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

In Re the PRBA

Case No. 59576

) **Subcase No. 87-7125**

)

)

) **UNITED STATES' RESPONSE**

) **TO RAYMOND AND TRACY PAZ'S**

) **FIRST SET OF DISCOVERY REQUESTS**

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)

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SCANNED

APR 22 2026

Pursuant to the Idaho Rules of Civil Procedure, the United States of America (“United States”) hereby submits the following responses to Raymond and Tracy Paz’s first set of discovery requests, dated March 2, 2026. This response reflects the United States’ reasonable efforts to consider and investigate the subject matters covered by the requests and to respond by April 15, 2026, as agreed to by counsel for Raymond and Tracy Paz. The statements made in this response are based upon the best knowledge, information, and belief of the United States at this time. The United States reserves the right to correct, modify, or supplement any of the objections or responses as the United States determines may be necessary or appropriate, consistent with the Idaho Rules of Civil Procedure.

GENERAL OBJECTIONS

1. The United States objects to the definitions and instructions to the extent that they purport to require discovery responses beyond that required under the Idaho Rules of Civil Procedure. These responses are provided in accordance with the Idaho Rules of Civil Procedure irrespective of any definitions and instructions that may accompany the discovery requests.
2. These responses are made subject to all objections as to competence, relevance, materiality, and admissibility. These responses are subject to all objections that would require the exclusion of any statement, material, or information herein provided if such requests were asked of, or any statement, material, or information provided were made by witnesses present and testifying in court. All such objections are reserved and may be interposed at any time, including at trial.
3. The United States generally objects to these discovery requests to the extent they seek information protected by the attorney-client privilege; the work-product doctrine; the deliberative process privilege; any other applicable privileges recognized in Article V of the Idaho Rules of Evidence; and the rules governing the discovery relating to experts as set forth in Rule 26(b)(4) of the Idaho Rules of Civil Procedure. This objection is intended to apply to all of the discovery requests that seek such information and will not be repeated specifically for each request to which it

applies. The United States, to the extent applicable and possible, has construed each request as requesting only information not subject to any applicable protection.

4. No incidental or implied admissions are intended. The fact that the United States has responded to any discovery request or part thereof should not be taken as an admission that it accepts the discovery request or that the response or objection thereto constitutes admissible evidence.

Similarly, the fact that the United States has responded to all or part of a request is not intended to and shall not be construed to be a waiver by it of all or part of any objection to other requests. The United States' answer to any discovery request herein does not constitute a waiver of its right to object to future additional or supplemental discovery requests regarding the same or similar matters.

5. The discovery requests propounded on the United States in Raymond and Tracy Paz's first set of discovery requests, dated March 2, 2026, are directed at both the United States and the Nez Perce Tribe. And number of discovery requests are inappropriately phrased to ask the United States to respond to certain requests that are best directed at the Nez Perce Tribe. The United States objects to the extent that Raymond and Tracy Paz fail to recognize that the Nez Perce Tribe is an independent, sovereign government, and is not an agent or instrumentality of the United States. The United States filed water right claims in the Palouse River Basin Adjudication ("PRBA") in its capacity as trustee for the Nez Perce Tribe and Allottees and as legal owner of the claimed water rights. The Nez Perce Tribe is the beneficial owner of the tribal water rights claimed by the United States. While the water rights claimed may be the same, the United States and the Nez Perce Tribe are separate entities.

6. These discovery responses are provided consistent with the Order Amending Litigation Schedule for Federal Claims, dated September 18, 2025, and the Order on Motion to Enter Litigation Schedule for Federal Claims, dated December 12, 2024, which granted the United States' Motion to Enter Litigation Schedule for Federal Claims, dated October 8, 2024 ("Litigation Schedule Motion"). The Litigation Schedule Motion explained that the federal claims in this case fall into

three categories: 1) Allotments; 2) Springs and Fountains; and 3) Instream Flows. Further, the Litigation Schedule Motion requested that the Court bifurcate entitlement issues from quantification of the Instream Flow Claims. Pursuant to the Court's December 12, 2024, Order granting the Litigation Schedule Motion and December 12, 2025, Order on Stipulations to Stay,¹ the United States responds to these discovery requests on entitlement issues only regarding the Instream Flow claims but responds regarding both entitlement and quantification issues for the remaining two categories of claims.

7. The United States generally objects to the extent that these discovery requests seek expert witness opinions before the deadline to disclose expert reports as provided in the litigation schedule for the federal subcases, that the parties to those subcases stipulated to and the Court approved on March 31, 2026.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. The United States objects to the statement in the first paragraph of the Definitions and Instructions section of the Request which states that the United States is required to furnish all information that is "available to you, or subject to your reasonable inquiry, including information in the possession, custody, or control of your attorneys, advisors, or other persons directly or indirectly employed by, or connected with, you or your attorneys, and anyone else otherwise subject to your control." The instructions vary from or exceed the specific obligations imposed by I.R.C.P. 33 and 34. The United States' responses are made in a manner consistent with the Idaho Rules of Civil Procedure.

¹ The deadlines in the September 18, 2025, Order were vacated after the parties filed a stipulation to stay the litigation schedule on October 16, 2025, in light of the lapse of the appropriations that had been funding the Department of Justice. The parties requested a reschedule of those deadlines consistent with the stipulation filed on December 3, 2025, which the Court granted in the December 12, 2025, Order on Stipulation to Stay. The parties filed another stipulation to modify deadlines in the litigation schedule on March 25, 2026, which the Court granted on March 31, 2026.

