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Attorney for IDWR

**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 THE RIGHTS  
TO THE USE OF WATER FROM  
THE KOOTENAI RIVER BASIN  
WATER SYSTEM**

**Case No. 89576**

**AMENDED AFFIDAVIT OF SERVICE**

STATE OF IDAHO )

) ss.

County of Ada )

I, Craig L. Saxton, being first duly sworn on oath, depose and state as follows:

1. I am the Water Allocation Bureau Chief, for the Idaho Department of Water Resources (IDWR). A portion of my duties involve overseeing the adjudication efforts of IDWR.

2. On January 3, 2025, the State of Idaho filed a petition pursuant to Idaho Code § 42-1406D(1), for the commencement of a general adjudication of all rights arising under state or

federal law to the use of surface and ground water for the Kootenai River basin water system and for administration of such rights (Petition).

3. I make this affidavit pursuant to Idaho Code § 42-1407, the *Order Setting Commencement Hearing and Procedures for Hearing* issued by this Court on January 9, 2025, and *Order Granting Joint Motion for Extension* issued by this Court on March 27, 2025. The following actions were taken under my direction by IDWR on behalf of the Director of IDWR.

4. Pursuant to Idaho Code § 42-1407 and the Court's January 9, 2025 and March 27, 2025, Orders, IDWR prepared in plain and concise language an Amended Notice of Filing Petition to Commence General Adjudication of Water Rights (Amended Notice) containing (a) a description of the boundaries of the water system proposed for general adjudication; (b) a statement of the date, place and time of the hearing before the district court; (c) a concise statement of the matters proposed to be considered before the district court; (d) a proposal for the deferral of *de minimis* domestic and stock water claims; and (e) a statement that the district court will hear evidence and legal argument from any person in response to any matter raised by the Petition. Attached hereto as **Exhibit 1** is a true and correct copy of the Amended Notice.

5. A copy of the Petition and Amended Notice was served on the U.S. Department of Justice by deposit, via certified mail, into the United States Postal Service before 5:00 p.m. on June 3, 2025, at the following addresses:

U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

United States Attorney's Office  
1290 W. Myrtle Street, Suite 500  
Boise, ID 83702

United States Department of Justice  
Environment & Natural Resources Division  
550 West Fort Street, MSC 033  
Boise, ID 83724

6. A copy of the Petition and Amended Notice was served by hand-delivery to IDWR on June 3, 2025.

7. A copy of the Petition and Amended Notice was served on the Office of the Attorney General for the State of Idaho at P.O. Box 83720, Boise ID 83720-0010 by deposit into the United States Postal Service before 5:00 p.m. on June 3, 2025.

8. A copy of the Petition and Amended Notice was served on each of the Idaho Indian tribes on the mailing list, attached hereto as **Exhibit 2**, by deposit into the United States Postal Service before 5:00 p.m. on June 3, 2025. Exhibit 2 lists the names and last known addresses of all Indian tribes which IDWR believes either reside within the proposed boundaries or may have interests in any portion of the Kootenai River basin water system. IDWR received one item of returned mail. IDWR served the returned copy of Petition and Amended Notice on the Kootenai Tribe of Idaho at the service address identified on the Notice of Appearance of Counsel filed January 16, 2025, by Attorney General William Barquin as counsel of record for the Kootenai Tribe of Idaho, by deposit into United States Postal Service before 5:00 p.m. on June 18, 2025.

9. A copy of the Petition and Amended Notice was served on each of the Indian tribes on the mailing list, attached hereto as **Exhibit 3**, by deposit into the United States Postal Service before 5:00 p.m. on June 3, 2025. Exhibit 3 lists the names and last known addresses of Indian tribes from the states of Washington and Montana which IDWR believes may have an interest in any portion of the Kootenai River basin water system.

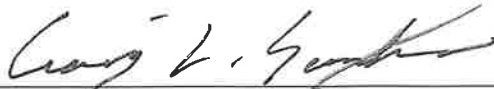
10. Pursuant to Idaho Code § 42-1407, IDWR published the Amended Notice for three (3) consecutive weeks in a newspaper of general circulation published in each county in which any part of the water system proposed to be adjudicated is located. To the best of my

knowledge, the Notice was published on the following dates: the week of June 5, 2025; the week of June 12, 2025, and the week of June 19, 2025. The newspapers that published the Notice are the Bonnors Ferry Herald and the Bonner County Daily Bee. As of the date of the filing of this affidavit of service, the Department has not received affidavits of publication from the newspapers but will file those with the Court upon receipt.

11. The date set for hearing on the Petition is not less than twenty (20) days after the last date of publication.

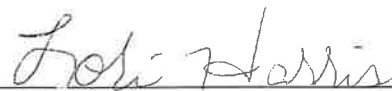
12. IDWR files this affidavit of service of the Amended Notice with the Court upon completion of service.

