

Deputy Clerk

In Re PRBA

Case No. 59576

A. Subcase 87-12015

(Insert water right number)

STANDARD FORM 1 OBJECTION

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

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho

Address: 700 W. Jefferson St., Rm 210

Boise, ID 83720-0010

Daytime Phone: (208) 334-2400

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

JUL 08 2026

By

Clerk
Deputy Clerk

Name & Address of Attorney, if any:

RAÚL R. LABRADOR

ATTORNEY GENERAL

JOY M. VEGA

Deputy Attorney General

Chief, Energy and Natural Resources Division

DAVID S. PERKINS, ISB No. 4381

ROWDY J. KELLER, ISB No. 12494

Deputy Attorneys General

Energy and Natural Resources Division

700 W. State St, 2nd Floor

Boise, ID 83720-0010

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

Name: United States of America, as trustee on behalf of the Nez Perce Tribe and Allottees of the Nez Perce Indian Reservation acting through the Regional Director, Northwest Region.

Dept. of Interior Bureau of Indian Affairs

Address: 911 N.E. 11th Ave.

Portland, OR 97232

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: See below.
2. ☒ **Source**
Should be: See below.
3. ☒ **Quantity**
Should be: See below.
4. ☒ **Priority Date**
Should be: See below.
5. ☒ **Point of Diversion**
Should be: See below.
6. ☒ **Instream Flow Beginning and Ending Point**
Should be: See below.
7. ☒ **Purpose(s) of Use**
Should be: See below.
8. ☒ **Period of Year**
Should be: See below.
9. ☒ **Place of Use**
Should be: See below.
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): _____

The claimed spring was not expressly or impliedly reserved under the terms of Article VIII of the 1863 Treaty between the United States and the Nez Perce Tribe. Article VIII expressly states that, "The United States also agree to reserve all springs or fountains not adjacent to, or directly connected with, the streams or rivers within the lands hereby relinquished, and keep back from settlement or entry so much of the surrounding land as may be necessary to prevent the said springs or fountains from being enclosed; and further to preserve a perpetual right of way to and from the same, as watering places, for the use in common of both whites and Indians."

The claimed spring may not have been reserve by the Treaty as it is identified as being a tributary to a named creek and may be found to be "adjacent to" or "directly connected with" "streams or rivers". It also may not be suitable for use as a watering place.

Even if the spring was initially reserved by the Tribe under the express language of the Treaty, any right the Tribe may have had for use of the subject spring was extinguished because the United States and Tribe failed to preserve this right. The United States failed to comply with the Treaty provisions. By selling or otherwise conveying the properties on which the springs are located into private and State ownership, the United States has ceded, waived, abandoned, or is now estopped from claiming any right on behalf of the Tribe to the privately owned springs. By failing to enforce its treaty rights or contest the conveyances of the properties containing the springs into private or State ownership, the Tribe has ratified the conveyances and has waived, abandoned, or is now estopped from claiming any right to privately owned springs.

Furthermore, if the subject spring is found to be within the terms of the 1863 Treaty, the plain language of the treaty did not grant a property interest or water right in the springs. The express language of the 1863 Treaty simply provides the right to use any reserved springs as watering places "in common" with whites and Indians. The right to use any springs reserved by the 1863 Treaty does not establish any ownership right to the water beyond the use of the water as "watering places".

(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 May 28, 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
Palouse River Basin 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: United States of America, as trustee on behalf of the Nez Perce Tribe and Allottees of the Nez Perce Indian Reservation acting through the Regional Director, Northwest Region. Dept. of Interior Bureau of Indian Affairs

Address: 911 N.E. 11th Ave.
Portland, OR 97232

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



Signature of Objector or attorney mailing on Objector's behalf