

# Natural Resources Interim Committee

October 15, 2020



## Presenter

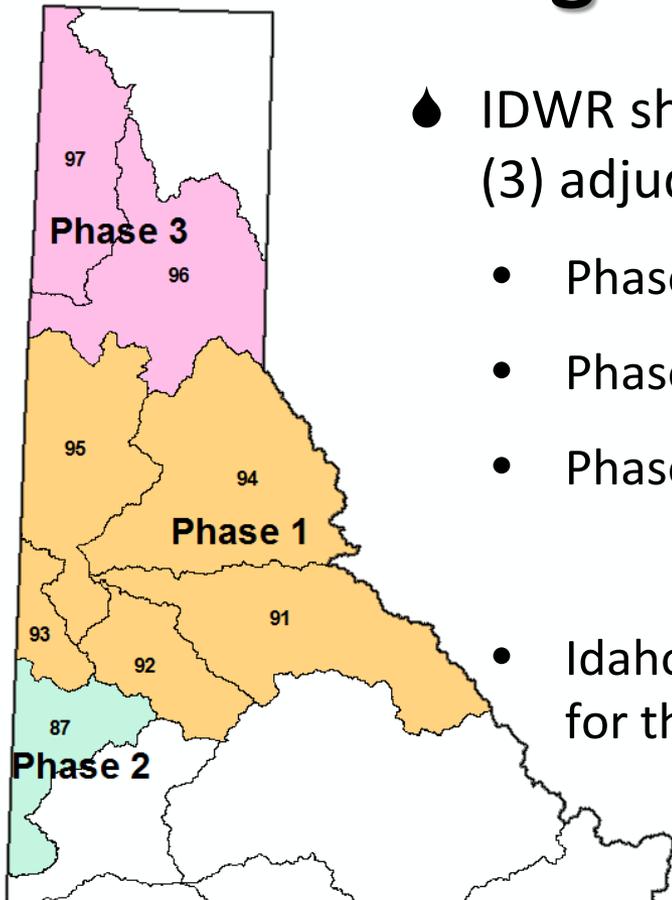
**Shelley Keen**  
IDWR Water Allocation  
Bureau Chief

## Presentation Topics



- Clark Fork-Pend Oreille Water Rights Adjudication
- Bear River Water Rights Adjudication
- Water Rights Program Update
- Questions and Comments

# Idaho Code § 42-1406B. Northern Idaho Water Rights Adjudications



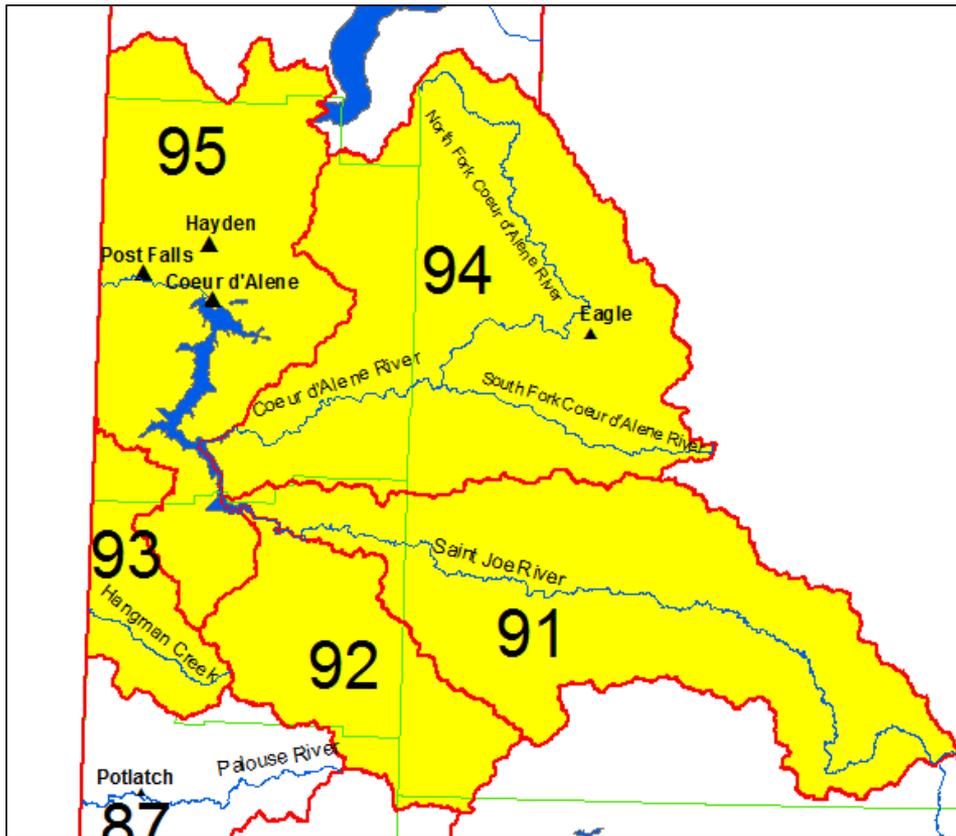
- IDWR shall petition the district court to initiate three (3) adjudications within the:
  - Phase 1 - Coeur d'Alene-Spokane River Basin (CSRBA)
  - Phase 2 – Palouse River Basin (PRBA)
  - Phase 3 – Clark Fork-Pend Oreille River Basin (CFPRBA)
- Idaho Code § 42-1414 – Claim filing fees the same as for the Snake River Basin Adjudication in 1987

# Issues Driving the Northern Idaho Adjudications

- Protection against competition for finite resources
  - Supplies are not always sufficient to meet demands
  - Competing priorities
- North Idaho population growth
- Confirming private property rights
- Only way to confirm beneficial use rights and statutory claims
- Recording water right changes
- Water sources are shared with downstream, out-of-state interests



# Phase 1 - Coeur d'Alene – Spokane River Basin (CSRBA)



- Claims submitted – 12,754 (tribal and other federal reserved claims not included)
- Last Director's Report -- February 2019 (Basin 95 Part 2)
- Decreed – 11,227
- Pending – 1,527
- Remaining Objections –67 Objections to 50 Contested Claims, all in Basin 95

Data from 9/15/2020

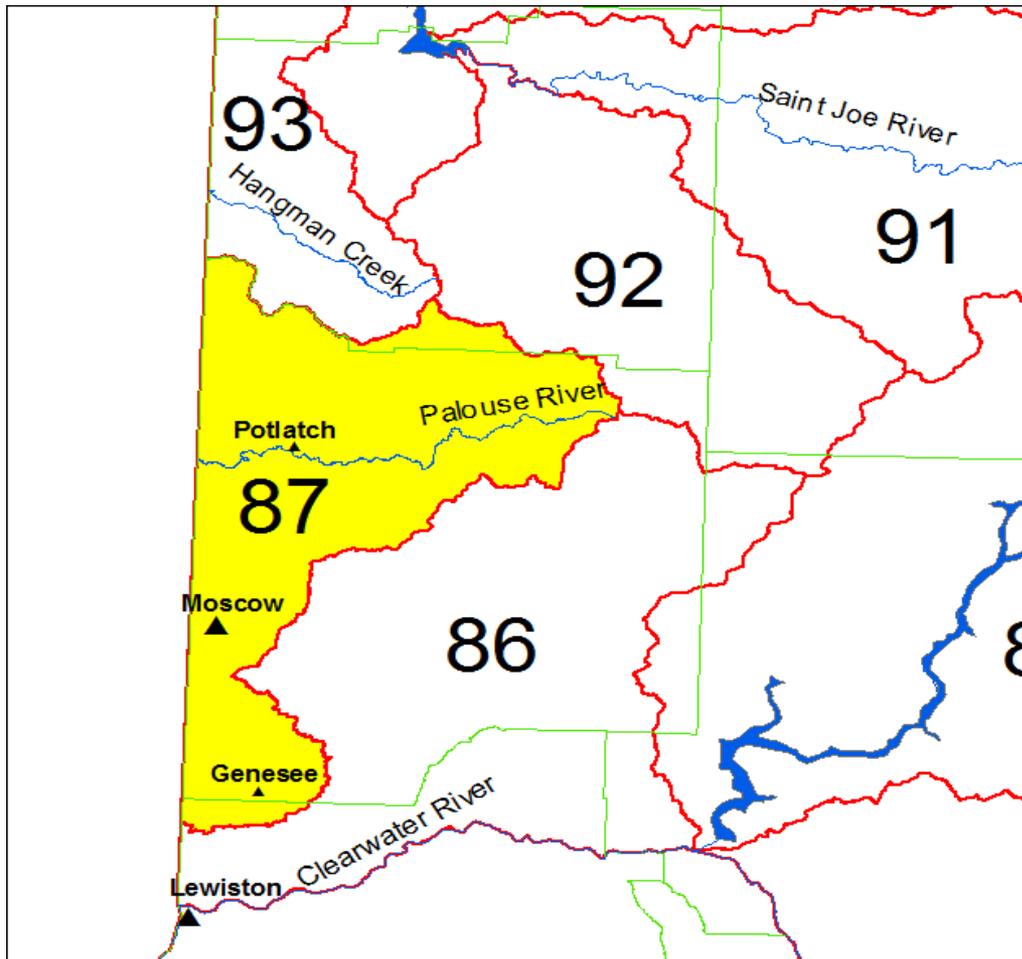
# Coeur d'Alene – Spokane River Basin Outstanding Issues



