DISTRICT COURT - KRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 6 2026

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 KOOTENAI RIVER BASIN WATER SYSTEM	))))))	**Case No: 89576** **COMMENCEMENT ORDER FOR THE KOOTENAI RIVER BASIN ADJUDICATION**

I.
BACKGROUND

On January 3, 2025, the State of Idaho filed a *Petition* seeking commencement of 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 and for the administration of such rights ("*Petition*"). The *Petition* is filed pursuant to Idaho Code § 42-1406D. The commencement hearing on the *Petition* was held before the Court on February 24, 2026. The Court having issued a *Memorandum Decision on Petition to Commence Kootenai River Basin General Adjudication* and *Memorandum Decision on Optional Deferral Process* concurrently herewith makes the findings of fact and conclusions of law set forth herein.

II.
FINDINGS OF FACT

1. On behalf of the Director of the Idaho Department of Water Resources ("Department"), the Department prepared a notice of filing of a petition for the general adjudication that contained the information and enclosures required by Idaho Code § 42-1407(3) ("*Notice of Filing*"). The Department served a copy of the *Petition* and *Notice of Filing* on the

State, the United States, the Department, and Indian tribes either residing or possibly having interests within the boundaries of the Kootenai River Basin water system.

2. The Department published the *Notice of Filing* for three consecutive weeks in newspapers of general circulation, including the Bonners Ferry Herald and the Bonner County Daily Bee.

3. The Department filed an *Affidavit of Service* on April 14, 2025.

4. The Court held the commencement hearing on February 24, 2026. The United States appeared in opposition to the State's *Petition*.

5. This Court issued a *Memorandum Decision on Petition to Commence Kootenai River Basin General Adjudication* and a *Memorandum Decision on Optional Deferral Process* concurrently with this *Order*.

III.
CONCLUSIONS OF LAW

Based upon the findings of fact in this matter, the Court makes the following conclusions of law:

1. The *Notice of Filing* complied with the requirements of Idaho Code § 42-1407.

2. The Director complied with Idaho Code § 42-1407 in service and in publication of the *Notice of Filing*.

3. The deferral procedure for the adjudication of domestic and stock water rights as defined by Idaho Code §§ 42-1401A(4) and (11) as set forth in the *Notice of Filing* complies with the terms of the McCarran Amendment, 43 U.S.C. § 666.

IV.
ORDER

Therefore, based on the findings of fact and conclusions of law and on the record in this matter, THE FOLLOWING ARE HEREBY ORDERED:

1. Pursuant to Idaho Rule of Civil Procedure 52(a) the *Memorandum Decision on Petition to Commence Kootenai River Basin General Adjudication* and *Memorandum Decision on Optional Deferral Process* issued concurrently herewith are adopted as further findings of fact and conclusions of law.

2. The Kootenai River Basin Adjudication is commenced as authorized by Idaho Code § 42-1406D as 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.

3. The boundaries of the Kootenai River basin water system to be adjudicated are 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 NE¼NE¼ 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 SW¼NE¼ 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 NW¼SW¼ 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 NE¼ NW¼ 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 border 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.

A map showing the boundaries of the water system is set forth in Exhibit 1, which is attached hereto and incorporated herein by reference. All waters in the state of Idaho within the boundaries set forth above are included in this adjudication.

4. Counties partly located within the boundaries of the water system include the following: Bonner County and Boundary County.

5. All classes of water users and all hydrologic sub-basins within the system described in paragraph 3 above shall be adjudicated as part of the Kootenai River Basin Adjudication.

6. No uses of water are excluded from the adjudication. However, it is possible to defer the adjudication of *de minimis* domestic and stock water rights as defined by Idaho Code §§ 42-1401(4) and (11) as set forth in the *Notice of Filing*, within the terms of the McCarran Amendment. The procedures for adjudicating *de minimis* domestic and stock water claims shall be as set forth in the *Order Establishing Procedures for the Adjudication of De Minimis Domestic and Stock Water Claims* issued in the above-captioned matter, a copy of which is attached hereto as Exhibit 2 and incorporated herein by reference.

