

RECEIVED

SEP 25 2006

Department of Water Resources  
Adjudication Bureau

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 27-11946

(Insert water right number)

MOTION TO FILE  
AMENDED OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Shoshone-Bannock Tribes

Address: PO Box 306

Fort Hall, Idaho 83203

Daytime Phone: (208) 232-1922

Name & Address of Attorney, if any:

Jeanette Wolfley, Special Counsel

PO Box 306

Fort Hall, Idaho 83203

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

Name: Opal & Florian Wernette

Address: 494 N 600 E

Firth, ID 83236

D. I move to amend the Shoshone-Bannock Tribes' Objection to combine the following elements from the Tribes' original objections.

2. ☒ Source

Should be: See E. Reasons Supporting Objection(s)

3. ☒ Quantity

Should be: Volumetric diversion limit should be included in water right.

E. REASONS SUPPORTING OBJECTIONS(S): See Attachment

---

---

---

### VERIFICATION

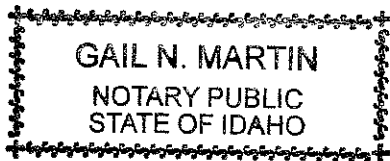
State of Idaho            )  
                                  ) ss  
County of Bingham    )

Jeanette Wolfley, being first duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this amended objection, and that I am the attorney for the party/claimant objecting and that I have read this amended objection, know its contents and believe that the statements are true to the best of my knowledge.

Jeanette Wolfley  
Attorney signing in representative capacity

Subscribed and sworn to before me on: 9/22/06



Gail N. Martin  
Notary Public for: Idaho  
Residing at: Bingham County  
My Commission Expires: 5/9/2012

## 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 9/22/06, 2006, I mailed the original 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:

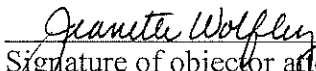
Opal & Florian Wernette  
494 N 600 E  
Firth, ID 83236

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 attorney  
Mailing on Objector's behalf

## ATTACHMENT

### 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 diversion. 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 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 Final 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.