

# Western States Adjudication Conference

Seattle, Washington, October 9-11, 2006

## Managing an Adjudication Outcomes and Accountability

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**Adjudication Bureau Chief**

**Idaho Department of Water Resources**



# IDWR Adjudications



- Adjudication – Pros and Cons
- SRBA – Success Story
- Idaho experience of what works

# What is a Water Right Adjudication in Idaho?

- Similar to most Western States
- Determination in State Court of the water rights in a given basin, with the aid of the Idaho Department of Water Resources as technical expert, based on claims of water right holders
- Individuals, companies, all levels of government and tribes are compelled to participate
- Provides the basis for water management

# Pros and Cons of Water Right Adjudications

## Pros

- Beneficial use rights are determined
- Unused water rights are culled
- Provides basis for conjunctive administration
- Federal and tribal rights are determined

## Cons

- Cost
  - Water users
  - Legislative time
  - Judicial time
  - Governmental agencies
  - Public – General fund
- Dormant problems are discovered

# Pros and Cons of Water Right Adjudications

## Pros (cont.)

- Dormant problems are resolved
- Enhances the opportunity to resolve interstate issues without compact negotiations
- Knowledge is power

## Cons(cont.)

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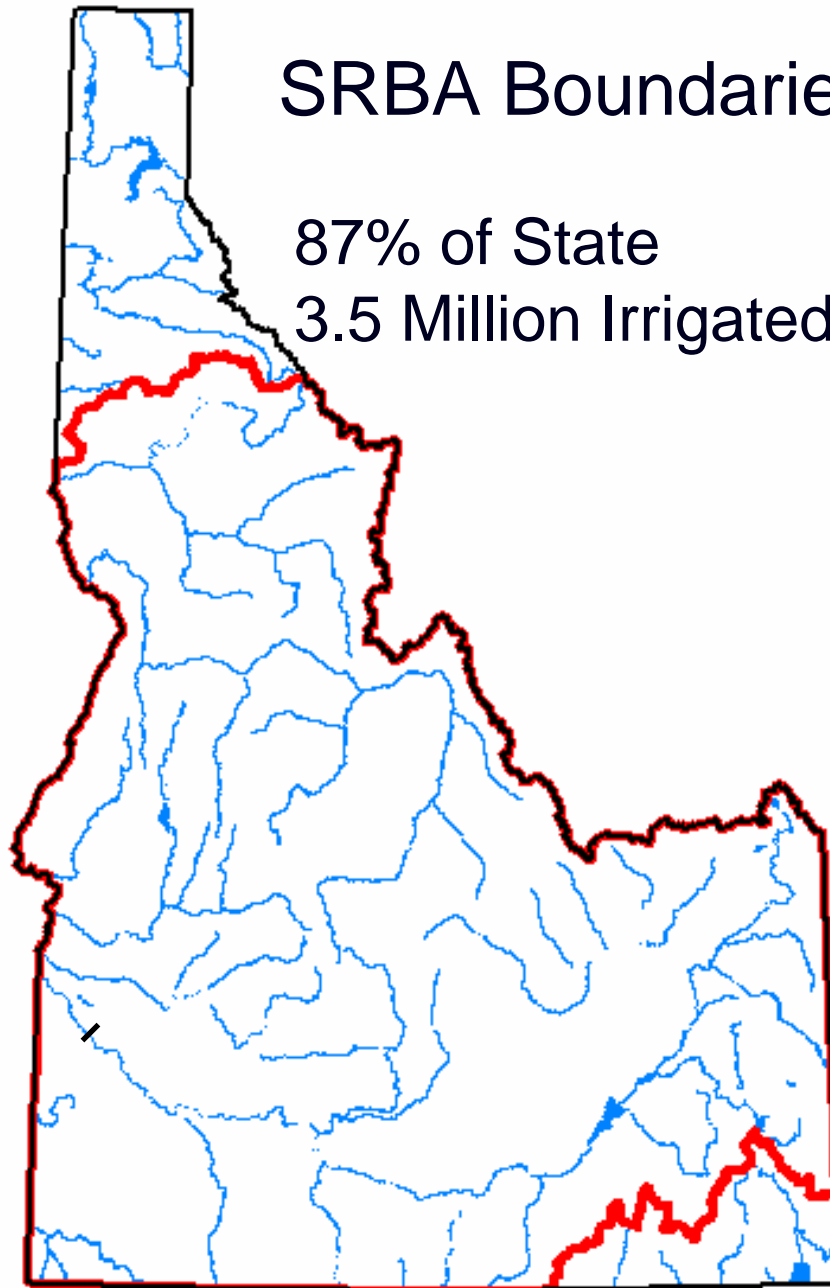
# The Snake River Basin Adjudication Process

