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DISTRICT COURT - CSRBA	
Fifth Judicial District	
County of Twin Falls - State of Idaho	
OCT 31 2023	
By _____	Clerk
_____	Deputy Clerk

**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

Subcase Nos. 95-9115, 95-9119, and 95-2067

**STATE OF IDAHO'S RESPONSE TO
THE UNITED STATES AND TRIBE'S
SUBMISSION OF DOCUMENTS**

The Table submitted by the United States and Coeur d' Alene Tribe's is factually inaccurate and lacks candor toward the tribunal. Moreover, the "End Notes" attached to their table are not an explanation of the Table and amount to little more than a regurgitation of their previous briefing.

I. **THE POST-HEARING SUBMISSION BY THE TRIBE AND THE UNITED STATES IS FACTUALLY INACCURATE AND MISLEADING.**

Rather than candidly acknowledging that the Table originally filed by the State with its briefing is accurate, the Tribe and the United States elected to submit their own materially false Table. Despite the accurate description of the “Purpose of Use” language contained in the Governor’s water right claim presented by the State in its own Table and the extensive briefing and argument on this very relevant issue, the Tribe and the United States assert in their Table that the “Purpose of Use” in the Governor’s water right claim was limited to “Recreation Storage”. The misrepresentation is then used to attempt to support their assertion that the subject SF-5 was an expansion of the claimed right. In fact, however, the United States and Tribe’s representation to the Court neglects to inform the Court that the “Remark” section in the Governor’s water right claim clearly and unequivocally states, “The water use under this right is to maintain the level of the Coeur d’Alene Lake.” See, Affidavit of Scott L. Campbell in Support of Opposition, Exhibit “B” (Emphasis added). Whether the misrepresentation was inadvertent or intentional is immaterial in this proceeding. The facts are the facts. The court should take notice of this inaccurate representation in the record in determining that the SF-5 did not exceed the scope of the subject license, the Governor’s water right claim, or the Director’s Report

Furthermore, it should be noted that the United State and Tribe’s Table only addressed two of the elements of the water right that are contained in the four relevant documents. Based upon the fact the United States and the Tribe only included two elements of the relevant water rights in their Table, the Court should reasonably infer that they have withdrawn their previous unfounded assertions concerning the other elements of the subject water right.

II. **THE “END NOTES” ATTACHED TO THE TRIBE AND THE UNITED STATES ARE MERELY DUPLICATIVE OF THEIR PRIOR BRIEFING.**

The Tribe and United States’ “End Notes” do not appear designed to explain their Table. Instead, they merely repeat and cite their prior briefing. Their “End Notes” add nothing more to address what should be the undisputed fact that the Tribe and the United States had actual and constructive notice of the Governor’s claim, they deliberately chose not to file an objection or response to the Governor’s claim, and they are now attempting to untimely disrupt the negotiated resolution reached by the legitimate parties in this subcase. Accordingly, rather than duplicate its arguments, the State will rest on, and herein incorporates, its prior briefing and oral argument in opposition to the Tribe and United States untimely Motion to Participate and Motion for Order Construing SF-5s as Amended Claims.

DATED this 30th day of October, 2023



DAVID S. PERKINS
Deputy Attorney General
Energy and Natural Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of October, 2023, I caused to be served a true and correct copy of the foregoing document by the methods indicated:

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