

**RAÚL R. LABRADOR**  
ATTORNEY GENERAL

JAN - 3 2025

By \_\_\_\_\_  
Deputy Clerk

**SCOTT L. CAMPBELL, ISB # 2251**  
Chief, Energy and Natural Resources Division  
State of Idaho  
P.O. Box 83720  
Boise, Idaho 83720-0010  
Telephone (208) 334-2400  
Fax: (208) 334-2530  
[scott.campbell@ag.idaho.gov](mailto:scott.campbell@ag.idaho.gov)

**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 )  
Kootenai River Basin Water System )  
\_\_\_\_\_ )  
CASE NO. 00-89576  
PETITION TO COMMENCE KOOTENAI  
RIVER BASIN ADJUDICATION  
Fee: Exempt

The State of Idaho, by and through the Idaho Office of the Attorney General, 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 Kootenai River basin water system and for the administration of such rights.

**JURISDICTION**

2. This court has jurisdiction under state law pursuant to Idaho Code § 42-1406D and the Idaho Supreme Court's November 13, 2024 *Provisional Order Re: Appointment of District Judge, Confirmation of Special Jurisdiction and Determination of Venue for the General*

*Adjudication of the Kootenai River Basin*, which confirms special jurisdiction for the Kootenai River basin general adjudication in the Snake River Basin Adjudication District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls.

3. This court has jurisdiction of all claims of the United States under the McCarran Amendment, 43 U.S.C. § 666, 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, through the Office of the Attorney General. This petition is made at the request of the Director of the Idaho Department of Water Resources (“Director”) pursuant to Idaho Code § 42-1405(2). The Director has deemed that the public interest and necessity would be served by a general adjudication of the Kootenai River basin adjudication. The adjudication would provide a complete and accurate recording of existing water rights, thereby helping the state and its residents to better understand and manage Idaho’s water resources.

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 Kootenai River basin water system.

6. Though petitioner has knowledge of potential claimants, the true names or capacities, whether individual, corporate, governmental, associate, representative, or otherwise, of

potential claimants named herein as “all claimants to the use of water from the Kootenai River Basin water system” are not known to petitioner; however, the Director will identify and serve all potential claimants 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 § 42-1406D(1) authorizes the filing of a petition with the district court to commence an adjudication within the terms of the McCarran Amendment, 42 U.S.C. § 666, of the water rights from surface water and ground water sources of the Kootenai River basin water system. Petitioner requests 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 § 42-1406D(2) provides that the adjudication shall be brought in any district court in which part of the water source is located or before a court of special jurisdiction for water rights. 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.

9. On November 13, 2024, the Idaho Supreme Court issued a *Provisional Order Re: Appointment of District Judge, Confirmation of Special Jurisdiction and Determination of Venue for the General Adjudication of the Kootenai River Basin*, appointing the presiding judge of the Snake River Basin Adjudication District Court as the presiding judge over this general adjudication, conferring special jurisdiction for this general adjudication in the Snake River Basin Adjudication District Court, and 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 this general adjudication.

Boundaries of the Water System

10. The State of Idaho petitions the Court to adjudicate the rights to the use of surface and ground water of the Kootenai River basin water system.

11. As required by Idaho Code Section 42-1406(1)(a), the proposed boundaries of the water system are described as follows:

Beginning at the northeast corner of the state of Idaho at a point located on the Canadian border described as northeast corner of Protracted Boundary 40, Township 65 North, Range 3 East, B.M. which marks the northeast corner of the state of Idaho and the northwest corner of the state of Montana;

Thence continuing southerly along the border shared by the state of Idaho and the state of Montana to a point in Bonner County on the eastern border of Idaho in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15, Township 57 North, Range 3 East, B.M.;

Thence continuing northwesterly along the ridge lines and mountain peaks that separate the Callahan Creek drainage to the northeast from the Pack River drainage to the southwest to a point in Boundary County marking the peak of Bald Eagle Mountain in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 31, Township 60 North, Range 2 East, B.M.;

