

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

MAR 19 2026

By _____ Clerk
Jc
Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

<p>In Re PRBA)</p> <p>Case No. 59576)</p> <p>_____)</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Subcase <u>87-12173</u></p> <p style="text-align: center; font-size: small;">(Insert water right number)</p> <p style="text-align: center;">STANDARD FORM 3</p> <p style="text-align: center;">MOTION TO FILE AMENDED NOTICE OF CLAIM</p>
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INSTRUCTIONS

This form is used to file an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the PRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form.

The water right number for your amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** amended Notice of Claim.

By filing a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

A *Motion to File an Amended Notice of Claim* may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

I have read **PRBA Administrative Order 1**, Rules of Procedure.

My name is The Nez Perce Tribe, acting through the Nez Perce

Tribal Executive Committee

My address is P.O. Box 305, Lapwai, Idaho 83540

My phone number is: work _____ Home _____

I am an attorney representing The Nez Perce Tribe

My name is Michael A. Lopez

My address is P.O. Box 305, Lapwai, Idaho 83540

My phone number is (208) 843-7355

I must amend my Notice of Claim to the use of water in the PRBA because:
Upon field examination of the spring claimed, the point of diversion/place of use
was determined to be in a different quarter-quarter.


I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.
Portions of the Palouse River Basin Adjudication: Nez Perce Tribe Provisional Springs
Report relating to the claim are attached (information not relevant to claims have been
stricken out of the Report).

I have attached:

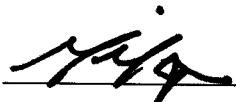
A fully completed amended Notice of Claim (available from IDWR).

Any additional claim filing fee required pursuant to I.C. §42-1414(2). To determine this amount, contact IDWR at (800) 451-4129.

I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.



(Signature of person filing motion)



(Attorney signing in representative capacity)

INSTRUCTIONS FOR MAILING

You must mail this motion to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on March 17, 2026, I mailed the original and copies of this motion, including all attachments, to the following persons:

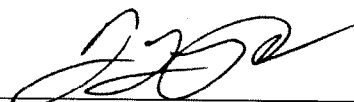
1. Original to:

Clerk of the District Court
Palouse River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707
2. One copy to each party involved in the Subcase, including the claimant, all objectors, respondents and any party granted participation. Attach a list of names and addresses.
3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 83720
Boise, ID 83720-0010

A handwritten signature in black ink, appearing to be 'J. B.', written over a horizontal line.