7. All claimants asserting rights to the use of surface and ground waters under state law from the above-described water system, including pursuant to state license, historic use,

federal or state court decree and holders of permits for which proof of beneficial use was filed on or prior to the date of entry of this *Order*, shall 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. All claimants asserting rights to the use of surface and ground waters under federal law from the above-described water system shall file a notice of claim as required by the *Notice of Order Commencing a General Adjudication* prepared by the Director or as otherwise ordered by the Court, unless the claimants elect to defer the adjudication of domestic and stock water rights as defined by subsections (4) and (11) of Idaho Code § 42-1401A.

8. The Director is authorized to prepare the *Notice of Order Commencing a General Adjudication* in accordance with Idaho Code § 42-1408(1). The Director shall serve the *Notice of Order* as provided in Idaho Code § 42-1408(2) and send a *Notice of Order* by ordinary mail to all persons who submit a written request to the Director as required by Idaho Code § 42-1408(3). The Court approves the Director's proposed method for conducting second round service as required by Idaho Code § 42-1408(4).

9. The Director shall commence an investigation of all uses of water from the system in accordance with Idaho Code § 42-1410 and file a report in accordance with Idaho Code § 42-1411.

10. The Director shall file with the Court affidavits of service and other documents stating the persons served with a copy of the *Notice of Order*. The affidavits shall contain the address used for service for each person served.

11. The Clerk of the District Court shall send a certified copy of this *Order* to the Director, and shall send a conformed copy to all persons appearing before the Court at the commencement hearing in accordance with the Idaho Rules of Civil Procedure.

DATED: March 6, 2026

ERIC J. WILDMAN
Presiding Judge
Kootenai River Basin Adjudication

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.

DATED: March 6, 2026

ERIC J. WILDMAN
Presiding Judge
Kootenai River Basin Adjudication

CERTIFICATE OF MAILING

I hereby certify that true and correct copies of the COMMENCEMENT ORDER FOR THE KOOTENAI RIVER BASIN ADJUDICATION were mailed on March 6, 2026, by first-class mail to the following:

WILLIAM BARQUIN
KOOTENAI TRIBE OF IDAHO
PORTLAND OFFICE
1000 SW BROADWAY
STE 1060
PORTLAND, OR 97205

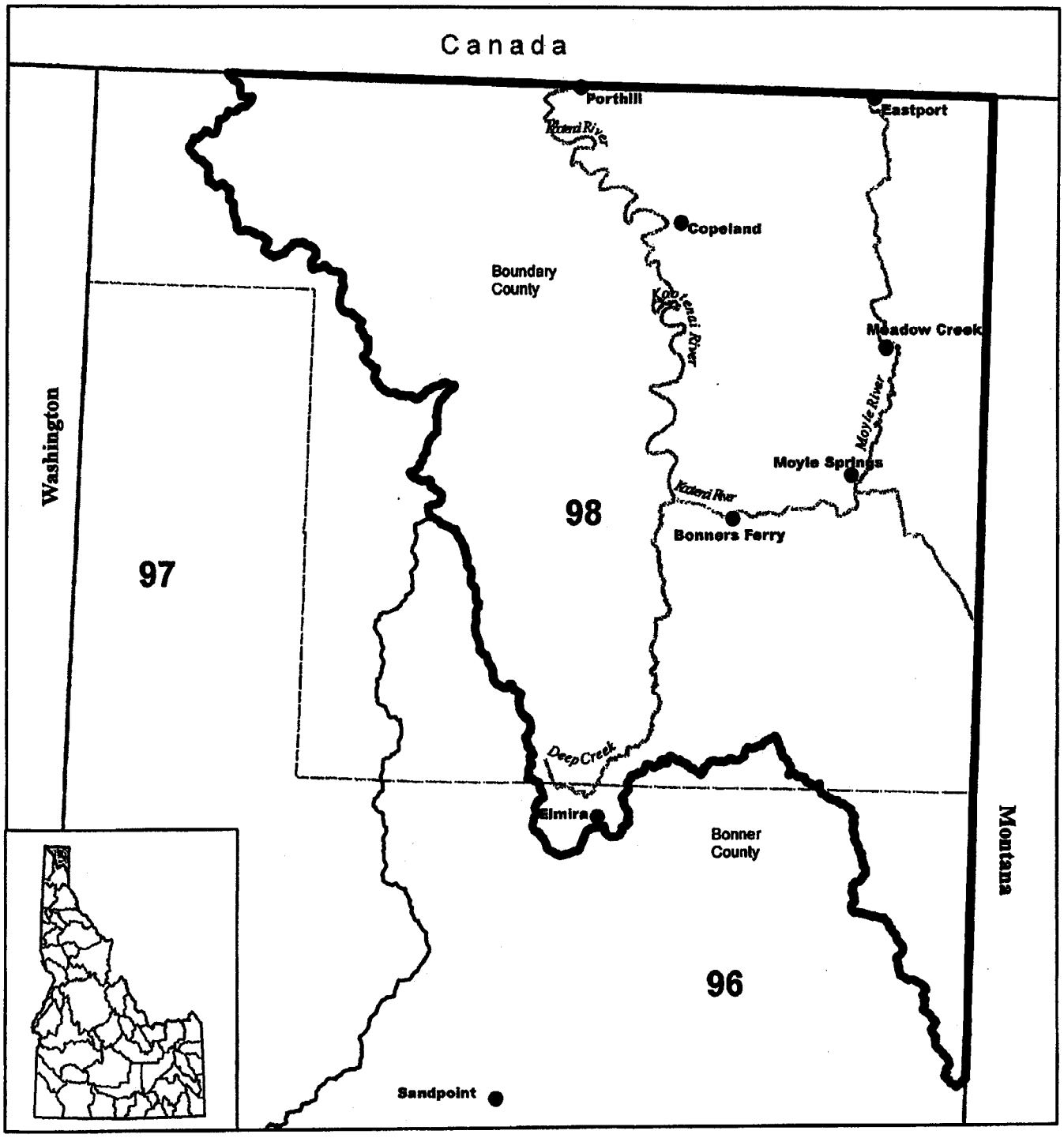
U S DEPARTMENT OF JUSTICE
ENVIRO & NAT'L RESOURCES DIV
PO BOX 7611
BEN FRANKLIN STATION
WASHINGTON, DC 20044-7611

CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 83720
BOISE, ID 83720-0010

IDAHO DEPARTMENT OF WATER RESOURCES
PO BOX 83720
BOISE, ID 83720-0098

Valerie McCoy
Chief Deputy Clerk

Kootenai River Basin Water System



Legend

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

0 2.75 5.5 11 16.5 22 Miles

N W E S

EXHIBIT

1

DISTRICT COURT - KRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 6 2026

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 KOOTENAI RIVER BASIN WATER SYSTEM	)	**Case No.: 89576**
	)	**ORDER ESTABLISHING PROCEDURES FOR THE ADJUDICATION OF *DE MINIMIS* DOMESTIC AND STOCKWATER CLAIMS**

Pursuant to the *Memorandum Decision on Petition to Commence Kootenai River Basin Adjudication*, the *Memorandum Decision on Optional Deferral Process* and the *Commencement Order for the Kootenai River Basin Adjudication* entered in the above-captioned matter; the following procedures are ordered for Case No. 89576, *In Re: The General Adjudication of the Rights to the use of Water from the Kootenai River Basin Water System*:

DEFERRAL PROCEDURE FOR *DE MINIMIS* DOMESTIC AND STOCKWATER CLAIMS

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.

Users of D&S water rights may elect to file a Notice of Claim at the time of commencement of the Kootenai River Basin Adjudication or defer (postpone)

EXHIBIT 2

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 pursuant to Idaho Code § 42-1409 and pay any fees as per 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 pursuant to Idaho Code§ 42-607 and/or before an application for change of the water right may be filed with IDWR (Idaho Code§ 42-222).

D&S water right holders who choose to delay filing on their D&S water rights and who wish to obtain an adjudicated water right will be required to file a Motion for Determination of the Use ("Motion"), with an attached Notice of Claim. 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, the claimant must serve the Motion and Notice of 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 may object to a D&S 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 of Claim. 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 district court stating whether the Director will examine the 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, to be paid by the claimant, for examination of the claim and preparation of the report. The notice will also include the Director's approximation of time for filing the report. Before the Director files the report, the D&S claimant shall pay the balance ofthe Director's costs or be refunded by the Director for any unused 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 pursuant to 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. A 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.

Appeal of any order or decree 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.

IT IS SO ORDERED

DATED: March 6, 2026

ERIC J. WILDMAN
Presiding Judge
Kootenai River Basin Adjudication

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.

DATED: March 6, 2026

ERIC J. WILDMAN
Presiding Judge
Kootenai River Basin Adjudication