

IMPORTANT WATER RIGHTS INFORMATION

YOUR FILING DEADLINE IS: December 8, 2023

FAILURE TO FILE A REQUIRED NOTICE OF CLAIM WILL RESULT IN A DETERMINATION BY THE COURT THAT THE WATER RIGHT NO LONGER EXISTS.

**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) Civil No. 00-79576
Rights to the Use of Water from the)
Bear River Basin Water System.) **COMMENCEMENT**
) **NOTICE**
)
) **Property Owners within Bear Lake County**
) **within IDWR’s Administrative**
) **Basin 11: Mailing Group 2**
)

TO: ALL PERSONS OWNING RIGHTS TO THE USE OF WATER WITHIN THE BEAR RIVER BASIN WATER SYSTEM

The purpose of this notice is to inform you of the commencement of the Bear River Basin Adjudication and your legal responsibilities at this stage of the adjudication. You are receiving this notice because you may be the owner of property located within the boundaries of the Bear River Basin Adjudication.

I. YOU ARE HEREBY NOTIFIED THAT

On June 15, 2021, the Fifth Judicial District Court in and for the County of Twin Falls issued an order commencing a general adjudication of water rights within the Bear River Basin water system in Idaho. A general adjudication is a court case which will result in a decree determining all water rights within a water system. The purpose of the adjudication is to determine the elements and necessary provisions for the administration of water rights and to compile an inventory of all the water rights in the Bear River Basin water system. Adjudication of all water rights in the Bear River Basin will ensure proper delivery of water in times of shortage and to ensure certainty of water right ownership to property owners.

II. GENERAL REQUIREMENT TO FILE A NOTICE OF CLAIM

Idaho Code § 42-1409 requires that a Notice of Claim be filed for all water rights within the boundaries of the Bear River Basin water system in the State of Idaho, except for certain water rights specifically excluded by law. “All water rights within the boundaries of the Bear River Basin water system in Idaho” includes rights to the use of water from any water source including streams, springs, lakes, ground water, developed water, waste water, or any other source. A map showing the boundaries of the water system is included at the end of this notice. The Notice of Claim must be filed with the Idaho Department of Water Resources (IDWR).

A Notice of Claim must be filed for all water rights based upon state law by the deadline above, except for *de minimis* domestic and/or stockwater rights or permits for which proof of beneficial use was filed after June 15, 2021. See section III, below. Water rights based on state law include water rights established by the diversion and application of water to a beneficial use, decreed rights, licensed rights, or water right permits if proof of beneficial use was filed on or before June 15, 2021.

For all water rights based upon federal law, a Notice of Claim or negotiated agreement must be filed by the deadline above, unless an alternative filing schedule is adopted by the Bear River Basin Adjudication District Court.

III. EXCEPTIONS TO THE GENERAL REQUIREMENT TO FILE A NOTICE OF CLAIM

A. *DE MINIMIS* (SMALL) DOMESTIC AND STOCKWATER CLAIMS

Water users of a small domestic and/or stockwater (“D&S”) right, as defined by Idaho Code §§ 42-111 & 42-1401A, may elect to file a Notice of Claim now or defer (postpone) the filing until a later time in this proceeding. Although the Court has not yet set a deadline for filing claims for “deferrable” D&S water rights in the Bear River Basin, the opportunity to defer filing will not be indefinite. The Court will establish a filing deadline for small D&S water rights in the future. The current fee for filing a Notice of Claim with the Idaho Department of Water Resources for a small D&S water right is \$25.

The Idaho Department of Water Resources recommends filing a claim for a small D&S water at this time and not deferring. **In times of water shortage, water is delivered to water right holders by a watermaster. Watermasters deliver water as authorized by a water right decreed by a court or approved by IDWR. The owner of a D&S right which has not been established through a license or decree, who elects to defer the filing of a Notice of Claim until a later time will be required to adjudicate the water right prior to distribution by a watermaster and/or before an application for change of the water right may be filed with IDWR.**

Water right holders who elect to defer filing at this time may be required to file, at a later date, a motion with the Court to have the water right adjudicated. These water rights holders may also be required to pay their own costs of serving notice of the motion, advertising, and all costs incurred for investigation and preparation of a report to be filed with the Court. In short, waiting will result in significantly more work and more expense for the water right holder.

A water right holder should be certain their water use qualifies for the deferral procedure for D&S rights before deciding not to file a Notice of Claim at this time. A D&S right holder will be bound by the terms of any decrees entered in this adjudication (including the limitation on D&S water rights that may be adjudicated at a later date) regardless of whether or not the water right holder files a notice of claim for the D&S right at this time. For more information, please consult Idaho Code §§ 42-111 and 42-1401A.

