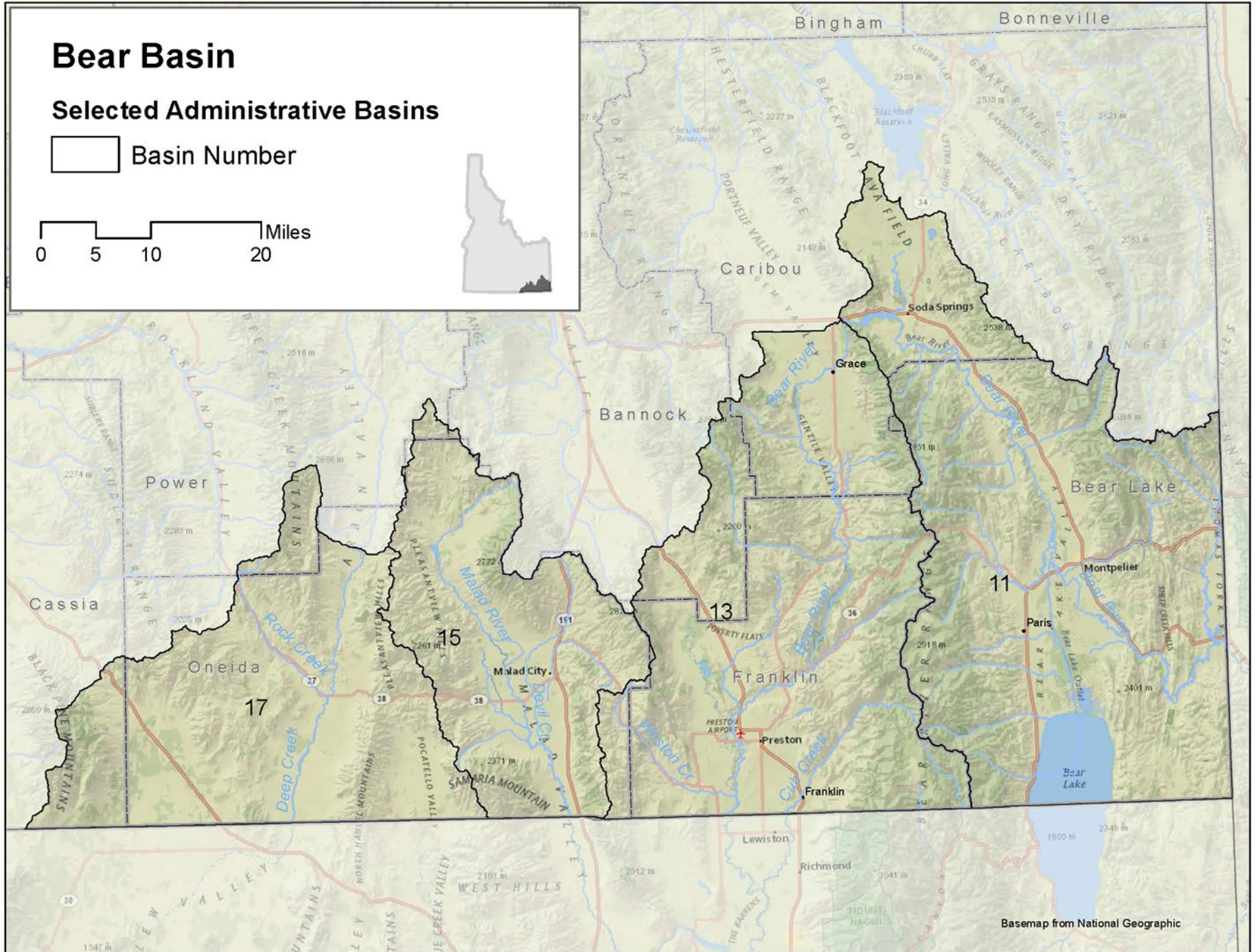
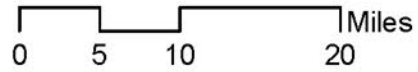
Last Chance Canal Company flume over Bear River



# Bear Basin

## Selected Administrative Basins

 Basin Number



## Basin 11 – Bear River (Montpelier to Soda Springs)

### Irrigation Rights

750 cfs	Bear River
1,800 cfs	Other Surface Sources
100 cfs	Ground Water



Northeast shoreline of Bear Lake

## Basin 13 – Bear River (Soda Springs to Preston)

### Irrigation Rights

1,050 cfs	Bear River
1,700 cfs	Other Surface Sources
190 cfs	Ground Water



Oneida Narrows section of Bear River



## Basin 15 - Malad River Valley

### Irrigation Rights

440 cfs      Malad River and Other Surface Sources  
310 cfs      Ground Water



Malad City with Samaria Mountains in background

## Basin 17 - Curlew Valley

### Irrigation Rights

95 cfs

Deep Creek and Other Surface Sources

210 cfs

Ground Water



Old homestead in Holbrook, Idaho

## Bear River Basin Adjudication – General Statistics

Counties: Bear Lake, Franklin, Oneida, and parts of  
Cassia, Power, Caribou and Bannock

Population: 30,000

Area: 3,500 square miles



Paris Tabernacle



Bear Lake County Courthouse



## Unique Features of BRBA – Federal Areas

### Bear Lake National Wildlife Refuge

- Created in 1968
- Open water and cattail marsh
- Two Units: Dingle Marsh (17,000 acres)  
Thomas Fork (1,000 acres)



