

**Final Meeting Record
Kootenai Valley Resource Initiative (KVRI)
Hybrid Board Meeting, Boundary County Annex Building
February 12, 2024 6:00 p.m.**

Board Members in Attendance:

Bob Blanford, Business & Industry
Chuck Roady, Landowner/Industry
Dave Bobbit, Idaho fish and Game
Dave Gray, Alt Social/Cultural/Historical
Ed Atkins, Corp. Ag/Landowner
Erik Olson, Soil/Conservation
Gary Aitken, Jr., KVRI Co-Chair
Kennon McClintock, Conservation/Environmentalist
Rick Alonzo, Mayor, City of Bonners, KVRI Co-Chair
Tim Bertling, Boundary County, KVRI Co-Chair

Agency/Others in Attendance:

Angela Hansen, Idaho Department of Water Resources (IDWR)
Barb Moore, Idaho Department of Fish & Game (IDFG)
Ben Robertson, Boundary County
Bill Lillibridge, Idaho Soil and Water Conservation
Bob Smathers, Idaho Farm Bureau
Caleb Davis, Office of Rep. Fulcher
Carson Watkins, IDFG
Chris Bachman, Yak Valley Forest Council
Christy Johnson-Hughes, U.S. Fish & Wildlife Service (USFWS)
Dave Wattenbarger, Private Citizen
Debra Henderson, Citizen
Don Jordan, Kootenai Valley
Eddie Whitcomb, USFWS
Eric Wildman, District Judge
Evan Roda, IDWR
Frank Edelmann, IDFG
George Gehrig, Citizen
Jake Garringer, Governor Little's Office
John O Conner, Local Land Owner
Kierstin Cox, Kootenai Tribe of Idaho (KVRI) Reporting Secretary
Lacey Rammell-O'Brien, Office of the Attorney General, IDWR
Leon Basdekas, U.S. Army Corp. Engineers (USACE)
Mark Sauter, Idaho State Representative
Mathew Weaver, Director of IDWR
Matt Wiggs, HDR Engineering
Michelle Richman IDWR
Mike Klaus, City of Bonners Ferry
Robert Akins, IDFG
Sandi fisher, USFWS
Shelley Keen, IDWR
Theresa Wheat, KTOI, KVRI Facilitator
Tim Dougherty, Idaho Forest Group
Tim Gilloon, U.S. Forest Service (USFS)
Wally Cossairt, Boundary County
William Barquin, KTOI

Shelley Keen, Deputy Director for the Idaho Department of Water Resources (IDWR) was the first to present. Shelley opened by expressing his appreciation for the opportunity provided by KVRI to discuss

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this pivotal issue and shared his enjoyment of the region's natural beauty, highlighting the value of stepping away from Boise to appreciate the scenic valley.

Shelley clarified the purpose of their visit was not to announce new adjudications, but to engage the community in a dialogue about potentially initiating water rights adjudication in the Kootenai River Basin. Reflecting on a previous visit in 2019, he noted the consensus at that time was that the timing was not yet right for adjudication due to, other priorities and concerns about disrupting established collaborative relationships. However, with the Northern Idaho Adjudications nearing completion and considering the ongoing population growth and its impact on water resources, Shelley suggested it might be time to revisit this discussion.

The Deputy Director presented compelling data to illustrate the increasing demand for water rights, referencing the significant number of water right filings and permits issued since 2019. This information underscored the growing pressures on water resources, not only on large rivers and lakes but also on smaller streams and groundwater sources critical for everyday use and agriculture. Shelley emphasized the principle of "first in time, is first in right" within Idaho law and the role of adjudication in establishing the priority of water rights, which are considered property rights.

Shelley highlighted the Department's efficiency in handling adjudications in other basins and expressed concern that delaying the process in the Kootenai River Basin could result in higher costs and less experienced personnel when the adjudication eventually proceeds. He advocated for proactive adjudication to avoid being forced into the process by major disputes, suggesting that the community's current positive working relationships could facilitate a smoother adjudication process.

The presentation also delved into the reasons behind the pursuit of water rights adjudication across Idaho for decades. Shelley outlined the benefits, including confirming property rights, aiding community planning for growth, ensuring the state's water rights are quantified and protected against interstate competition, and allowing state courts to determine water rights involving federal claims. He explained the adjudication process involves collaboration across all three branches of state government, from authorization and funding by the legislature to administration by the judiciary, with the Department serving as a neutral technical assistant to the Court.

