

LAWRENCE G. WASDEN
Attorney General
State of Idaho
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone (208) 334-2400
Fax: (208) 334-2530

Copies of document filed with the
court in this matter should be served
on the above address and the
Director of the Idaho Department of
Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS**

In Re the General Adjudication of)	CASE NO. 49576
Rights to the Use of Water from the)	
Coeur d'Alene-Spokane River Basin)	PETITION
Water System)	
_____)	Fee: Exempt

The State of Idaho, by and through Attorney General Lawrence Wasden, petitions
and alleges as follows:

NATURE OF THE CASE

1. This is an action for the general adjudication inter se of all rights arising
under state or federal law to the use of surface and ground waters from the Coeur
d'Alene-Spokane River basin water system and for the administration of such rights.

JURISDICTION

2. This court has jurisdiction under state law in accordance with chapter 14,
title 42, Idaho Code.

3. This court has jurisdiction of all claims of the United States under the McCarran Amendment, 43 U.S.C. § 666 (2000), which states in part as follows:

Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit.

PETITIONER AND PARTIES

4. Petitioner is the State of Idaho. The State of Idaho in its proprietary, governmental and representative capacities claims some right, title or interest to the use of waters of the Coeur d'Alene-Spokane River basin water system.

5. The United States in its proprietary, governmental, trustee and representative capacities is the owner of or is in the process of acquiring water rights by appropriation under state law, by purchase, by exchange, by reservation under federal law or otherwise, and the United States is a necessary party to the general adjudication of rights to the use of water from the Coeur d'Alene-Spokane River basin water system.

6. Though petitioner has knowledge of some defendants, the true names or capacities, whether individual, corporate, governmental, associate, representative, or otherwise, of defendants named herein as "all claimants to the use of water from the Coeur d'Alene-Spokane River basin water system" are not known to petitioner; however, the Director of the Idaho Department of Water Resources will identify and serve all persons in accordance with the procedures set forth in Idaho Code § 42-1408.

**ALLEGATIONS IN SUPPORT OF COMMENCEMENT
OF THE GENERAL ADJUDICATION**

Authority

7. Idaho Code § 42-1406B(1) (Supp. 2008) authorizes the filing of a petition with the district court to commence an adjudication within the terms of the McCarran amendment, 43 U.S.C. section 666, of the water rights from surface water and ground water sources of the Coeur d'Alene-Spokane River basin water system provided that the petition includes a request for the deferral of the adjudication of domestic and stock water rights as defined by subsections (4) and (11) of Idaho Code § 42-1401A, and a request that the commencement order be issued only if the court determines it is possible to defer the adjudication of domestic and stock water rights as defined by subsections (4) and (11) of Idaho Code § 42-1401A, within the terms of the McCarran Amendment.

8. Idaho Code § 42-1406B(2) (Supp. 2008) provides that the petitioner may petition any district court in which any part of the water source is located or before a court of special jurisdiction for water rights. Unless otherwise ordered by the Supreme Court, special jurisdiction for the water rights adjudication authorized by this section shall reside in the Snake River Basin Adjudication District Court of the Fifth Judicial District of the State of Idaho.

9. On September 29, 2007, the Idaho Supreme Court issued a *Provisional Order Re: Appointment of District Judge, Confirmation of Special Jurisdiction and Determination of Venue for the General Adjudications of the Coeur d'Alene-Spokane River Basin, the Palouse River Basin and the Clark Fork-Pend Oreille River Basins*, designating the Snake River Basin Adjudication District Court of the Fifth Judicial

District of the State of Idaho as the county and court of venue for this general adjudication proceedings.

Boundaries of the Water System

10. Petitioner proposes to adjudicate the rights to the use of surface and ground water of the Coeur d'Alene-Spokane River basin water system.