### Oxford Slough Waterfowl Production Area

- Created in 1985
- Hard stem bulrush marsh
- 1,700 acres



## Unique Features of BRBA – Federal Areas

### Curlew National Grassland

- Created in 1934
- Only national grassland in Idaho
- 48,000 acres



## Unique Features of BRBA – Bear River Interstate Compact

Original Compact - 1958

Amended Compact - 1978

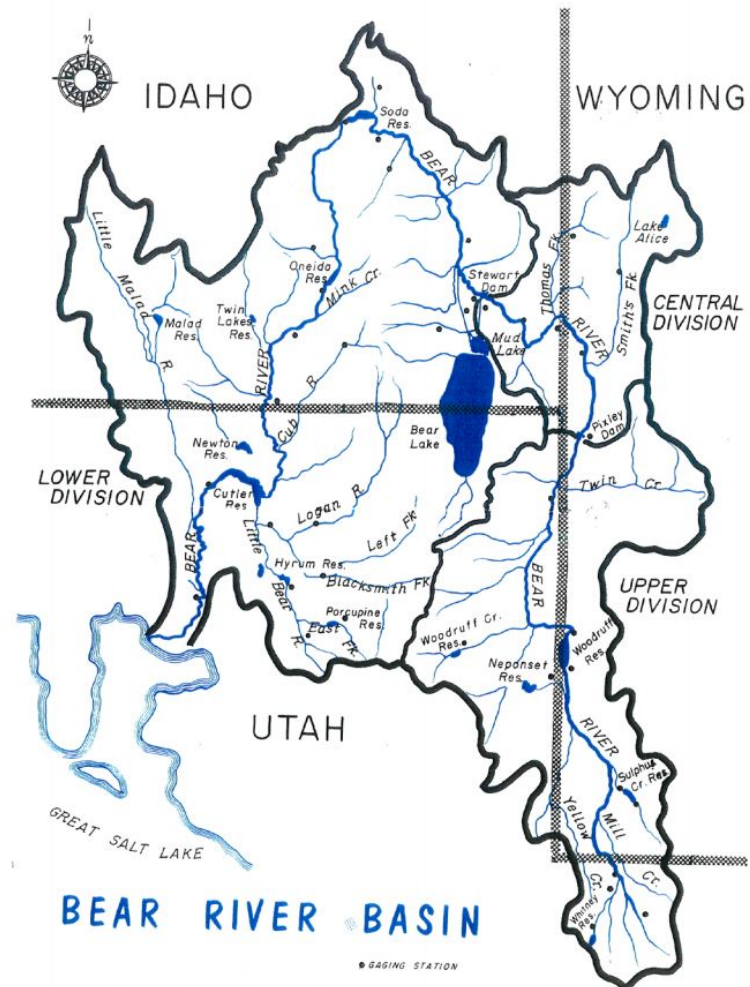
3 Divisions:   Upper (UT/WY)  
                  Central (WY/ID)  
                  Lower (ID/UT)

Bear River Commission:

Biannual Meetings

9 Commissioners (3/state)

Federal Chairman



## Unique Features of BRBA – Irrigation Storage / Power

### Irrigation Storage

Bear Lake used as irrigation reservoir

PacifiCorp owns storage water rights

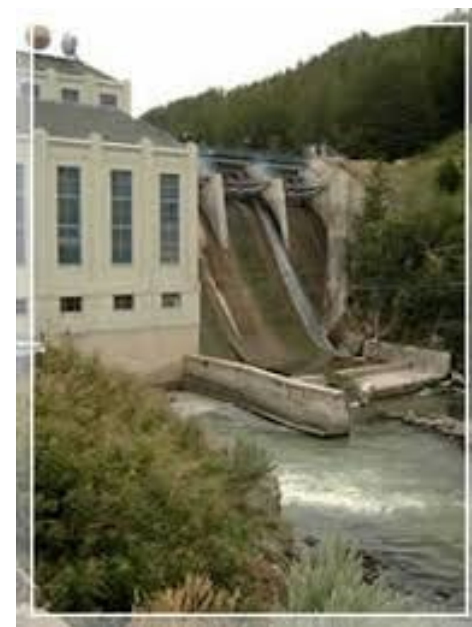
Contracts with irrigators in Idaho and Utah

### Power Facilities

3 PacifiCorp dams on Bear River in Idaho

- Soda Springs, Grace, Oneida

Storage used solely for powerhead



Soda Power Plant



## Unique Features of BRBA – Administrative Areas

### Curlew Valley Critical Ground Water Area

- designated in 1976
- management plan not yet drafted

### Bear River Ground Water Management Area

- designated in 2001, plan adopted in 2003
- covers entire Bear River drainage
- new consumptive uses require mitigation

### Malad Valley Ground Water Management Area

- designated in 2015, plan adopted in 2017
- new consumptive uses require mitigation

## Adjudication History

### 1920 Dietrich Decree

- All water rights from Bear River and major tributaries
- Bear Lake to Idaho-Utah state line

### 1924 Terrell Decree (aka Dingle Decree)

- All water rights from Bear River
- Idaho-Wyoming state line to Montpelier

Various Decrees for Tributary Streams (most 100+ years old)

One adjudication of ground water rights: Bancroft-Lund (1992)

One recent surface water decree: Worm Creek (1981)

## Bear River Basin Adjudication – Simplifying Factors

No federal reservoirs.

No designated wild & scenic rivers.

No federal Indian reservations.

Water district records for Bear River and many tributaries.

Advancement in technological tools (imagery, remote sensing)  
since 1987 SRBA commencement

## Bear River Basin Adjudication – Challenges

Basins closed to new appropriations (except de minimus uses).

- No remedy for disallowed claims.

Statutory claims with very old priority dates.

- Many properties have changed ownership since claim.
- Individual with personal knowledge can't be found.

Many water rights still in name of owner from original decree.

- Most decrees are 100+ years old.



## Questions and Comments?



**Thank you!**