Mica Bay at Sunset

- Tribal Federal Reserved Claims – 284
- USFS Federal Reserved Claims – 265
- Avista Power Claims
- State of Idaho's Water Right to Maintain Coeur d'Alene Lake

## Phase 2 - Palouse River Basin (PRBA)



- Took claims in 2019
- Over 1,900 claims filed
- Mostly domestic and stockwater claims
- April 2021 - Anticipated mailing of the Preliminary Director's Report
- Fall 2021 – Anticipated Director's Report

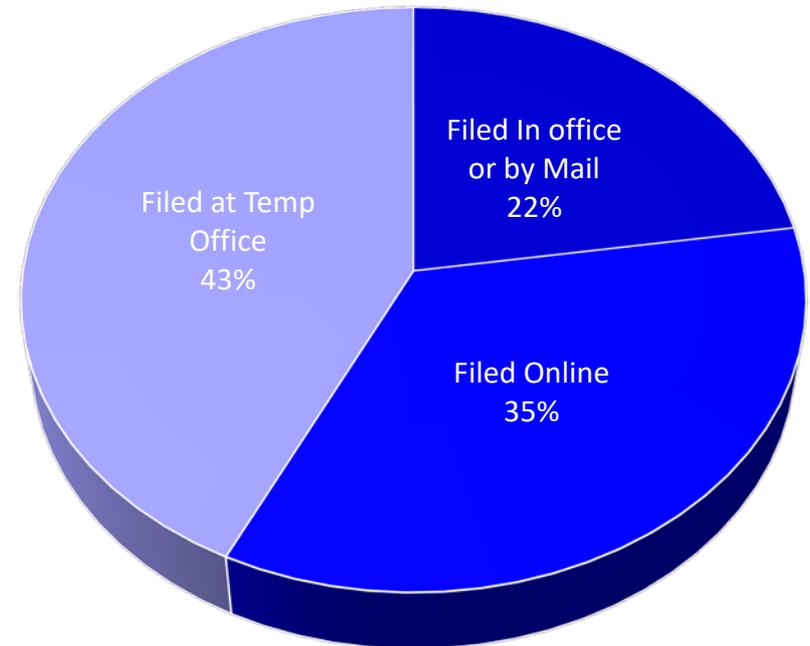
# Traditional Way to File Water Right Claims

- IDWR assisted over 650 customers with filing 665 claims over 6 days at the Latah County Fairgrounds in Moscow.

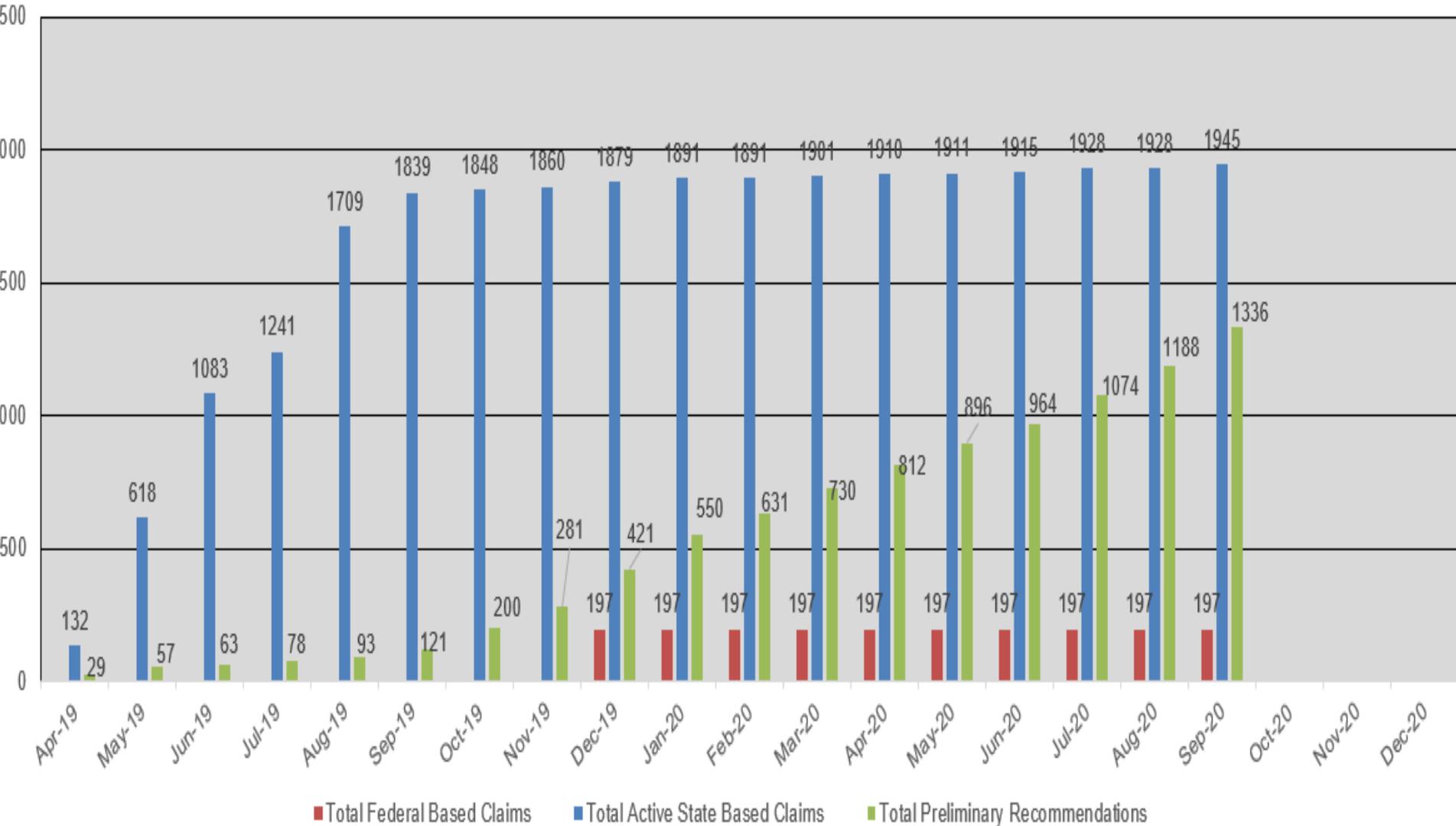


# Multiple Ways to File Claims

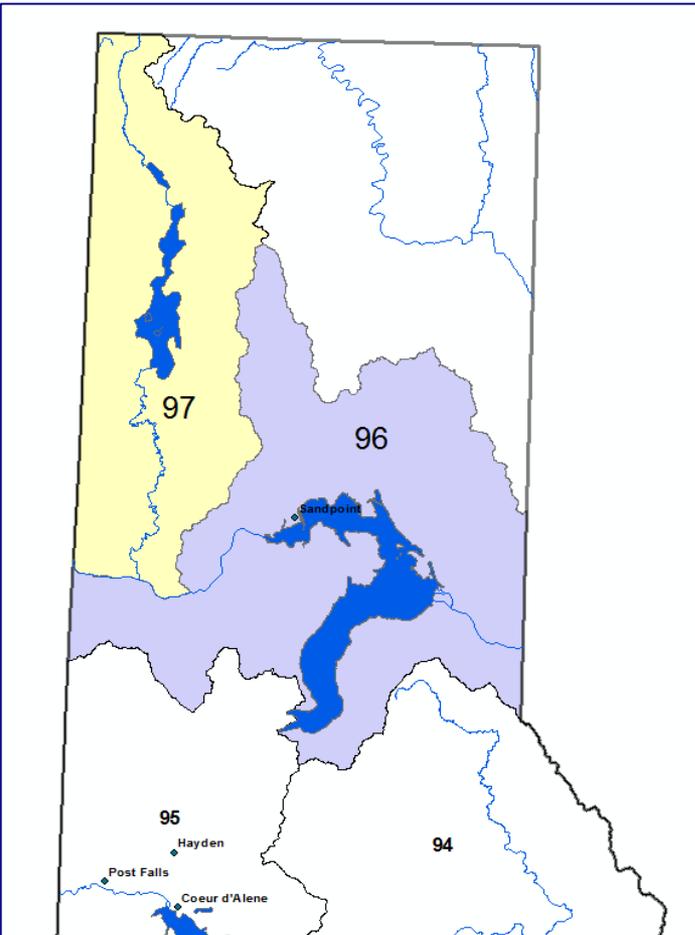
- Temporary office
- By mail or in IDWR's regional office



