

# Bear River Basin Adjudication



Public Information Meeting – Preston, ID

January 23 & 24, 2024

# Meeting Topics



- Introductions
- What is a water right?
- What is a Water Rights Adjudication?
- Reasons for an Adjudication
- Bear River Basin Adjudication
- What water rights should be claimed?
- Preparing to file your claim
- Questions

# Adjudication Staff



## IDWR Staff

- **Christopher Holmes**, Water Rights Supervisor – Preston
- **Craig Saxton**, Adjudication Section Manager – Boise
- **Angela Hansen**, Water Allocation Bureau Chief - Boise

## Attorney General's Office

- **Lacey Rammell-O'Brien**, Deputy Attorney General - Boise

## Idaho Water Adjudications Court

- **Paul Harrington**, Staff Attorney – Twin Falls



# What is a Water Right?

- The constitution and statutes of the State of Idaho declare all the waters of the state, when flowing in their natural channels, including the waters of all natural springs, lakes and groundwaters within the boundaries of the state, to be public waters
- A water right is the right to divert public waters and put them to a beneficial use in accordance with one's priority date. See I.C. § 42-230

# 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 demand
- A water right allows the private use of Idaho’s public water

# Ways to Establish a Water Right

- Permit Process

- The permit process became mandatory to establish new water rights from:

March 25, 1963

Ground water diversions (except for domestic and/or livestock uses as defined in I.C. § 42-111)

May 20, 1971

Surface water diversions (except for watering livestock directly from streams as defined in I.C. § 42-113)

- Decrees – Previous Court Actions
- Beneficial Use - (aka constitutional or grandfather)
  - Posted Notice
  - Statutory Claim
  - Unrecorded Use

# What is a Water Rights Adjudication?

- Adjudicate – To Settle Judicially
- Process to make a complete and accurate record of all existing water rights through the court



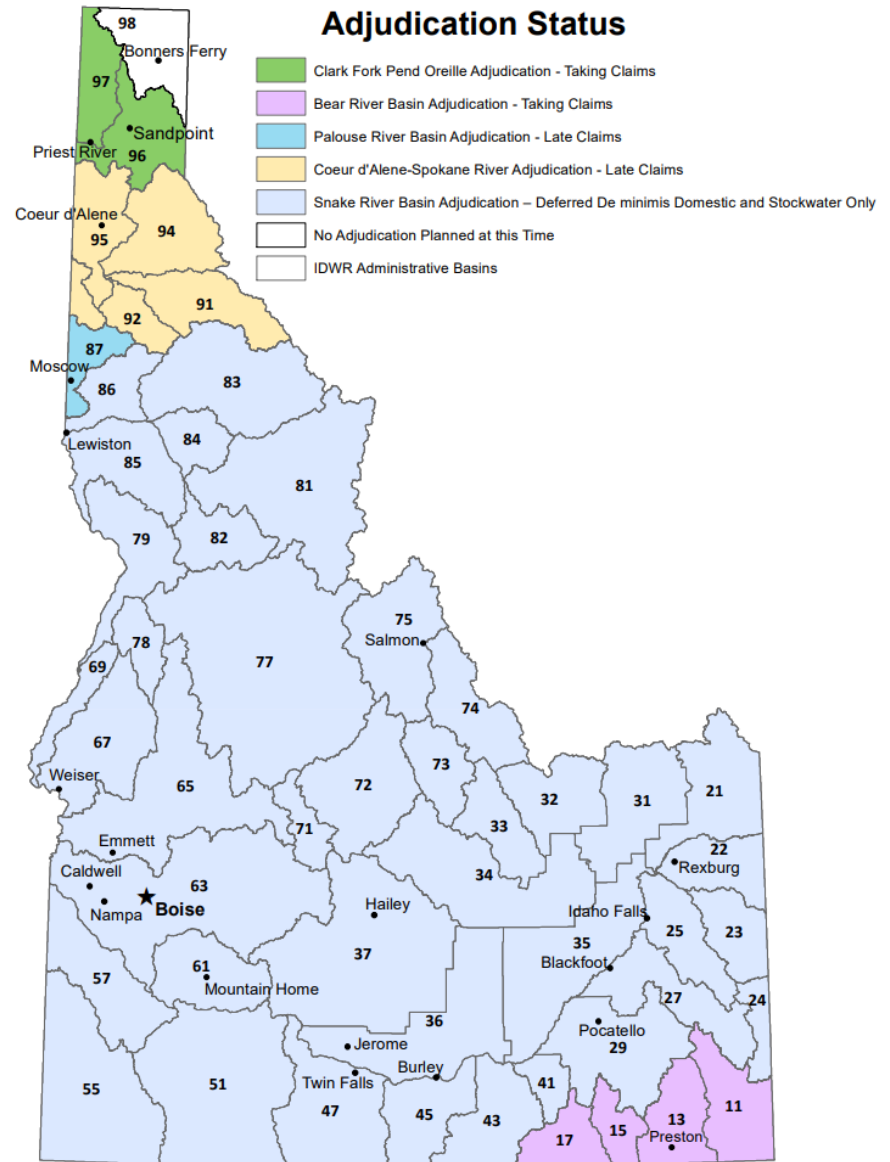
# Why Adjudicate Water Rights?

