

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

JUN 25 2026

By _____ Clerk
pd
Deputy Clerk

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

In Re CFPRBA)
))
Case No. 69576)
))
_____)

A. Subcase 96-17111 & 96-17112
(Insert water right number)

**STANDARD FORM 1
OBJECTION**

Please **print or type** the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Robert L. & Susan M. Peck
Address: 137 E. Kyle Rd.
Priest River, ID 83856
Daytime Phone: 307-258-7726

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Kalispel Tribe of Indians
Address: P.O. Box 39
USK, WA 99180

D. I object to the following elements or general provision as recommended in the Director's Report. (Please check the appropriate box(es)).

1. **Name and Address**
Should be: _____

2. **Source**
Should be: _____

3. **Quantity**
Should be: See attached

4. **Priority Date**
Should be: See attached

5. **Point of Diversion**
Should be: _____

6. **Instream Flow Beginning and Ending Point**
Should be: See attached

7. **Purpose(s) of Use**
Should be: See attached

8. **Period of Year**
Should be: _____

9. **Place of Use**
Should be: See attached

10. **General Provision** Individual Water Right All Water Rights
 Should not be recommended.

This general provision was not recommended but should be recommended as described below.

Should be: _____

General provision was recommended but should be modified as described below.

Should be: _____

11. **I object** because the recommendation contains an accomplished transfer under Idaho Code § 42-1425 resulting in injury to my water right(s) and/or enlargement of the original right.

12. **I object because:**
 This water right should not exist.

This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** See attached

Robert L. Peck - Benson M. Peck
(Signature of person filing objection)

(Attorney signing in representative capacity)

INSTRUCTIONS FOR MAILING

You must mail the Objection, 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.

F. CERTIFICATE OF MAILING

I certify that on June 23, 2026, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to: Clerk of the District Court
Clark Fork – Pend Oreille River Basins Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: KANJI + KATZEN, PLLC Dylan Hedden - Nicely
Address: 811 - 1st St Ste 640 1075 Saddle Ridge Rd
Seattle, WA. 98104 Moseow, ID. 83843

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 Attorney General
State of Idaho
PO Box 83720
Boise, ID 83720-0010

Robert L. Peck - Susan M. Peck
Signature of Objector or attorney
mailing on Objector's behalf

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

In Re CFRBA

Case No. 69576

STANDARD FORM 1 — OBJECTION (COMBINED)

A. Subcase(s): 96-17111 and 96-17112

~~Section B — Person Objecting~~

~~Robert L. Peck, SUSAN M. Peck 137 E Kyle Rd Priest River, ID 8381
307-258-7726~~

Section C — Claimant as listed in Director's

Name: Kalispel Tribe of Indians

Address:

Service copy to Kalispel Tribe's counsel of record

Kanji & Katzen, PLLC
Attn: Claire R. Newman
811 1st St, Suite 640
Seattle, WA 98104

Dylan Hedden-Nicely
1075 Saddle Ridge Rd.
Moscow, ID 83843

Section D — Objected Elements

3. Quantity

Should be: Reduced to the minimum amount the claimant proves is necessary to fulfill the claimed purpose at each reach, excluding any amount that would impair Objector's established rights. See Reasons ¶2.

4. Priority Date

Should be: No earlier or broader than the claimant proves the aboriginal-fishing basis supports for these reaches. See Reasons ¶3.

6. Instream Flow Beginning and Ending Point

Should be: Fixed, surveyed, definite endpoints; not "subject to refinement." See Reasons ¶4.

7. Purpose(s) of Use

Should be: Limited to the purpose the claimant proves on the record. See Reasons ¶5.

12. I object because: these water rights should not be decreed as claimed (pleaded in the alternative — see Reasons 7).

E. Reasons Supporting Objection

- 1. Interest and standing.** Objector owns real property on the south bank of the Pend Oreille River in Bonner County, Idaho, legal description: Twp 55 N, Rge 4 W, Sec 3, NE ¼ of SE ¼; Govt Lot 4, BM. Parcel No. RP 55NO4W037390 east of the Priest River confluence, and diverts water from the Pend Oreille River through a surface intake. Objector's intake lies within or immediately upstream of each reach described in the water rights identified above. Objector holds or claims a state-law water right with a priority date of approximately 1957 (or earlier as the evidence supports). Objector is directly affected by each of these instream-flow rights, as a diverter within the reach and, as to any reach downstream of the intake, as an upstream junior potentially subject to a delivery call to satisfy a senior downstream instream flow. If decreed as recommended, at the claimed quantity and a priority of time immemorial, these rights would be senior to Objector's existing and future rights and would directly affect Objector's ability to divert and to develop additional beneficial uses. Objector is therefore a party in interest with standing to object to each subcase identified above.
- 2. Quantity (Element 3).** A federal reserved instream-flow right is limited to the minimum amount of water necessary to accomplish the purpose claimed. *Cappaert v. U.S.*, 426 U.S. 128 (1976). The Director's Report recites monthly flow figures without any methodology, study, or record evidence tying those figures to the flow actually necessary to support the claimed fishery/homeland purpose at each reach. IDWR did not investigate or recommend on these federal-law claims. The claimant bears the burden of proof and has not met it.
- 3. Priority Date (Element 4).** The claims assert a priority of time immemorial under the aboriginal-fishing doctrine of *U.S. v. Adair*, 723 F.2d 1394 (9th Cir. 1984). Objector does not concede that basis and objects that the claimant must prove the aboriginal-fishing right and that it supports instream flows of the claimed magnitude at these specific reaches in Idaho; any priority and quantity decreed must be limited to what that proof supports.
- 4. Instream Flow Beginning and Ending Point (Element 6).** The claims state that their reach boundaries are "subject to refinement." An instream-flow right cannot be decreed with undefined endpoints; the beginning and ending points must be fixed, surveyed, and definite before any right is decreed.
- 5. Purpose of Use (Element 7).** To the extent the claimed purpose is offered to support instream flows of this magnitude in Idaho, it must be proven and limited to what the record establishes.
- 6. Definiteness of remaining elements.** To the extent the source and place of use are not fully and specifically defined in the Director's Report, Objector objects to their lack of definiteness and requests that all elements be specifically defined before decree.
- 7. In the alternative (Element 12).** To the extent the claimant cannot meet its burden to establish the existence, priority, and quantity of the claimed rights, they should not be decreed as claimed. IDWR made no determination on the merits of these federal-law claims.
- 8. Reservation of rights.** Objector reserves the right to amend or supplement this objection, to conduct discovery, to present evidence, and to join in or file responses supporting the objections of the State of Idaho and other parties addressing the same water rights.