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DEPARTMENT OF
WATER RESOURCES

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Counsel for the Nez Perce 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: PRBA

CASE NO: 59576

)
) **NEZ PERCE TRIBE'S JOINDER**
) **IN UNITED STATES' OBJECTION**
) **TO CLAIM**
)
)
)
)
)
)

On January 10, 2022, the United States of America ("United States"), 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, 911 N.E. 11th Avenue, Portland, OR 97232, filed an objection to this claim for a right under State of Idaho law to the use of a spring on lands purportedly owned by the Claimant. By way of this

filing, and for the reasons stated herein, the Nez Perce Tribe joins in the objection of the United States.

The land on which the spring, which is the basis for the claimed right under state law, is found is within Basin 87, and said spring is subject to the Palouse River Basin Adjudication. *In Re PRBA*, Case No. 59576 (D.Ct. 5th Jud. Dist. Idaho, April 10, 2019). 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, June 9, 1863, 14 Stat. 647 ("1863 Treaty"). In Article VIII of the 1863 Treaty, 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. On that basis 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 expressly reserved for the use of the Tribe and its members.

The Tribe herein joins the United States in objecting to the claim.

DATED this 10th day of January, 2022.

Respectfully submitted,

NEZ PERCE TRIBE
OFFICE OF LEGAL COUNSEL



Michael A. Lopez, Senior Staff Attorney

NATIVE AMERICAN RIGHTS FUND



Steven C. Moore, Senior Staff Attorney

Counsel for the Nez Perce Tribe

Table A
List of Claims

87-4060	87-10429	87-11334
87-4181	87-10435	87-11341
87-4182	87-10488	87-11409
87-7055	87-10489	87-11440
87-7060	87-10490	87-11453
87-7091	87-10492	87-11457
87-7107	87-10511	87-11486
87-7108	87-10523	87-11609
87-7125	87-10595	87-11632
87-7148	87-10601	87-11752
87-7163	87-10602	87-11778
87-7192	87-10609	87-11804
87-7203	87-10617	87-11807
87-7205	87-10619	87-11889
87-7215	87-10737	87-11892
87-10062	87-10743	87-11915
87-10086	87-10776	87-11916
87-10103	87-10786	87-11926
87-10186	87-10787	87-11930
87-10186	87-10788	87-11980
87-10264	87-10789	87-12257
87-10290	87-11035	87-12270
87-10295	87-11116	87-12271
87-10359	87-11209	87-12297
87-10381	87-11213	
87-10386	87-11214	

CERTIFICATE OF SERVICE

I certify that on January 10, 2022, I served true and correct copies of the NEZ PERCE TRIBE'S JOINDER IN UNITED STATES' OBJECTION TO CLAIM as follows:

Fax File:

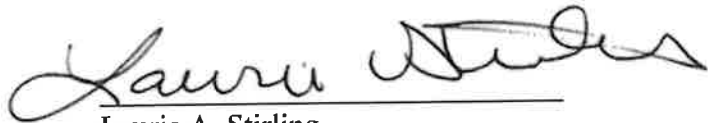
Clerk of the District Court
Palouse River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707
Fax: (208) 736-2121

True and correct copies were sent via U.S. Mail to the three addresses below and the parties listed on Table B.

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

U.S. Department of Justice
Environment & Natural Resources Division
550 W. Fort St., MSC 033
Boise, ID 83724

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

A handwritten signature in cursive script, reading "Laurie A. Stirling", written over a horizontal line.

Laurie A. Stirling
Paralegal, Native American Rights Fund

Table B

Water Right #	Claimant Name	Claimant Address
87-4060	Edward D. Kottke	1000 Kottke Rd., Moscow, ID 83843
87-4181	Roland Thomason	PO Box 415, Genesee ID 83832
87-4182	KTJ, LLC.	1024 Pine Crest Rd., Moscow, ID 83843
87-7055	Lucinda G. and William D. Morrow	1051 Matson Rd., Viola, ID 83872
87-7060	Lucinda L. and Paul C. Agidius	1155 Crumarine Loop, Moscow, ID 83843-8104
87-7091	Randy Sexton	1220 Rock Creek Rd., Potlatch, ID 83855
87-7107	James and Selma Carney	PO Box 421, Potlatch, ID 83855-0421
87-7108	Daniel C. and Mary E. Worsham	PO Box 9181, Moscow, ID 83843
87-7125	Raymond M. and Tracy L. Paz	3890 Moscow Mountain Rd., Moscow, ID 83843-8113
87-7148	Kevin Davis	1010 Kluss Rd., Genesee, ID 83832
87-7163	Board of Regents of the University of Idaho	875 Perimeter Dr. MS 3168, Moscow, ID 83844-3168
87-7192	Franklin F. Foit Jr.	900 SE Thompson Rd., Pullman, WA 99163
87-7203	Carol D. and Glen Barnett	1099 Bear Creek Rd., Princeton, ID 83857
87-7205	Carol and Glen Barnett	1099 Bear Creek Rd., Princeton, ID 83857
87-7215	Bradley Ritts	1022 Border Ln., Moscow, ID 83843-8737
87-10062	Deanna Jenkins	6122 Isaac Avenue SE Unit A, Auburn, WA 98092
87-10086	Richard and Sally Fredericks Revocable Trust	3821 Moscow Mountain Rd., Moscow, ID 83843-8113