- Record and confirm beneficial use rights
- Confirm private property rights
- Idaho population growth continues
- Only way to confirm Statutory Claims
- Record changes and make corrections to water rights
- Protection against competition for finite resources
  - Supplies are not always sufficient to meet demands
  - During times of scarcity Idaho relies on priority administration



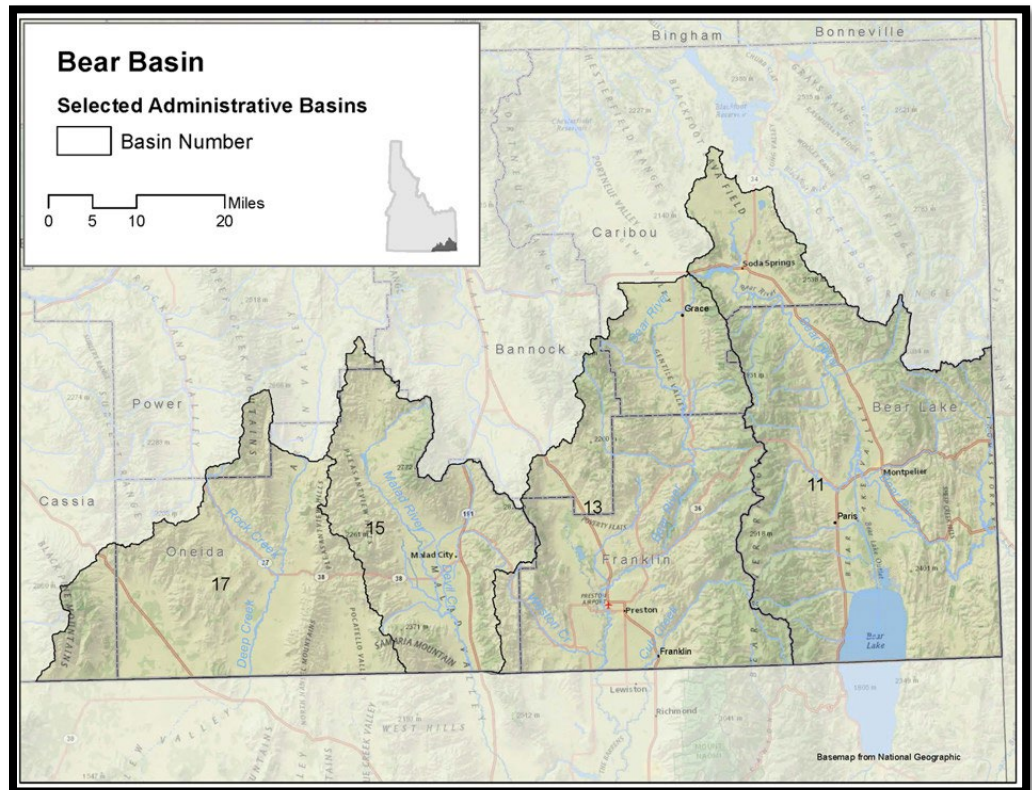


# Adjudications in Idaho



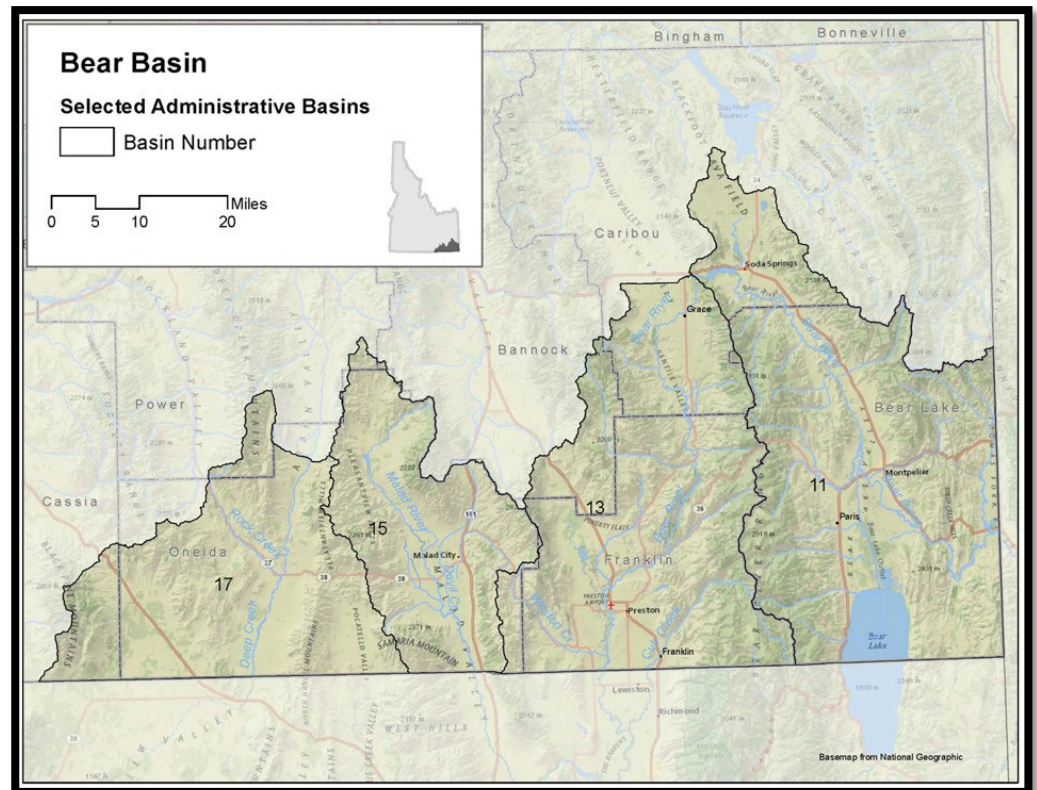
# Purpose of the Bear River Basin Water Rights Adjudications

42-1406C: “Effective management of the waters of the Bear River basin requires that a comprehensive determination of the nature, extent and priority of the rights of users of surface and ground water be determined.”



