

ADJUDICATION MEMORANDUM #14

TO: Adjudication Bureau Staff

FROM: Don Shaff, Adjudication Bureau Chief

SUBJECT: Effect of Prior Decrees

REVISED: January 22, 2009

Section 42-1420, Idaho Code, provides a decree in a general adjudication is a conclusive determination of all rights to water from the water system. The legal term for this is *res judicata*. There is an exception where the claimant, or the claimant's predecessor at the time of the prior adjudication, was not joined as a party in the adjudication.

A claimant who wants to file a notice of claim to a water right from a system that has been the subject of a prior general adjudication and wants to claim a priority date predating the decree can do so. However, the claimant should be advised the department will generally recommend the claim as disallowed or will recommend the claim with a later priority date. The agent can suggest the claimant consider filing an application for permit concurrently with the claim, or as an alternative to simply filing the claim. Contact IDWR legal counsel during claim investigation, as additional research may be necessary to determine the scope of the prior adjudication.¹

Due to changes in the adjudication procedure over the years, the cut-off date is not always the date of entry of the decree. The dates are the cut-off dates in recent general adjudications in which IDWR conducted joinder, claims-taking, and a recommendation of water rights.

1. Payette Adjudication: October 18, 1977, for all rights to water from the Payette River water system.
2. Lemhi Adjudication: April 1, 1972, for all rights to water from the Lemhi River water system.
3. Basin Creek Adjudication: April 8, 1976, for all rights to water from the Basin Creek water system and those rights from Summit Creek diverted from the NW1/4 NW1/4 Sec. 22, T. 14 S., R. 23 E., B.M.
4. Shoofly Creek: September 7, 1982, for all rights to water from the Upper Shoofly Creek water system.
5. Reynolds Creek: August 6, 1979, for all rights to water from the Reynolds Creek water system.
6. Cougar Creek: September 8, 1986, for all rights to surface and ground water from the Cougar Creek water system.

¹ The scope of the prior adjudication is particularly relevant. For example, some adjudications did not include ground water, and some adjudications included only the main stem of a river and not the tributaries.

7. Twin Lakes: May 23, 1977, for all surface water rights from the Twin Lakes water system.
8. Hayden Lake: April 10, 1969, for all rights to water from the Hayden Lake water system.
9. Lewellen Creek: June 26, 1978, for all rights to surface and ground water from the Lewellen Creek Drainage (includes Roush Creek, Trapper Creek and their tributaries).
10. Blanchard Creek: October 9, 1973, for all rights to water from the Blanchard Creek Drainage Basin, including Blanchard Lake (Fish Lake and any springs from the Washington State boundary to its terminus near the town of Blanchard).
11. Smith Creek Adjudication
12. Cow Creek Adjudication: January 24, 1978, for all surface water rights from the Cow Creek water system. NOTE: Cow Creek in Basin 98 in 2009 is not authorized for a general adjudication and is specifically excluded by law from the Northern Idaho Adjudication.