## PRBA Claims vs. Preliminary Recommendations



# Phase 3 - Clark Fork-Pend Oreille River Basin (CFPRBA)



- ◆ IDWR received funding authority from 2020 Legislature
- ◆ Anticipating 9,000 claims
- ◆ The Attorney General's Office will petition the Adjudication Court to commence the CFPRBA (Anticipated Fall 2020).
  - Include all surface and ground water uses.
  - Water users can choose to defer (postpone) filing for small Domestic & Stockwater rights (I.C. § 42-111).
  - Federal agencies will be included.
- ◆ IDWR anticipates mailing commencement notice to property owners and beginning to take claims in late summer or early fall of 2021.
  - This is when the majority of claimants file their claims.
- ◆ Anticipate submitting last Director's Report in 2030

# Clark Fork-Pend Oreille - Recorded Water Rights

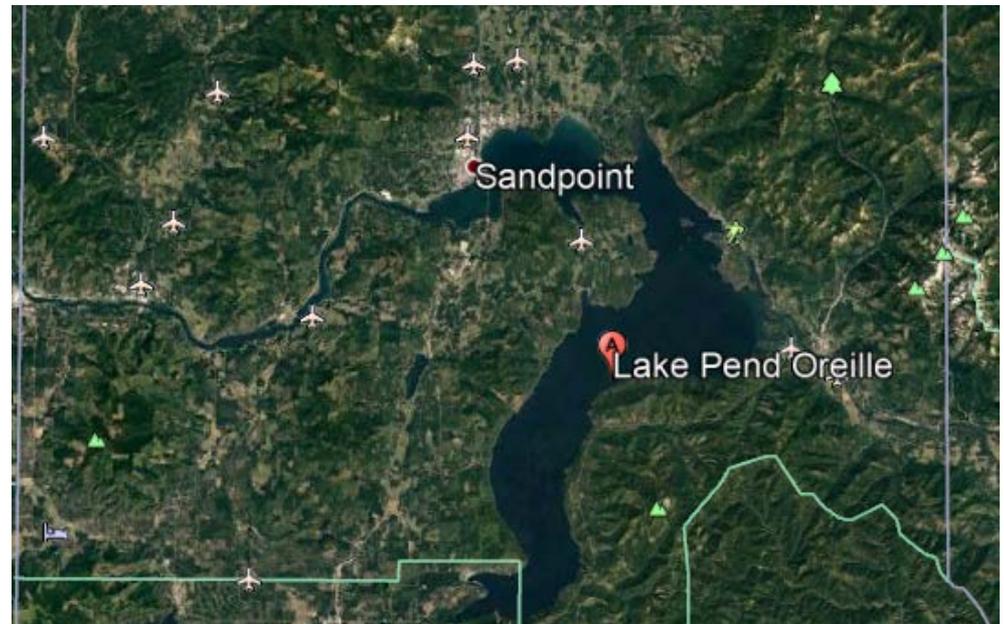
## Basin 96 – Lake Pend Oreille & Pend Oreille River

### Irrigation Rights

20 cfs	Lake Pend Oreille & Pend Oreille River
102 cfs	Other Surface Water Sources
12 cfs	Ground Water

### Non-Irrigation Rights

39,000 cfs	Power
20,250 cfs	Min. Stream Flow
738 cfs	Surface Water
77 cfs	Ground Water



## Basin 96 – Power Projects & Minimum Stream Flows

### Power

Cabinet Gorge Dam - Avista Corp.

Albeni Falls Dam – USACE

### Minimum Stream Flows

10,600 cfs – Pend Oreille River

129 cfs – Pack River

85 cfs – Grouse Creek

84 cfs – Lightning Creek

10 cfs – Granite Creek

7 cfs – Sullivan Spring



# Clark Fork-Pend Oreille - Recorded Water Rights

## Basin 97 – Priest Lake & Priest River

### Irrigation Rights

26 cfs      Surface Water Sources

3 cfs      Ground Water

### Non-Irrigation Rights

1500 cfs      Min. Stream Flow

292 cfs      Surface Water

23 cfs      Ground Water



# Bear River Basin Adjudication

- Overview of Basins
- Unique Features
- Potential Issues
- Moving Forward

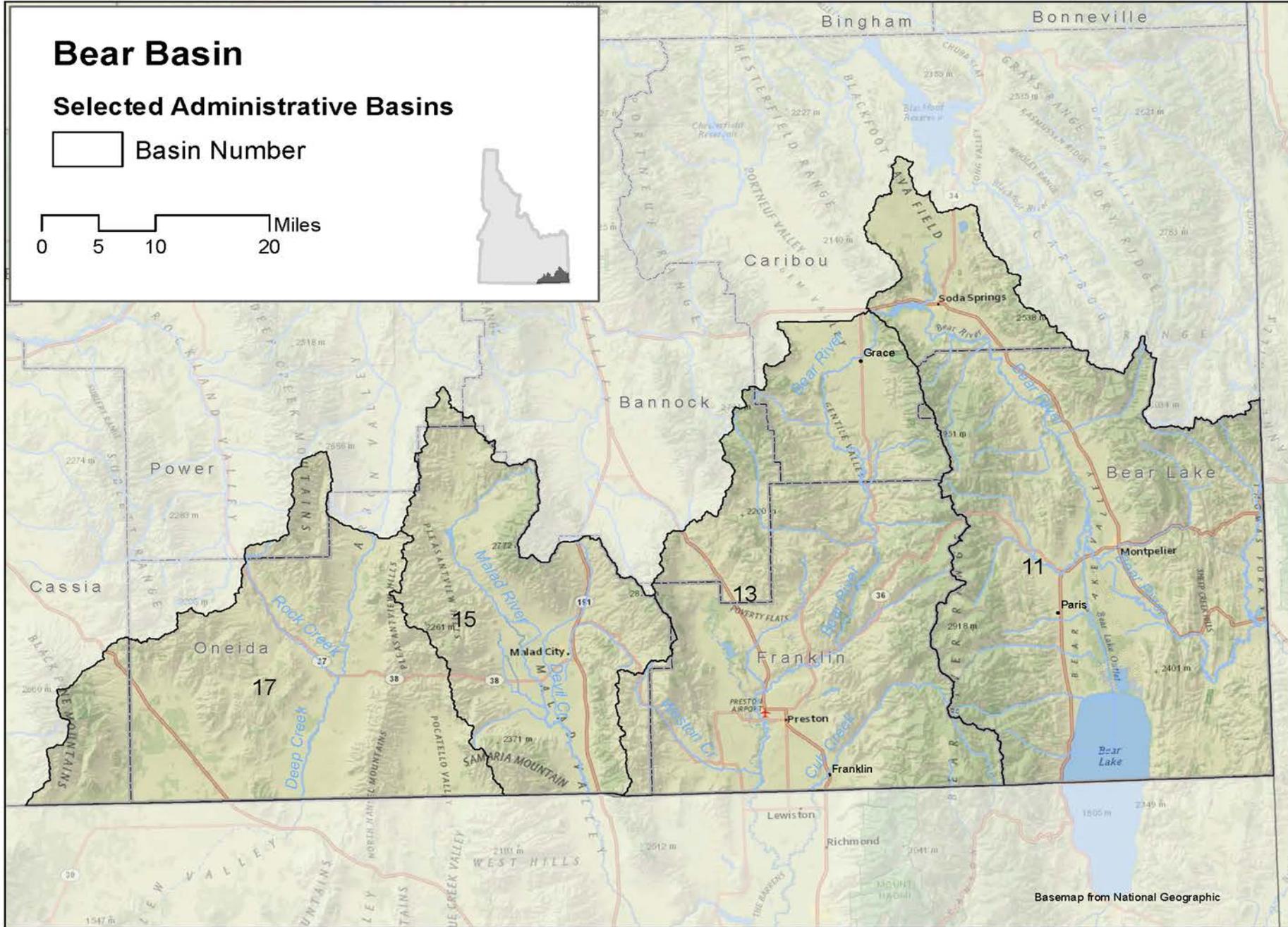
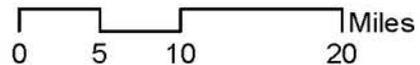