Shelley detailed recent outreach efforts and announced plans to begin monthly office hours in Bonners Ferry, enhancing accessibility for residents to discuss water-related issues without needing to travel to Coeur d'Alene. He invited community feedback on the timing for water rights adjudication and sought to address concerns, specifically clarifying that domestic well owners are unlikely to face new measurement and payment requirements for water use in the basin.

In closing, Shelley emphasized the importance of community input and the potential for the KVRI and other local collaborations to support a smooth adjudication process. He reassured attendees that while the process is complex and could take years to initiate accomplish, the Department is committed to a collaborative and informed approach to managing Idaho's water resources responsibly and consistent with Idaho law.

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Judge Eric Wildman, presiding over statewide water adjudications and administrative appeals from the IDWR, offered insights into the water rights adjudication process and the importance of proceeding with these actions in a timely manner. Speaking from his experience and the backdrop of ongoing adjudications, Judge Wildman reinforced the points made by Shelley Keen regarding the urgent need for adjudication due to population growth and increasing water demand, as well as the importance of establishing a comprehensive inventory of water rights for effective management and dispute resolution.

Judge Wildman highlighted the logistical aspects of conducting adjudications from Twin Falls, emphasizing the use of video teleconferencing to bridge distances and ensure that trials could be conducted locally as needed, thus removing the need for parties to travel to Twin Falls. He pointed out the efficiency and advantages of leveraging the existing institutional knowledge, procedural rules, and specialized case management software developed through ongoing adjudications. This infrastructure, Judge Wildman noted, would be lost once the statewide adjudication process is completed, making any future adjudication efforts more challenging and costly to initiate.

The Judge elaborated on the fundamental reasons for water rights adjudication: establishing a clear inventory of existing rights to manage new applications effectively, resolving disputes, facilitating conjunctive management of ground and surface water, and ensuring certainty in water rights for economic development. Judge Wildman stressed that in areas like Southern Idaho, where water has been fully appropriated, the certainty provided by adjudication is crucial for businesses looking to acquire water rights, as it informs them of the availability and priority of these rights in times of shortage.

In closing, while emphasizing that the court does not take a policy stance on adjudication, Judge Wildman explained the benefits of proceeding with the adjudication process while the current infrastructure and expertise are still in place. Delaying the process could result in significant inefficiencies and increased costs. He concluded by expressing his readiness to answer questions about the adjudication process, underlining his role in providing clarity and support as Idaho navigates the complexities of managing its water resources.

Matthew Weaver, newly appointed as the Director of IDWR, shared his perspectives and priorities at the meeting. With a decade of experience as a deputy director and previous engagements in Boundary County, Weaver emphasized his commitment to adjudication as a critical function of the Department. He highlighted this focus by noting the presence of significant departmental representation and a member of the Water Resource Board from the region, underscoring the collective support for the adjudication process.

Matthew outlined five recurring priorities that he discussed with the Governor and water users across the state, placing adjudication at the forefront due to its importance in managing water rights and resources effectively. He stressed that proper water rights administration in priority can only occur post-

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adjudication, necessitating the creation of water districts within adjudicated basins. This process is vital for the Department to manage resources and collaborate with communities on sustainable water use.

Reflecting on the Department's achievements, Matthew mentioned the completion of the Snake River Basin Adjudication (SRBA) in 2014, covering approximately 158,000 water rights, and the progress made in Northern Idaho adjudications with over 10,000 claims processed. He also noted the initiation of adjudication in the Bear River Basin and highlighted that the Kootenai Basin remains the only major basin in Idaho yet to be authorized for adjudication.

Mr. Weaver conveyed a sense of urgency, suggesting that while immediate action may not be necessary, the window for initiating adjudication in the Kootenai Basin is narrowing as other processes conclude. Despite the lengthy nature of adjudication, potentially spanning 8 to 10 years, he affirmed his dedication to seeing the process through and stressed the importance of collaboration between the Department, water user community, and the courts.

Concluding his remarks, Matthew expressed his willingness to engage with the community and address questions, emphasizing that the Department seeks to move forward with adjudication only with the community's support and recognition of its value. This approach reflects his commitment to transparent and cooperative water resource management in Idaho.