# SRBA Boundaries

87% of State

3.5 Million Irrigated Acres

Swan Falls Dam



300 Miles

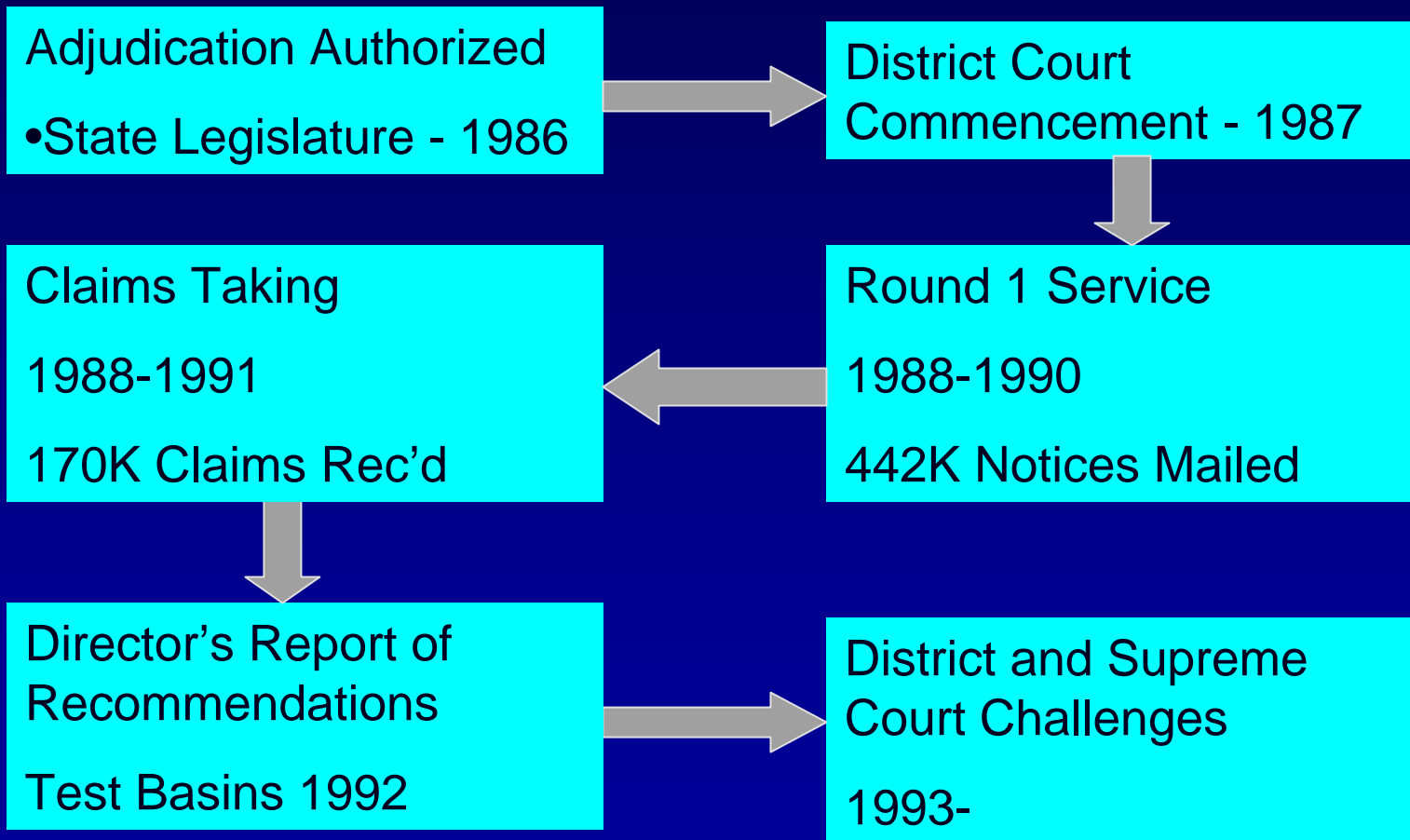


# History of the Snake River Basin Adjudication (SRBA)

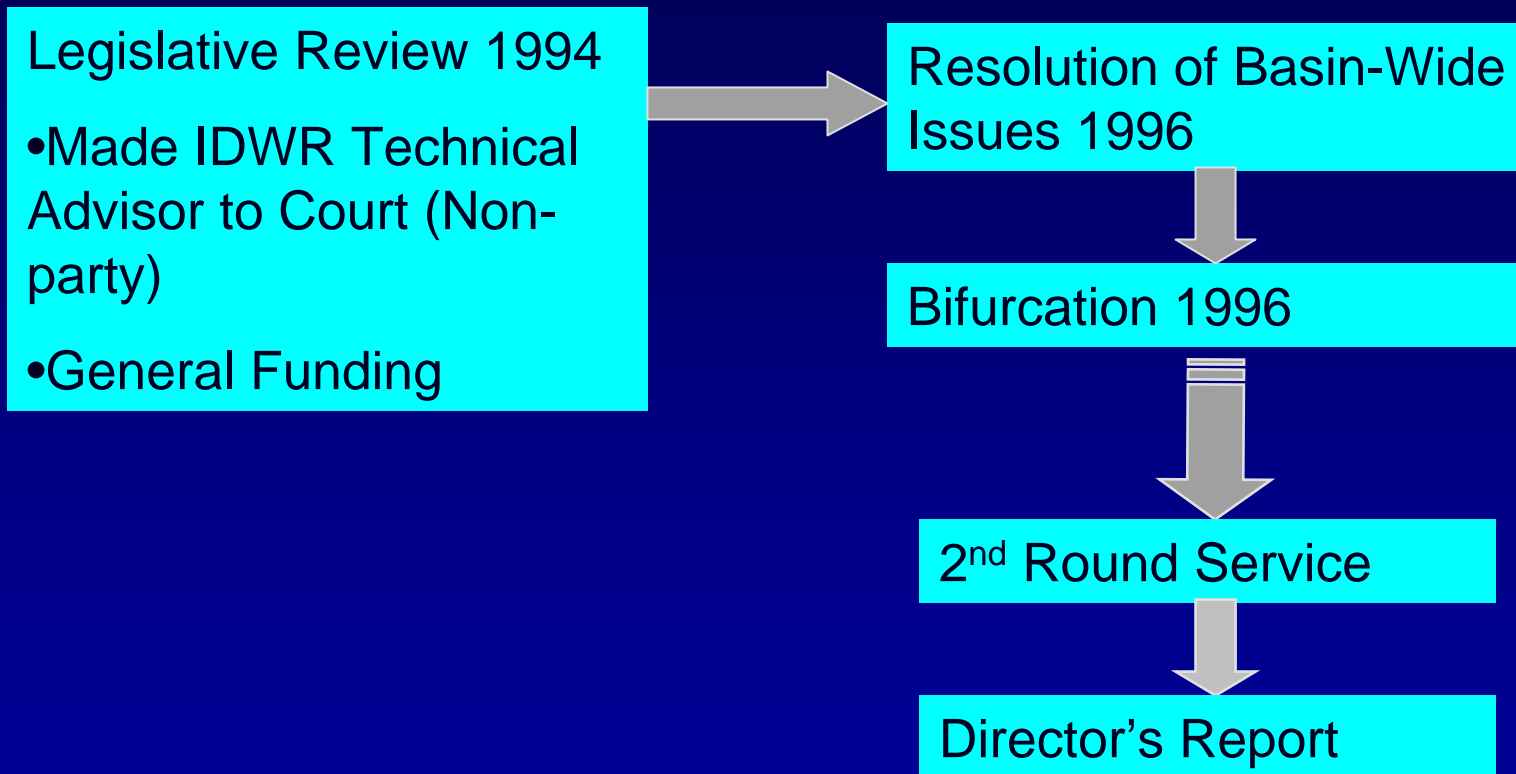
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- 1982 Swan Falls Decision
- 1984 Swan Falls Agreement Between Idaho Power Company and the State, Ratified by the 1985 Legislature
- Provision of Agreement Called for Comprehensive Identification of all Existing Uses of Water -- SRBA

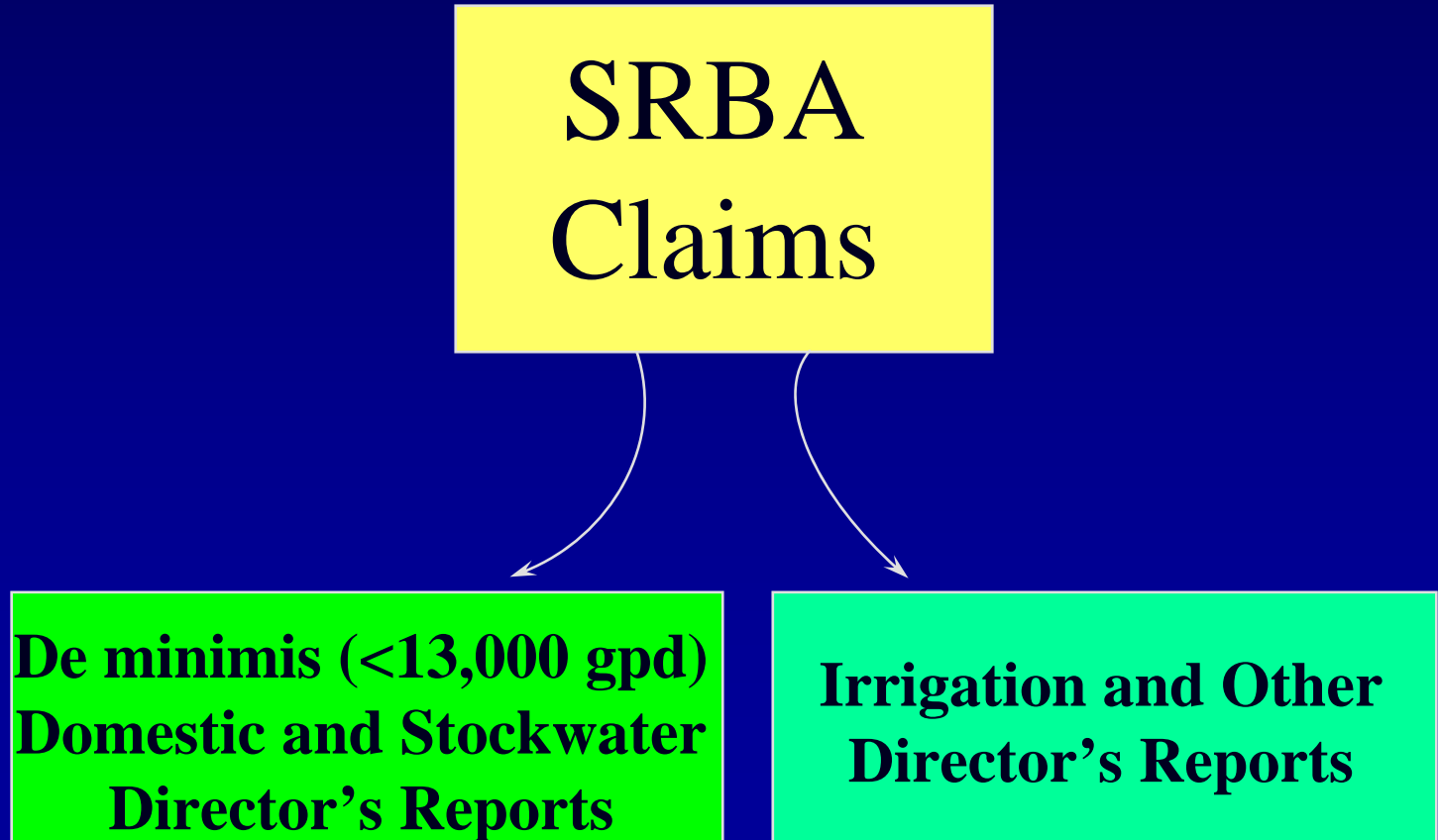
# Snake River Basin Adjudication Process