Last Chance Canal Company flume over Bear River

# Bear Basin

## Selected Administrative Basins

 Basin Number



## Bear River Basin Adjudication – General Statistics

Counties: Bear Lake, Franklin, Oneida, and parts of  
Cassia, Power, Caribou and Bannock

Population: 30,000

Area: 3,500 square miles



Paris Tabernacle



Bear Lake County Courthouse

## Basin 11 – Bear River (Montpelier to Soda Springs)

### Irrigation Rights

750 cfs	Bear River
1,800 cfs	Other Surface Sources
100 cfs	Ground Water



Northeast shoreline of Bear Lake

## Basin 13 – Bear River (Soda Springs to Preston) Irrigation Rights

1,050 cfs	Bear River
1,700 cfs	Other Surface Sources
190 cfs	Ground Water



Oneida Narrows section of Bear River

## Basin 15 - Malad River Valley

### Irrigation Rights

440 cfs	Malad River and Other Surface Sources
310 cfs	Ground Water



Malad City with Samaria Mountains in background

## Basin 17 - Curlew Valley

### Irrigation Rights

95 cfs	Deep Creek and Other Surface Sources
210 cfs	Ground Water



Old homestead in Holbrook, Idaho

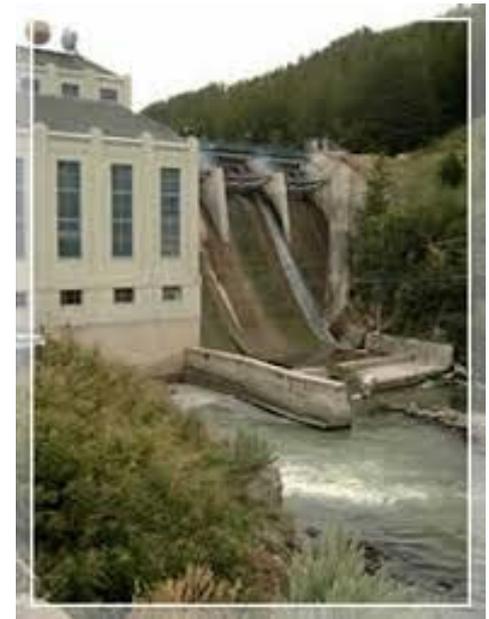
## Unique Features of BRBA – Irrigation Storage / Power

### Irrigation Storage

- Bear Lake used as irrigation reservoir
- PacifiCorp owns storage water rights
- Contracts with irrigators in Idaho and Utah

### Power Facilities

- 3 PacifiCorp dams on Bear River in Idaho
  - Soda Springs, Grace, Oneida
- Storage used solely for powerhead



Soda Power Plant

## Unique Features of BRBA – Federal Areas

### Bear Lake National Wildlife Refuge

- Created in 1968
- Open water and cattail marsh
- Two Units: Dingle Marsh (17,000 acres)  
Thomas Fork (1,000 acres)



### Oxford Slough Waterfowl Production Area

- Created in 1985
- Hard stem bulrush marsh
- 1,700 acres



## Unique Features of BRBA – Federal Areas

### Curlew National Grassland

- Created in 1934
- Only national grassland in Idaho
- 48,000 acres



## Unique Features of BRBA – Bear River Interstate Compact

Original Compact - 1958

Amended Compact - 1978

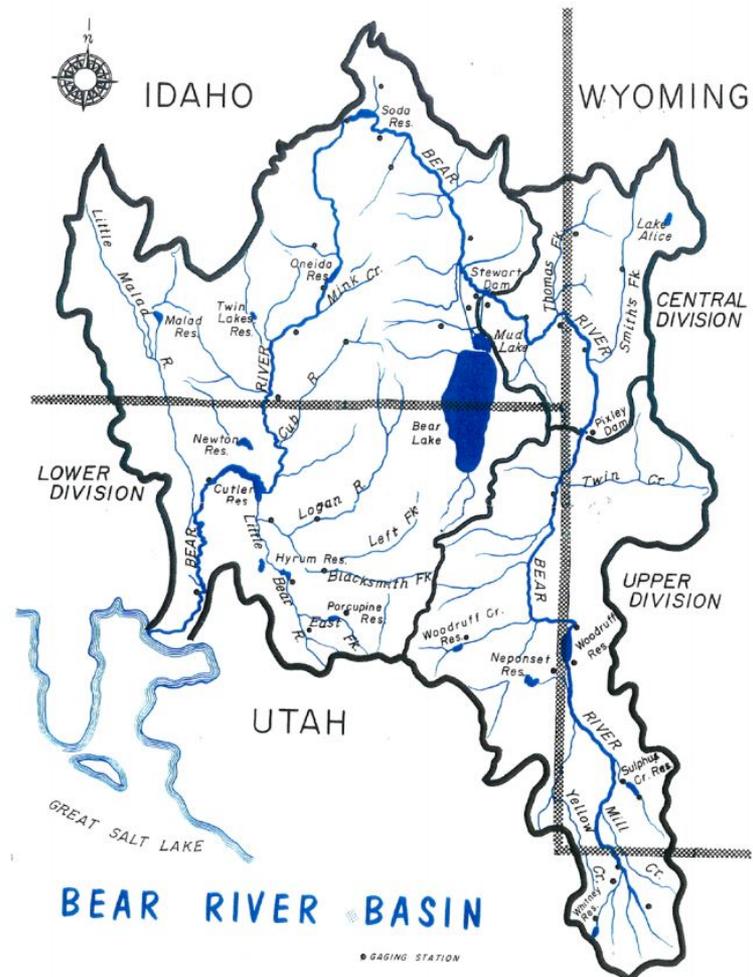
3 Divisions:   Upper (UT/WY)  
                  Central (WY/ID)  
                  Lower (ID/UT)

Bear River Commission:

Biannual Meetings

9 Commissioners (3/state)

Federal Chairman



## Unique Features of BRBA – Administrative Areas

### Curlew Valley Critical Ground Water Area

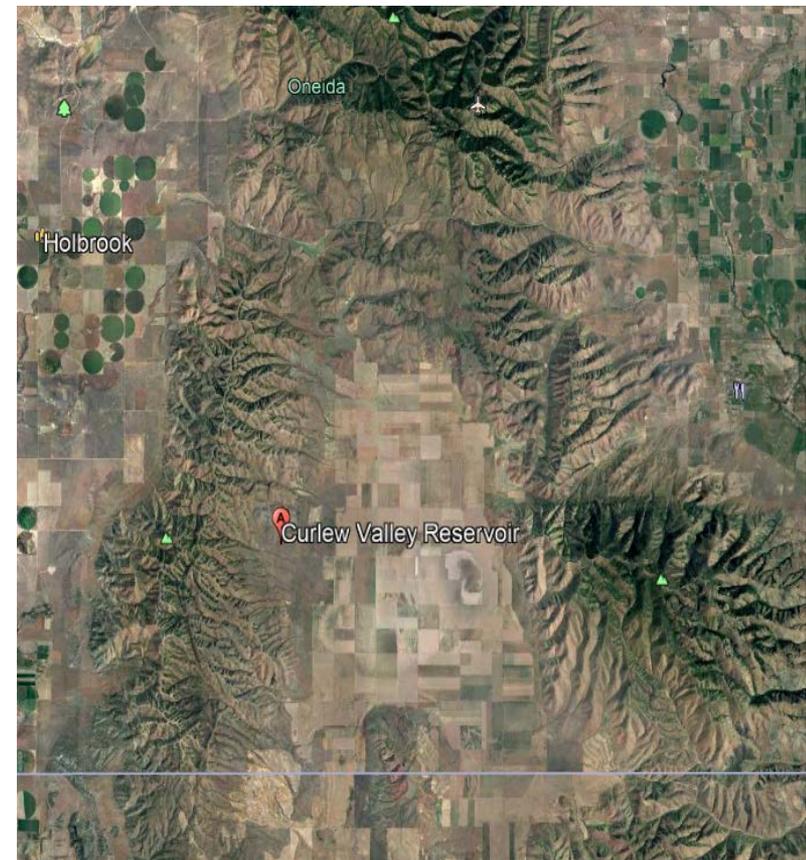
- designated in 1976
- management plan not yet drafted