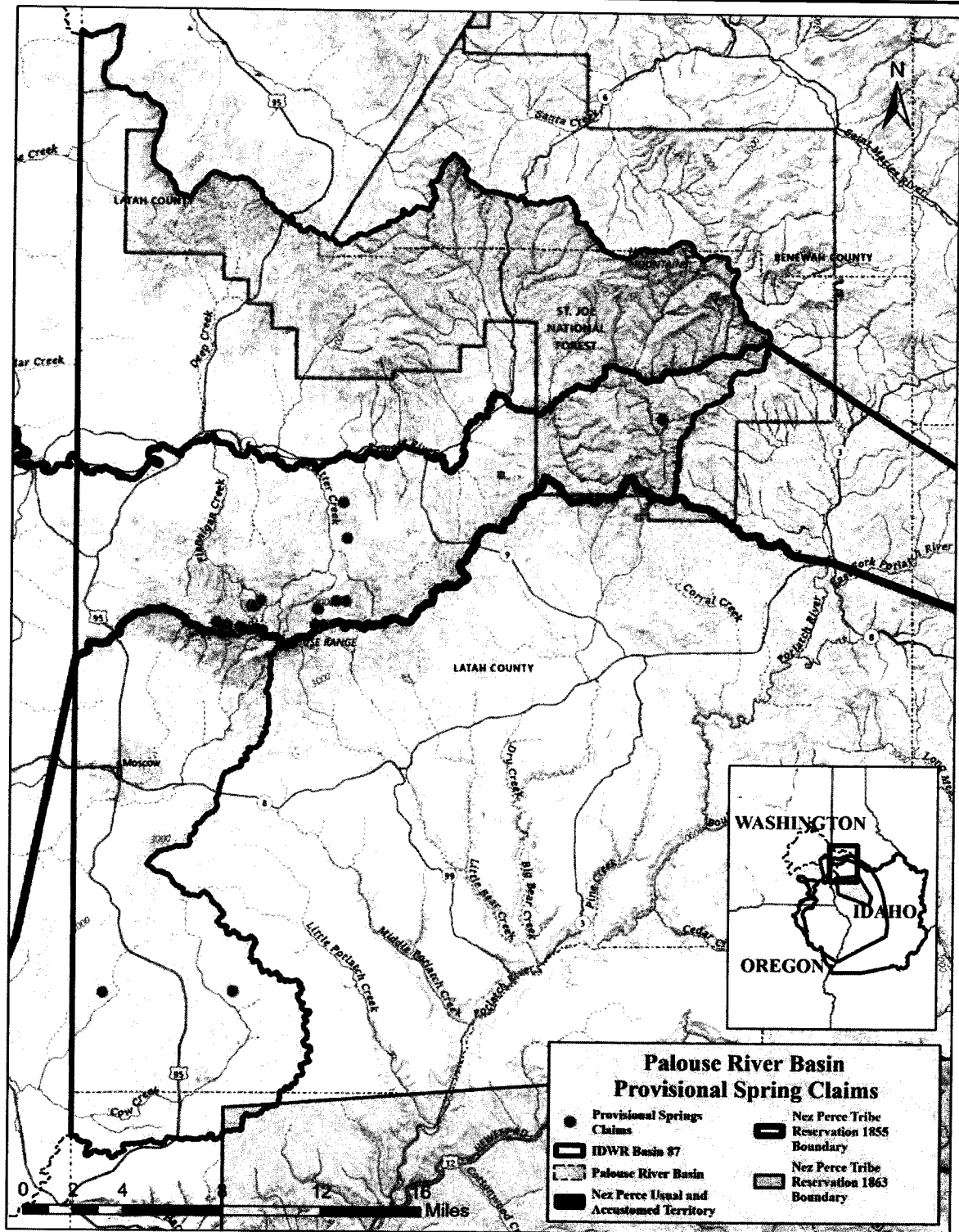
Signature of Movant or attorney
mailing on Movant's behalf

LIST OF ADDITIONAL PARTIES

Norman M. Semanko
Parsons Behle & Latimer
800 W. Main Street, Ste 1300
Boise, ID 83702
NSemanko@parsonsbehle.com
*Attorney for Carol & Glenn
Barnett, Amy & Rob Larson,
Kyle Hawley, Ben Barstow,
Shawn Nilsson, K4 LLC, Julie &
Martin Haarr*

Michael P. Lawrence
Charlie S. Baser
601 W. Bannock St.
Boise, ID 83701
mpl@givenspursley.com
charliebaser@givenspursley.com
*Attorneys for PotlatchDeltic
Land and Lumber, LLC;
PotlatchDeltic Forest Holdings,
Inc.; Potlatch TRS Idaho, LLC*

Palouse River Basin Adjudication: Nez Perce Tribe Provisional Springs Report



Prepared by: Allison Lebeda, M.S.
 Nez Perce Tribe Water Resources Division
 April 16, 2025

NPTPRBA06286

Spring Verification

Given the presence of surface water, distinct channelization, facultative wetland plants like Coolwart Foamflower, Sweetscented Bedstraw, and soil characteristics indicative of prolonged water saturation, it is my opinion that there is at least one spring and one seep present at this provisional spring claim.