B. OTHER EXCEPTIONS

A Notice of Claim is not required to be filed for water right permits for which proof of beneficial use was filed after June 15, 2021. However, the Director of the Idaho Department of Water Resources may, at a later date, require holders of such permits to file a Notice of Claim. If the Director does issue such an order, the permit holder will be notified by mail. A Notice of Claim is not required for an application for permit that has been filed with IDWR but has not yet been approved.

Additionally, a water user need not file a Notice of Claim where the water user is not the owner of the water right. For example, a Notice of Claim is not required for any person who receives water solely by virtue of ownership of shares of stock in, or by being located within the boundary of a water delivery organization, if the water delivery organization holds legal title to the water right(s) and if the water delivery organization files a Notice of Claim. Examples of water delivery organizations that may hold legal title to water rights include, but are not limited to, cities, water utility districts or companies, and irrigation districts.

IV. NOTICE OF CLAIM FORMS AND INSTRUCTIONS

A Notice of Claim must be filed on forms provided by IDWR or online at www.idwr.idaho.gov. When filing at an IDWR regional office, please bring a description of the property with Township, Range, Section and Quarter-Quarters, or the county parcel number. **Subdivision lot and block numbers are not sufficient.** IDWR staff members are available to meet in person or by phone with Claimants who want assistance filling out a Notice of Claim. Calling the nearest IDWR office to schedule an appointment is encouraged. Notice of Claim forms and instructions for completing and filing the forms are available online at www.idwr.idaho.gov or at the following locations:

1. IDWR, Preston Field Office, 325 E. 600 S, Suite 300, Preston, ID 83263-4921
Phone: (208) 701-7200;
2. IDWR, Eastern Region, 900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718;
Phone: (208) 525-7161;
3. IDWR, State Office, 322 E. Front St., Boise, ID 83720-0098;
Phone: (208) 287-4800 or (800) 451-4129;
4. IDWR, Northern Region, 7600 Mineral Dr., Suite 100, Coeur d'Alene, ID 83815-7763;
Phone: (208) 762-2800;
5. IDWR, Western Region, 2735 Airport Way, Boise, ID, 83705-5082;
Phone: (208) 334-2190;
6. IDWR, Southern Region, 650 Addison Ave. W, Suite 500, Twin Falls, ID 83301-5858;
Phone: (208) 736-3033;
7. IDWR, Salmon Field Office, 102 S. Warpath, Salmon, ID 83467-4435;
Phone: (208) 742-0658.

V. FEES AND DEADLINES FOR FILING A NOTICE OF CLAIM

Idaho Code § 42-1414 requires each person who files a Notice of Claim to pay a filing fee. Failure to pay the fee will result in the rejection of the Notice of Claim.

The persons receiving this Notice have property within Bear Lake and are within IDWR's Administrative Basin 11. The deadline for filing a Notice of Claim for water rights in your area is **December 8, 2023**. A Notice of Claim filed after this date may be accepted prior to the filing of the director's report with the Court, but failure to file a Notice of Claim by the established deadline may result in the assessment of a late fee of \$50.00 or 15% of the original filing fee, whichever is greater. Idaho Code § 42-1409A imposes substantial restrictions on the filing of amended or late Notices of Claim.