### Bear River Ground Water Management Area

- designated in 2001, plan adopted in 2003
- covers entire Bear River drainage
- new consumptive uses require mitigation

### Malad Valley Ground Water Management Area

- designated in 2015, plan adopted in 2017
- new consumptive uses require mitigation



## Adjudication History

### 1920 Dietrich Decree

- All water rights from Bear River and major tributaries
- Bear Lake to Idaho-Utah state line

### 1924 Terrell Decree (aka Dingle Decree)

- All water rights from Bear River
- Idaho-Wyoming state line to Montpelier



Various Decrees for Tributary Streams (most 100+ years old)

One adjudication of ground water rights: Bancroft-Lund (1992)

One recent surface water decree: Worm Creek (1981)

## Bear River Basin Adjudication – Challenges

Basins closed to new appropriations (except de minimus uses).

- No remedy for disallowed claims.

Many water rights still in name of owner from original decree.

- Most decrees are 100+ years old.

Statutory claims with very old priority dates.

- Many properties have changed ownership since claim.
- Individuals with personal knowledge of historical water use can't be found.

## Bear River Basin Adjudication – Simplifying Factors

No federal dams or reservoirs.

No designated wild & scenic rivers.

Water district records exist for Bear River and many tributaries.

Advancement in technological tools (imagery, remote sensing, online filing of claims).



## Bear River Basin Adjudication Timeline

Petition the district court for a commencement order this fall.

Timeline depends on funding, which was not addressed by the 2020 Legislature.

Expect about 14,000 claims.

Process will take about ten years.



## Water Rights Programs

- Record Keeping
- Permitting
- Licensing
- Transfers
- Ownership Changes
- Water Supply Bank



## Water Right Record Keeping

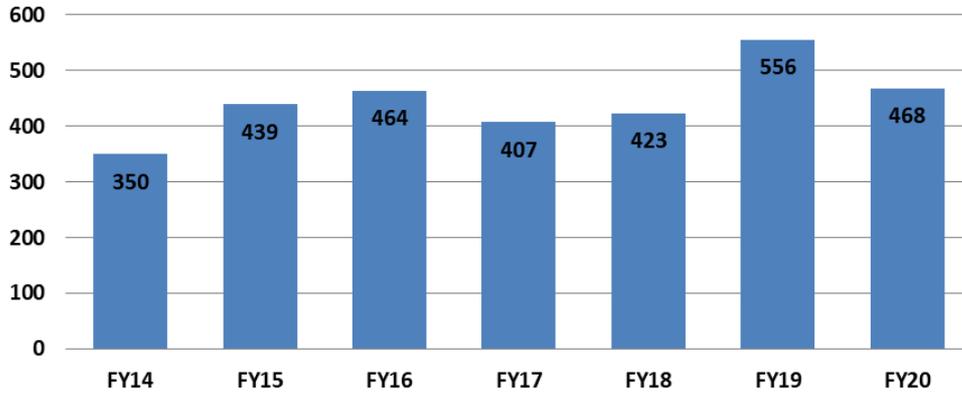
- About 175,000 active water rights
- Records are maintained in several formats
  - Paper files
  - Scanned images of the paper files (available online)
  - Microfiche of rights that became inactive before 2003
  - Computer database (accessible online)
  - Geographic Information System (accessible online)