Provisional Springs Claim 87-12173

Date: August 15, 2024

PLSS: T40N, R05W, Sec 13, NWNW

Coordinates: 46.816402 , -116.915184

Site Description

This site is located on the north side of Moscow Mountain in the Rock Creek Drainage. The site is accessed by following Mountain View Rd out of Moscow for one mile, then taking a right on Moscow Mountain/Rock Creek Rd and following it for nine miles. After passing both Trail Landing and Four Corners trailhead parking lots, a parking area can be found on the west side of Rock Creek Rd at a pull-out next to a blue Bennett Lumber gate. At the gate, walk up Foothill Rd 0.5 miles to the start of Meadow Trail. Take Meadow Trail downhill until it meets the Subaru Hollow Trailhead on the left. Follow Subaru Hollow Trail down to the opening where the old broken-down Subaru rests. The provisional spring claim POD was located approximately 300 yards above the trail at the third creek crossing (Figure 53).

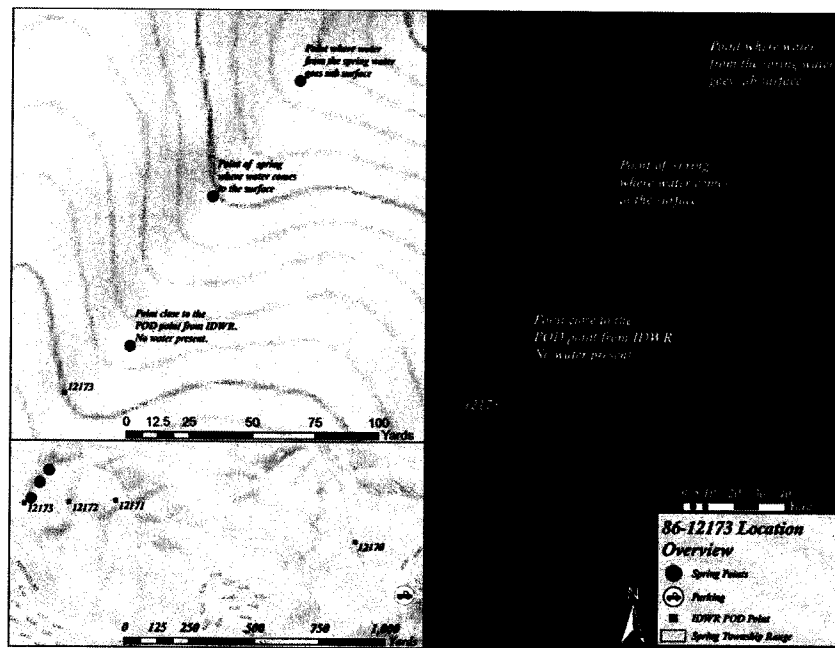


Figure 53. Topographic (left) and satellite (right) imagery of the provisional spring claim.

Water Presence

At the provisional spring claim POD, technicians investigated but found no surface water. Approximately 180 feet downstream, a spring was identified (Figures 54-55). When ascending the draw, the spring head was approximately 50 ft above the first bench and technicians observed a stream channel with flowing water at multiple locations along the steep hillslope. Technicians measured the stream channel with a bankfull width of 1.5 ft, a bankfull depth of 1 ft, a wetted width of 1.7 ft, and a wetted depth of 0.3 ft. Discharge was estimated using a volumetric method. Technicians recorded 500 mL of spring flow within one min, which translates to 0.132 gpm.

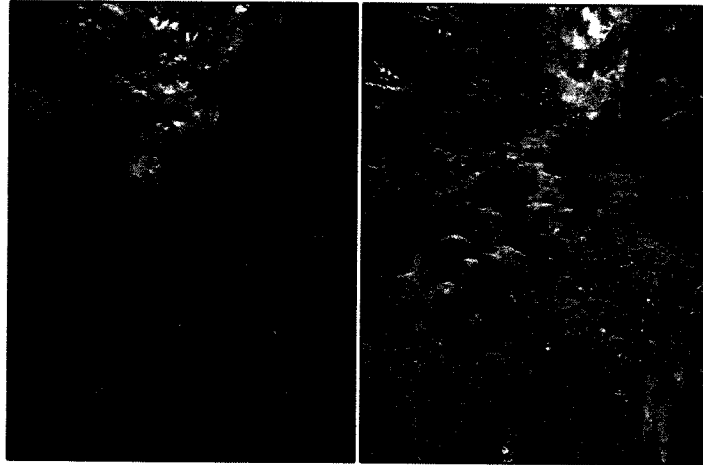


Figure 54. Images taken at the provisional spring claim POD showing the spring above (left) and below (right) the sampling location.