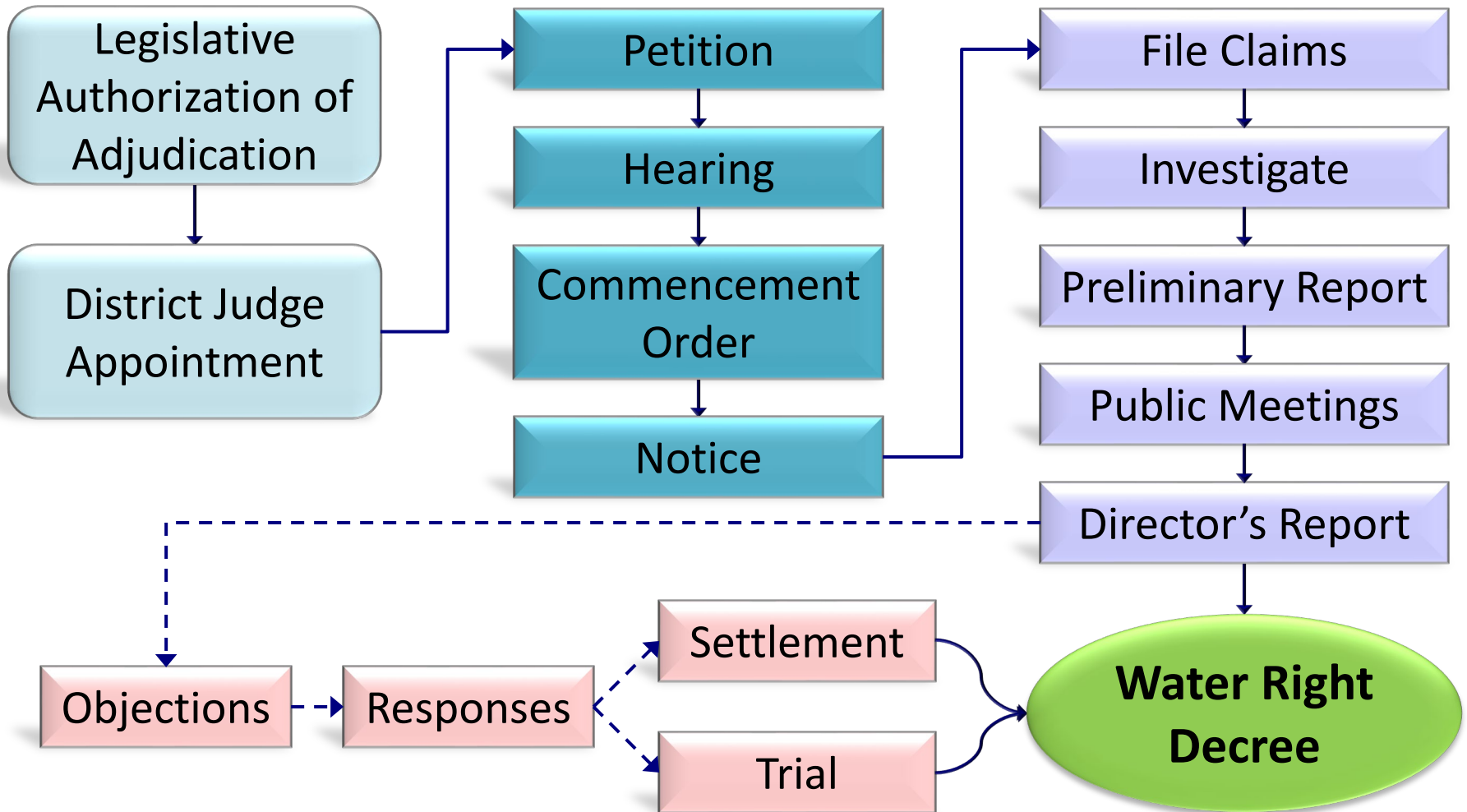
# BRBA Background

- **2020** Legislative Session  
42-1406C authorizes the Bear River Basin Adjudication
- **November 20, 2020** Attorney Generals office files Petition to commence the Bear River Basin Adjudication
- **June 15, 2021**  
Commencement order is issued by Judge Wildman
- **January 30 and April 10, 2023**  
Basin 11 Commencement Notices mailed
- **October 20 and December 8, 2023**  