## Permit Application Numbers

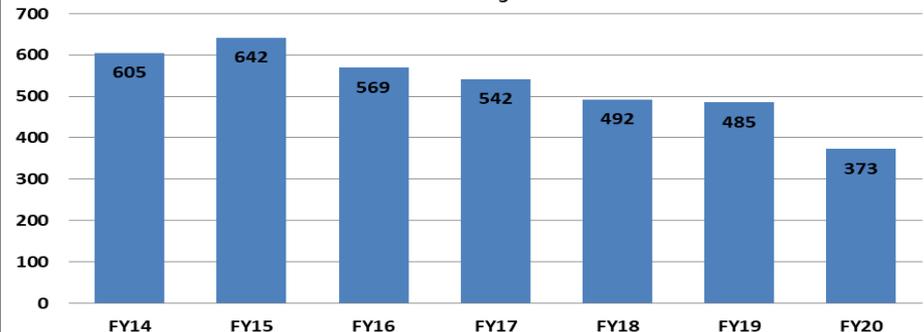
### Applications for Permit Received

Idaho Code § 42-202



### Applications for Permit End-of-Year Pending Workload\*

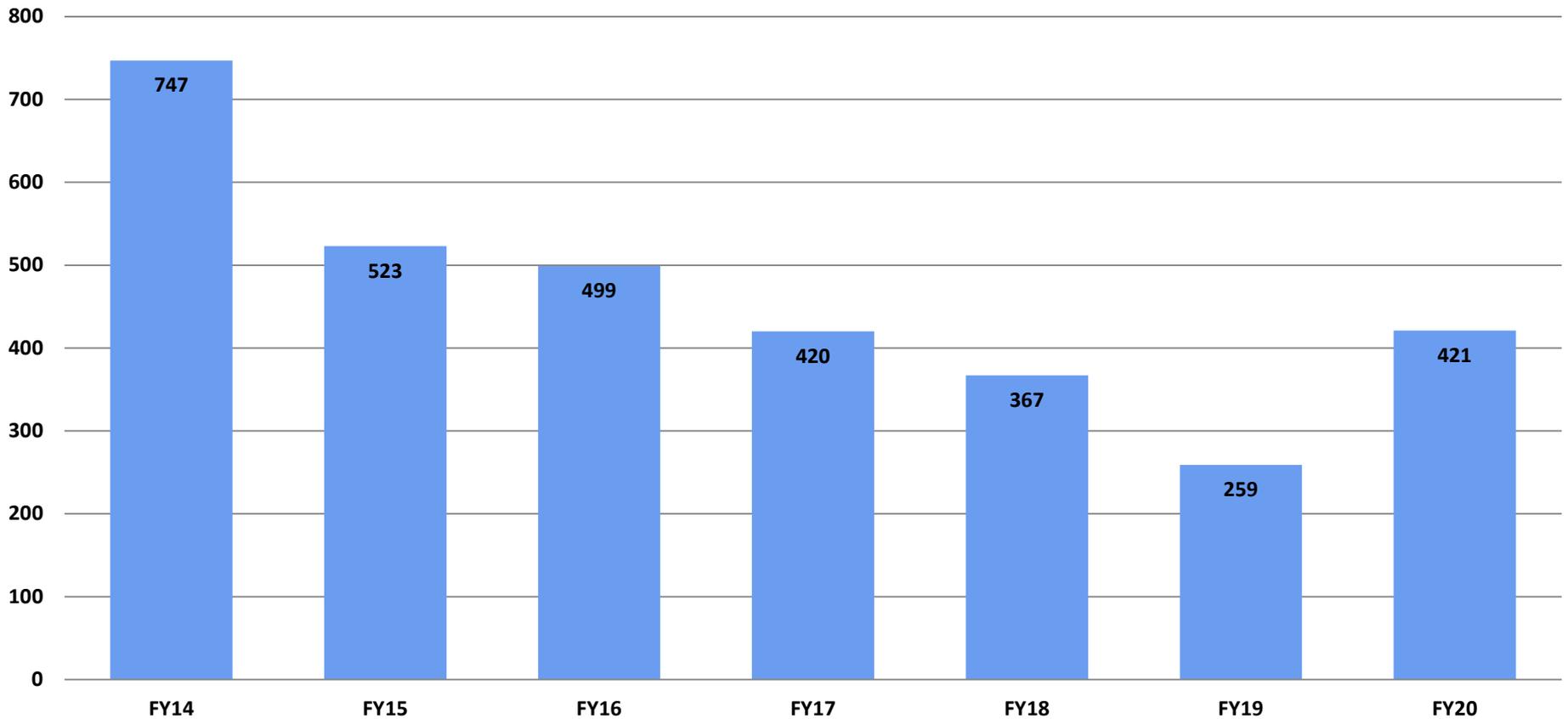
Idaho Code § 42-202



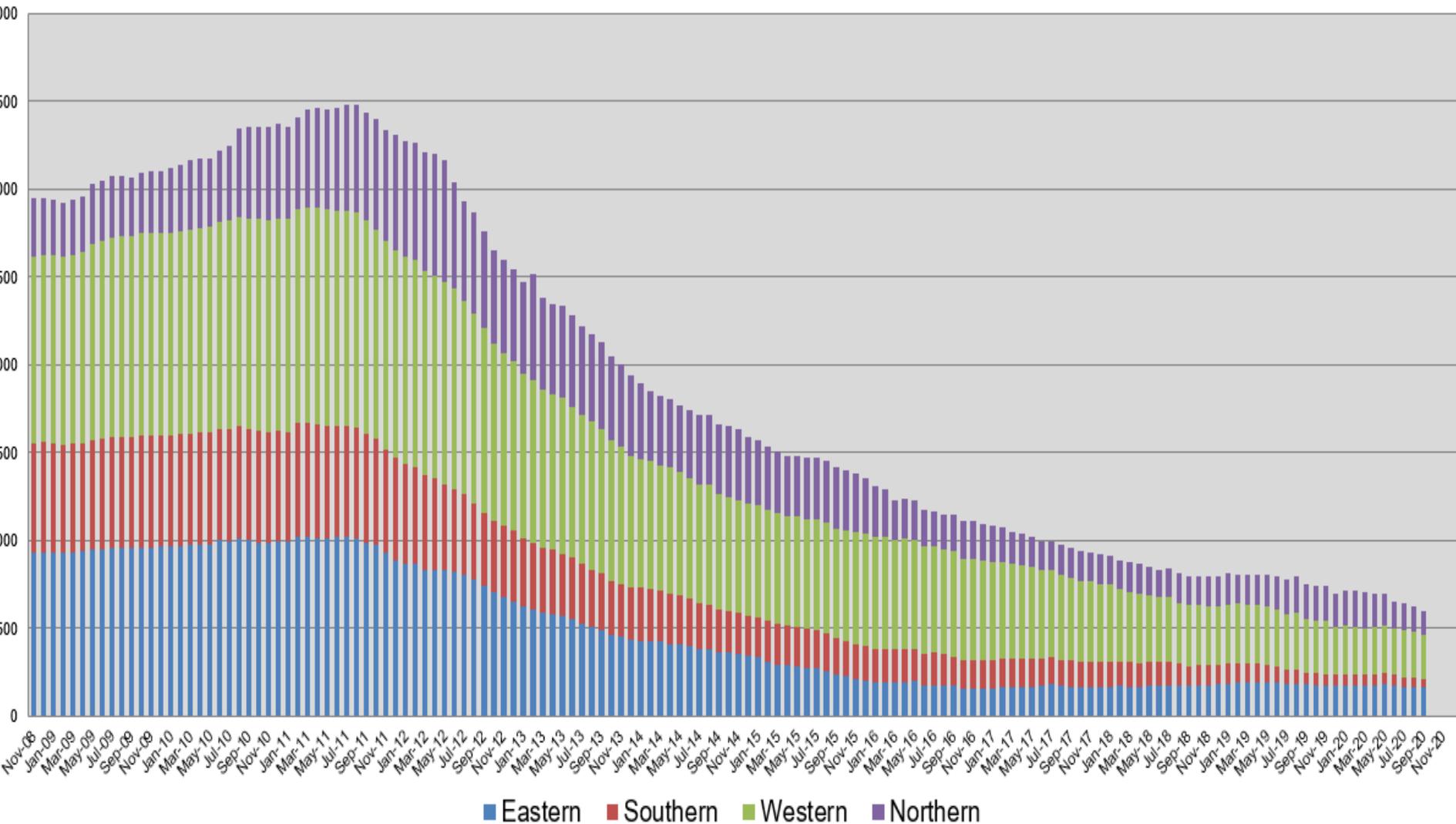
\*Does not include applications held due to moratoriums.

