Discussion Items

- Definitions
- SRBA Update
- Integration with Rathdrum Aquifer Management Plan
- Basin Selection
- Legislation
- Budgetary Issues
- Next Steps
Two ways to establish water rights in Idaho

- Apply for a permit with IDWR
- Divert the water and beneficially use it
  - “Grandfather right”
  - “Beneficial Use Right”
  - “Constitutional Right”
  - No longer available except in certain de minimis situations
Elements of a Water Right

- Diversion
- Beneficial Use
Mrs. Adams
Irrigation of
50 acres
1.0 cfs
6/16/1905

Mr. Black
Irrigation of
60 acres
1.2 cfs
6/17/1905

Mrs. Clark
Irrigation of
500 acres
10.0 cfs
6/16/1980

cfs = cubic feet per second
How do we start to sort this out???

Adjudicate the water rights!
What is a Water Right Adjudication in Idaho?

- Similar to most Western States
- Determination in State Court of the water rights in a given basin, with the aid of the Idaho Department of Water Resources as technical expert, based on claims of water right holders
- Individuals, companies, all levels of government and tribes are compelled to participate
- Provides the basis for water management
Snake River Basin Adjudication Director’s Reports For Irrigation and Other Rights

In Progress
Preliminary Findings Distributed
Completed
SRBA Present Status – State-Based Rights

Remaining Recommendations: Half ready, Half underway

Goal: Finalize remaining Recommendations by June 30, 2006
Pros and Cons of Water Right Adjudications

<table>
<thead>
<tr>
<th>Pros</th>
<th>Cons</th>
</tr>
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<tbody>
<tr>
<td>• Beneficial use rights are determined</td>
<td>• Cost</td>
</tr>
<tr>
<td>• Unused water rights are culled</td>
<td>➢ Water users</td>
</tr>
<tr>
<td>• Provides basis for conjunctive administration</td>
<td>➢ Legislative time</td>
</tr>
<tr>
<td>• Federal and tribal rights are determined</td>
<td>➢ Judicial time</td>
</tr>
<tr>
<td></td>
<td>➢ Governmental agencies</td>
</tr>
<tr>
<td></td>
<td>➢ Public – General fund</td>
</tr>
<tr>
<td></td>
<td>• Dormant problems are discovered</td>
</tr>
<tr>
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</tr>
</tbody>
</table>
Pros and Cons of Water Right Adjudications

Pros (cont.)

• Dormant problems are resolved
• Enhances the opportunity to resolve interstate issues without compact negotiations
• Knowledge is power

Cons (cont.)
• Goal 2, Item B

The Department of Water Resources will work with the Rathdrum Prairie Ground Water Management Advisory Committee and local elected officials to determine the feasibility, cost and potential funding mechanisms to begin adjudication of water rights in the Coeur d'Alene Basin. The IDWR will include the preferred alternative in its Fiscal Year 2007 budget request along with any legislation necessary to undertake the adjudication.
JFAC Guidance for 2005

• SECTION 4. It is legislative intent that the Department of Water Resources work with the Rathdrum Ground Water Management Plan Advisory Committee and local elected officials to determine the feasibility, cost and potential funding mechanisms to begin adjudication of water rights in the Coeur d'Alene Basin. The Department is requested to include the preferred alternative in its Fiscal Year 2007 budget request along with any legislation necessary to undertake the adjudication.
Basin 87
Features of a 21\textsuperscript{st} Century Adjudication

- Tabular (words) and spatial (map) information for all water rights
Rathdrum
Hayden
Post Falls
Coeur d'Alene
Harrison
Features of a 21st Century Adjudication (cont.)

- Internet filing capability and Internet access to all adjudication information
Note: This search tool identifies active water rights and active transfers. If you want to search both active and inactive water rights, please check the box below.

- Search for both active and inactive water right records.

**Search by: Basin**

<table>
<thead>
<tr>
<th>Type of Query</th>
<th>Water Rights</th>
<th>SRBA</th>
<th>Claims</th>
<th>Applications</th>
<th>Permits</th>
<th>Recommendations</th>
<th>Decrees, Licenses and Statutory Claims</th>
<th>Transfers</th>
<th>All of the above</th>
</tr>
</thead>
</table>

- Basin
- Sequence
- Split Suffix

(Example: Water Right Numbers are comprised of three Components: the Basin Number, the Sequence Number, and sometimes a Split Suffix. For water right 63-7819A, the Basin Number is 63, the Sequence Number is 7819, and the Split Suffix is A. Not all water right numbers have Split Suffixes.)
IDWR Water Right and Adjudication Search

Note: This search tool identifies active water rights and active transfers. If you want to search both active and inactive water rights, please check the box below.

