

COPY

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

RECEIVED

A. Subcase 92-10876

MAY 11 2015

DEPARTMENT OF
WATER RESOURCES

In Re CSRBA)
)
Case No. 49576)
)
)
)
_____)

STANDARD FORM 1 OBJECTION

B. NAME AND ADDRESS OF PERSON OBJECTING

COEUR D'ALENE TRIBE of the COEUR D'ALENE INDIAN RESERVATION, 850 A Street, P.O.
Box 408, Plummer, ID 83851

Name & Address of Attorney:

Howard Funke
Howard Funke & Associates, P.C.
424 Sherman Ave.
P.O. Box 969
Coeur d'Alene, ID 83816-0969
Telephone: (208) 667-5486
Email: hfunke@indian-law.org

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

POTLATCH TRS IDAHO LLC, 601 W 1ST AVE SPOKANE, WA 99201

Name & Address of Attorney:

Michael P. Lawrence
PO Box 2720, 601 W. Bannock St
Boise, ID 83701

D. The United States objects to the following elements or general provision as recommended in the Director's Report.

1. ☐ **Name and Address**

Should be: _____

2. ☒ **Source**

Should be: Consistent with the authorization provided by the Coeur d'Alene Tribe encroachment permit.

3. ☐ **Quantity**

Should be: _____

4. ☐ **Priority Date**

Should be: _____

5. ☒ **Point of Diversion**

Should be: Consistent with the authorization provided by the Coeur d'Alene Tribe encroachment permit.

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. ☐ **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 § 421425 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 OBJECTIONS:

The United States has filed a number of claims for waters from groundwater and surface water sources within the North Idaho Adjudication in the State of Idaho to fulfill the permanent homeland purpose of the Coeur d'Alene Indian Reservation pursuant to *Winters v. United States*, 207 U.S. 564 (1908) and its progeny, as well as the operative documents and circumstances surrounding the creation of the Coeur d'Alene Reservation, including but not limited to, the Agreement dated July 28, 1873 between the United States and the Coeur d'Alene Tribe, the Executive Order signed by President Grant on November 8, 1873, 1 C. Kapler, Indian Affairs: Laws and Treaties 837 (1904), and the Agreement dated March 26, 1887 between the United States and the Coeur d'Alene Tribe, ratified by Act of Congress dated March 3, 1891, 26 Stat. 1027.

In 2001, the United States Supreme Court ruled that the lands underlying Lake Coeur d'Alene and its tributaries within the current boundaries of the Coeur d'Alene Indian Reservation ("Reservation") are owned by the United States as Trustee for the benefit of the Coeur d'Alene Tribe ("Tribe"). *Idaho v. United States, et al.*, 533 U.S. 262 (2001). In so doing, the Supreme Court affirmed the order of the district court that the United States and the Tribe are "entitled to the exclusive use, occupancy and right to the quiet enjoyment of the bed and banks of the Coeur d'Alene Lake and the St. Joe River lying within the current boundaries of the Coeur d'Alene Indian Reservation" *United States and Coeur d'Alene Tribe v. Idaho*, 95 F.Supp.2d 1094, 1117 (D. Idaho 1998). Therefore, the claimant must have authorization from the Tribe to encroach upon tribal submerged lands for the purpose of using the navigable waters within the Reservation. To date, the claimant has obtained authorization through a Coeur d'Alene Tribal encroachment permit. However, that permit must be renewed on an annual basis and confers no enforceable rights or privileges regarding the use of the waters or submerged lands of the Coeur d'Alene Reservation. This objection is filed to ensure that any water right decreed is conditioned upon continued authorization from the Tribe and is consistent with the terms of the permit granted.

F. CERTIFICATE OF MAILING

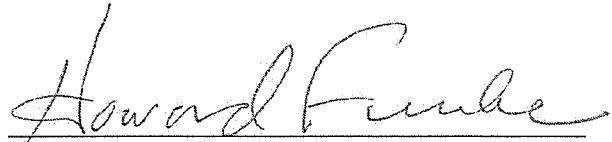
I certify that on May 7, 2015, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to: Clerk of the District Court
Coeur d'Alene Spokane River Basin Adjudication
253 Third Avenue North PO Box 2707
Twin Falls, ID 83303-2707
2. One copy to the attorney for the claimant of the water right at the following address:

POTLATCH TRS IDAHO LLC c/o
Michael P. Lawrence
PO Box 2720, 601 W. Bannock St
Boise, ID 83701
3. Copies to:

IDWR Document Depository PO Box 83720 Boise, ID 837200098	Chief, Natural Resources Division Office of Attorney General PO Box 44449 Boise, ID 837114449
---	--

United States Department of Justice Environmental & Nat'l Resources Div 550 W. Fort Street, MsC 033 Boise, ID 83724
--



Signature of Objector or attorney
mailing on Objector's behalf

EXHIBIT A
LIST OF SUBCASE NOS.

Box 2, 5: Source and Point of Diversion

92-7027
92-7211
92-7219
92-7220
92-7221
92-7226
92-7234
92-10521