## Water Right Licenses Issued

Idaho Code § 42-219



## IDWR Active Water Appropriation Permits with Proof Submitted



# IDWR Licensing Vision

Monday

Proof of  
Beneficial Use  
Statement and  
Examination  
Fee

Tuesday

Beneficial  
Use Field  
Examination

Wednesday

Thursday

Water Right  
License

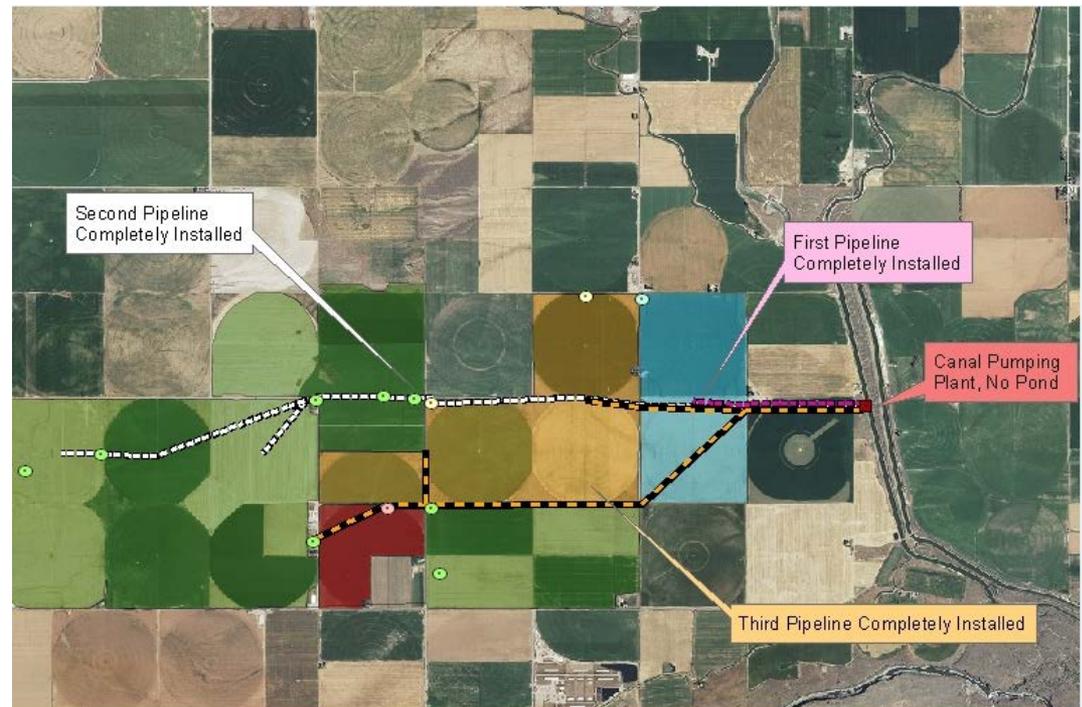
Friday

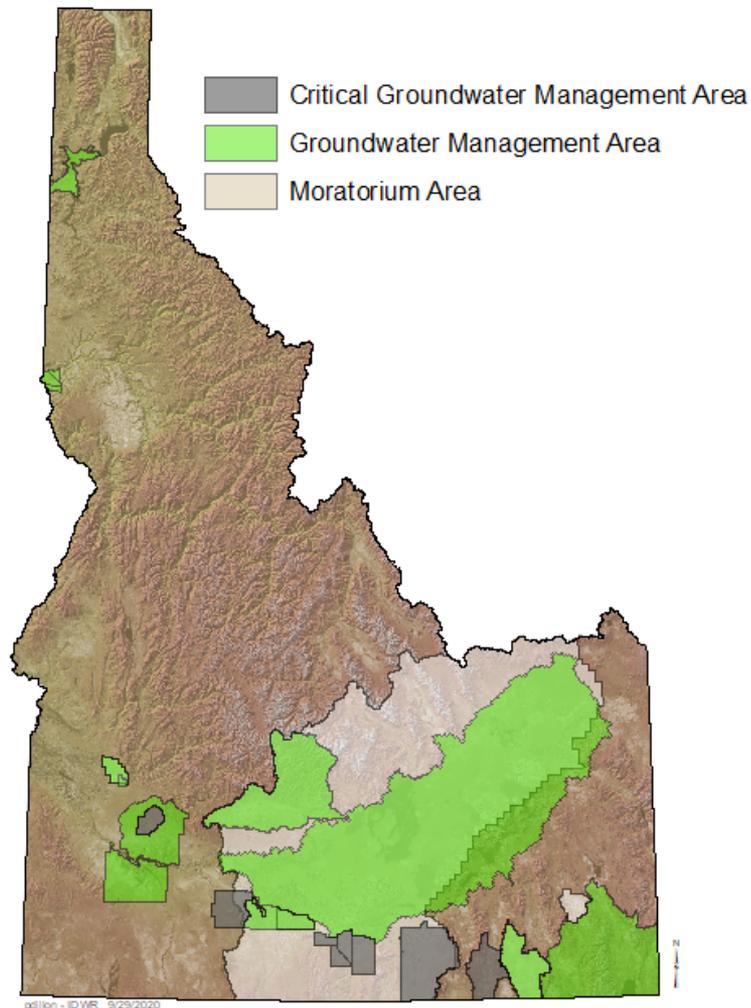


## What is the purpose of a water right Transfer?

Allows a water right holder to modify elements of all or part of an established water right.

- Add, remove, change Points of Diversion
- Change the Place of Use
- Change the Nature of Use
- Change the period or Season of Use



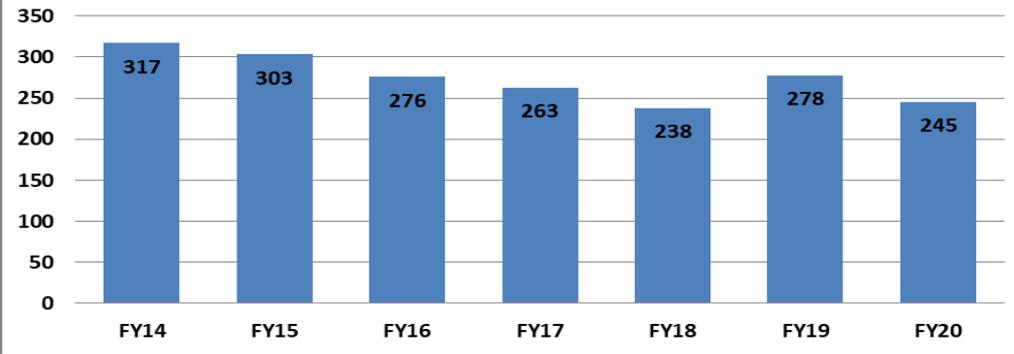


## Water Right Transfers – Why do they matter?

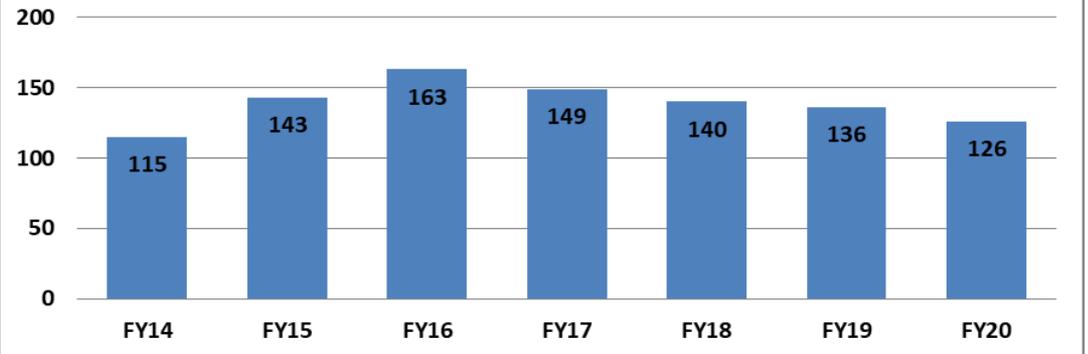
On areas with restrictions on new water right development, transfers allow farms, businesses, and communities to adapt existing water rights to new ventures.

# Transfer Application Activity

**Transfer Applications Received**  
Idaho Code § 42-222



**Transfer Applications End-of-Year Pending Workload**  
Idaho Code § 42-222



# Water Right Ownership Changes

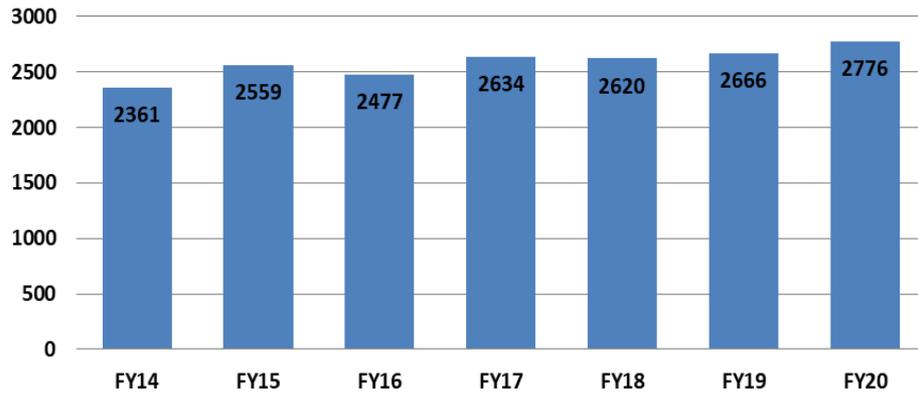
- New owners are required to notify IDWR of the change.
- Updated records are needed so that water right owners can be notified of issues affecting their water rights.



# Water Right Ownership Change Activity

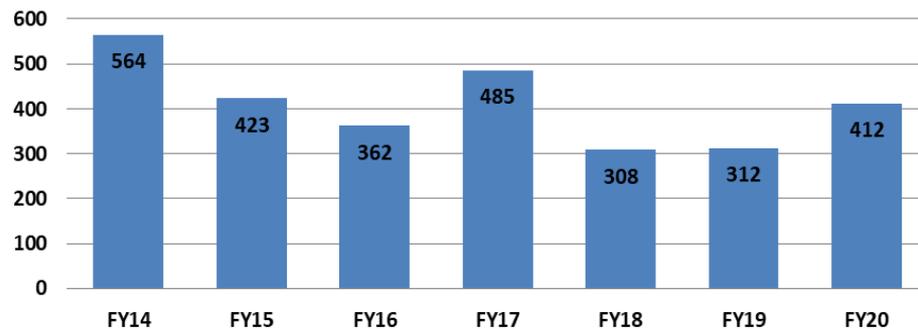
**Water Right Ownership Changes Received**

Idaho Code § 42-248



**Water Right Ownership Changes End-of-Year Pending Workload**

Idaho Code § 42-248



## Water Supply Bank Process

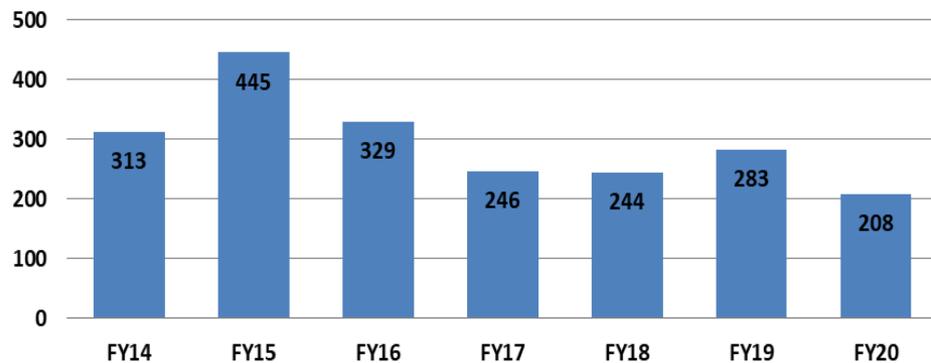


- Idaho Water Resource Board Program
- Exchange market to facilitate marketing of water rights
- Provides mechanism to temporarily change water rights
- Purposes/Benefits:
  - Encourage the highest beneficial use of water
  - Provide a source of water supplies to benefit new and supplemental uses
  - Provide funding source for improving water user facilities and efficiencies
  - Protects water rights from forfeiture