DATED this 24<sup>th</sup> day of June, 2025.

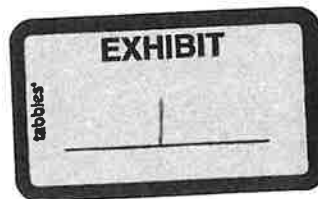
  
CRAIG L. SAXTON  
Water Allocation Bureau Chief

SUBSCRIBED AND SWORN before me this 24<sup>th</sup> day of June, 2025.



  
NOTARY PUBLIC FOR IDAHO  
Residing at: Boise, ID  
My Commission Expires: 12-12-2030

IN RE: THE GENERAL )  
ADJUDICATION OF RIGHTS TO ) CASE NO. 89576  
THE USE OF WATER FROM THE )  
KOOTENAI RIVER BASIN WATER ) AMENDED NOTICE OF  
SYSTEM ) FILING PETITION TO  
COMMENCE GENERAL  
ADJUDICATION OF WATER  
RIGHTS



The *Petition* asks the court to determine the boundaries of the water system to be adjudicated in this action. The Director proposes to adjudicate that portion of the Kootenai River basin within the state of Idaho. A map illustrating the Kootenai River basin water system and the proposed boundaries of the water system to be adjudicated is included in this Notice.

The *Petition* lists the counties within the proposed boundaries of the water system and states that a portion of each county is within the proposed boundaries. There are no counties wholly contained in the proposed boundaries.

The *Petition* asks the court to require persons holding a permit for which proof of beneficial use was filed on or prior to the date the commencement order is issued to file a notice of claim.

The *Petition* asks the court to enter an order establishing a procedure to defer the adjudication of domestic and stock water rights as defined by Idaho Code § 42-1401A(4) and (11). The Director's proposed process for the deferral of domestic and stock water rights is presented below.

The *Petition* asks the court to approve the manner in which the Director proposes to conduct the second round of notifying claimants of their duty to file a notice of claim. The first round of notice is described in Idaho Code § 42-1408(2)-(3); the second round of notice is described in Idaho Code § 42-1408(4).

In response to the *Petition*, the district court will determine the following matters, among others:

- a. The boundaries of the water system;
- b. Whether the boundaries of the water system as proposed by the *Petition* are in compliance with the terms of the McCarran Amendment;
- c. Whether the proposed deferral procedure (below) for the adjudication of domestic and stock water rights as defined by Idaho Code § 42-1401A(4) and (11) is in compliance with the terms of the McCarran Amendment;
- d. Any other uses of water excluded from the adjudication proceedings; and
- e. Any other matter raised by the *Petition*.

THE DISTRICT COURT WILL HEAR EVIDENCE AND ARGUMENTS FROM ANY PERSONS IN RESPONSE TO ANY MATTER RAISED BY THE *PETITION*. ANY PERSON WISHING TO PRESENT EVIDENCE OR ARGUMENT AT THE COMMENCEMENT HEARING MUST COMPLY WITH CERTAIN PROCEDURES ORDERED BY THE DISTRICT COURT. The procedures are set forth in the *Order Setting Commencement Hearing and Procedures for Hearing*, issued by the district court on January 9, 2025. The *Order* addresses the requirements for the Commencement Hearing, including the following:

1. Each attorney who represents a person interested in the Kootenai River Basin Adjudication or interested party acting *pro se* (representing yourself without an attorney) who intends to present evidence or argument at the Commencement

Hearing shall file a *Notice of Appearance* with the district court on or before 5:00 P.M. PT, **June 26, 2025**.

2. Each attorney or *pro se* litigant who intends to present evidence shall also file a pre-hearing statement with the district court on or before 5:00 P.M. PT, **June 26, 2025**. The pre-hearing statement shall include:
  - a. A statement of issues raised;
  - b. A list of documents to be offered into evidence;
  - c. A list of witnesses; and
  - d. The estimated amount of time needed for direct examination of each witness.
3. Each attorney or *pro se* litigant who intends to present legal argument shall also lodge with the district court a brief or memorandum of law in support of that attorney's or *pro se* litigant's legal argument on or before 5:00 P.M. PT, **June 26, 2025**.
4. Each attorney or *pro se* litigant shall serve the State of Idaho via the Office of the Attorney General, the Director and the United States with any papers filed or lodged with the district court on or before 5:00 p.m. PT, **June 26, 2025**. The addresses for service are as follows:
  - a. Chief, Energy and Natural Resources Division  
Office of the Attorney General  
State of Idaho  
PO Box 83720  
Boise, ID 83720-0010
  - b. Director, Idaho Department of Water Resources  
PO Box 83720  
Boise, ID 83720-0098
  - c. United States Department of Justice  
Environment & Natural Resources Division  
550 West Fort Street, MCS 033  
Boise, ID 83724
5. All filings and lodgings with the district court shall be made with the clerk of the district court under the above-captioned case number and title. The address for filing and lodging is as follows:

Kootenai River Basin Adjudication  
c/o SRBA District Court  
PO Box 2707  
Twin Falls, ID 83303-2707

6. Fax filing is also available pursuant to Rule 5(d)(3) of the Idaho Rules of Civil Procedure, though faxed documents are limited to ten (10) pages, including attachments and exhibits. Documents can be fax filed at (208) 736-2121.
7. The district court may relieve any attorney or any *pro se* litigant from the requirements of the *Order* for good cause shown.

