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DEPT. OF WATER RESOURCES

Counsel for the Coeur d'Alene Tribe

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

In re CSRBA	)	
	)	Subcase Nos.: 91-7173
Case No. 49576	)	
	)	
_____	)	
Steve and Deanne Hawks,	)	
	)	
Claimant(s),	)	OBJECTOR'S MOTION FOR SUMMARY
	)	JUDGMENT
v.	)	
	)	
Coeur d'Alene Tribe, a federally-recognized	)	
Indian Tribe,	)	
	)	
Objector.	)	
_____	)	

COMES NOW, Objector, the Coeur d'Alene Tribe ("Tribe"), and hereby moves this Court pursuant to Idaho Rule of Civil Procedure 56(c) for summary judgment disallowing Claimants' water right claim No. 91-7173. This motion is supported by memorandum of law and affidavits which are filed contemporaneously herewith and are expressly incorporated herein.

The basis of this motion is that the pleadings, depositions, and admissions on file, together with the affidavits, show that there is no genuine issue as to any *material* fact and that the Tribe is entitled to judgment as a matter of law.

The undisputed evidence will show that Claimants' point of diversion is outside of the boundaries of Lot 13 (e.g., Parcel No. RP005300200130A) and that the point of diversion overlies submerged lands beneath navigable waters within the current exterior boundaries of the Coeur d'Alene Indian Reservation.

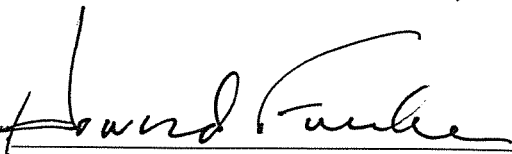
It is undisputed that the Judgment & Decree in *United States v. Idaho*, 95 F.Supp.2d 1094, 1117 (D. Idaho 1998), aff'd *Idaho v. United States*, 210 F.3d 1067 (9th Cir. 2000), aff'd *Idaho v. United States*, 533 U.S. 262 (2001) set forth that the United States owns, in trust for the Tribe, the bed and banks of *all* navigable waters lying within the current boundaries of the Coeur d'Alene Indian Reservation. There is no dispute that Claimants never obtained permission from either the United States or the Tribe for their diversionary works to be placed at the claimed point of diversion.

The Tribe prays this Court grant it summary judgment on its objection and disallow water right claim No. 91-7173 because such claim was initiated via trespass.

THE TRIBE REQUESTS AND RESERVES ORAL ARGUMENT ON THIS MOTION.

Respectfully submitted this 20th day of July, 2016.

HOWARD FUNKE & ASSOCIATES, P.C.

By 
Howard Funke, Of the Firm
Attorneys for the Coeur d'Alene Tribe

Certificate of Service

I hereby certify that on the 26th day of July, 2016, a copy of the foregoing document was served on the following counsel of record and other entities via the method indicated below:

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Idaho Department of Water Resources

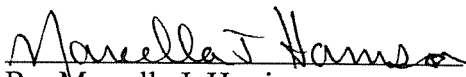
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