11. The proposed boundaries of the water system are described as follows:

All of the water system being upstream between the state line of Idaho and Washington and the state line of Idaho and Montana beginning in the west part of the water system where the county line of the counties of Benewah and Latah meet the state line of Washington and Idaho at a point in the southwest corner of Section 25, Township 44 North, Range 6 West, B.M., then following said Idaho and Washington border north to a point on the state line of Idaho and Washington on a ridge line in Government Lot Two (2) that is otherwise approximately the southwest quarter of the northwest quarter (SW1/4NW1/4) of Section 12, Township 54 North, Range 6 West, B.M., then continuing generally easterly from each of those respective state line points along ridge lines and mountain peaks to the Idaho and Montana border, such that the water system includes all surface water and ground waters of the Hangman Creek drainage before such waters reach Washington, the Rock Creek drainage before such waters reach Washington both of which creeks are tributaries of the Spokane River, the St. Maries River drainage, the St. Joe River drainage, each river basins of which is wholly within Idaho, the Coeur d'Alene River drainage, most of which is in Idaho except two small tributary basins in the state of Washington, the Spokane River drainage before such waters reach Washington, the waters flowing and sinking into the Rathdrum Prairie Spokane Valley Aquifer before such waters reach Washington, the Salee Creek drainage, and the Bayview Creek drainage, both of which are near Lake Pend Oreille, but the water system does not include the waters of Lake Pend Oreille, Hoodoo Creek, or Cocolalla Creek that are tributaries of the Pend Oreille River drainage.

12. The proposed boundaries are illustrated on Exhibit A, which is attached hereto and incorporated by reference.

Scope of Adjudication

13. There are no classes of uses proposed to be excluded from the adjudication.

14. Petitioner proposes to include in the adjudication persons holding a permit, as of the date of entry of the order commencing the general adjudication, for which proof of beneficial use was filed on or prior to the date of entry of the order commencing the general adjudication.

15. Filed concurrently with this Petition is the Stipulation for Establishment of Procedure for the Adjudication of Domestic and Stock Water Claims (“Stipulation”) between the State of Idaho and the United States.

16. Petitioner proposes the deferral of the adjudication of domestic and stock water rights as defined by subsections (4) and (11) of Idaho Code § 42-1401A as set forth in the Stipulation. Petitioner requests that a commencement order be issued consistent with the Stipulation.

17. Petitioner requests that a commencement order be issued only if the court determines it is possible to defer the adjudication of domestic and stock water rights as set forth in the Stipulation within the terms of the McCarran Amendment.

List of Counties

18. No counties are wholly located within the proposed boundaries of the water system.

19. The counties where only a portion of the county is included within the proposed boundaries of the water system are as follows:

Kootenai	Benewah
Latah	Bonner
Clearwater	Shoshone

Service

20. Service of claimants will occur as set forth in subsections (2) and (3) of Idaho Code § 42-1408.

21. Service of claimants not disclosed following completion of the service required by subsections (2) and (3) of Idaho Code § 42-1408 will occur as set forth in Idaho Code § 42-1408(4).

22. The method of service set forth at Idaho Code § 42-1408 and in paragraphs 20 and 21 above is reasonably calculated to notify all claimants within the water system of the commencement of the general adjudication.

PRAYER FOR RELIEF

WHEREFORE, the petitioner petitions this court as follows:

1. To enter an order in accordance with Idaho Code §§ 42-1406B (Supp. 2008) that does all of the following:

a. Commences a general adjudication inter se of all rights arising under state or federal law to the use of surface and ground waters from the Coeur d'Alene-Spokane River basin water system within the state of Idaho.

b. Describes the boundaries of the water system as set forth in paragraph 11;

c. Lists the counties wholly or partly located within the boundaries of the water system;

d. Determines that it is possible to defer the adjudication of domestic and stock water rights as set forth in the Stipulation within the terms of the McCarran Amendment.

e. Establishes a process to defer the adjudication of domestic and stock water rights as defined by subsections (4) and (11) of section 42-1401A, Idaho Code consistent with the Stipulation;

f. Directs all claimants of rights to the use of surface and ground waters from the water system, including holders of permits for which proof of beneficial use was filed on or prior to the date of entry of the commencement order, to file a notice of claim with the director as provided in Idaho Code § 42-1409, unless claimants elect to defer the adjudication of domestic and stock water rights as defined by subsections (4) and (11) of Idaho Code § 42-1401A, Idaho Code;

g. Approves the method of ascertaining and serving claimants not disclosed following the completion of the service required by Idaho Code § 42-1408(2) (a) through (d) as set forth in paragraph 21;

h. Authorizes the director to investigate all uses of water from the system in accordance with Idaho Code § 42-1410 and to file a report in accordance with Idaho Code § 42-1411; and

i. Contains a statement that the district court files will contain affidavits of service and other documents stating the persons served with a copy of the notice of commencement order.

2. To determine all rights to the use of water within the water system, including those of the United States.
3. To make all determinations necessary and proper for the administration of the water rights determined in the general adjudication.
4. For such other and further relief as the court seems just and proper.

DATED this 3rd day of July, 2008.