Basin 11 Filing deadlines





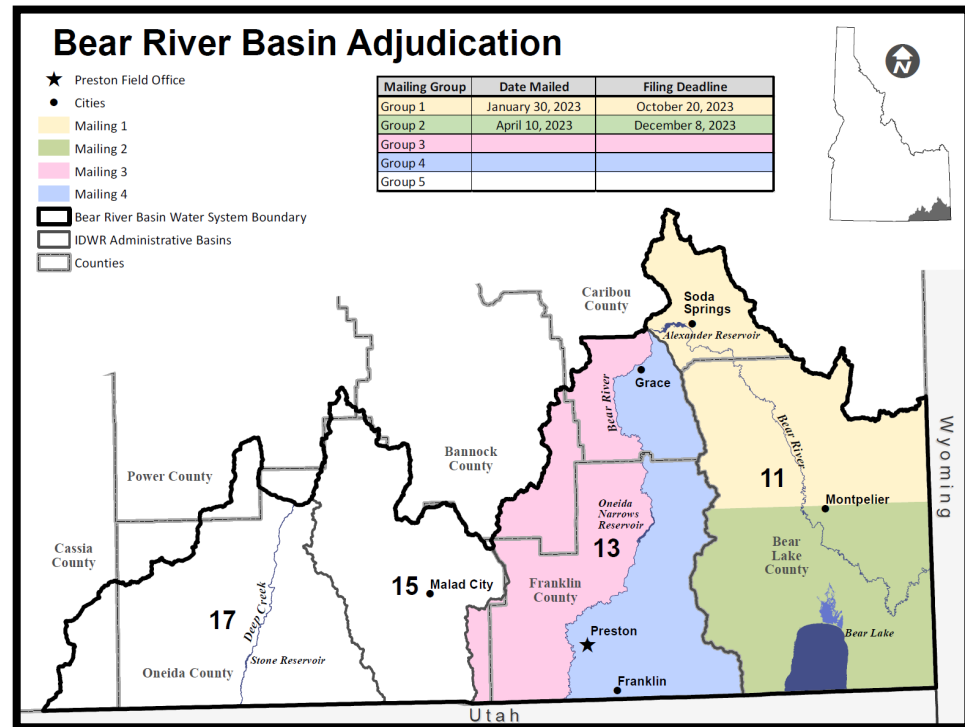
# Adjudication Process





# Commencement Notice Mailing Groups

- IDWR has a statutory obligation to send notice to all property owners
- Filing deadlines will be for no less than 90 days (generally > 6 months)
- Notice in Basin 13 will be sent in two groups, separated by the Bear River
  - First group of mailings expected in March