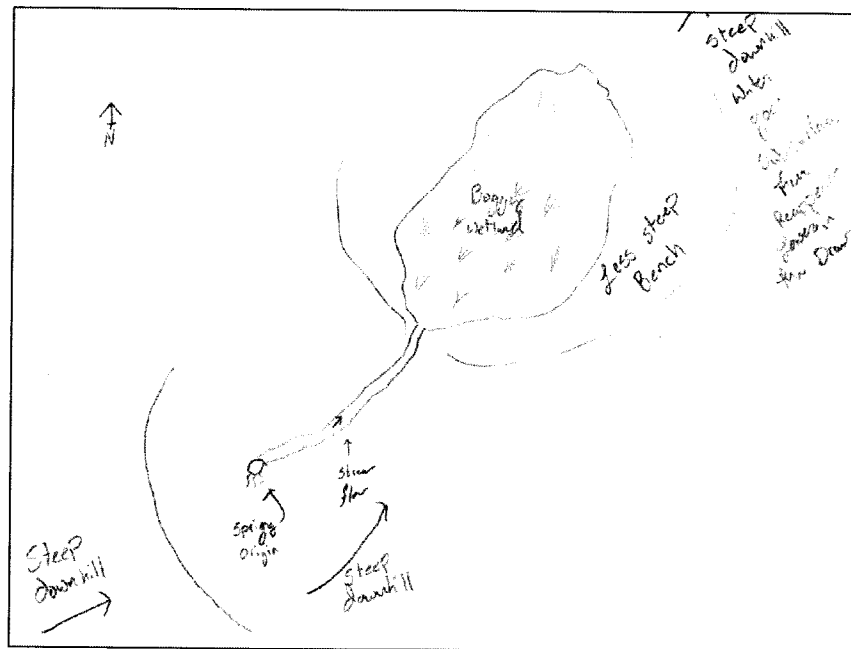


Figure 55. Sketch of provisional springs claim no. 87-12173.

Vegetation

The draw contained thick stands of tree saplings in the undergrowth. Trees consisted primarily of Western Redcedar and Grand Fir with scattered Engelmann Spruce. Only one species of shrub was observed in the midstory: Baldhip Rose. When ascending the draw, the first bench just below the spring head had a patch of riparian vegetation on it. The riparian area was predominantly comprised of dense forbs and sedges (Table 11). There was little to no open soil present within the riparian area (Figure 56). Riparian vegetation included Bracken Fern, Wild Ginger, Starry False Solomon's Seal, Bunchberry, Queen's Cup, Woodland Strawberry, Goldthread, Arrowleaf Groundsel, Drooping Woodreed, Sweetscented Bedstraw, and various sedge, moss, horsetail, and fairybell species. The surrounding understory was relatively bare, which created a distinct transition between the bottom of the draw where water was present compared to the rest of the surrounding forest. Riparian vegetation included Starry False Solomon's Seal, Bunchberry, Queen's Cup, Woodland Strawberry, Goldthread, Arrowleaf Groundsel, Drooping Woodreed, Sweetscented Bedstraw, and various sedge, moss, horsetail, and fairybell species (Figure 57).

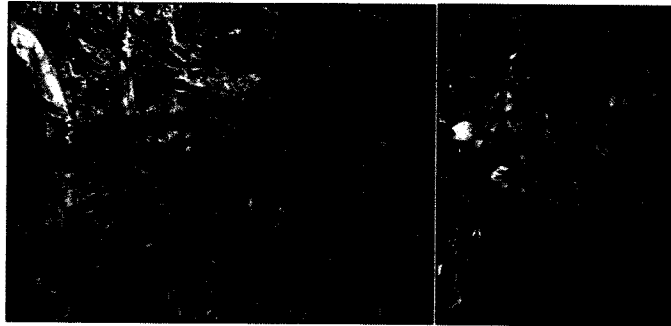


Figure 56. Observed vegetation in the areas surrounding the spring.

