

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 documents 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

DISTRICT COURT - CSRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
OCT - 3 2016	
By _____	Clerk
	Deputy Clerk

**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
 Rights to the Use of Water from the
 Palouse River Basin Water System

CASE NO. 00-59576

PETITION TO COMMENCE
 PALOUSE RIVER BASIN
 ADJUDICATION

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 Palouse 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 Palouse 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 Palouse 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 Palouse River basin water system" are not known to Petitioner; however, the Director of

the Idaho Department of Water Resources ("Director") 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. 2014) 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 Palouse 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. 2014) 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.

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 these general

adjudication proceedings. 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.

Boundaries of the Water System

10. Petitioner proposes to adjudicate the rights to the use of surface and ground water of the Palouse River basin water system, hereinafter referred to as the "water system."

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

Beginning on the western boundary line of the state of Idaho at the northwest corner of Latah County in Section 25, Township 44 North, Range 6 West, B.M.; thence continuing in a generally easterly direction from the western boundary of the state along the northern boundary of Latah County to the point where the county line common to Benewah and Latah counties meet the east side of Section 28, Township 43 North, Range 4 West, B.M.; thence continuing easterly into Benewah County along the ridge lines and mountain peaks separating the Palouse River drainage to the south, from the Coeur d'Alene-Spokane River to the north and east, while crossing the county line between Benewah and Latah counties multiple times to a point in the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 22, Township 42 North, Range 1 West, B.M. where the ridge lines and mountain peaks begin separating the Palouse River drainage to the west and north from the Clearwater River drainage to the east and south; thence continuing generally southerly and westerly along the ridge lines, mountain peaks and hills separating the Palouse River drainage from the Clearwater River drainage, into Nez Perce County to the western boundary of the state; thence north along the western boundary of the state to the point of beginning.

Such that all of the water system is upstream of the state line between Idaho and Washington and includes all surface water and ground waters of, the Cow Creek-Union

Flat Creek drainage before such waters reach Washington, the Thorn Creek-Little Thorn Creek drainage before such waters reach Washington, the South Fork of the Palouse River drainage before such waters reach Washington, the Paradise Creek drainage before such waters reach Washington, the Missouri Flat Creek drainage before such waters reach Washington, the Fourmile Creek drainage before such waters reach Washington, the Duffield Creek drainage before such waters reach Washington, the Cedar Creek drainage before such waters reach Washington, the Silver Creek drainage before such waters reach Washington, the North and South Forks of Pine Creek drainage before such waters reach Washington and the Willow Creek drainage before such waters reach Washington. All of these drainages are ultimately tributaries of the Palouse River in Washington, and contain portions of Benewah, Latah and Nez Perce Counties in Idaho.

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. 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.

16. 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

defined by subsections (4) and (11) of Idaho Code § 42-1401A within the terms of the McCarran Amendment.

List of Counties

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

18. The counties where only a portion of the county is included within the proposed boundaries of the water system are: Benewah, Latah, Nez Perce.

Service

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

20. 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).

21. The method of service set forth at Idaho Code § 42-1408 and in paragraphs 19 and 20 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. 2014) 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 Palouse 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 defined by subsections (4) and (11) of Idaho Code § 42-1401A 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;
- 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 20;
- 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.

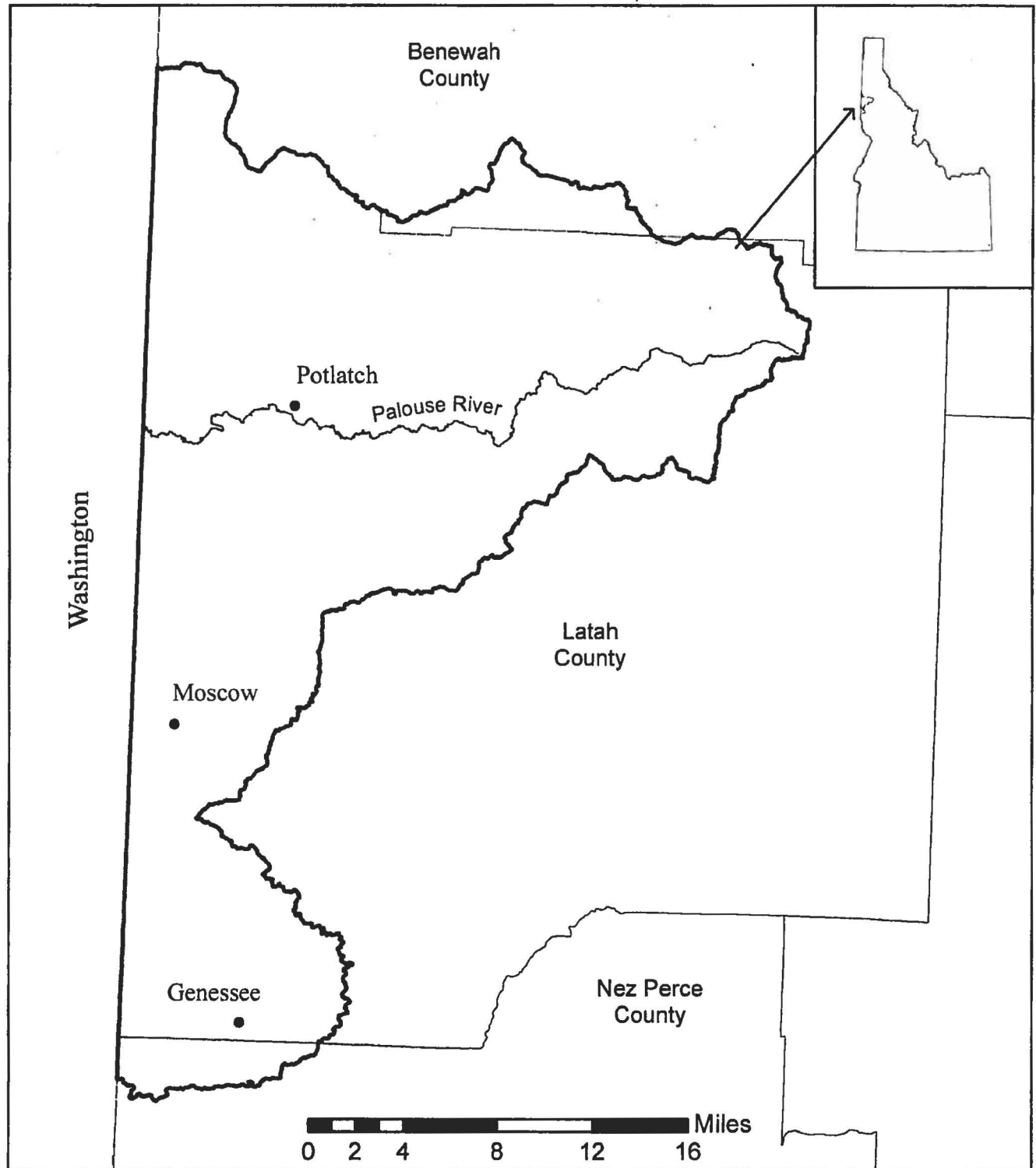
4. For such other and further relief as the court seems just and proper.

DATED this 3rd day of October, 2016.

A handwritten signature in black ink, appearing to read 'Lawrence G. Wasden', is written over a horizontal line.

Lawrence G. Wasden
Attorney General
State of Idaho

Palouse River Basin Adjudication



Legend

• Cities

 Palouse River Basin Water System Boundary

 County Boundaries

