

IN THE HOUSE OF REPRESENTATIVES  
HOUSE CONCURRENT RESOLUTION NO. 57

BY WAYS AND MEANS COMMITTEE

1 A CONCURRENT RESOLUTION  
2 STATING FINDINGS OF THE LEGISLATURE AND REQUESTING THAT THE GOVERNOR AND THE  
3 ATTORNEY GENERAL ENTER INTO NEGOTIATIONS WITH THE COEUR D'ALENE TRIBE  
4 TO RESOLVE ITS FEDERAL RESERVED WATER RIGHT CLAIMS.

5 Be It Resolved by the Legislature of the State of Idaho:

6 WHEREAS, it has been the policy of the Idaho Legislature to encourage  
7 negotiated agreements between federal reserved water right claimants and  
8 the State of Idaho; and

9 WHEREAS, the Coeur d'Alene-Spokane River Basin Adjudication (CSRBA)  
10 will involve consideration of numerous water rights and legal issues that  
11 may be capable of resolution without extensive and expensive litigation; and

12 WHEREAS, negotiation of federal reserved water right claims provides  
13 an opportunity for local participation in developing solutions tailored to  
14 the unique characteristics of the Coeur d'Alene-Spokane River Basin and its  
15 stakeholders; and

16 WHEREAS, the Second Regular Session of the Fifty-ninth Idaho Legisla-  
17 ture directed the Director of the Idaho Department of Water Resources to file  
18 a petition for the commencement of an adjudication "within the terms of the  
19 McCarran amendment, 43 U.S.C. section 666, of the water rights from surface  
20 water and ground water sources" in the Coeur d'Alene-Spokane River Basin;  
21 and

22 WHEREAS, the State of Idaho filed a petition for the commencement of a  
23 general adjudication of all rights "arising under state or federal law to the  
24 use of surface and ground waters from the Coeur d'Alene-Spokane basin water  
25 system and the administration of such rights," in the District Court for the  
26 Fifth Judicial District of the State of Idaho, in and for the County of Twin  
27 Falls on July 8, 2008; and

28 WHEREAS, the District Court for the Fifth Judicial District of the State  
29 of Idaho, in and for the County of Twin Falls issued its Commencement Order  
30 for the Coeur d'Alene-Spokane River Basin Adjudication, Case No. 49576, on  
31 November 12, 2008; and

32 WHEREAS, the United States has been joined as a party in the Coeur  
33 d'Alene-Spokane River Basin Adjudication; and

34 WHEREAS, the United States has filed claims on behalf of the Coeur  
35 d'Alene Tribe of the Coeur d'Alene Indian Reservation in the CSRBA; and

36 WHEREAS, representatives of the Coeur d'Alene Tribe of the Coeur  
37 d'Alene Indian Reservation have expressed their willingness to enter into  
38 full, frank and honest negotiations between the Coeur d'Alene Tribe and the  
39 State of Idaho, with an opportunity for participation by affected water  
40 users, to resolve the nature and extent of the tribe's reserved water rights  
41 within the CSRBA; and

42 WHEREAS, members of the Idaho Legislature from districts affected by  
43 the CSRBA have expressed unanimous support for negotiations.

1           NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Ses-  
2 sion of the Sixty-second Idaho Legislature, the House of Representatives and  
3 the Senate concurring therein, that we request the State of Idaho, by and  
4 through the Governor and the Attorney General, attempt to negotiate with the  
5 Coeur d'Alene Tribe of the Coeur d'Alene Indian Reservation to resolve the  
6 nature and extent of the reserved water right claims of the Coeur d'Alene  
7 Tribe for the Coeur d'Alene Indian Reservation.

8           BE IT FURTHER RESOLVED that there must be meaningful opportunity for  
9 good faith participation in the negotiation process by others holding valid  
10 existing water rights in the CSRBA, or representatives thereof.

11           BE IT FURTHER RESOLVED that the Governor and the Attorney General should  
12 report to the President Pro Tempore of the Senate and the Speaker of the House  
13 of Representatives regarding the status of negotiations and that the Pres-  
14 ident Pro Tempore of the Senate and the Speaker of the House of Representa-  
15 tives shall keep members of the Legislature informed about the negotiations.