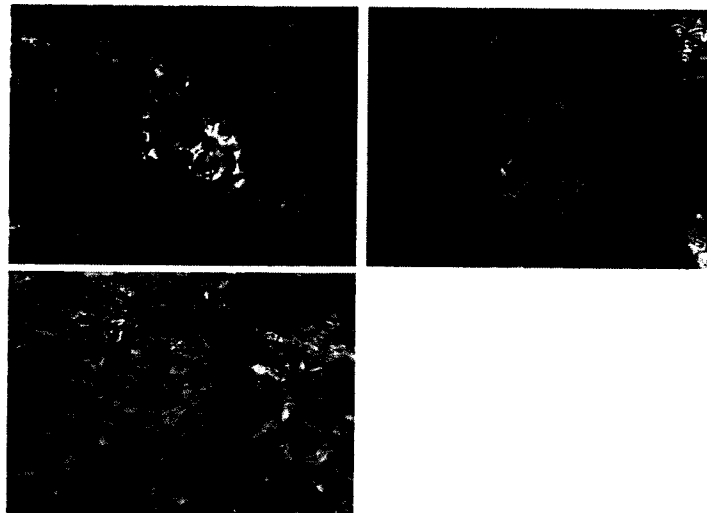


Figure 57. Riparian vegetation: Bunchberry (top left), Horsetail (top right), and Arrowleaf Groundsel (bottom).

Table 11. Plant species present at provisional spring claim no. 87-12173. For the USDA symbol and detailed habitat descriptions, refer to Appendix A.

Common Name	<i>Genus species</i>	Wetland Indicator Status Rating	Relative Plant Presence		
			Relative Density of Vegetation?	Within Riparian Area?	Outside of Riparian Area?
Trees and Shrubs					
Baldhip Rose	<i>Rosa gymnocarpa</i>	FACU	low		✓
Engelmann Spruce	<i>Picea engelmannii</i>	FAC	low		✓
Grand Fir	<i>Abies grandis</i>	FACU	medium		✓
Western Redcedar	<i>Thuja plicata</i>	FAC	high		✓
Forbs, Grasses, Sedges, and Rushes					
Arrowleaf Groundsel	<i>Senecio triangularis</i>	FACW	high	✓	
Bracken Fern	<i>Pteridium aquilinum</i>	FACU	high	✓	
Bunchberry	<i>Cornus spp.</i>	FAC	medium	✓	
Fairybell spp.	<i>Disporum spp.</i>	FACU	low	✓	
Goldthread	<i>Coptis occidentalis</i>	FACW	--	✓	
Horsetail spp.	<i>Equisetum spp.</i>	FAC/FACW	medium	✓	
Moss spp.	Phylum Bryophyta	--	low		
Queen's Cup	<i>Clintonia uniflora</i>	FACU	low	✓	
Sedge spp.	<i>Carex spp.</i>	--	medium	✓	
Starry False Solomon's Seal	<i>Maianthemum stellatum</i>	FAC	medium	✓	
Sweetscented Bedstraw	<i>Galium triflorum</i>	FACW	low	✓	
Wild Ginger	<i>Asarum spp.</i>	FACU	medium	✓	
Woodland Strawberry	<i>Fragaria vesca</i>	FACU	low	✓	

Soils

Technicians collected a soil sample from within the riparian area. This soil sample had gravel on the surface with a thick mucky clay layer below (Figure 58). The soil had characteristics of continuous saturation, including a sandy clay texture with organic streaking, an aquic moisture regime, and a color of Gley 1 3/10y indicating low chroma (Munsell, 2022).