Thence continuing westerly and then northerly along the ridge lines and mountain peaks that separate the Pack River drainage to the south from the Deep Creek drainage to the north, crossing the county line between Boundary and Bonner counties twice, to the top of Dodge Peak in Boundary County in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 12, Township 60 North, Range 2 West, B.M.;

Thence continuing northerly along the ridge lines and mountain peaks that separate the Kootenai River drainage to the east from the Pack River drainage to the west, to the top of Harrison Peak in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 31, Township 62 North, Range 02 West, B.M.;

Thence, continuing northerly through Boundary County along the ridge lines and mountain peaks separating the Priest River drainage to the west from the Kootenai River drainage to the east, to a topographic high point located on the border shared by the state of Idaho and Canada, within Protracted Boundary 38, Township 65 North, Range 04 West, B.M.;

Thence continuing easterly along the northern border of the state of Idaho to the point of beginning.

Such that the water system includes all surface and ground waters within the proposed boundary which contain portions of Bonner and Boundary counties in Idaho. This includes, but is not limited to, the surface and ground waters of the Kootenai River drainage downstream from the border shared by Idaho and Montana and upstream from the Canadian border; those portions of Bog Creek, Blue Joe Creek and Grass Creek and drainages before such waters reach Canada, all of which are ultimately tributaries of the Kootenai River in Canada; that portion of Boundary Creek drainage within Idaho, downstream of where it enters Idaho and upstream of where it exits Idaho as it crosses the border shared by Idaho and Canada; those portions of Dodge Creek, Mission Creek, East Fork Mission Creek, Gillon Creek and the Moyie River drainages downstream from the border shared by Idaho and Canada; the Canuck Creek drainage downstream from the border shared by Idaho and Montana and upstream from the Canadian border; those portions of Faro Creek, Keno Creek, Skin Creek, Kingsley Creek and Lime Creek drainages downstream from the border shared by Idaho and Montana; those portions of Curley Creek within Idaho, upstream of the boarder shared by Idaho and Montana, and downstream of the border as it flows back into Idaho; those portions of Idamont Creek, Cabin Creek, Star Creek, Ruby Creek, North and South Callahan Creek, Benning Creek, West Fork Keeler Creek, Halverson Creek, and Cliff Creek drainages before such waters reach Montana, all of which are ultimately tributaries of the Kootenai River in Montana.

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 requests the Court include in the adjudication potential claimants 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. Bonner County and Boundary County are partially within the proposed boundaries of the water system. Idaho Code § 42-1406(1)(c).

#### Service

18. Petitioner requests that the Court order the Idaho Department of Water Resources to serve potential claimants as set forth in subsections (2) and (3) of Idaho Code § 42-1408.

19. Petitioner requests that the Court order the Idaho Department of Water Resources to serve claimants not disclosed following completion of the service required by subsections (2) and (3) of Idaho Code § 42-1408 as set forth in Idaho Code § 42-1408(4).

20. 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.


## REQUEST FOR RELIEF

WHEREFORE, the petitioner petitions this court as follows:

1. To enter an order in accordance with Idaho Code § 42-1406D 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 Kootenai 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 partially 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 Idaho Code § 42-1401A;
  - 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.