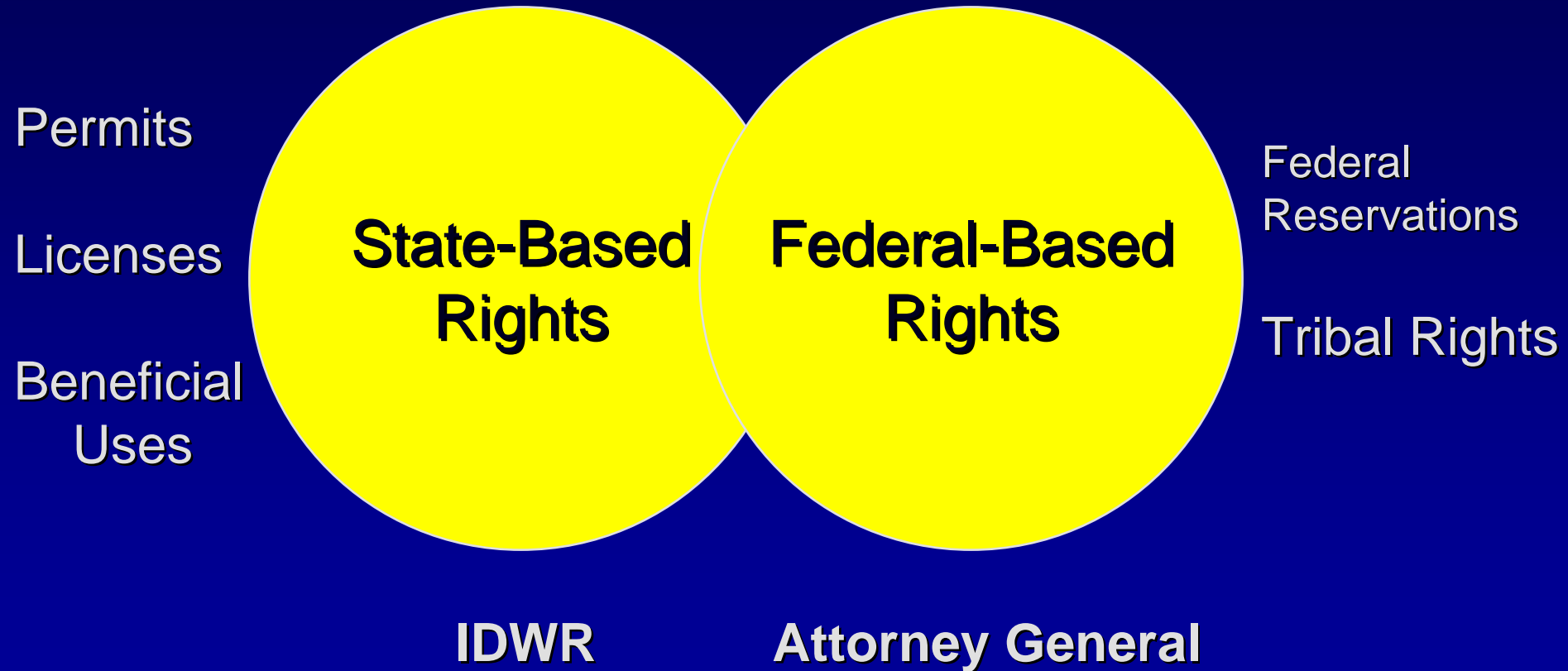
# Snake River Basin Adjudication Process (cont.)



# SRBA Claim Processing Bifurcation



# SRBA Responsibilities



# SUMMARY OF FEDERAL RESERVED INSTREAM FLOW CLAIMS

	Allowed	Disallowed or Dismissed	Pending
• Forest Service	7	3,760	0
• Fish and Wildlife Service	0	4	0
• Nez Perce/BIA	0	1,070	0
• Northwestern Shoshoni	0	27	0
• Shoshone Bannock Tribes	0	1,030	0
<b>Totals</b>	<b>7</b>	<b>5,891</b>	<b>0</b>

# SUMMARY OF FEDERAL RESERVED WATER RIGHT **CONSUMPTIVE USE** CLAIMS

- SHOSHONE-BANNOCK  
ON-RESERVATION CLAIMS **FINAL  
SETTLEMENT**
- DEPARTMENT OF ENERGY/  
INEEL **FINAL  
SETTLEMENT**
- NATIONAL PARK SERVICE
  - A. CRATERS OF THE MOON **FINAL  
SETTLEMENT**
  - B. YELLOWSTONE NATIONAL  
PARK **FINAL  
SETTLEMENT**
  - C. NEZ PERCE NATL MONUMENT **PENDING**

