

Clark Fork-Pend Oreille River Basin Adjudication



Idaho Department of Water Resources



Meeting Agenda

- Introductions
- Purpose of the Meeting
- History of Water Management in Idaho
- Why Adjudicate?
- Background of the Northern Idaho Adjudications
- General Adjudication Process
- How the CFPRBA Affects Water Users
- Next Steps for the Clark Fork-Pend Oreille River Basin Adjudication (CFPRBA)
- Questions

Introduction of IDWR Staff

IDWR State Office:

- Mathew Weaver – Deputy Director
- Craig Saxton – Adjudication Technical Analyst

Northern Region Office:

- Doug Jones – Northern Regional Manager
- Evan Roda – Water Rights Supervisor

Attorney Generals Office:

- Garrick Baxter – Deputy Attorney General
- Jennifer Wendel – Deputy Attorney General
- Suzy Cooley-Denny – Paralegal

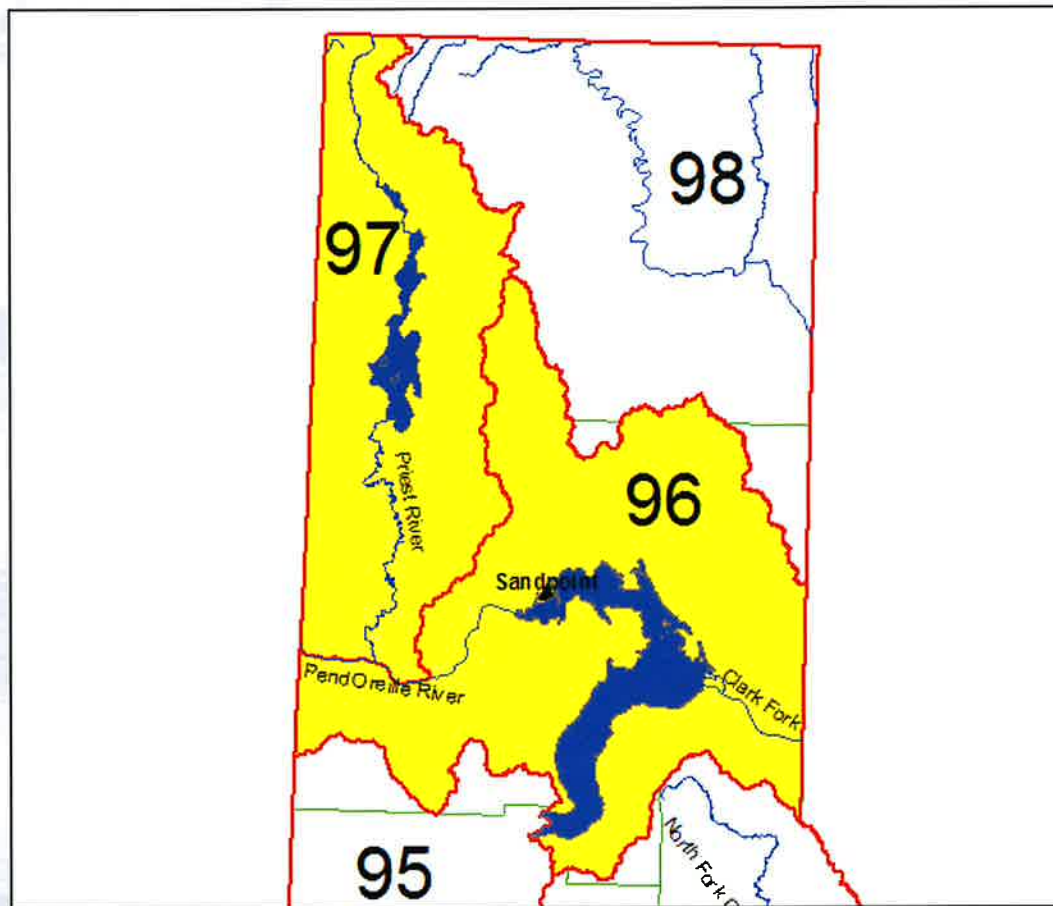
Introduction of Water Court

District Court of the Fifth Judicial District of the State of Idaho:
(Twin Falls)

- Honorable Eric Wildman – Presiding Judge
 - Paul Harrington – Staff Attorney

Purpose of Today's Meeting

Clark Fork-Pend Oreille River Basin Adjudication



Water Management in Idaho

Idaho is a Prior Appropriation State

- “First in time is first in right.”
- The earlier (senior) priority date rights must be satisfied before the later (junior) priority date rights can be delivered.
- This becomes important when the source (available supply of water) is not sufficient to meet the current demand.
- A water right allows the private use of Idaho’s public water.