Search for both active and inactive water right records.

Search Results

<table>
<thead>
<tr>
<th>Type of Query</th>
<th>Usage Instruction</th>
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</thead>
<tbody>
<tr>
<td>All SRBA &amp; Water Rights</td>
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</tr>
</tbody>
</table>

SRBA

- Claims
- Recommendations
- Both

Water Rights

- Applications
- Permits
- Decrees, Licenses and Statutory Claims
- Transfers
- All of the above

Basin | Who | What | When | Where | Clear | Search | Help

Query parameters:
OrganizationName = blue lakes country
Search for: active Records

Information for type: Statutory Claim, Decree and License

<table>
<thead>
<tr>
<th>Record</th>
<th>Basin</th>
<th>Sequence</th>
<th>Suffix</th>
<th>Version</th>
<th>Basis</th>
<th>Status</th>
<th>Priority Date</th>
<th>Diversion Rate</th>
<th>Source List</th>
<th>Water Uses</th>
<th>Owner List</th>
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<td>1</td>
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<td>2083</td>
<td>A</td>
<td>Decreed</td>
<td>Active</td>
<td>1949-05-26</td>
<td>1.15</td>
<td>ALPHEUS CREEK</td>
<td>IRRIGATION</td>
<td>BLUE LAKES</td>
<td>BLUE LAKES</td>
</tr>
</tbody>
</table>

Details | Related Documents | Start | | | | | | | | | |
Major Issues

Draft ESPA Settlement Framework (The Strawman Proposal)

View the Strawman Funding Proposal

Learn all about the Nez Perce Settlement Agreement
Potential Legislation Changes

- 42-1406B: Commencement – North Idaho River Basins
AN ACT
RELATING TO THE ADJUDICATION OF WATER RIGHTS; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1406B, IDAHO CODE, TO PROVIDE FOR THE COMMENCEMENT OF ADJUDICATIONS OF NORTHERN IDAHO WATER RIGHTS; AMENDING SECTION 42-1414, IDAHO CODE, TO INCREASE FILING FEES FOR NOTICES OF CLAIM, AND AMENDING SECTION 42-1425, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS.
NORTHERN IDAHO WATER RIGHTS ADJUDICATIONS - COMMENCEMENT. (1) Effective management of the waters of Northern Idaho requires that a comprehensive determination of the nature, extent and priority of the rights of all users of surface and ground water be determined. Therefore, the director of the department of water resources shall petition the district court to commence adjudications within the terms of the McCarran amendment, 43 U.S.C. section 666, of the water rights from surface water and ground water sources in Northern Idaho through initiation of three proceedings. Separate petitions shall be filed for water rights adjudications for each of the following river basins, and related ground water sources whether or not hydraulically connected to a surface water source, within Idaho: the Coeur d’Alene-Spokane river basin, the Palouse river basin, and the Kootenai and Clark Fork-Pend Oreille river basins. The filing of each petition shall be contingent on legislative funding approval. Each petition shall describe the boundaries of the water source or water sources to be adjudicated.

(2) The adjudication shall be brought in any district court in which any part of the water source is located or before a court of special jurisdiction for water right adjudications. Unless otherwise ordered by the supreme court, special jurisdiction for the water rights general adjudications authorized by this section shall reside in the Snake River Basin Adjudication district court of the fifth judicial district of the state of Idaho, in and for the county of Twin Falls. The clerk of the district court in which the petition is filed shall send to the supreme court a true and certified copy of the petition. The supreme court, by order, shall assign the judge to preside over the general adjudication. Venue of the general adjudication shall be determined by order or rule of the supreme court and venue of hearings under the general adjudication shall be determined by order of the presiding judge.
42-1414. FEES FOR FILING NOTICE OF CLAIMS WITH THE DIRECTOR. (1) In order to provide an adequate and equitable cost-sharing formula for financing the costs of adjudicating water rights the department of water resources shall accept no notice of claim required under the provisions of section 42-1409, Idaho Code, unless such notice of claim is submitted with a filing fee based upon the fee schedule set forth below. Failure to pay the variable water use fee in accordance with the timetable provided shall be cause for the department to reject and return the notice of claim to the claimant. The fee schedule set forth below applies to adjudication proceedings commenced or enlarged on or after January 1, 1985.