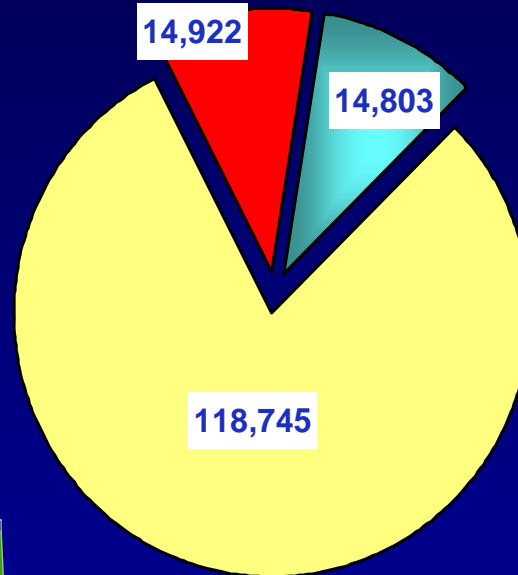
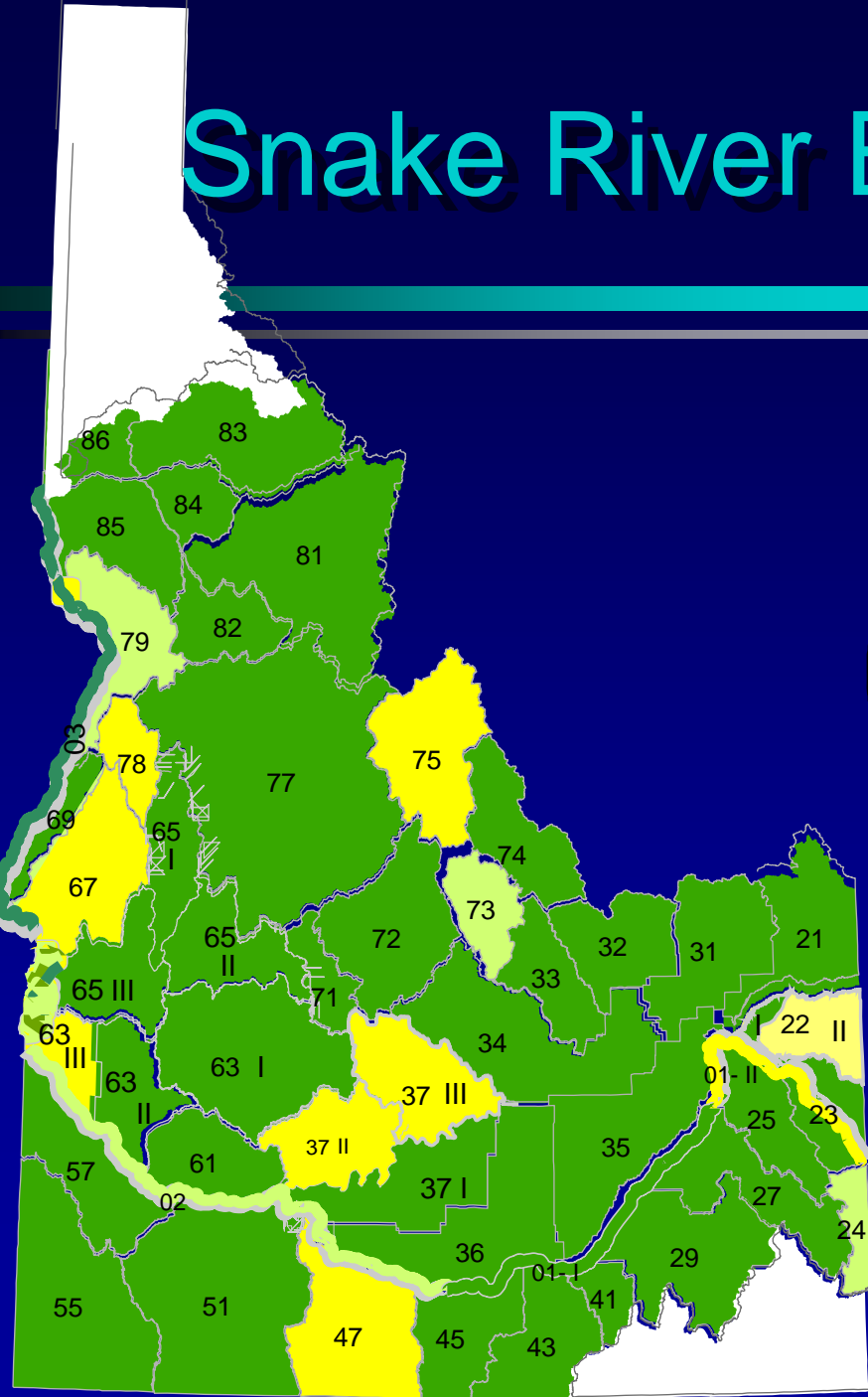
# SUMMARY OF FEDERAL RESERVED WATER RIGHT **CONSUMPTIVE USE** CLAIMS

- SHOSHONE-PAIUTE  
ON-RESERVATION CLAIMS **PENDING**
- NEZ PERCE ON-RESERVATION  
CLAIMS **SETTLEMENT  
SIGNED, PENDING**
- MOUNTAIN HOME AIR FORCE  
BASE **Final Decree  
Dismissing  
Federal  
Reserved  
Rights**

# SUMMARY OF FEDERAL RESERVED WATER RIGHT **CONSUMPTIVE USE** CLAIMS

- **CORPS OF ENGINEERS/  
DWORKSHAK** **PENDING**
- **CITY OF ROCKS** **FINAL  
SETTLEMENT**
- **Basin 63** Initial hearings  
**GSA, VA, USGS, USFWS, DOD** set Dec 6th
- **USFS/BLM Reserved Rights** Individual  
subcases