# What Water Rights need to be Claimed?

- **All water uses and water sources** must be claimed
  - Existing Water Right Licenses
  - Existing water rights decreed in prior adjudications
    - Example: Dietrich, Cub River, Trout Creek decrees, etc.
  - Statutory Claims, Beneficial Use water rights
- Municipalities, water districts, and water delivery organizations (canal companies) are responsible for filing claims for the uses on their systems
- State and Federal entities included
- Permits where proof was submitted after June 15, 2021, are not required to file

# Domestic Use



## Domestic/Stockwater Deferral

- Water users can choose to defer (postpone) filing for small Domestic & Stockwater rights (I.C. § 42-111)
  - Filing fees for deferrable Domestic and/or Stockwater claims are \$25
- 
- **Deferral is not forever.** There will never be an easier or cheaper time to file on your domestic and stock water claim than now.



# How the Adjudication Affects Water Right Holders

The 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

2009 APR 03 PM 02:00  
DISTRICT COURT - SBEA  
TWIN FALLS CO., IDAHO  
FILED \_\_\_\_\_

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

In Re SBEA ) PARTIAL DECREE PURSUANT TO  
Case No. 39576 ) I.R.C.P. 54(b) FOR  
Water Right 63-15013

NAME AND ADDRESS: CITY OF BOISE  
DEPT OF AVIATION & PUBLIC  
TRANSPORTATION  
PO BOX 500  
BOISE, ID 83701

SOURCE: GROUND WATER  
QUANTITY: 0.04 CFS  
The quantity of water under this right for domestic and  
stockwater uses shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/31/1959

POINT OF DIVERSION: TOWN ROSE S19 SENNENSE Within Ada County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
Domestic 01-01 TO 12-31 0.04 CFS

PLACE OF USE: Domestic TOWN ROSE S19 NWSE Within Ada County

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:  
The quantity of water decreed for this water right is not a  
determination of historical beneficial use.  
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS  
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT  
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE DEEMED  
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE  
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54 (b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance  
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a  
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final  
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

*John M. Melanson*  
JOHN M. MELANSON  
Presiding Judge of the  
Snake River Basin Adjudication

SBEA PARTIAL DECREE PURSUANT TO I.R.C.P. 54 (b)  
Water Right 63-15013

PAGE 1  
Jan-01-2009

# Preparing to File your Claim

Who, What, When, Where, How?

- **Who** does the water belong to (claimant)?
- **What** is being used (source)?  
What uses are occurring (domestic, irrigation, commercial etc.) and quantity?
- **When** did the use begin? If things have changed, when?
- **Where** is the diversion occurring and where is it being used (legal descriptions)?
- **How** is it being used? Provide a description of the system and map



# Preparing to File your Claim

## Location Information:

- Tax Documents or parcel information
  - Parcel (PIN) number  
Ex: RP11S43E120149A
  - Township, Range, Section, QQ  
Ex: T11S, R43E, S12, NENE
- Parcel information  
Can be found on the county assessor's website

Bill Summary	Prior Year	Current	Delinquent
	\$982.66	\$1,070.92	\$0.00

YOU CAN NOW PAY WITH CREDIT/DEBIT CARDS FOR A 2.5% FEE OR BY ELECTRONIC DEPOSIT. ALSO, NEW DRIVE UP PAYMENT DROP BOX ON THE SOUTHEAST CORNER OF THE MORTGAGE COMPANIES HAVE RECEIVED OUR TAX FILES. IF YOUR MORTGAGE COMPANY HAS FOR YOUR RECORDS