Mandatory Permit Dates

- Dates water right permits became mandatory:
 - March 25, 1963 – Ground water diversions (except for domestic and/or livestock uses as defined in Section 42-111, Idaho Code)
 - May 20, 1971 – Surface water diversions (except for watering livestock directly from streams as defined in Section 42-113, Idaho Code)
- Note: The domestic and/or livestock water uses that are defined in Section 42-111, Idaho Code are also referred to as *de minimis* water uses.

Beneficial Use Water Rights

- Beneficial use (aka constitutional or posted notice) water rights were developed without going through the permit process.
- The majority of water rights in Idaho were developed by this method.
- A water right adjudication is the only process available to secure the priority date of an early beneficial use water right.

What is an Adjudication?

Process to catalog and confirm through the court all water rights and to which property those water rights belong, binding all property owners and parties (including individuals, companies, Tribes, the US, and State agencies) to the court decree of those water rights.

Balancing the Water Checkbook



Why Adjudicate Water Rights?

- Water is our most valuable resource in Idaho.
- Supplies are not always sufficient to meet all of the demands.
- North Idaho population projected to grow 19.5 % by 2026*



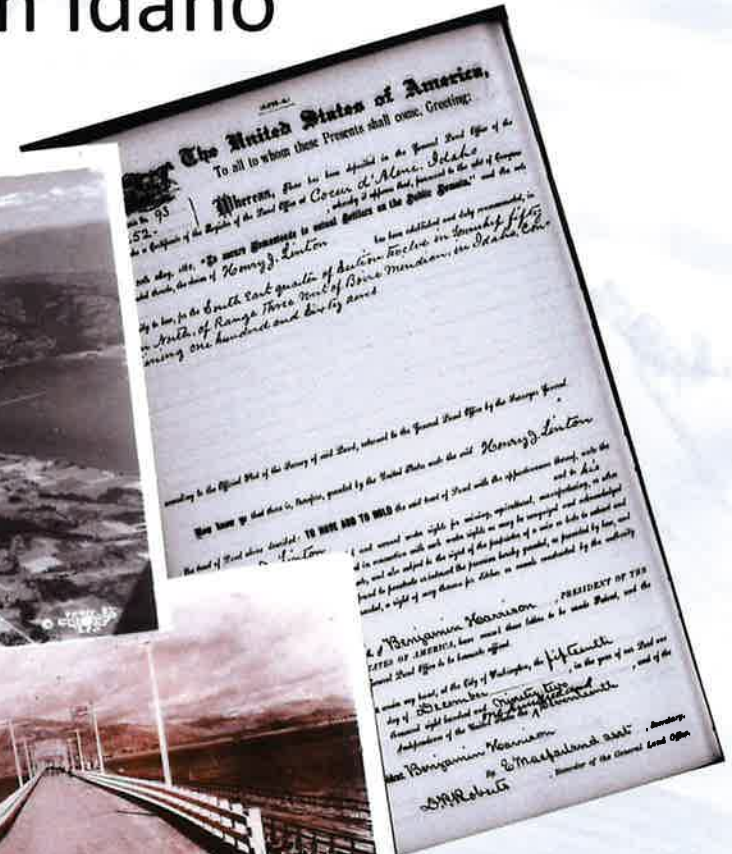
*Idaho Department of Labor

Water Management

- Proper management requires resource quantification.
 - Sources used
 - Rates of flow
 - Volume diverted
 - Extent of uses (acres irrigated, municipal, recreation, etc.)
- Beneficial Use (“grandfather” or “constitutional) rights must be determined
- Changes to water rights need to be clarified and “statutory claims” must be confirmed