87-10103	E. Kraut Farms, Inc. c/o Paul Kraut	1330 Gray Eagle Rd., Genesee, ID 83832
87-10186	Ben Barstow	13201 SR 272, Palouse, WA 99161
87-10186	Shaun Nilsson	617 Vista, Lewiston, ID 83501
87-10264	Joan and Paul Million	1023 Wallen Rd., Moscow, ID 83843
87-10290	Duane and Jo Minden	1255 W. Cove Rd., Viola, ID 83872-9799
87-10295	Dorothy Mae Libey Revocable Living Trust	1130 E. Cove Rd., Viola, ID 83872
87-10359	Maurine Finney	1329 Tamarack St., Moscow, ID 83843
87-10381	Andrew Sewell	5299 HWY 95, Viola, ID 83872
87-10386	Lawen Family Farm, LLC.	318 Kilgarvan Ct., Vacaville, CA 95688
87-10429	K4, LLC. c/o Bethine J. Kenworthy	PO Box 8308, Moscow, ID 83843
87-10435	Amy and Rob Larson	1260 Saddle Ridge Rd., Viola, ID 83872
87-10488	Randy Sexton	1220 Rock Creek Rd., Potlatch, ID 83855
87-10489	Randy Sexton	1220 Rock Creek Rd., Potlatch, ID 83855
87-10490	Randy Sexton	1220 Rock Creek Rd., Potlatch, ID 83855
87-10492	Randy Sexton	1220 Rock Creek Rd., Potlatch, ID 83855
87-10511	Jory D. and Joyce M. Shelton	16751 US Highway 95, Genesee, ID 83832
87-10523	Kristene and Steve Hymas	PO Box 184, Princeton, ID 83857
87-10595	Robert and Tamara Lewis	1010 Flannigan Creek Rd., Viola, ID 83872
87-10601	Ginger and Jacob Osborn	1480 Uniontown Rd., Genesee, ID 83832
87-10602	Ginger and Jacob Osborn	1480 Uniontown Rd., Genesee, ID 83832
87-10609	Kevin Lisher	1210 Morris Rd., Princeton, ID 83857

87-10617	Kyle N. Hawley	1052 Lewis Rd., Moscow, ID 83843
87-10619	Kyle N. Hawley	1052 Lewis Rd., Moscow, ID 83843
87-10737	Charles M. Leef	1032 Leef Ln., Princeton, ID 83857
87-10743	William J. Hicklin	1219 Four Mile Rd., Viola, ID 83872
87-10776	Consuelo J. and Gerald E. Weitz	1224 Saddle Ridge Rd., Viola, ID 83872
87-10786	Linehan Trust	434 Ridge Rd., Moscow, ID 83843
87-10787	Linehan Trust	434 Ridge Rd., Moscow, ID 83843
87-10788	Linehan Trust	434 Ridge Rd., Moscow, ID 83843
87-10789	Linehan Trust	434 Ridge Rd., Moscow, ID 83843
87-11035	Dawn D. Pfaff Living Trust	1099 E. Rock Creek Rd., Potlatch, ID 83855
87-11116	Dan and Linda Hardesty	PO Box 80, Viola, ID 83872
87-11209	Marie and Thomas Linehan	1060 Aurora Ln., Genesee, ID 83832
87-11213	Goldstein Trust	1010 Ranch Rd., Moscow, ID 83843-7484
87-11214	Goldstein Trust	1010 Ranch Rd., Moscow, ID 83843-7484
87-11334	Cheryl and Randall Hall	1140 Lyon Rd., Moscow, ID 83843-9196
87-11341	Peter T. Crowley	2352 Krier Rd., Genesee, ID 83832
87-11409	Stephanie McClure	381 Caldwell Rd., Walla Walla, WA 99362
87-11440	Melissa Ann Lines	4551 HWY 6, Harvard, ID 83834
87-11453	Kathleen R. and Steven R. Austin	1005 W. Hatter Creek Rd., Princeton ID 83857
87-11457	Juliette Elizabeth Anderson	1021 Sugar Plum Trail, Moscow, ID 83843
87-11486	Juanita F. Mantz c/o Christal or Tim Mantz	PO Box 327, Potlatch, ID 83855

87-11609	Dorris A. Walker	PO Box 603, Potlatch, ID 83855-0603
87-11632	KO and Russell Spangler	1006 Serenity Ln., Viola, ID 83872
87-11752	Deanna Jenkins	6122 Isaac Avenue SE Unit A, Auburn, WA 98092
87-11778	Kevin Bowes	1091 Headrick Rd., Potlatch, ID 83855
87-11804	Alan L. and Mary M. Lyon	4025 Lenville Rd., Moscow, ID 83843
87-11807	David J. and Kimberly A. Sarff	1170 Zeitler Rd., Moscow, ID 83843
87-11889	Jo Dean Moore	1115 Wallen Rd., Moscow, ID 83843
87-11892	Theodore C. Thompson	1024 Pine Crest Rd., Moscow, ID 83843-8424
87-11915	Ron Herman	1280 Borgen Rd., Genesee, ID 83832
87-11916	Ron Herman	1280 Borgen Rd., Genesee, ID 83832
87-11926	Bryony and Micah Shryer	2550 Mix Rd., Moscow, ID 83843
87-11930	Julie and Martin Haarr	1021 Big Meadow Rd., Troy, ID 83871
87-11980	Sam O'Reilly	1005 Dutch Lane, Potlatch, ID 83855
87-12257	ODD Chester Industries, LLC c/o Deann and Jonathan Billing	PO Box 8551, Moscow, ID 83843
87-12270	David J. and Kimberly A. Sarff	1170 Zeitler Rd., Moscow, ID 83843
87-12271	Kevin Bowes	1091 Headrick Rd., Potlatch, ID 83855
87-12297	Kyle N. Hawley	1052 Lewis Rd., Moscow, ID 83843