Lawrence G. Wasden
Attorney General
State of Idaho

Northern Idaho Adjudication

Coeur d'Alene - Spokane River Basin Water System

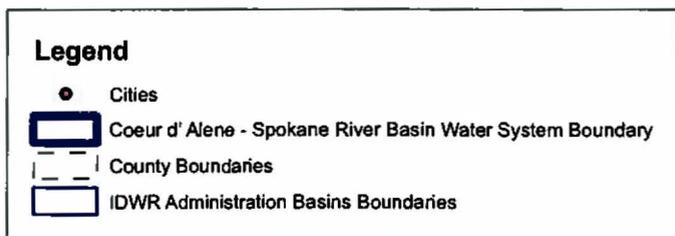
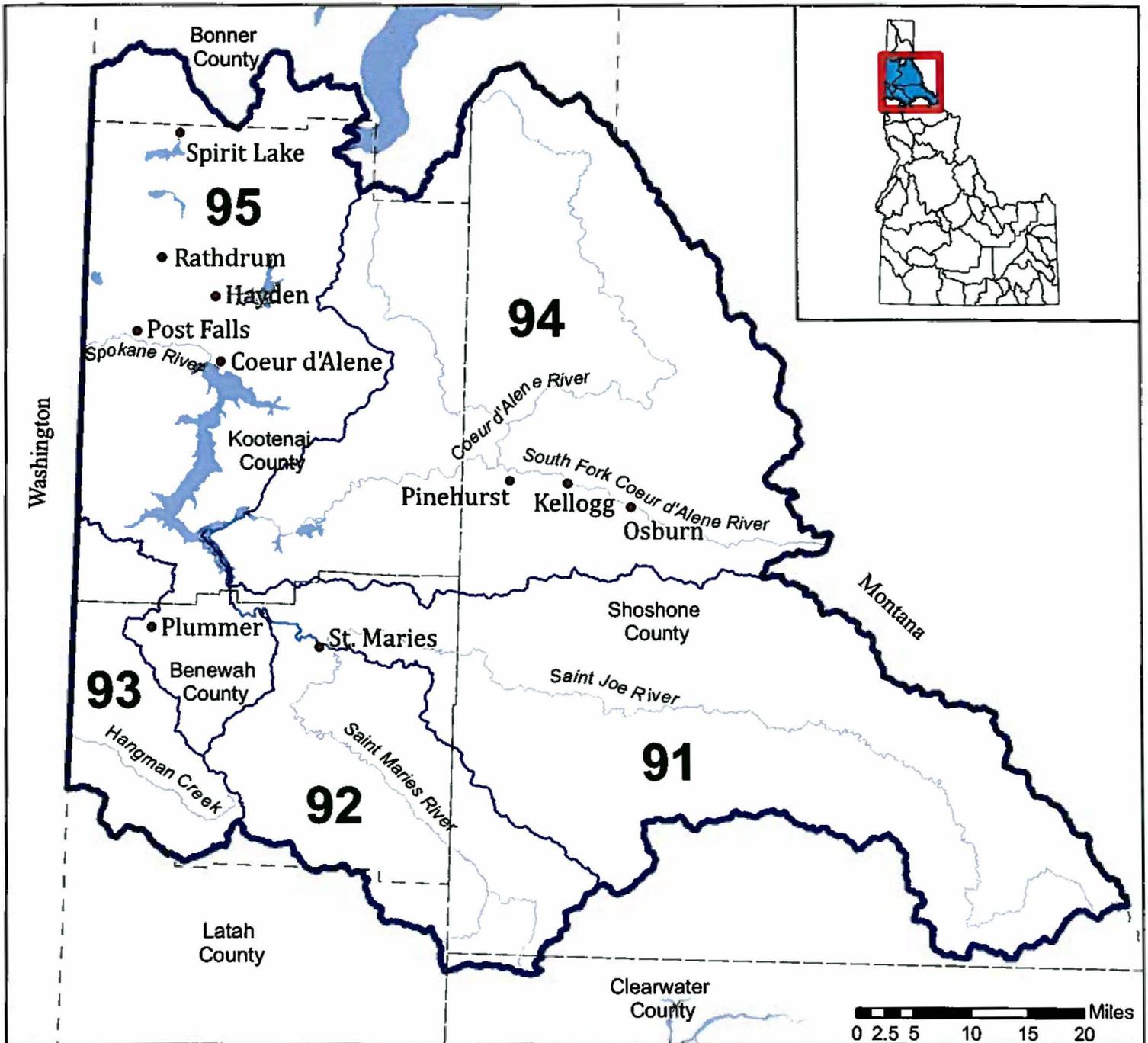


Exhibit 1