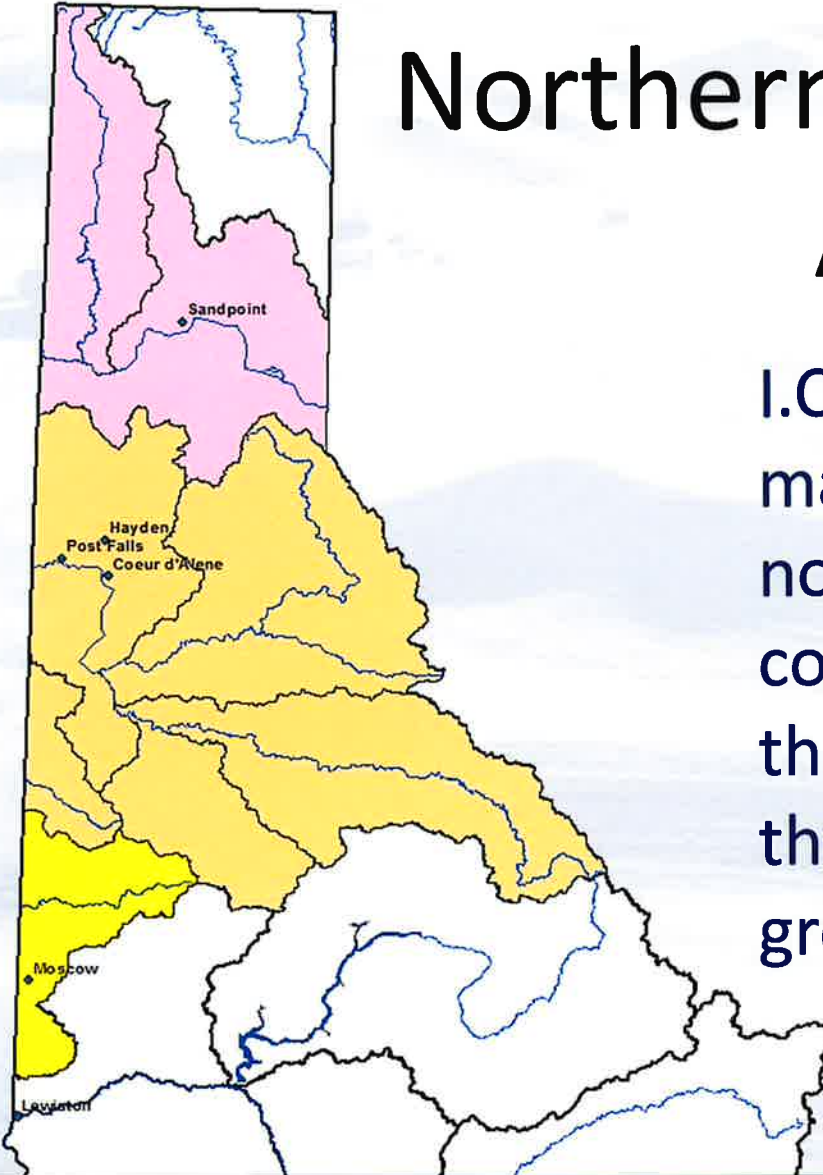


Recording and Protecting the History of Northern Idaho



Northern Idaho Water Rights Adjudications

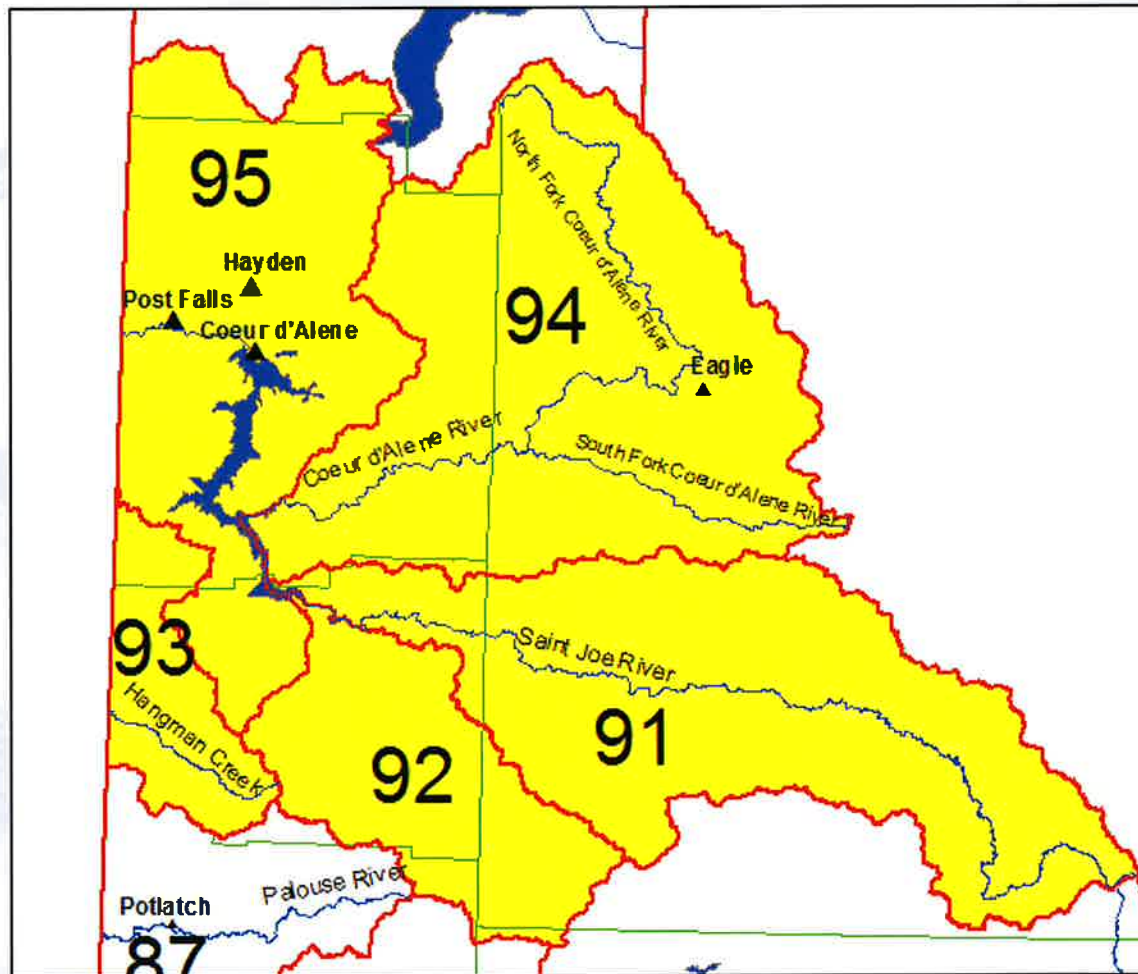
I.C. § 42-1406B: “Effective management of the waters of northern Idaho requires that a comprehensive determination of the nature, extent and priority of the rights of users of surface and ground water be determined.”