(a) Flat fee per claim filed:
   (i) Claims for domestic and/or stock watering rights based on permit, license, decree or statutory claim
       $250.00
   (ii) Claims for all other rights
       $50100.00

(b) Additional variable water use fee for claims filed based upon acreage, power generating capacity, c.f.s., or equivalent volume of water:
   (i) Irrigation use (one fee irrespective of number of claims): $ 22.00 per acre
   (ii) Power: $ 3.50 7.00 per kilowatt of capacity (manufacturer’s nameplate rating)
   (iii) Aquaculture: $ 420.00 per c.f.s.
   (iv) Municipal, industrial, commercial, mining, heating, cooling: $1200.00 per c.f.s.
   (v) Public instream flow, public lake level maintenance, wildlife: $1200.00 per c.f.s.
(2) Any change of place of use, point of diversion, nature or purpose of use or period of use of a water right by any person entitled to use of water or owning any land to which water has been made appurtenant either by decree of the court or under the provisions of the constitution and statutes of this state, prior to November 19, 1987, the date of commencement of the Snake River basin adjudication, and prior to January 1, 2006, for the northern Idaho adjudications authorized by section 42-1406B, Idaho Code, may be claimed in a the applicable general adjudication even though the person has not complied with sections 42-108 and 42-222, Idaho Code, provided no other water rights existing on the date of the change were injured and the change did not result in an enlargement of the original right. Except for the consent requirements of section 42-108, Idaho Code, all requirements of sections 42-108 and 42-222, Idaho Code, are hereby waived in accordance with the following procedures:
By Separate Appropriation Bill

Funding for the adjudication of water rights within the Coeur d’Alene - Spokane basin in FY 2007 from the state general fund in the amount of one million three hundred thirty five thousand dollars ($1,335,000).
## Projected Counts

<table>
<thead>
<tr>
<th>Basin</th>
<th>Decrees</th>
<th>Licenses &amp; Permits</th>
<th>Statutory Claims</th>
<th>Totals</th>
<th>Predicted Adj Incl</th>
<th>Dom</th>
<th>No. of Recorded Wells</th>
<th>Predicted Adj Counts</th>
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<td>186</td>
<td>113</td>
<td>299</td>
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<td>1594</td>
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<td>94</td>
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<td>Total 91-95</td>
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<td>2330</td>
<td>1051</td>
<td>4097</td>
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<td>96</td>
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<td>1598</td>
<td>493</td>
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<td>97</td>
<td>335</td>
<td>168</td>
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Projected Milestones – By Fiscal Year

• 2006
  • Enact legislation
  • Identify funding
• 2007
  • Prepare updated claims-taking software
  • Develop on-line claims filing capability
  • Arrange audio/visual links with the Court
  • Obtain GIS images and layers
  • Work with counties to create digital ownership information
Projected Milestones – By Fiscal Year – Basins 91-95

• 2008
  • Commence the adjudication for Basins 91-95
  • Conduct public meetings
  • Send round-one service
  • Conduct claims taking

• 2009-2010
  • Conduct field examinations
  • Prepare recommendations

• 2011
  • File Director’s Reports

2012
  • Dispute resolution
<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Basins 91-95</th>
<th>Basin 87</th>
<th>Basins 96-98</th>
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<tbody>
<tr>
<td>FY08</td>
<td>Commence, conduct meetings, take claims</td>
<td></td>
<td></td>
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<tr>
<td>FY09</td>
<td>Conduct field examinations</td>
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<td></td>
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<tr>
<td>FY10</td>
<td>Prepare recommendations</td>
<td>Commence, conduct meetings, take claims</td>
<td></td>
</tr>
<tr>
<td>FY11</td>
<td>File Directors Reports</td>
<td>Conduct field examinations</td>
<td>Commence, conduct meetings, take claims</td>
</tr>
<tr>
<td>FY12</td>
<td>Dispute Resolution</td>
<td>Prepare recommendations</td>
<td>Conduct field examinations</td>
</tr>
<tr>
<td>FY13</td>
<td></td>
<td>File Directors Reports</td>
<td>Prepare recommendations</td>
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<tr>
<td>FY14</td>
<td></td>
<td>Dispute Resolution</td>
<td>File Directors Reports</td>
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<tr>
<td>FY15</td>
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<td>Dispute Resolution</td>
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# Projected Costs

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<tr>
<th>Fiscal Year</th>
<th>Personnel</th>
<th>Operating</th>
<th>Contracting Costs</th>
<th>Personnel + Operating + Contracting</th>
<th>Court Costs</th>
<th>Totals</th>
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<tr>
<td>FY07</td>
<td>$820</td>
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<td>$309</td>
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<td>$1,779</td>
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<td>$2,299</td>
<td>$13,785</td>
<td>$2,404</td>
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</table>

Costs in Thousands  
Assumed inflation factor of 3%
Potential Funding Mechanisms

• Update fees (a third of the cost)?
• Provide General Fund (a third of the cost)?
• Other?
• Determination of tribal water rights on Lake Coeur d’Alene could be a costly and long-term battle
Next Steps

• IDWR is awaiting legislative direction