VII. NOTICE TO IDWR OF CHANGE IN OWNERSHIP OR ADDRESS

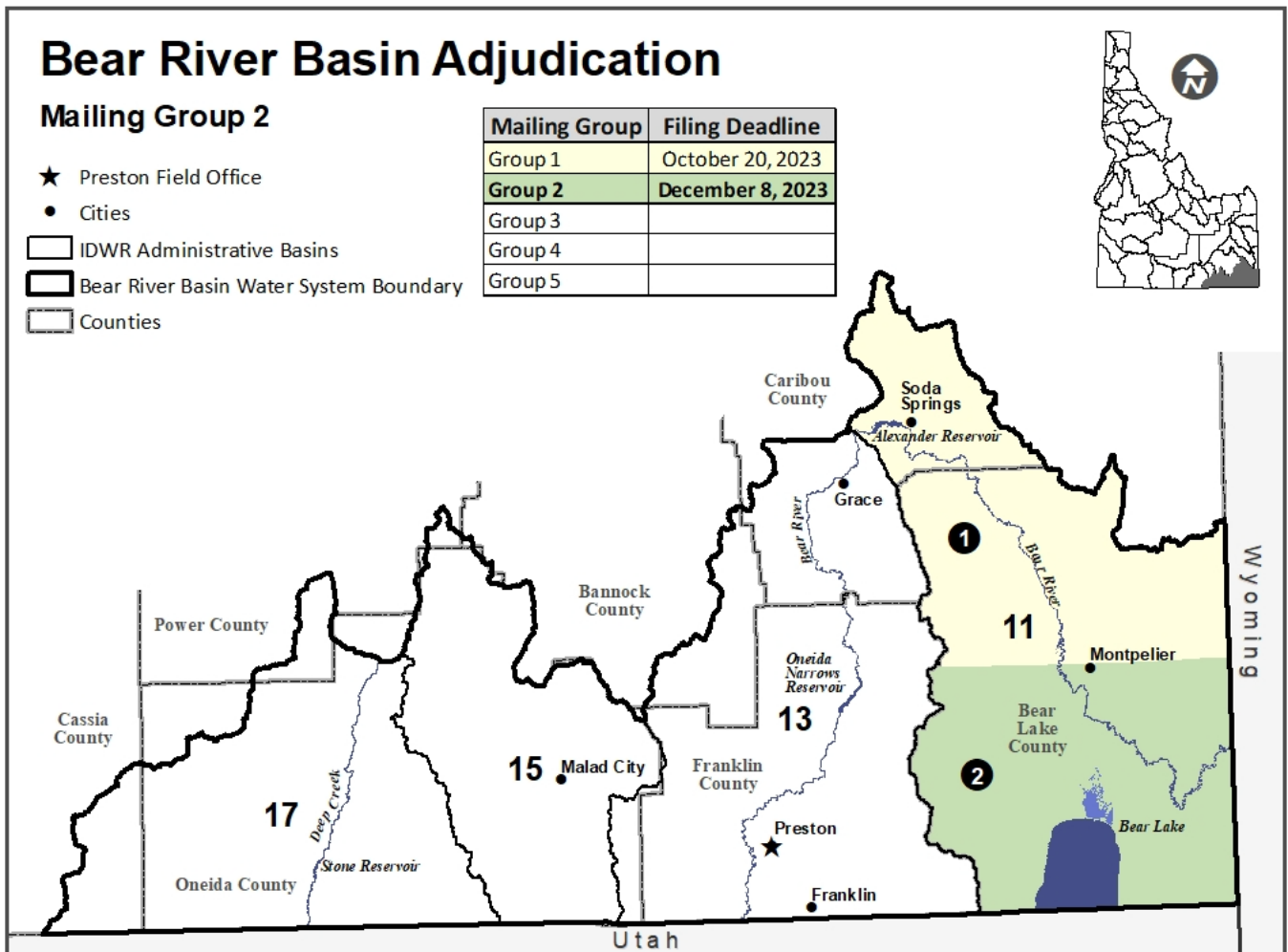
Idaho Code § 42-1409 requires all purchasers of a water right to inquire of IDWR whether a Notice of Claim has been filed. If a Notice of Claim has not been filed, the purchaser must file any required Notice of Claim. If a Notice of Claim has been filed, the purchaser must file with IDWR a written notice of the change in ownership along with sufficient evidence of ownership. "Purchaser" includes any person acquiring a water right from another water user, whether it is acquired by purchase, gift, inheritance, or any other means. Idaho Code § 42-1409 also requires all persons who have filed a Notice of Claim to file a written notice of any change in address with IDWR.

VIII. FURTHER INFORMATION

The files of the BRBA District Court will contain affidavits of service and other documents listing the persons served with a copy of this notice.

If you want information regarding Notice of Claims filed with IDWR in this adjudication, you may inquire at any IDWR office or online at www.idwr.idaho.gov. If you want information on other documents filed with the Court in the Bear River Basin Adjudication, you may obtain a copy of the docket sheet from the BRBA District Court at www.brba.idaho.gov; or at the Court's physical address, 253 3rd Avenue North, P.O. Box 2707, Twin Falls, Idaho 83303-2707. The docket sheet is prepared each month and contains a summary of all documents filed with the Court in the previous month as well as the dates and locations of hearings set for the following three months. You can get a copy of a docket sheet for the cost of mailing and/or copying, or you may sign up for a subscription to receive the docket sheet each month. The docket sheet will also be filed with the District Court Clerk for each county within the boundaries of the Bear River Basin water system in Idaho.

Bear River Basin Adjudication



PLEASE REMEMBER FAILURE TO FILE A REQUIRED NOTICE OF CLAIM TO YOUR EXISTING WATER RIGHT WILL RESULT IN A DETERMINATION BY THE COURT THAT THE WATER RIGHT NO LONGER EXISTS. IF YOU HAVE ANY QUESTIONS, PLEASE CALL TOLL-FREE 1-800-451-4129, OR CALL ANY IDWR REGIONAL OFFICE LISTED IN THIS NOTICE, OR CONSULT YOUR ATTORNEY.