42-1406B. Northern Idaho Water Rights Adjudications

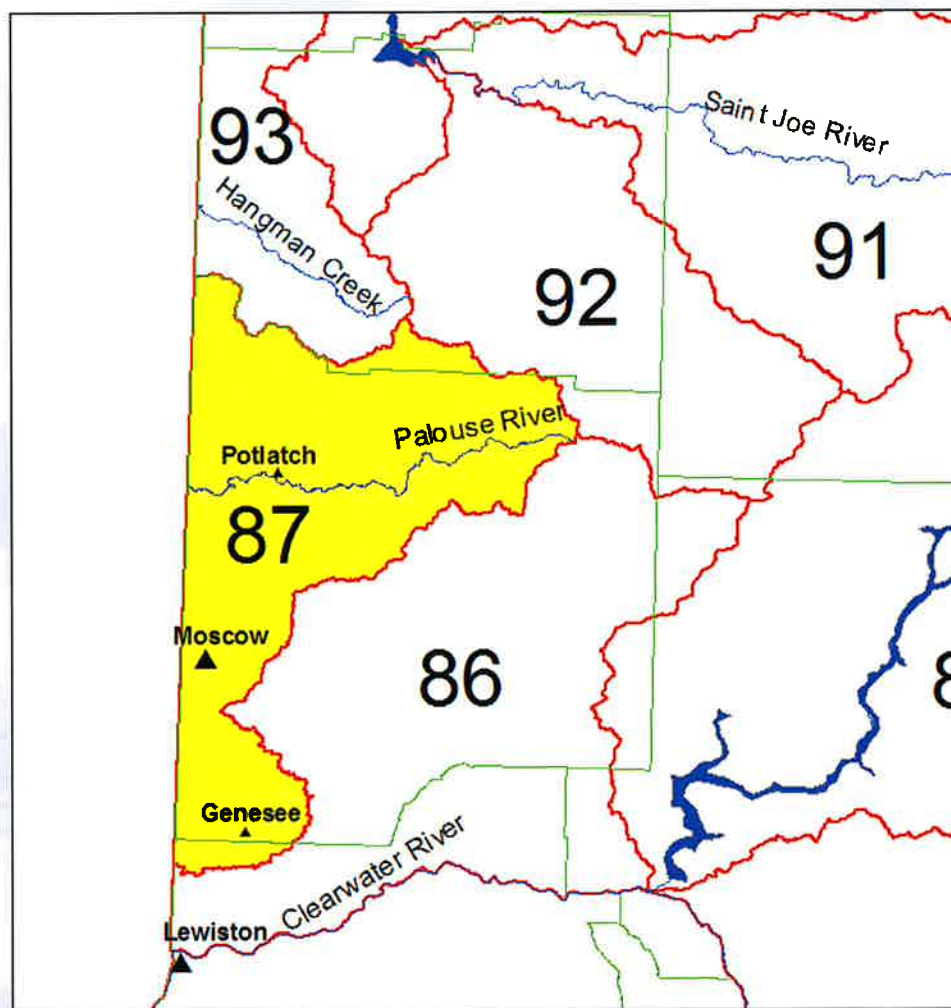
- Adjudication was split into three (3) phases:
 - Coeur d'Alene-Spokane River Basin (CSRBA)
 - Palouse River Basin (PRBA)
 - **Clark Fork-Pend Oreille River Basins (CFPRBA)**