## Water Supply Bank Lease Numbers

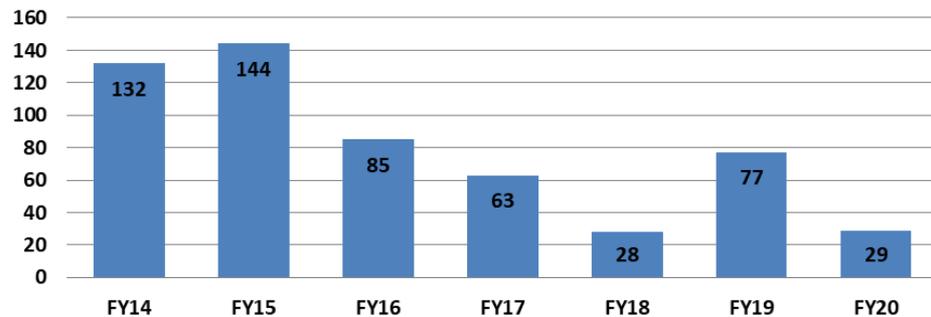
### Water Supply Bank Lease Applications Received

Idaho Code § 42-1762



### Water Supply Bank Lease Applications End-of-Year Pending Workload

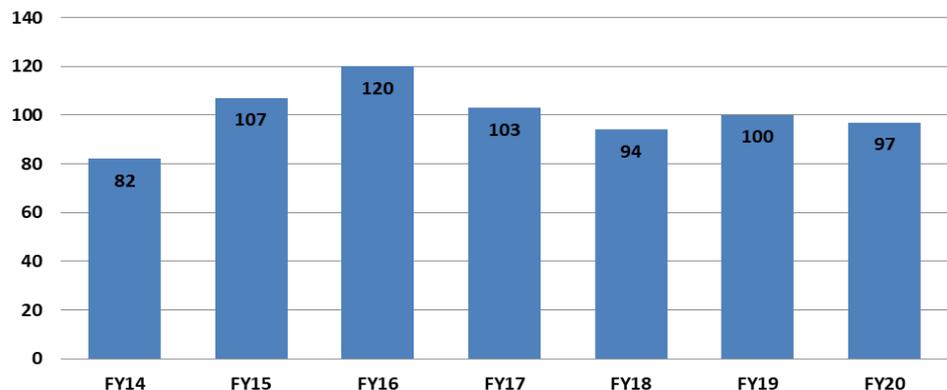
Idaho Code § 42-1762



# Water Supply Bank Rental Numbers

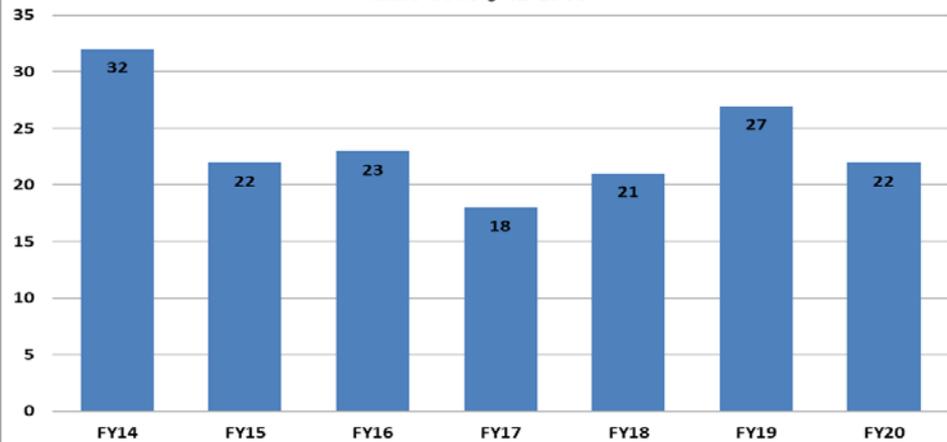
**Water Supply Bank Rental Applications Received**

Idaho Code § 42-1763

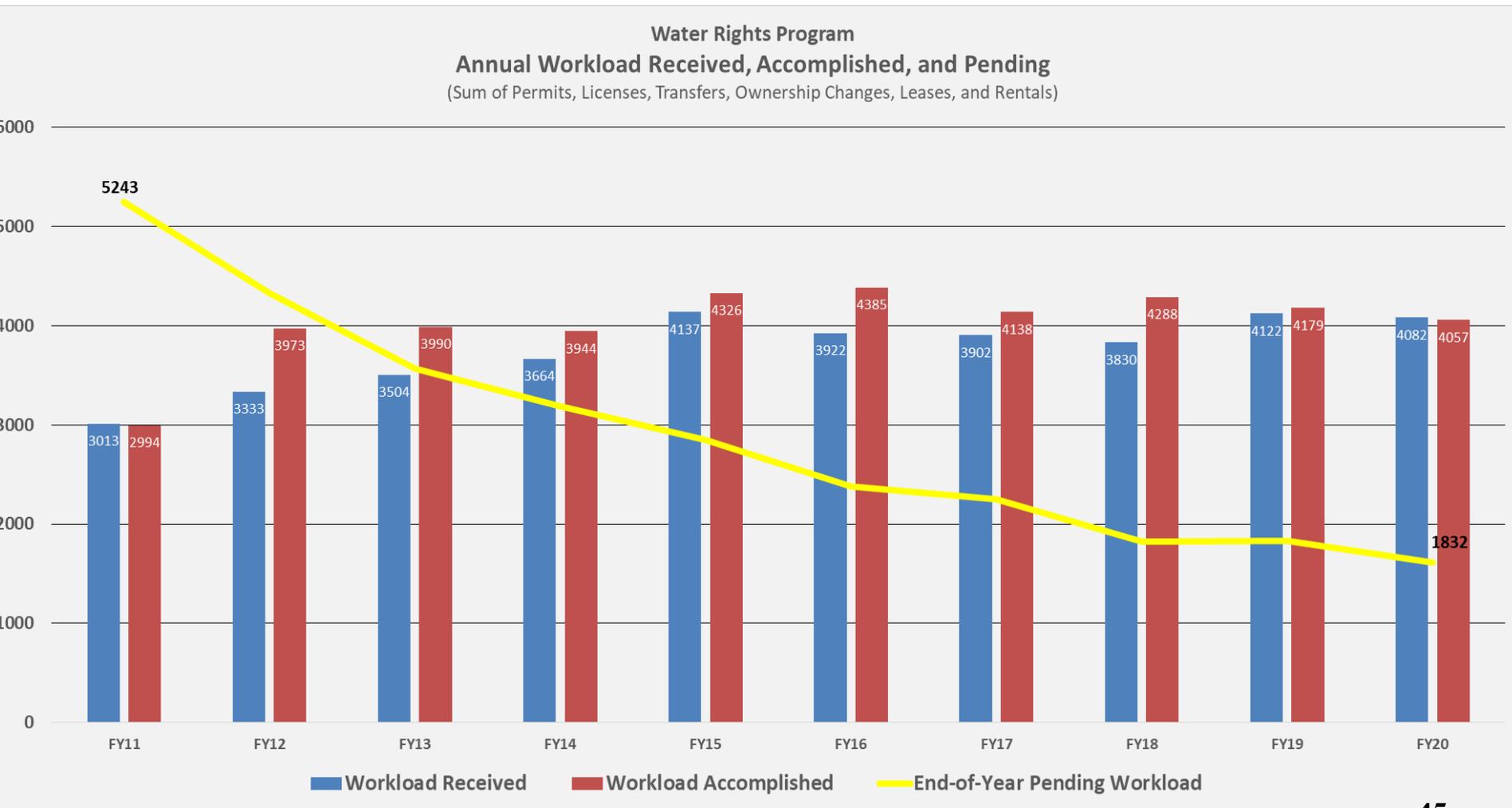


**Water Supply Bank Rental Applications End-of-Year Pending Workload**

Idaho Code § 42-1763



# Water Rights Program Total Numbers



## Questions and Comments?



**Thank you!**