# Snake River Basin Adjudication

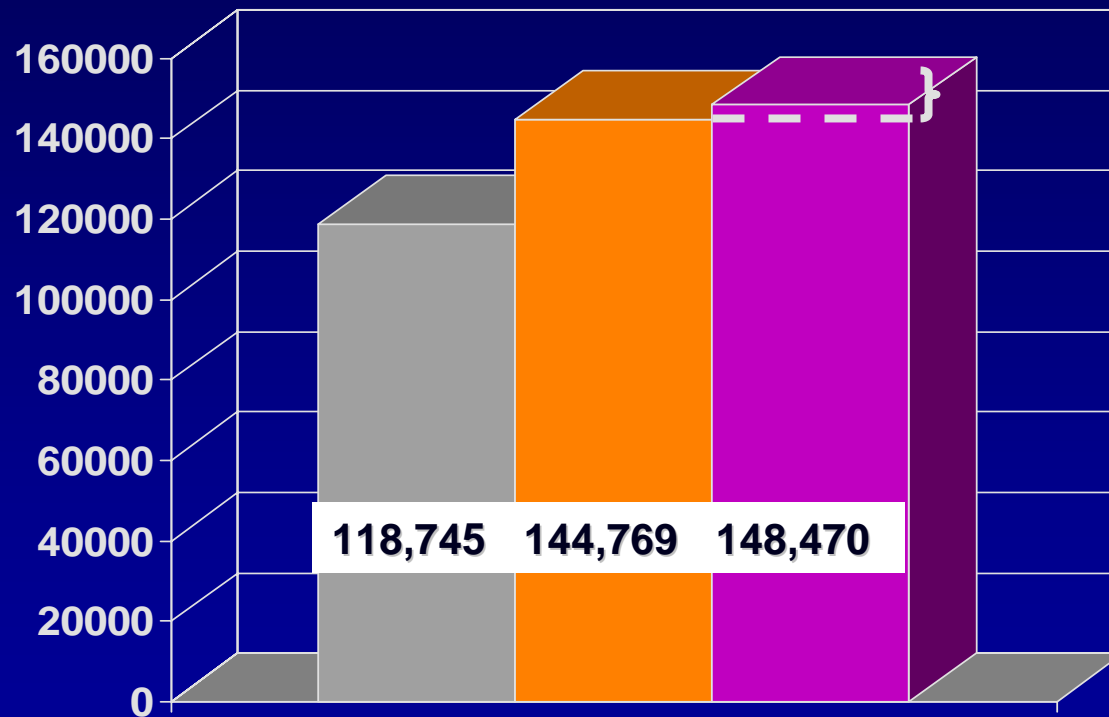


- Decreed
- Submitted, Awaiting Decree
- Being Readied for Submittal



# SRBA Present Status

## State-Based Rights



Remaining  
Recommendations:  
3/4 ready,  
1/4 underway

■ Decrees  
■ Recommendations  
■ Total Water Rights

Goal:  
Finalize remaining  
Recommendations  
by Dec 19, 2006

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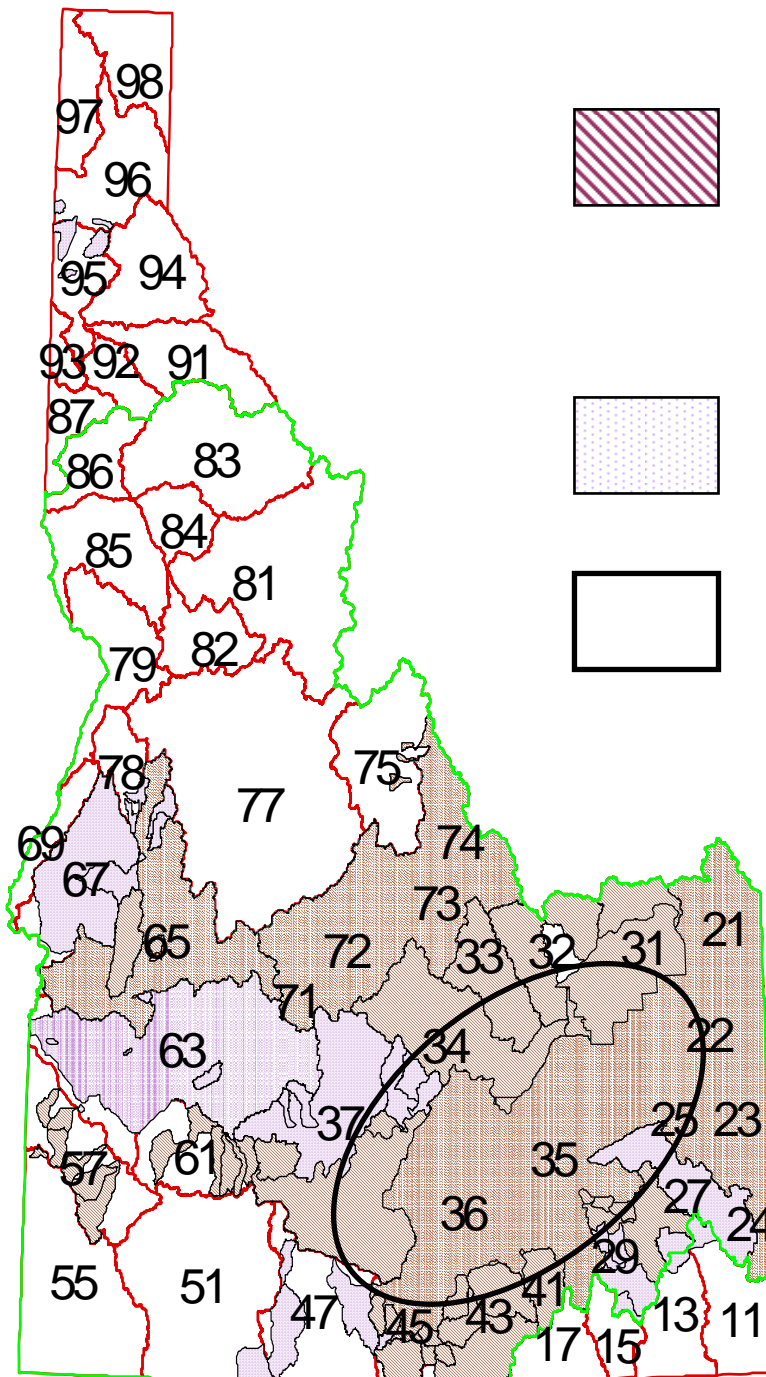
# Using What We Have Done

# Basins for Which all Objections are Resolved

- 23
- 32
- 33
- 37 Part 1 GW
- 43
- 55
- 57
- 61
- 65
- 71
- 72
- 81
- 82
- 83
- 84
- 86

# Basins with New or Renewed Water Districts

- 21
- 22 Part 1 GW
- 25
- 29
- 31
- 32
- 33
- 34
- 35
- 36
- 37 Part 1 GW & SW
- 43
- 45
- 51
- 55
- 57
- 61
- 65
- 71
- 72
- 74



**Partial Decreases and Director's Report used for Administration**

**Active Water District**

**East Snake Plain Aquifer**

# Accountability

- Water Right Holders

- Due Process
- Consistency

Transparency  
Finality

- Legislature/Citizens

- Effective
- Efficient

Timely  
Lasting value

- Court

- Predictability

Confidence

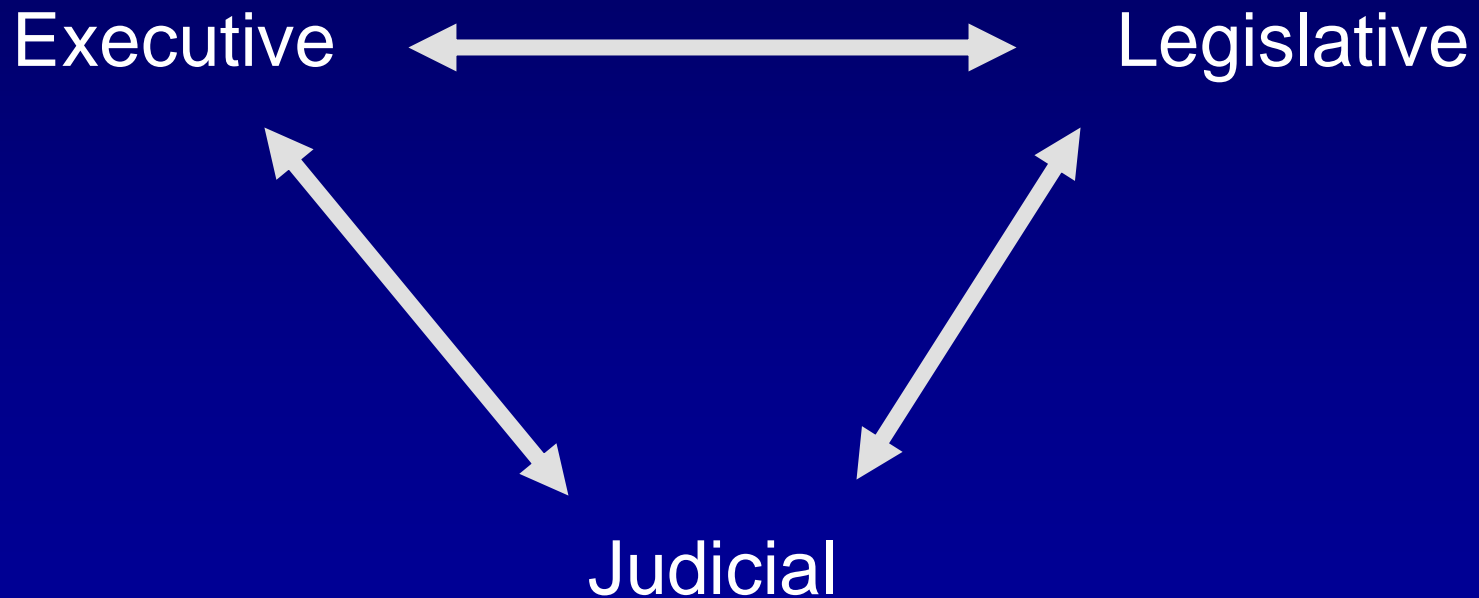
Primary Key to Success

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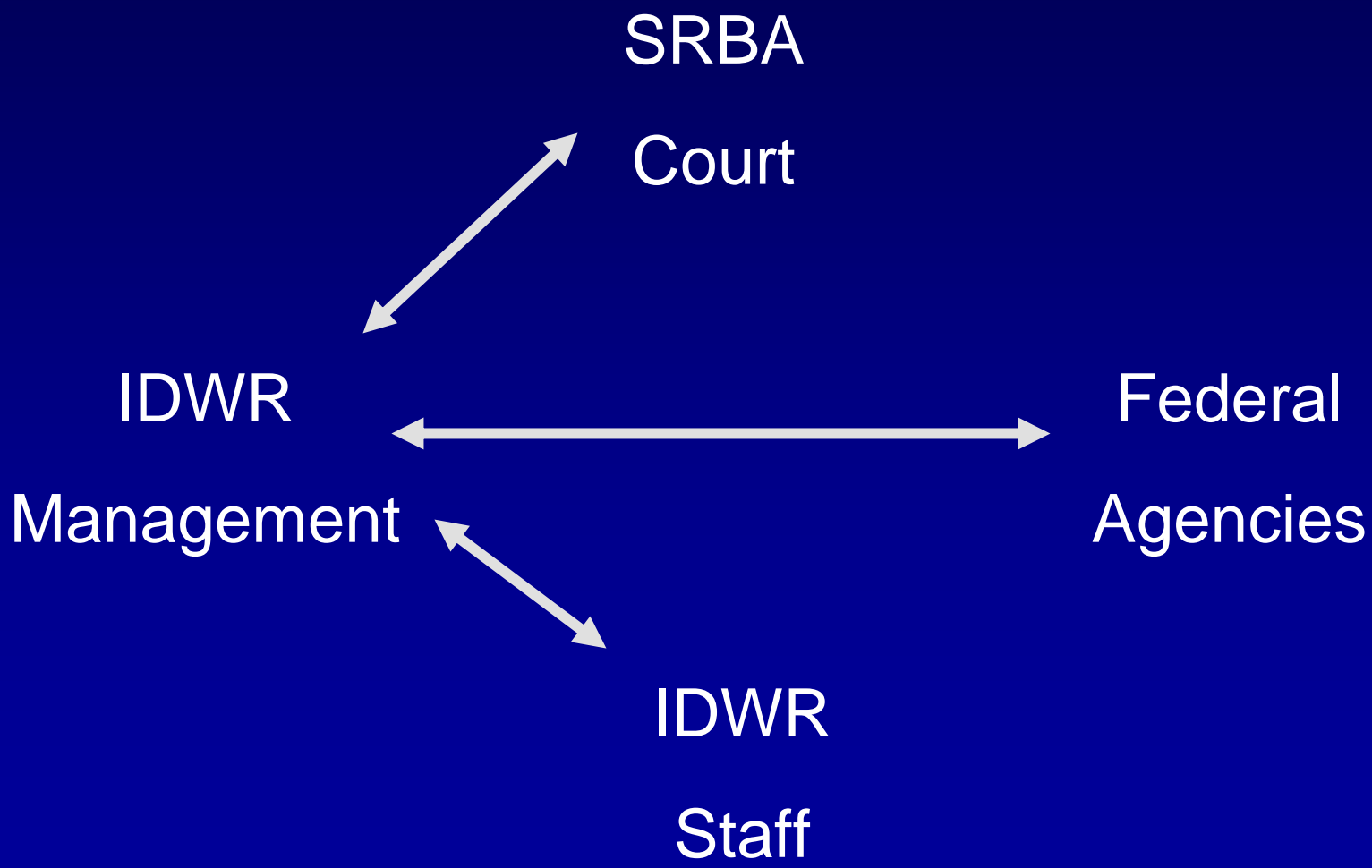
**Communication**