Gary Aitken Jr. inquired about what initiates the adjudication process for regions like the Kootenai Basin, which has not yet undergone adjudication. In response, it was clarified that the process begins with the creation of a law. This law must be passed through a legislative session to authorize adjudication for the basin in question. Currently, all basins in Idaho except for the Kootenai have statutory authorization for adjudication. To include the Kootenai River Basin, the existing statute would need to be amended, which could be initiated by the Department of Water Resources with the Governor's approval. Shelley Keen suggested that the earliest this process could begin would be in 2025, acknowledging that the current legislative session might be too late for such an initiative. Additionally, local legislators could also introduce or co-sponsor the necessary legislation. The period leading up to the potential 2025 legislative action would be used for further outreach and engagement with water users in the valley, emphasizing the importance of community involvement and awareness in the lead-up to adjudication authorization.

Lacey Rammell-O'Brien Deputy Attorney General, answered a question on transboundary water rights issues, particularly focusing on the complexities introduced by international boundaries, such as with Canada. She acknowledged her limited expertise in these legal matters and passed the conversation to Judge Wildman for a more detailed explanation. Judge Wildman, bringing in his experience from the Snake River Basin Adjudication (SRBA) and other interstate water communications, elaborated on the process of adjudicating water rights that cross state or national boundaries.

Judge Wildman clarified that water rights are defined by statutory elements such as quantity, place of use, season of use, and point of diversion, among others. For any water right elements located within the State of Idaho, the state would proceed with adjudication, even if some elements of the right extend into adjacent states or countries. He highlighted that while the adjudication might not cover the entire

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water right if parts of it lie outside Idaho, it's crucial for the state to adjudicate the aspects over which it has jurisdiction.

Drawing from his experience, Judge Wildman mentioned that interstate compacts, like the one for the Bear River involving Idaho, Utah, and Wyoming, address some transboundary issues. However, for the purpose of managing Idaho's water resources effectively, the state must inventory and confirm its water rights, adjudicating those elements within its jurisdiction. He noted that there are instances, such as in the SRBA, where water rights span across state lines, with parts in Utah or Nevada and Idaho. For administrative purposes within Idaho, the Department of Water Resources needs to recognize and manage the use of water consistent with the rights established within the state's borders.

In the context of potential disputes involving transboundary water rights, having the elements that fall under Idaho's jurisdiction confirmed through adjudication provides a foundational basis for addressing any interstate or international disputes. Judge Wildman affirmed that despite the novelty and challenges of dealing with international boundaries, such as with Canada, Idaho would proceed to adjudicate those parts of water rights over which it has authority, ensuring proper management and administration of water resources within the state.

Updates:

Christy Johnson-Hughes, U.S. Fish and Wildlife Service (USFWS), announced her departure and expressed gratitude for the opportunity to work with the community, highlighting the valuable experience gained from witnessing effective collaboration. Sandi Fisher will act in her stead following her exit. Christy briefly mentioned the recent success of the IEO summit, noting its high attendance and positive representation of KVRI by Chip Corsi, who effectively conveyed the reasons behind its success. She concluded by stating there were no new updates regarding Grizzly Bear efforts at the moment, and wished everyone well as she moves on.

Carson Watkins, provided an update on behalf of the Idaho Department of Fish and Game. He detailed the department's efforts to update fishing rules and Fisheries Management Plans. This initiative includes hosting public meetings to solicit community input, with an open house scheduled in Coeur d'Alene. In addition, the department will host a community gathering in Priest River on February 22nd. These meetings are designed to facilitate discussions on proposed fishing regulations and foster a collaborative atmosphere.

Watkins also shared insights into the department's wildlife monitoring activities, specifically mentioning the placement of 30 collars on big game in the Upper North Fork area to monitor their survival and investigate causes of mortality. Additionally, 20 moose have been collared—10 in the Selkirks and 10 in Unit 6—to study their survival patterns and habitat utilization, with a focus on calves and cows.

A particular concern addressed was the potential threat of Chronic Wasting Disease (CWD) after a symptomatic deer was euthanized in the Three Mile area. Given the proximity to CWD-positive regions, this raised alarms. However, Watkins was relieved to report that the deer tested negative for CWD,

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underscoring the department's commitment to vigilant monitoring and protection of Idaho's wildlife populations.

Upcoming Meetings for Sub-Committees: 10:00 – 11:30 a.m.

Grizzly Bear Sub-committee April 10, July 11, and October 21

Forestry Sub-committee: March 14, May 22, and October 30

TMDL Sub-committee: October 9

WAC Subcommittee: April 11

Next Meeting: The next meeting is scheduled for March 18, 2024, 6:00 p.m.

Meeting was called at 7:12 p.m.

Meeting Record Prepared by Kierstin Cox