**Make Check Payable to: Bear Lake County Treasurer**

FOR PROPER CREDIT RETURN THIS STUB WITH PAYMENT  
PERSONAL CHECKS ARE SUBJECT TO BANK CLEARANCE

Bill Number: 2021 - 101136


PIN: RPM46400040050  
AIN: 01073.00

BEAR LAKE COUNTY

\*MONTHLY PAYMENTS ARE ACCEPTED\*  
DELINQUENT IF NOT PAID BY

1ST HALF \$0.00  
FULL AMOUNT \$535.46

December 20, 2021



# Preparing to File your Claim (cont.)

## Map & System Description

- Web Maps:  
<https://www.google.com/maps>  
<https://www.bing.com/maps>
- Survey Maps
- Farm Service Agency Maps
- IDWR Maps:  
<https://idwr.idaho.gov/>  
<https://data-idwr.hub.arcgis.com/pages/popular-maps>





# Preparing to File your Claim (cont.)

## Proof of Priority Date



- Priority Date is the date the water was first used

Claims to water rights that are based on development through beneficial use require evidence of priority:

- Statutory Claim
- Unrecorded beneficial use claims
- Posted Notice

# What can I use as Proof of Priority?

- Irrigation claims –crop reports, income tax documents showing sale of crops
- Affidavits
- Property tax documents showing property was taxed as agriculture land
- Historical Aerial Photography
- Newspaper Articles



## **What is not proof of priority**

- Statutory Claims - a statutory claim is NOT evidence of the priority date on the claim.

## How can I file a claim?

- Print a paper claim at:  
<https://idwr.idaho.gov/form/adjudication/>
- File online at:  
<https://research.idwr.idaho.gov/apps/Adjudication/OcLogin>
- Meet with IDWR staff in the Preston Office  
Call: (208) 701-7200 for an appointment  
Email: [prestoninfo@idwr.idaho.gov](mailto:prestoninfo@idwr.idaho.gov)
- Contact Adjudication Staff at the State Office of IDWR in Boise  
Call: (800) 451-4129  
E-mail: [NIAHelp@idwr.idaho.gov](mailto:NIAHelp@idwr.idaho.gov)

# BRBA Website

**IDAHO DEPARTMENT OF WATER RESOURCES**

Water Rights ▾ Wells ▾ Streams/Dams/Floods ▾ Forms ▾ Water Data ▾ Maps/Spatial Data ▾ Legal ▾ Board ▾ About IDWR ▾

Home / Water Rights Overview / Adjudication / Bear River Basin Adjudication (BRBA)

Adjudication Overview

Palouse River Basin Adjudication (PRBA)

Clark Fork-Pend Oreille River Basin Adjudication (CFPRBA)

Bear River Basin Adjudication (BRBA)

Northern Idaho Adjudication (NIA) ▾

Snake River Basin Adjudication (SRBA) ▾

Research and Maps

Adjudication Forms

Contacts

Adjudication Court

## Bear River Basin Adjudication (BRBA)

### Active Adjudication

+ [BRBA Background](#)

[File Online Claim](#)

[File Paper Claim](#)

[What to file Flowchart: Adjudication Claim – or – Application for Permit](#)

[Filing Assistance Insert](#)

### Upcoming Meetings & Events

IDWR will host two public information meetings in Preston Idaho to present information and background about the Bear River Basin Adjudication and the upcoming mailing of commencement notices in Basin 13.

**When:**

Tuesday, Jan. 23. at 6 p.m.  
Wednesday, Jan. 24 at 11 a.m.

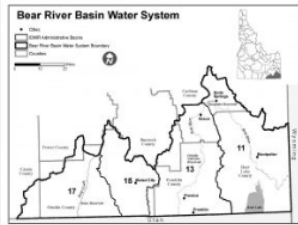
**Where:**

Franklin County Fairgrounds,  
Robinson Building  
186 W 2nd N St  
Preston ID 83263



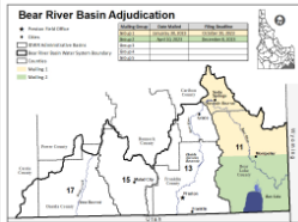
### Recent Activity

**Bear River Basin Water System**



[Click to Enlarge Image](#)

**Commencement Notice Mailing Groups & Filing Deadlines**



[Click to Enlarge Image](#)



**"Adjudication serves a noble purpose. It lets people of Idaho know just what they own. Everything from farming to fishing to mining and manufacturing requires water. Each of these will go smoothly now that they know what they own."**

*United States Supreme Court Justice Antonin Scalia, 2014*



# Questions?



Preston Field Office: (208) 701-7200, [prestoninfo@idwr.idaho.gov](mailto:prestoninfo@idwr.idaho.gov)

State Office Adjudication Staff: (800) 451-4129, [NIA.help@idwr.idaho.gov](mailto:NIA.help@idwr.idaho.gov)