# Fundamental Communication Requirement

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# Important Requirements for Ongoing Communication



# Other Keys to Success

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- Demand for Adjudication
  - Must be from grass roots
  - Legislature responds to constituents
- Building support
  - User groups
  - Local governments
  - Chambers of commerce

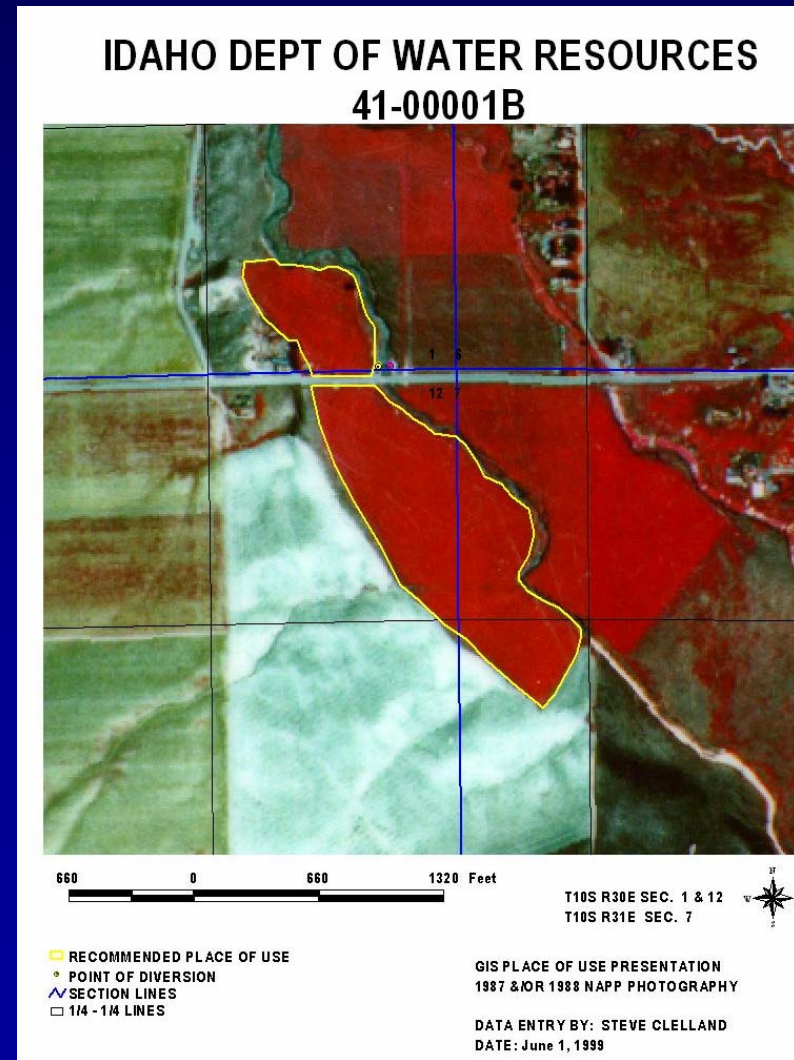
# Other Keys to Success

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- Maximize use of technology
  - GIS use by in-house IDWR technical and clerical staff (ArcView) is key to accuracy and productivity

# Other Keys to Success (cont.)

- Claimants have an opportunity to review, discuss, and provide input to IDWR recommendations **prior** to the filing of Director's Reports – this includes a color map of place of use for irrigation uses



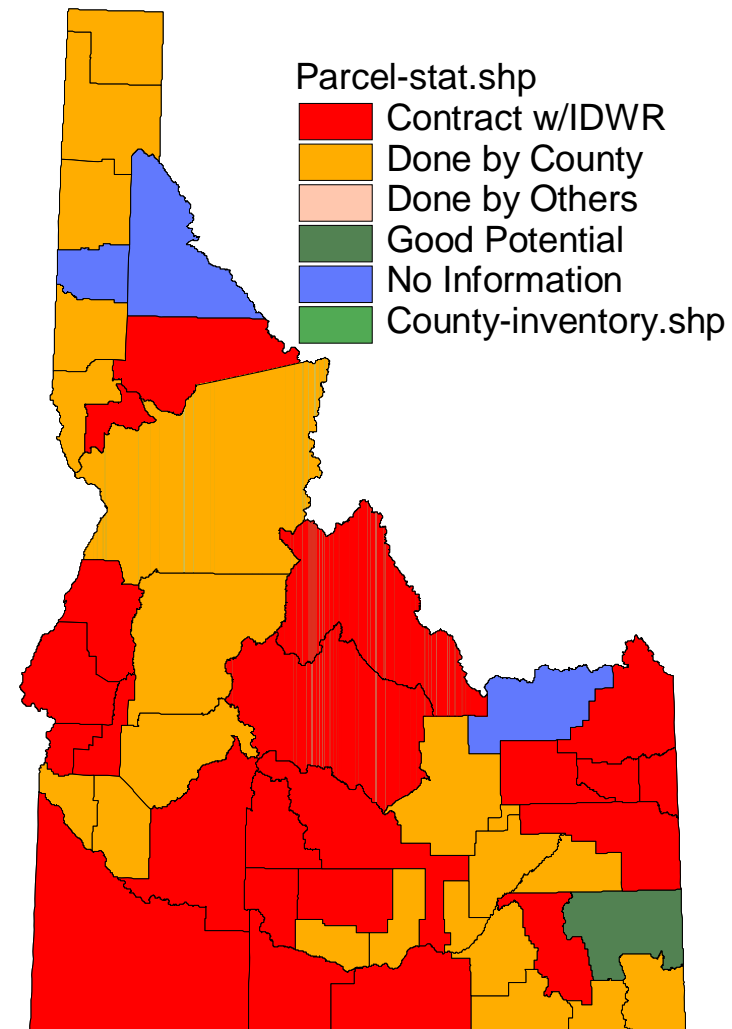
# Other Keys to Success (cont.)