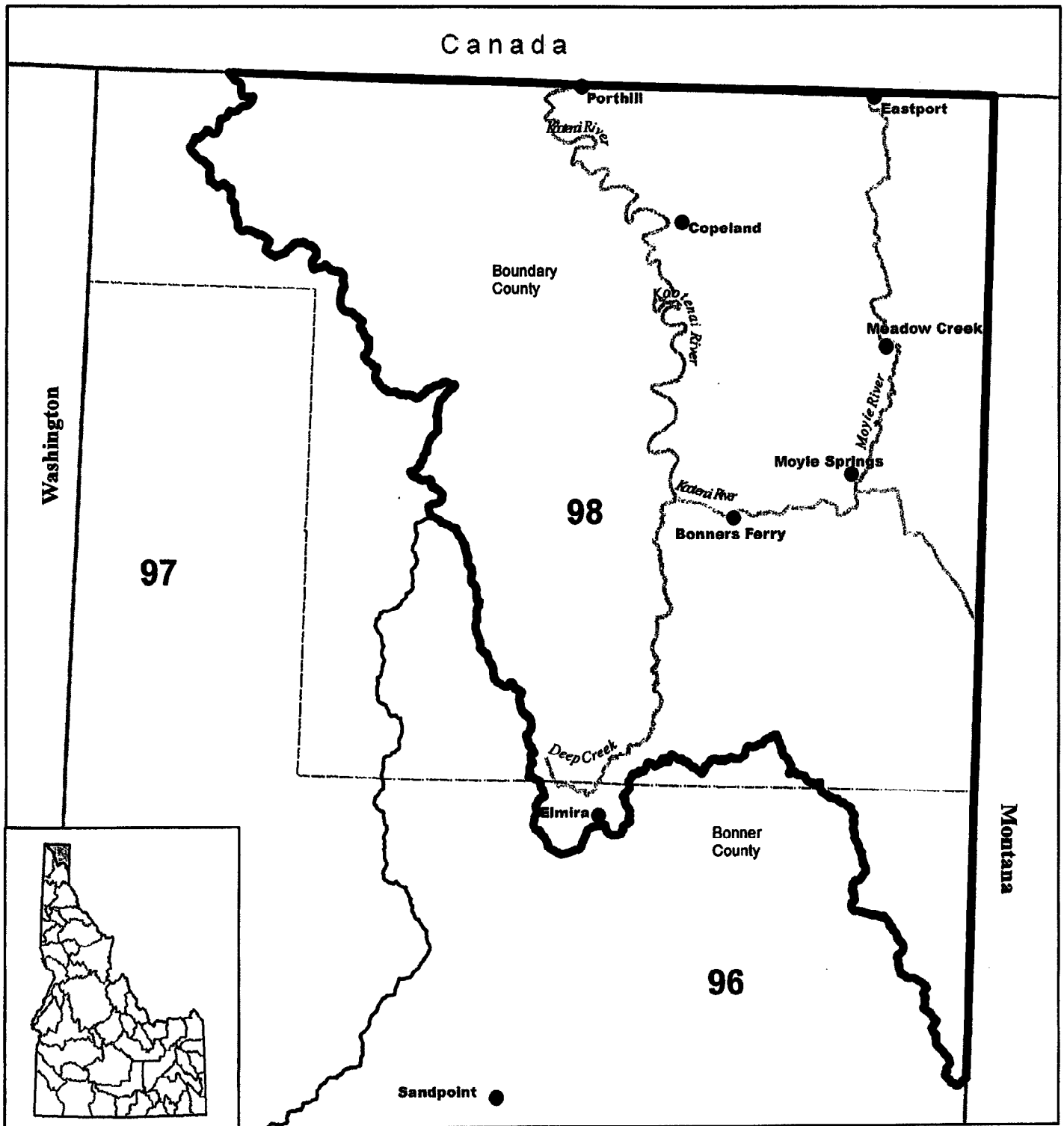
- g. Approves the method of ascertaining and serving claimants not disclosed following the completion of the service required by subsections (2) and (3) of Idaho Code § 42-1408, as set forth in paragraph 20; and
  - h. Confirms the Director's statutory authority to investigate all uses of water from the system in accordance with Idaho Code § 42-1410 and to file a report in accordance with Idaho Code § 42-1411.
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 January, 2025.

  
SCOTT L. CAMPBELL  
Chief, Energy and Natural Resources Division  
Office of the Attorney General



# Kootenai River Basin Water System



**Legend**

- Cities
- County Boundaries
- ▭ Kootenai River Basin Water System Boundary
- ▭ IDWR Administrative Basins



**Exhibit A**