

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

JUN 29 2026

By \_\_\_\_\_

LODGED

In Re CFRBA  
Case No. 69576  
STANDARD FORM 1 — OBJECTION (COMBINED)

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

Section B — Person Objecting

Name: [your name] | Address: [address] | Daytime phone: [phone] | Attorney, if any: [name / "None"]

Section C — Claimant as listed in Director's Report

Name: Kalispel Tribe of Indians

Address:

Service copy to claimant Tribe's counsel of record:

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Section D — Objected Elements

[X] 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.

[X] 4. Priority Date

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

[X] 6. Instream Flow Beginning and Ending Point

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

[X] 7. Purpose(s) of Use

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

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

Claim # 96-10378

RP 55 N04 W0 37470A

**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 04 W E W, Sec 3 NE 1/4 SE 1/4; Parcel No. 78] 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 [INSERT YR OF PRIORITY ON LICENSE] 11/1/1952. 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.