Copies of the *Petition* and the *Order* may be obtained at <https://idwr.idaho.gov/water-rights/adjudication/KRBA.html> or from any office of the Idaho Department of Water Resources (IDWR) or from the district court.

#### PROPOSED PROCESS TO DEFER THE ADJUDICATION OF DOMESTIC AND STOCK WATER RIGHTS:

All claimants of *de minimis* (small) domestic and/or stock (D&S) water rights as defined in Idaho Code § 42-1401A(4) and (11) shall be joined as parties in this proceeding and shall be bound by all decrees entered in this case, including the final decree. Any objection to any and all claims being adjudicated in this proceeding, including those of a D&S claimant, must be timely raised in accordance with Idaho Code § 42-1412 or be forever barred.

Water users of D&S rights may elect to file a Notice of Claim at the time of commencement of the Kootenai River Basin Adjudication or defer (postpone) the filing. If a D&S claimant elects to have the claim adjudicated now, then the D&S claimant must file a Notice of Claim (Idaho Code § 42-1409) and pay any fees (Idaho Code § 42-1414). Deferral will not result in a loss of the D&S water right nor will a D&S claimant be prevented from making a D&S claim in the future. The owner of a D&S water right who chooses to defer the filing of a Notice of Claim will be required to have the water right adjudicated prior to the water right being distributed by a watermaster (Idaho Code § 42-607) and/or before an application for change of the water right may be filed with IDWR (Idaho Code § 42-222).

Water right holders who choose to delay filing on D&S water rights will be required to file a motion for determination of the use (motion), with an attached notice of claim, in order to obtain an adjudicated water right. Notice of the motion and information describing the claim must be published by the claimant for at least three (3) weeks in a newspaper of general circulation in the county where the point of diversion is located. In addition, claimant must serve the motion and claim on the Director, the State of Idaho, the United States, and persons against whom relief is sought. Service upon the United States must be via certified mail to the United States Attorney for the District of Idaho and the United States Attorney General in Washington, D.C.

Any party can object to the claim by filing written notice of the objection with the district court within forty-five (45) days from the date of the first publication of the notice. A copy of the objection shall be served on the State of Idaho, Director, United States, the person whose claim is being objected to, and all persons who have appeared in response to the motion.

Within thirty (30) days of the objection deadline, the Director will file a notice with the court stating whether the Director will examine the deferred D&S claim and whether the Director will prepare a report on the claim to the district court. The Director's notice will contain the Director's estimated costs, due from the claimant, for examination of the claim and preparation of the report. The notice will also contain the Director's approximation of time for filing the report. Prior to filing the report, the D&S claimant shall pay the balance of the Director's costs or be refunded by the Director any unused advanced estimated costs. If the D&S claimant contests the Director's costs, the district court shall determine a reasonable cost to be paid by the claimant. Deferrable domestic claimants are also required to pay their own filing fees. The Director will investigate the claim and submit the report to the court with copies to the State of Idaho, United States, all parties who filed objections, and all parties against whom relief is sought. The court will then set objection and response deadlines and set a hearing (Idaho Code § 42-1412).

If the Director notifies the court that the Director does not intend to prepare a report, then the district court will proceed with a hearing and any party who timely objected may appear and challenge the D&S motion and claim. The district court may order the Director to prepare a report after a hearing on the motion and D&S claim.

Proof of service is required for any motion under this deferred procedure. Claimant must certify the date and manner of service of the motion on the State of Idaho, the Director, the United States, and persons against whom relief is sought.

Appeals of any orders or decrees entered under the deferred procedure are governed by the rules applicable to appeals of orders in the Kootenai River Basin Adjudication.

The district court retains continuing jurisdiction of the subject matter in this proceeding and the parties to the proceeding for the purpose of adjudicating deferred D&S claims.

The proposed process above meets the requirements of the McCarran Amendment, 43 U.S.C. § 666, because all water users, including those claiming *de minimis* D&S rights, will be served and made parties to this adjudication, and will eventually have their rights adjudicated, either in this phase of the proceeding or pursuant to the proposed procedures set forth in this Notice.