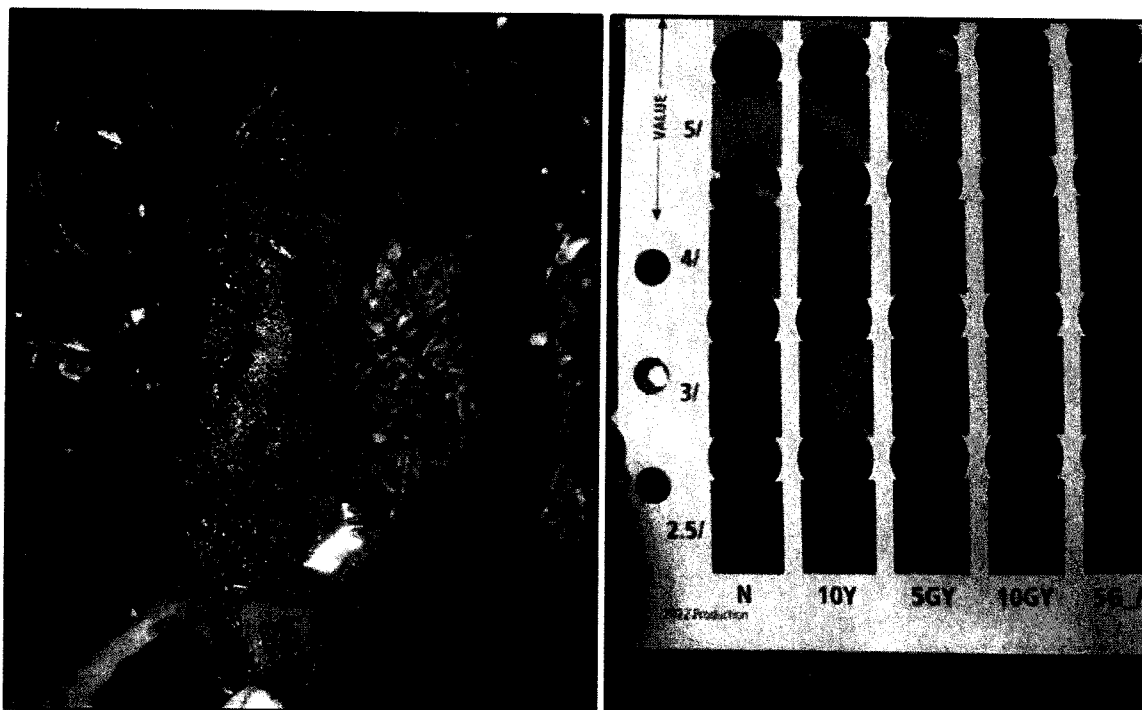


Figure 58. Soil sample collected from within the riparian area (left) and its color classification based on the Munsell Soil Color Book (right).

Spring Verification

Given the presence of flowing water, a spring head, distinct channelization, facultative wetland plants like Arrowleaf Groundsel, Goldthread, Horsetail spp., Sweetscented Bedstraw, and soil characteristics indicative of water saturation, it is my opinion that there is at least one spring present at this provisional spring claim.

~~Provisional Springs Claim 87-12174~~

Date: August 14, 2024

PLSS: T40N, R05W, Sec 11, SESE

Coordinates: 46.817989, -116.919997

Site Description

~~This site is located on the north face of Moseow Mountain in the headwaters of the Rock Creek Drainage. The site is accessed by following Mountain View Rd out of Moseow for one mile, then taking a right on Moseow Mountain/Rock Creek Rd and following it for nine miles. After passing both Trail Landing and Four Corners trailhead parking lots, a parking area can be found on the west side of Rock Creek Rd at a pull-out next to a blue Bennett Lumber gate. At the gate, walk up Foothill Rd. At the gate, walk 1.5 miles across the ridge and follow the signs for the Queen Mary's Revenge Trail to reach the spring (Figure 59).~~

Summary of Findings

Of the 18 provisional springs claims that I was asked to verify, I was able to arrange site visits for 17 provisional springs claims. The 18th provisional springs claim, 87-12175, was unable to be verified before the end of the 2024 field season due to inclement weather. Of the 17 provisional spring claims that were visited between August and September 2024, it is my opinion that springs or seeps were present at all 17 claims within 300 yards based on the following determining factors: water presence, wetland obligate or facultative wetland plants, and soils indicative of water saturation (Table 13).

Table 13. Summary table of provisional spring claims, my determination of whether a spring or seep is present at the provisional springs claim site and determining factors that supported my conclusion.

