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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 PRBA)
)
Case No. 59576)
)

A. Subcase 87-7091
(Insert water right number)

STANDARD FORM 1
OBJECTION

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

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America, as trustee on behalf of the Nez Perce Tribe and Allottees of the Nez Perce Indian Reservation acting through Regional Director, Northwest Region Department of the Interior, Bureau of Indian Affairs

Address: 911 N.E. 11th Avenue, Portland, OR 97232

Daytime Phone: 303-844-1378 (attorney phone number)

Name & Address of Attorney, if any:
Katherine M. Kane
United States Department of Justice - ENRD
Indian Resources Section
999 18th Street, Suite 370, South Terrace
Denver, CO 80202

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

Name: Randy Sexton

Address: 1220 Rock Creek Rd.
Potlatch, ID 83855

D. I object to the following elements or general provision 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: up to half of natural spring flow (see Federal I.D. # 1097)

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: _____

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 § 42-1425 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 OBJECTION(S): A large portion of the Palouse River Basin includes lands ceded by the Nez Perce Tribe ("Tribe") in the Treaty of 1863 between the United States of America and the Nez Perce Indians, U.S.-Nez Perce Indians, June 9, 1863, 14 Stat. 647 ("1863 Treaty"). In Article VIII of the Treaty of 1863, the United States and Tribe reserved the use of the springs and fountains on the ceded lands as follows: "The United States also agree to reserve all springs or fountains not adjacent to, or directly connected with, the streams or rivers within the lands hereby relinquished, and to keep back from settlement or entry so much of the surrounding land as may be necessary to prevent the said springs or fountains being enclosed; and, further, to preserve a perpetual right of way to and from the same, as watering places, for the use in common of both whites and Indians." Based on the "in common" language in Article VIII, the United States, as trustee for the Tribe, has claimed up to half the natural spring flow with a priority date of time immemorial based on the Tribe's aboriginal use of springs. Therefore, the United States objects to this claim to the extent it fails to recognize the corresponding federal claim for up to half of natural spring flow.

(Signature of person filing objection)

(Attorney signing in representative capacity)

INSTRUCTIONS FOR MAILING

You must mail the Objections, 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.

F. CERTIFICATE OF MAILING

I certify that on January 6, 2022, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to: Clerk of the District Court
Palouse River Basin Adjudication
252 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: Randy Sexton

Address: 1220 Rock Creek Rd.
Potlatch, ID 83855

3. Copies to:

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

United States Department of Justice
Environment and Natural Resources Div.
550 W. Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
State of Idaho
PO Box 83720
Boise, ID 83720-0010

Signature of Objector or attorney
Mailing on Objector's behalf