Mathew Weaver, Director  
Idaho Department of Water Resources

## HOW TO ACCESS THE HEARING USING ZOOM:

Hearing on Petition for Commencement of the Kootenai River Basin Adjudication

Time: July 15, 2025, at 1:30 P.M. Pacific Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/join>

Meeting ID: 949 6358 1663

Passcode: 459962

By Telephone

Toll free: (877) 853-5247 or (888) 788-0099

Meeting ID: 949 6358 1663

Passcode: 459962

### 1. How to join the meeting by telephone

- Dial the phone number listed above.
- When prompted, enter the meeting ID provided above, followed by #.
- When prompted, enter the meeting passcode provided above.
- More information on how to use a telephone when connecting to a Zoom meeting can be found here:

<https://support.zoom.us/hc/en-us/articles/201362663-Joining-a-meeting-by-phone>

### 2. How to join the meeting online

- In your browser enter the link <https://www.zoom.us/join>
- Enter the meeting ID provided above. You may see a spinning wheel while the connection is made.
- Follow the instructions on the screen to either download and install the Zoom client, or to join the meeting via your web browser.
- When prompted, enter the meeting passcode provided above.
- Once the connection is made, you will be placed in a Waiting Room. A message will appear "Please wait, the meeting host will let you in soon."
- When court begins, you will be brought into the meeting from the Waiting Room.

### 3. Video (when joining online)

- Start your video by clicking **Start Video**, located in the lower-left corner of the window.

#### 4. Audio

- Your sound will be on mute upon entry.
- Remain muted unless you are asked to speak to the court. Please be sure you have no background noise while speaking. You may be muted or removed from the hearing if causing a disruption.
- To unmute yourself, click the **Unmute** button, located in the lower-left corner of the window.
- If joining only by telephone, press \*6 to toggle between unmute/mute.

#### 5. Courtroom standards

- Participants should dress and act as if they were physically in the courtroom.
- Do not talk over others.
- If joining online, you may raise your hand from the **Participants** tab at the bottom of the window if you would like to speak with the court or if you need to have a conversation with your counsel.

#### 6. Assistance

- Additional resources on how to use Zoom to participate in a remote court hearing can be found at <http://isc.idaho.gov/isc-zoom>

If you have questions regarding this remote hearing or the steps above, please contact the Deputy Clerk of the Snake River Basin Adjudication District Court at 208-736-3011.

## EXHIBIT 2

Coeur d'Alene Tribe  
c/o Chief J. Allan, Chairman  
PO Box 408  
Plummer, ID 83851

Kootenai Tribe of Idaho  
Attorney General William Barquin  
Portland Office  
1000 SW Broadway Ste 1060  
Portland, OR 97205

Nez Perce Tribal Executive Committee  
c/o Shannon Wheeler, Chairman  
P.O. Box 305  
Lapwai, Idaho 83540

Shoshone-Bannock Tribes  
c/o Lee Juan Tyler, Chairman  
Fort Hall Business Council  
P.O. Box 306  
Fort Hall, Idaho 83203

Shoshone Paiute Tribes of the Duck Valley Indian Reservation  
c/o Brian Mason, Chairman  
Tribal Headquarters  
P.O. Box 219  
Owyhee, NV 89832

EXHIBIT 3

Blackfeet Nation  
c/o Rodney "Minnow" Gervais, Chairman  
640 All Chiefs Road  
Browning, MT 59417

Confederated Tribes of the Colville Reservation  
c/o Jarred-Michael Erickson, Chairman  
21 Colville Street  
Nespelem, WA 99155

Confederated Salish & Kootenai Tribes  
c/o Michael Dolson, Chairman  
P.O. Box 278  
Pablo, MT 59855

Kalispel Tribe  
c/o Glen Nenema, Chairman and CEO  
Kalispel Tribal Headquarters  
P.O. Box 39  
Usk, WA 99180

Spokane Tribe of Indians  
c/o Greg Abrahamson, Chairman  
6195 Ford-Wellpinit Road  
Wellpinit, WA 99040

CERTIFICATE OF SERVICE

I certify that on the 24<sup>th</sup> day of June, 2025, I served this Affidavit of Service of Commencement Notice on the following persons by mailing in the U.S. Mail:

1. Original to:

Clerk of the District Court  
Kootenai River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, ID 83303-2707

2. Copies to:

Director, Idaho Department of Water Resources  
PO Box 83720  
Boise, Idaho 83720-0098

Chief, Energy and Natural Resources Division  
Office of the Attorney General  
State of Idaho  
PO Box 83720  
Boise, Idaho 83720-0010

United States Department of Justice  
Environment & Natural Resources Div.  
550 West Fort Street, MSC 033  
Boise, Idaho 83724

United States Department of Justice  
Environment and Natural Resources Division  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044-7611



Signature of Person Mailing Document