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- Claimants can use the Internet to view their water rights and those of their neighbors, either tabularly or spatially

# Other Keys to Success (cont.)

- Use of digital property ownership information provided and updated periodically



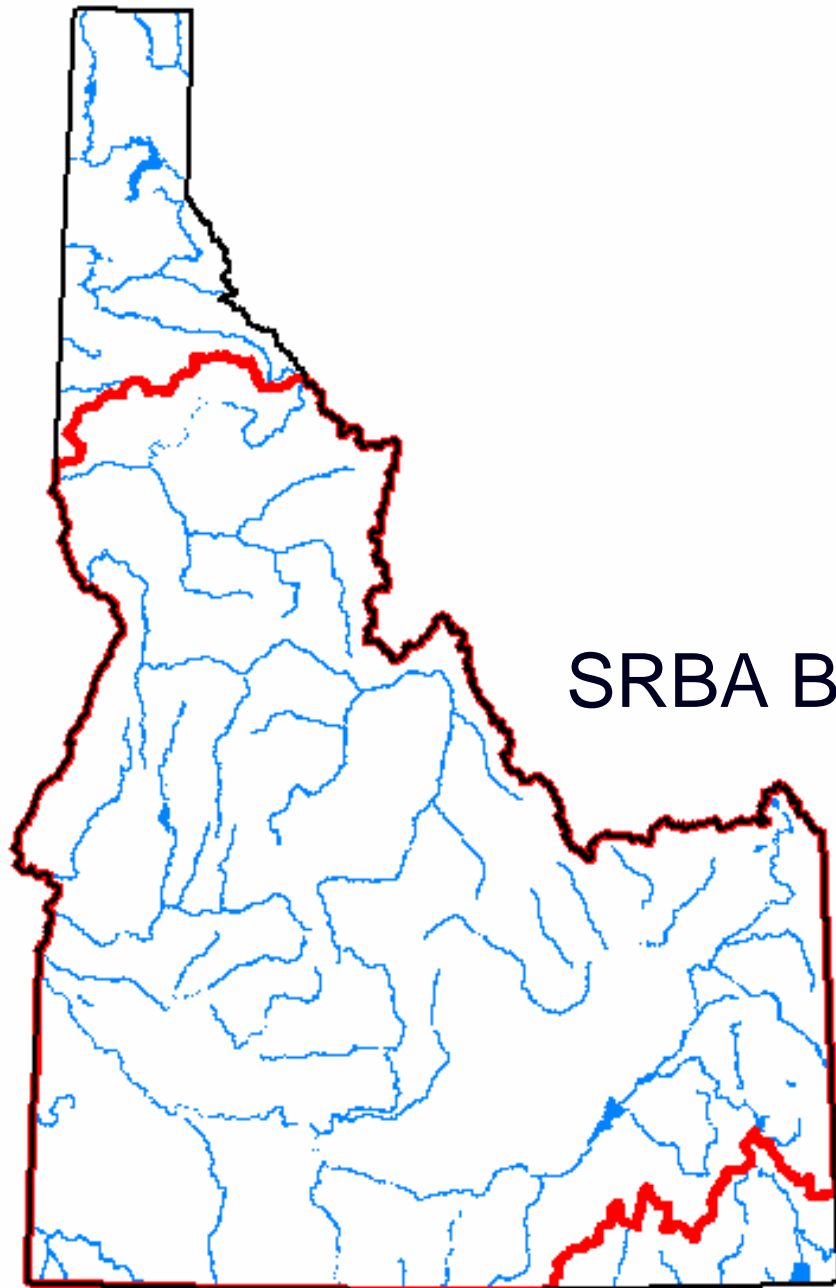
# Other Keys to Success (cont.)

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- Steady funding from the legislature
- Steady staffing (<10% annual turnover for all causes), growing a very experienced and capable workforce

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Would We Do It Again?



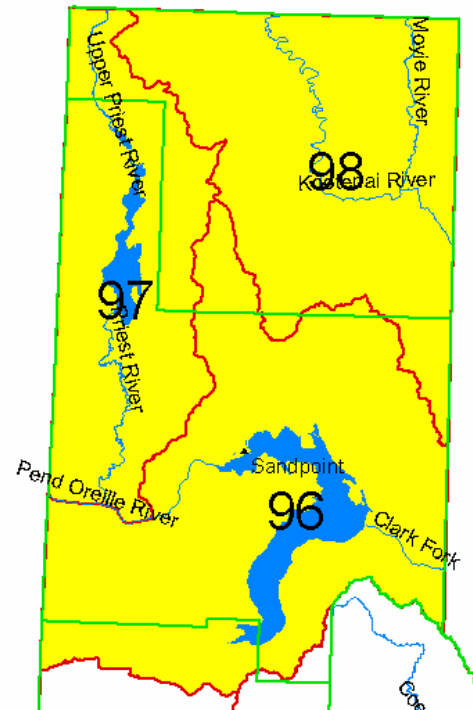
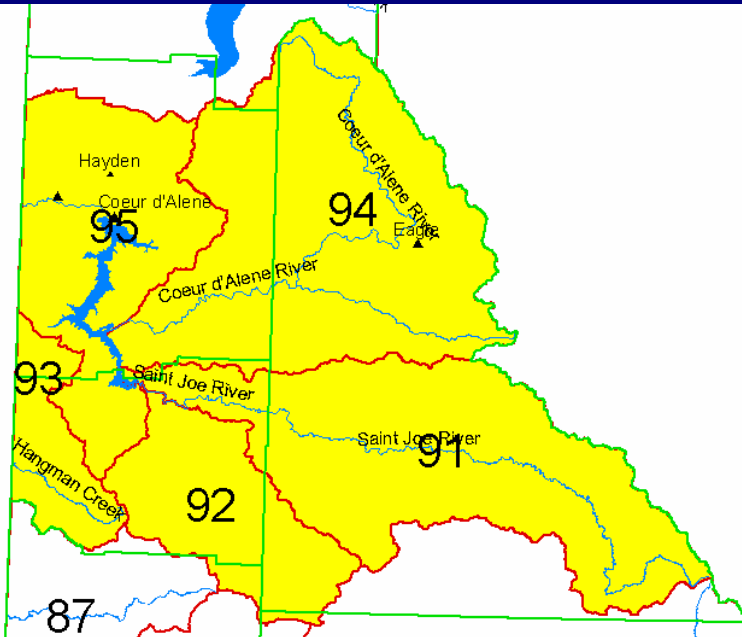
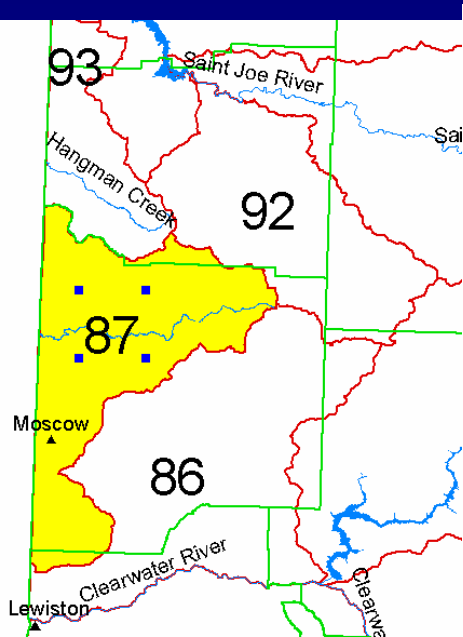
SRBA Boundaries

