

**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: 27-12108

(Insert water right number)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Shoshone-Bannock Tribes

Address: P.O. Box 306

Fort Hall, ID 83203

Daytime Phone: (208) 239-4580

Name & Address of Attorney, if any:

Jeanette Wolfley

202 N Arthur

Pocatello, ID 83204

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

Name: Layne Hamilton (Smith Maxwell Ditch Co)

Address: 839 W Riverton Rd

Blackfoot, ID 83221

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: Volumetric diversion limit should be included in water right
Quantity should be reduced proportional to acreage reductions.
4. ☐ **Priority Date**
Should be:
5. ☐ **Point of Diversion**
Should be:
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: Acreage should be reduced to exclude Reservation lands.
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): See Attachment.

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Bingham)

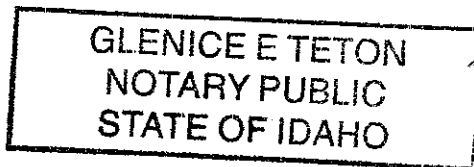
Jeanette Wolfley _____, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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)

Jeanette Wolfley
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 03/09/06



Glenice E. Teton
Notary Public for Idaho
Residing at: Bingham, Idaho
My Commission Expires: 12/13/06

G.

CERTIFICATE OF MAILING

I certify that on 3/9, 2006 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:

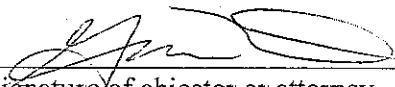
Name: Layne Hamilton (Smith Maxwell Ditch Co)
Address: 839 W Riverton Rd
Blackfoot, ID 83221

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



Signature of objector or attorney
Mailing on Objector's behalf

ATTACHMENT

E. REASON SUPPORTING OBJECTIONS(S)

2. Source

The water rights of the Shoshone-Bannock Tribes were quantified in the 1995 Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin (August 2, 1995). In water right No. 27-11375, the Shoshone-Bannock Tribes and United States agreed to subordinate the exercise of their water rights in the Blackfoot River to those water users diverting water prior to January 1, 1990. This subordination was based upon an estimate that the total annual diversion volume of these non-Indian water rights would not exceed 45,000 acre-feet per year. It was understood by the parties to the negotiation that this subordination was applicable to those water rights whose primary water source was the Blackfoot River system. If, at the time of the 1990 Agreement, a water right user was primarily dependent on the Snake River as opposed to the Blackfoot River system, the Tribes will not subordinate their water rights to satisfy this water right's Blackfoot River diversions. All or a portion of the land served by this recommended water right has a senior right to Snake River water and therefore is not primarily served by the Blackfoot River. The Tribes object to the water right because the primary water source for the water right lands was the Snake River at the time of the 1990 Agreement. This water right should include administrative provisions specifying that the Tribes are not obligated to satisfy this water right through subordination of their decreed water rights.

The water rights of the Shoshone-Bannock Tribes were quantified in the 1995 Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin (August 2, 1995). In water right No. 27-11375, the Shoshone-Bannock Tribes and United States agreed to subordinate the exercise of their water rights in the Blackfoot River to those water users diverting water prior to January 1, 1990. This subordination was based upon an estimate that the total annual diversion volume of these non-Indian water rights would not exceed 45,000 acre-feet per year. It was understood by the parties to the negotiation that this subordination was applicable to those water rights whose primary water source was the Blackfoot River system. If, at the time of the 1990 Agreement, a water right user was primarily dependent on groundwater as opposed to the Blackfoot River system, the Tribes will not subordinate their water rights to satisfy this water right's Blackfoot River diversions. All or a portion of the land served by this recommended water right has an additional water right to groundwater and therefore is not primarily served by the Blackfoot River. The Tribes object to the water right because the primary water source for the water right lands was groundwater at the time of the 1990 Agreement. This water right should include administrative provisions specifying that the Tribes are not obligated to satisfy this water right through subordination of their decreed water rights.

3. Quantity

The Idaho Department of Water Resources Director's Report recommends a total annual diversion volume for some, but not all, water rights in Basin 27. This recommended water right has no volumetric diversion limit defined. In 1995, the water rights of the Shoshone-Bannock Tribes in the Blackfoot River Basin were quantified on a volumetric basis. Pursuant to the 1995 Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin (August 2, 1995), all water rights in the Blackfoot River system (Basin 27) are to be quantified on a volumetric basis as opposed to the rate of diversion and length of irrigation season. In water right No. 27-11375, the Shoshone-Bannock Tribes and United States agreed to subordinate the exercise of their surface water rights in the Blackfoot River to those water users diverting water prior to January 1, 1990. This subordination was based upon an estimate that the total annual diversion volume of these non-Indian water rights would not exceed 45,000 acre-feet per year. Therefore, in order to comply with the 1995 Partial Consent Decree of this Court, it is necessary that all water right decrees issued by the Court in Basin 27 include a total annual diversion volume limit measured in acre-feet per year.

9. Place of Use

The Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin (August 2, 1995) decreed all water rights to Indian lands within the exterior boundaries of the Fort Hall Reservation as reserved to the Shoshone-Bannock Tribes. All or a portion of the land served in the place of use for this recommended water right is located within the boundaries of the Fort Hall Reservation, as surveyed by the U.S. Bureau of Land Management, and thus is located on Indian land. This recommendation seeks a water right for land that has already been decreed to the Shoshone-Bannock Tribes. To the extent that the recommended total acreage and water quantity includes Indian lands, the water right should be modified by deducting the decreed Indian land and corresponding water quantity.