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SEP 27 2013

DEPARTMENT OF
WATER RESOURCES

**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

Case No. 49576

A. Subcase No. 94-7811

**STANDARD FORM 2
RESPONSE TO OBJECTION**

Please **print** or **type** the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: State of Idaho
Address: P.O. Box 83720
Boise, ID 83720-0010
Phone: 208-334-2400

Attorney Name: LAWRENCE G. WASDEN
Attorney General
Clive J. Strong
Deputy Attorney General
Chief, Natural Resources Division
Steven W. Strack (ISB # 3906)
Deputy Attorneys General
Attorney Address: P.O. Box 83720
Boise, Idaho 83720-0010
Attorney Phone No.: Telephone: (208) 334-2400

**C. NAME AND ADDRESS OF PERSON WHO FILED THE
OBJECTION TO WHICH YOU ARE RESPONDING**

Name: Coeur d'Alene Tribe of the Coeur D'Alene Indian Reservation
Address: 850 A. Street, PO Box 408Pl
Plummer, ID 83851

D. I am responding to the Objections to the following elements or general provision. (Please check the appropriate box(es)).

1. ☐ Name and Address
2. ☒ Source
3. ☐ Quantity
4. ☐ Priority Date
5. ☒ Point of Diversion
6. ☐ Instream Flow Beginning and Ending
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☐ Place of Use
10. ☐ General Provision
11. ☒ Recommendation:

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

Reasons for Response. The reservation of the beds and banks of a navigable waterway, and the reservation, if any, of the minimum amount of water rights necessary to fulfill the purposes of the Coeur d'Alene Indian Reservation, does not deprive the State of its authority to authorize the diversion of non-reserved waters by nonmembers residing within the Reservation, whether by issuance of a water right license or recognition of beneficial use. Waters within the Reservation in excess of the water, if any, found by this Court to be necessary to fulfill reserved water rights, are under the sovereign control of the State of Idaho, and may be appropriated as provided by the laws of the State of Idaho. It is well-established that the issuance of a water right license, or the recognition of a beneficial use water right, does not authorize trespass upon, or the use of, the lands of any person other than the holder of the water right. Therefore, the decree of this water right does not affect any property rights of the objector.

INSTRUCTIONS FOR MAILING

You must mail the Response, including all attachments, 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.

E. CERTIFICATE OF MAILING

I certify that on September 26, 2016, 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:

CALVIN FENTER
MARJORIE FENTER
31965 S BENEWAH RD
HARRISON ID 83833
3. Once copy to the party who filed the Objection at the following address:

Howard Funke
Howard Funke & Associates, P.C.
P.O. Box 969
Coeur d'Alene, ID 83816-0969

Copies to

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

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

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



Your signature or signature of attorney
mailing on your behalf