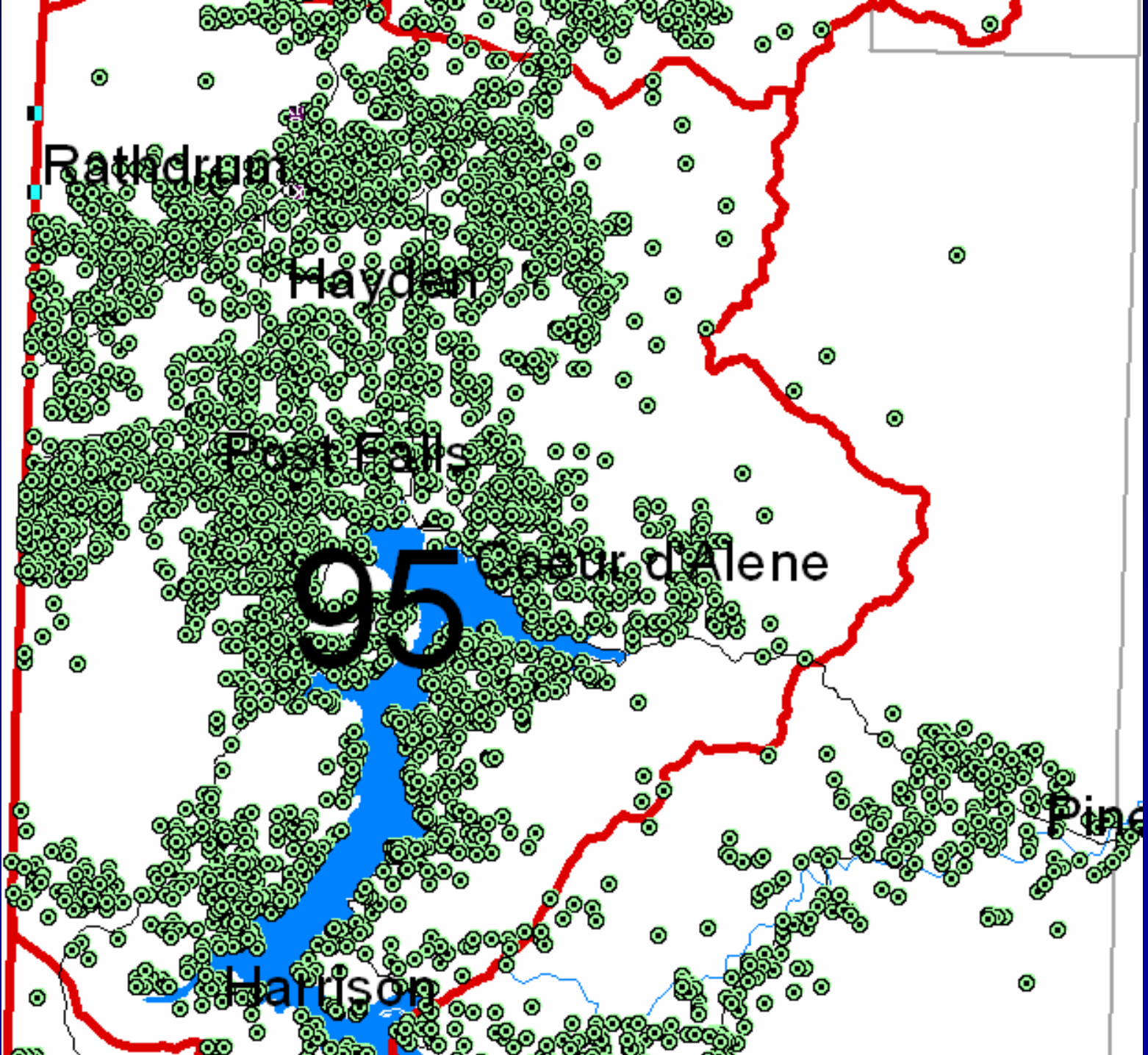
300 Miles

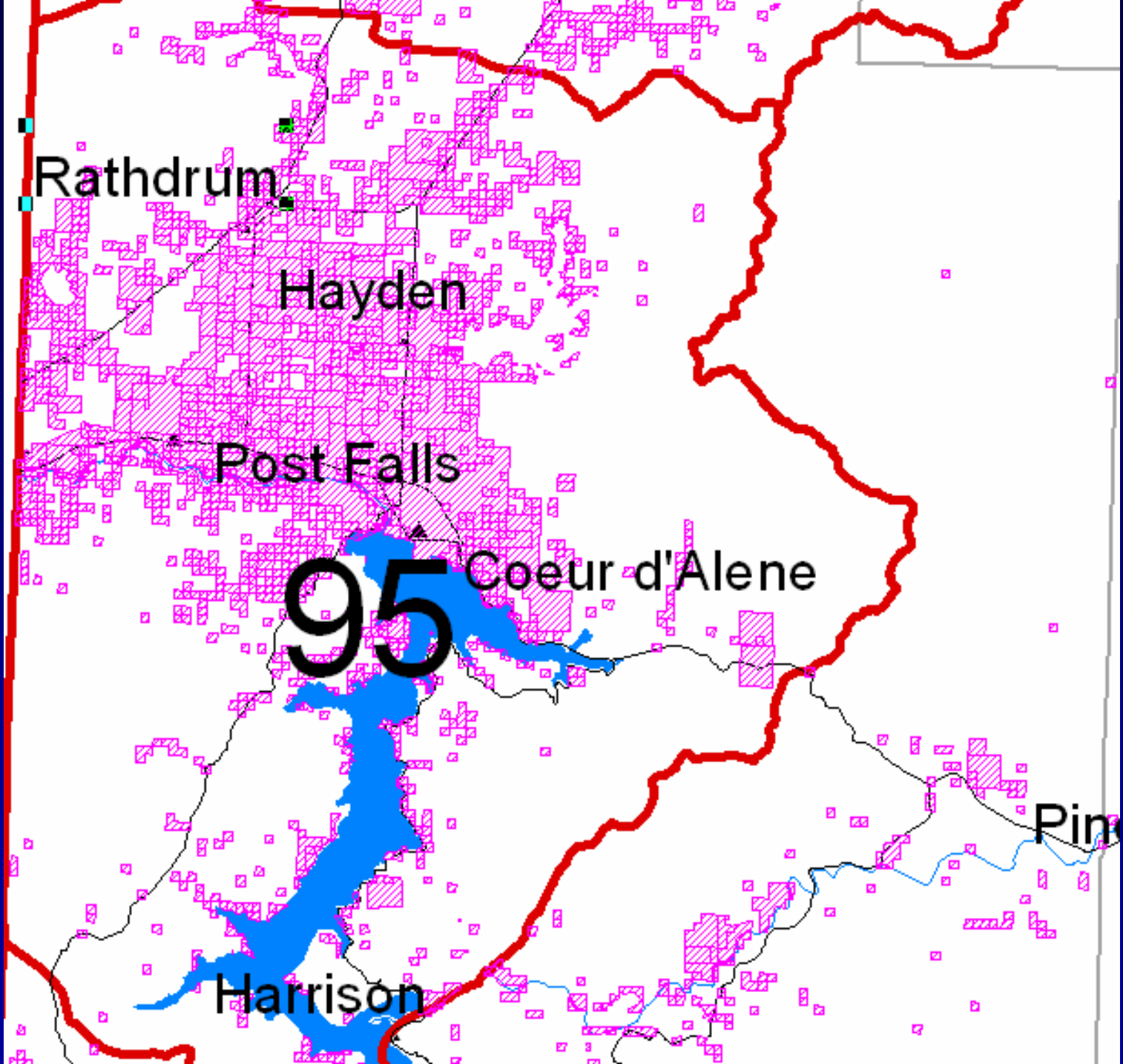


# Northern Idaho Adjudications

- House Bill 545 authorized the commencement of a general water rights adjudication for north Idaho







Rathdrum

Hayden

Post Falls

95

Coeur d'Alene

Harrison

Pine

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Looking ahead...

# Features of a 21<sup>st</sup> Century Adjudication

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- Tabular (words) and spatial (map) information for all water rights
- Internet filing capability and Internet access to all adjudication information
- Electronic filing of Court pleadings and Internet access to Court documents.

# Future Enhancements

- On-line claims taking, including:
  - Tax lot information
  - Map of the point of diversion and the place of use
  - Payment of the claim fee
  - Evidence of priority
- Faster turnaround
  - Fewer ownership changes
  - Lower total costs

# Predictions...

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- ❖ Water will be more valuable than it is today
- ❖ Water management and administration will become increasingly sophisticated
- ❖ Adjudication of water rights will be judged to have been a good investment

# Questions