Claim No.	Distance from Claim POD	Spring/Seep Present?	Determining Factor(s)
87-12159	Spring Channel found in same QQ, but 222 yards from Claim POD	large spring complex	-at least 3 seasonal spring heads -several distinct channels -flowing and standing surface water -presence of FACW plants -distinct riparian area
87-12162	Moist ground and riparian area with water present in depressions at Claim POD (+/- 20 yards); Seep is within same QQ (IDWR point incorrect)	at least 1 spring	-moist riparian area -pockets of standing water -distinct channelization -presence of OBL and FACW plants -soils indicative of water saturation
87-12163	Water heard at bottom of draw ~300 yards from Claim POD and USGS topographic map indicates an ephemeral stream; IDWR Claim POD in wrong Sec (should be 16) and water heard in Sec 9	no spring at POD but at least 1 spring ~300 yards downstream of the POD	-technicians heard flowing water at the bottom of the draw

Table 13 continued

Claim No.	Distance from Claim POD	Spring/Seep Present?	Determining Factor(s)
87-12165	No water present at Claim POD (+/-100 yards), which is on Sec 10 border, but small creek present on Sec 9 border 97 yards from Claim POD; my opinion this is the same site; water presence coordinates in same QQ as Claim POD	at least 1 spring and multiple seeps	-flowing water -distinct channelization -evident riparian area -presence of OBL and FACW plants
87-12166	Surface water documented in images taken at Claim POD (+/- 25 yards)	at least 1 spring	-surface water -presence of FACW plants -soils indicative of water saturation
87-12167	Surface water documented in images taken at Claim POD (+/- 75 yards); same QQ	at least 1 spring	-surface water -distinct channelization -presence of OBL and FACW plants -soils indicative of water saturation
87-12168	Surface water documented in images taken at Claim POD (+/-120 yards); Claim POD in NENW, GPS points in SENW	at least 1 large seep	-surface water -distinct channelization -presence of FACW plants -soils indicative of water saturation
87-12169	Spring documented at Claim POD (+/-140 yards); same QQ	at least 1 spring	-surface water -distinct channelization -case-building caddis larvae -presence of OBL and FACW plants -soils indicative of water saturation
87-12170	Spring documented at Claim POD (+/-50 yards); same QQ	at least 1 spring and 1 seep	-surface water -distinct channelization -presence of FACW plants -soils indicative of water saturation

Table 13 continued

Claim No.	Distance from Claim POD	Spring/Seep Present?	Determining Factor(s)
87-12171	Spring documented at Claim POD (+/- 50 yards); same QQ	at least 1 spring and 1 seep	-surface water -distinct channelization -presence of FACW plants -soils indicative of water saturation
87-12172	Spring documented at Claim POD (+/-50 yards); same QQ	at least 1 spring and 1 seep	-surface water -distinct channelization -presence of FACW plants -soils indicative of water saturation
87-12173	Spring documented near Claim POD (within 165 yards); Claim POD in Sec 13 and Spring in Sec 12	at least 1 spring	-flowing water -spring head -distinct channelization -presence of FACW plants -soils indicative of water saturation
87-12174	Spring documented at Claim POD (+/-25 yards); same QQ	large hydrologically-connected spring complex	-multiple springs and seeps -distinct channelization -presence of FACW plants -fully saturated soils
87-12176	Seep documented at Claim POD; same QQ	at least 1 seep	-surface water -distinct channelization -presence of OBL and FACW plants

Literature Cited

- Johnson, C. G. (1998). Common plants of the inland Pacific Northwest. United States Department of Agriculture Forest Service, Pacific Northwest Region.
- Jones, S. B. (1995). Characterizing the hydrogeologic system of the Valley and Ridge Province using natural seeps and springs near Oak Ridge, Tennessee.
- Meinzer, O. E. (1923). Outline of ground-water hydrology, with definitions (No. 494). US Govt. Print. Off.,.
- Munsell soil-color charts with genuine Munsell color chips. (2009 revised, 2022 production). Grand Rapids, Michigan.