Phase 1 – Basins 91-95



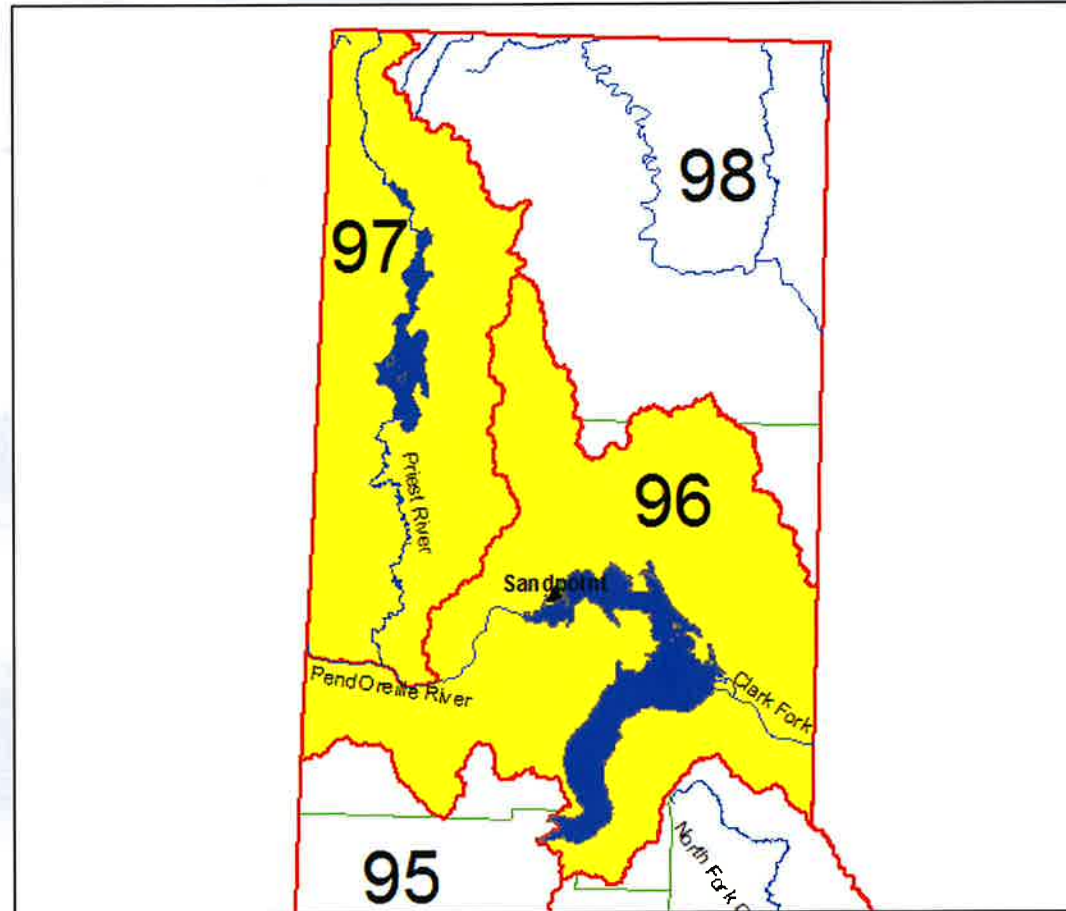
Coeur d'Alene-Spokane River Basin

Phase 2 – Basin 87



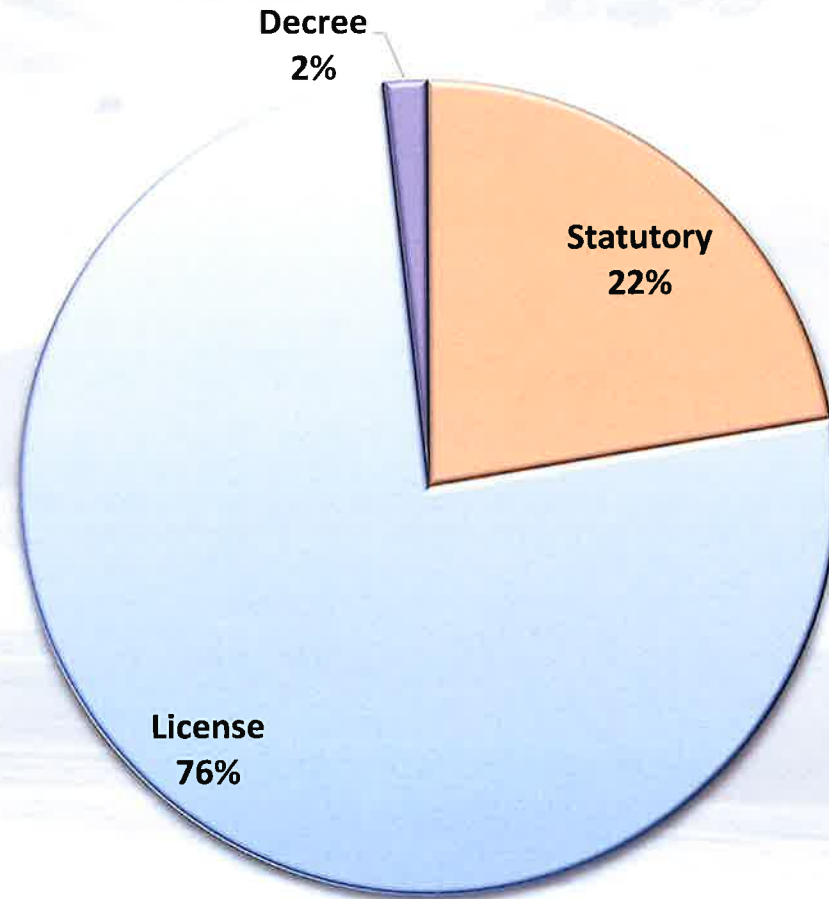
Palouse River Basin

Phase 3 – Basins 96 and 97



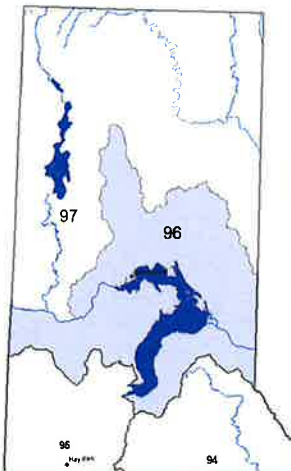
Clark Fork-Pend Oreille River Basin

Basis of Active Water Rights in Basin 96

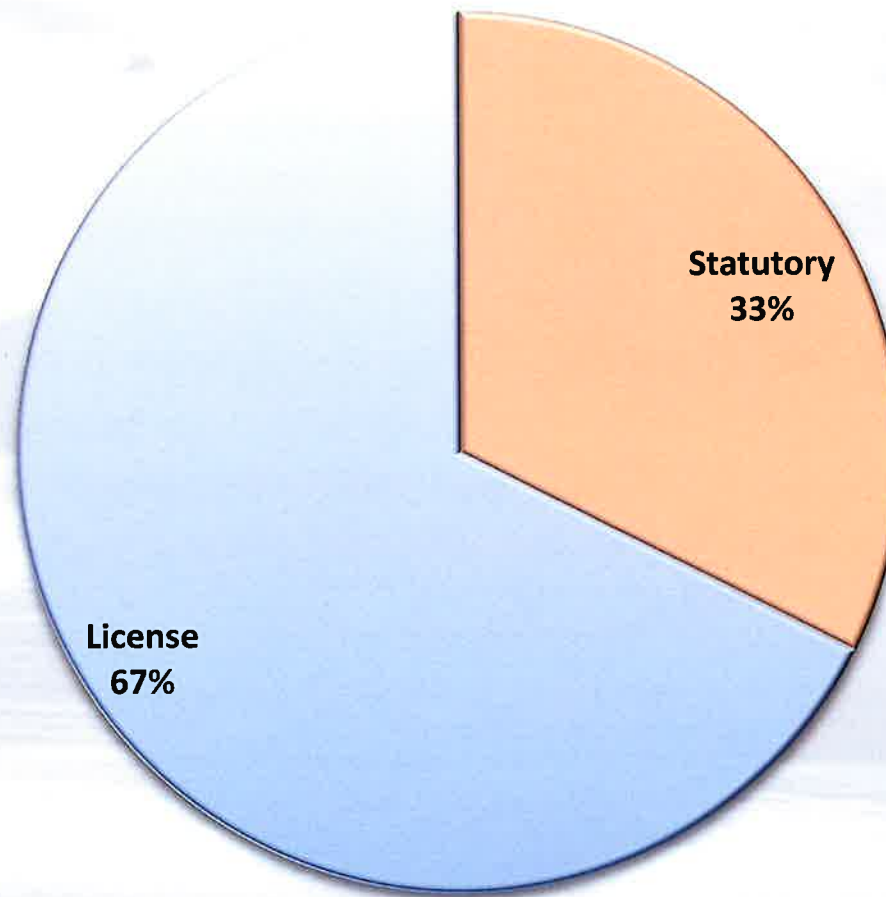


1,881 Total Active Water Rights

- 70% Based on License
- 22% Based on Statutory Claim
- 78% of Stat. Claims are Surface Water

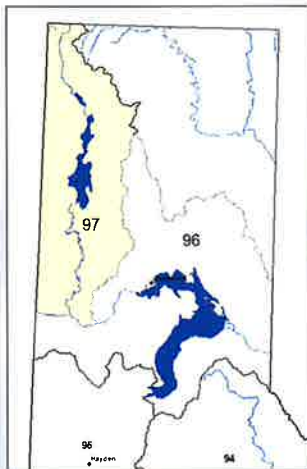


Basis of Active Water Rights in Basin 97



544 Total Active Water Rights

- 63% Based on License
- 33% Based on Statutory Claim
- 75% of Stat. Claims are Surface Water



Benefits of an Adjudication for Statutory Water Rights

- Statutory Water Rights have not yet been proven up or investigated, and thus do not hold the same legal protections as licenses or decrees until they are adjudicated
- 25% of all active water rights in Basins 96-98 are based on Statutory Water Right Claims
- 87% of those Statutory Water Rights are from surface water sources
- Surface Water sources are most susceptible to impacts from outside influences, and most commonly in need of regulation

How the CFPRBA Adjudication will Affect Water Right Holders

- All water uses in the adjudicated areas, except for small domestic and/or stockwater, must be recorded.
 - Municipalities and municipal providers are responsible for filing their claims.
 - Water users can choose to defer (postpone) filing for small Domestic & Stockwater (42-111) rights
- The CFPRBA Court will issue a “partial decree” for each claim that appears in the Director’s Report.
- Delivery of water (if or when required) will be based on the partial decree for each right.

Next Steps for the CFPRBA

I.C. § 42-1406B provides:

The filing of each petition shall be contingent on legislative funding approval.

