

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

In Re SRBA)
Case No. 39576)
A. Subcase 85-00016
(Insert water right number)
STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Nez Perce Tribe
Address: P.O. Box 305
Lapwai, ID 83540
Daytime Phone: (208) 843-7355

Name & Address of Attorney, if any:
K. Heidi Gudgell
P.O. Box 305
Lapwai, ID 83540

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

Name: United States of America
Address: 1150 N Curtis Rd., Suite 100
Boise, ID 83706

D. I object to the following elements 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: Zero
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point of Diversion**
Should be: The center of section 28, T 34 N, Range 4 West
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☒ **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 OBJECTIONS(S): There is no evidence as to the amount of water the Bureau of Reclamation is entitled (see the *Siegrist v Lewiston Sweetwater Irrigating*, Memorandum Decision, Federal District Court No. 421 (Mar. 4, 1916)) nor the stated diversion point (see the *Siegrist v Lewiston Sweetwater Irrigating*, Decree, Federal District Court No. 421 (Mar. 4, 1916)). The Tribe reserves the right to modify the above objections after having had a full opportunity to conduct discovery in this matter. Further, as a matter of law, the public trust must be considered in assessing the quantity of water awarded, and § 58 1203(2)(b) of the Idaho Code, which purports to eliminate the application of the public trust doctrine to appropriation of water, is unconstitutional.

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Nez Perce)

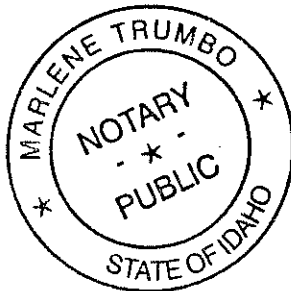
K. Heidi Gudgell, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

K. Heidi Gudgell
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: March 21, 2005



Marlene Trumbo
Notary Public for Idaho
Residing at: Lewiston, ID
My Commission Expires: 10-30-2007

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.

G. CERTIFICATE OF MAILING

I certify that on March 21, 2005, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake 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

Address: 1150 N Curtis Rd., Suite 100
Boise, ID 83706

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449

K. Heidi Gundlach

Signature of objector or attorney
mailing on Objector's behalf