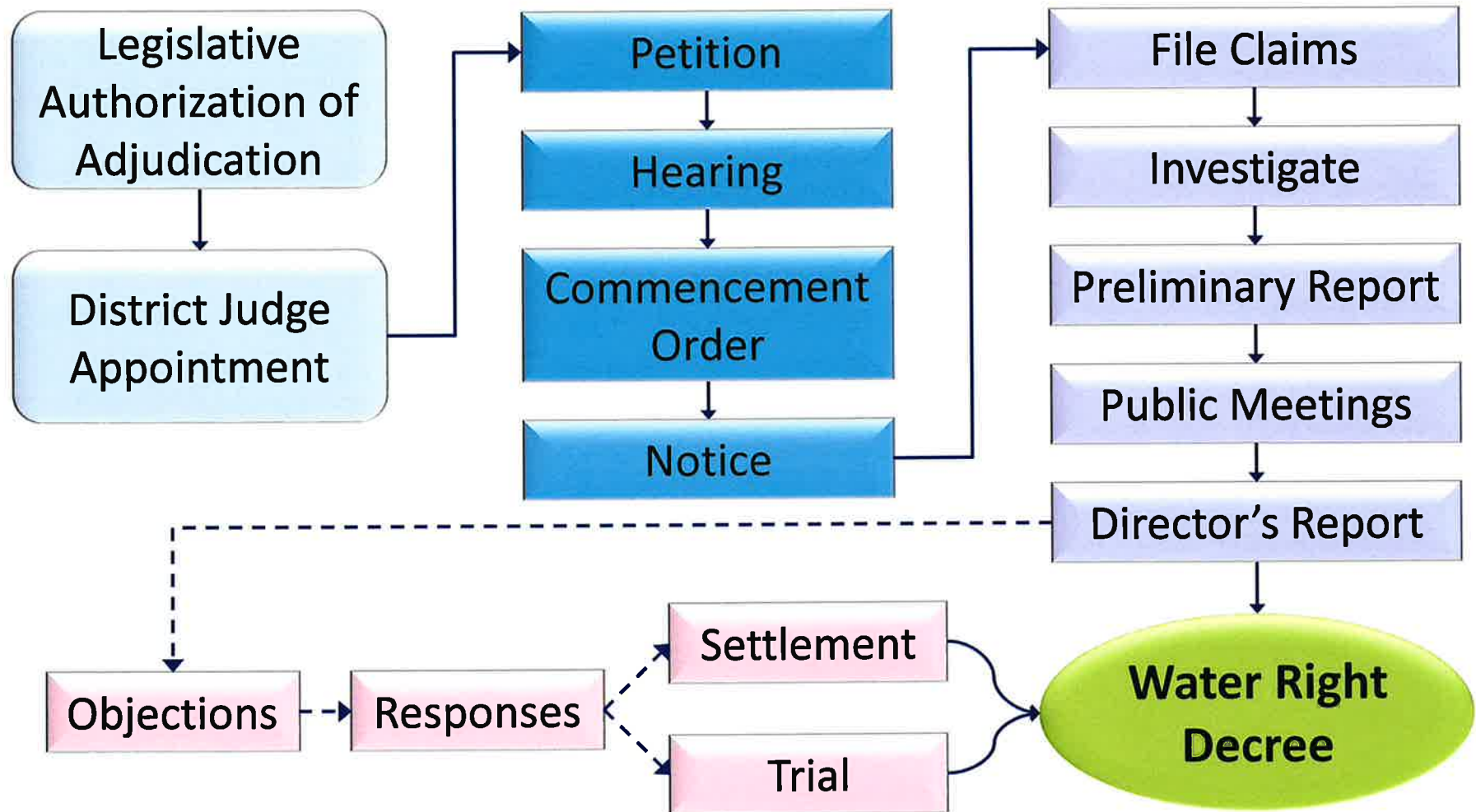
IDWR intends to seek funding for adjudication in FY 2020

- Will 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

Upon approval from the legislature...

- The Attorney General's Office will petition the Adjudication Court to commence the CSRBA (Anticipated Fall 2020)
- Will begin taking claims in mid-summer 2021

Adjudication Process



Internet Access

- IDWR

www.idwr.idaho.gov

- CFPRBA Court

www.srba.idaho.gov

- CSRBA & PRBA information is also available here



Questions?

Thank you.