2. The United States objects to the definition of “you” and “your” in the Definitions and Instructions section of the Requests. That definition confuses the distinction between the United States and the Nez Perce Tribe. The Nez Perce Tribe is an independent, sovereign government, and is not an agent or instrumentality of the United States. The United States filed water right claims in the PRBA in its capacity as trustee for the Nez Perce Tribe and Allottees and as legal owner of the claimed water rights. The Nez Perce Tribe is the beneficial owner of the tribal water rights claimed by the United States. Regardless of whether the water rights claimed may be the same, the United States and the Nez Perce Tribe are separate entities. The United States’ responses to the Requests are therefore made on its own behalf and not for or in lieu of the Nez Perce Tribe’s responses to the same Requests.

INTERROGATORIES

INTERROGATORY NO. 1. Please describe all information you have relating to the specific Spring that is referenced in the Caption of these discovery requests, including all measurement or knowledge of flow from the specific spring referenced and include how the measurement or knowledge was obtained.

RESPONSE: The United States continues to develop its claims and may develop additional facts in accordance with the litigation schedule approved for the federal subcases. At this time, all information that the United States has relating to the spring referenced in the above caption is provided in the expert report, *Palouse River Basin Adjudication Springs Expert Report*, and supporting documents (US0000823-2730), and the expert report, *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River Basin in Idaho*, and supporting documents (US0002731-6605; *see specifically* US0004342), which were produced to the parties in the federal subcases on April 18, 2025, and the expert report titled *Rebuttal to State of Idaho Experts*, and supporting documents (US0011639-11661 and US0007104-7876), produced to the parties in the federal subcases on March 31, 2026. Further documents regarding the springs

were produced by the United States to the parties in the federal subcases on March 4, 2026. See *United States Supplemental Disclosure re Springs' Reports*; US_PRBA_00008962-14814. And further documents are produced by the United States in response to this discovery request. US0011681-US0011964. Information regarding the spring referenced in the above caption can also be found in the United States' Standard Form 1 Objection (filed Jan. 10, 2022) filed in Subcase No. 87-7125, and in the United States' Notice of Claim form in Subcase No. 87-12105 (filed Dec. 30, 2019). Additional facts relating to the spring referenced in the above caption are provided in the Nez Perce Tribe's expert report titled *The Nez Perce Tribe's Traditional Cultural Connections to and Uses of the Palouse Lands and Waters within the Palouse River Basin*, and its supporting documents (NPTPRBA04767-06285), produced in discovery on April 18, 2025; and the expert report titled *Additional Ethnographic and Ethnohistoric Context of Nez Perce Fishing for Resident Fish in the Palouse River Basin: A Rebuttal Report to the State of Idaho's Expert Witness Disclosure* (NPTPRBA06457-NPTPRBA06524), produced in discovery on March 31, 2026.

INTERROGATORY NO. 2. Describe fully and in detail the historic use, if any, that the Nez Perce Tribe has made of the specific Spring that is referenced in the Caption of these discovery requests and specifically answer each of the following questions:

- a. Date when the spring was used, accessed or observed
- b. Names of person(s) who used, accessed or observed the spring
- c. Describe the purpose(s) for which the spring was used, accessed or observed

RESPONSE: The United States objects to this request because it is inappropriately phrased to ask the United States to respond to a request that is directed to the Nez Perce Tribe. The United States also objects to this request as vague and to the extent it seeks a legal conclusion as to the interpretation of the June 11, 1855 Treaty with the Nez Percés (hereinafter "1855 Treaty") and the June 9, 1863 Treaty

with the Nez Percés (hereinafter “1863 Treaty”). The United States objects to this Interrogatory on the grounds of relevance. The Interrogatory seeks information beyond the limits of I.R.C.P. 26(b)(1)(A), as the Interrogatory, including each subpart, is not relevant to any party’s claim or defense. Neither entitlement nor quantification of the springs claim that is the subject of this discovery request is based upon use, but upon the rights reserved in the 1855 and 1863 Treaties. The United States also objects to this request as premature because the United States continues to develop facts to support its objection in Subcase No. 87-7125 and its spring claim in the related federal subcase, Subcase No. 87-12105, and may develop additional facts consistent with the litigation schedule adopted for the federal subcases.

Without waiving any objection, the United States responds that, at this time, the facts regarding the Nez Perce Tribe’s historic use of the spring referenced in the above caption are provided in the expert report, *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River Basin in Idaho*, and supporting documents, (US0002731-6605), which were produced to the parties in the federal subcases on April 18, 2025, and the expert report titled *Rebuttal to State of Idaho Experts*, and supporting documents (US0011639-11661 and US0007104-7876), produced to the parties in the federal subcases on March 31, 2026. Additional facts supporting the Nez Perce Tribe’s historic use of the spring referenced in the above caption were provided in the Nez Perce Tribe’s expert report titled *The Nez Perce Tribe’s Traditional Cultural Connections to and Uses of the Palouse Lands and Waters within the Palouse River Basin* (NPTPRBA04767-06285), and its supporting documents, produced in discovery on April 18, 2025; and the expert report titled *Additional Ethnographic and Ethnohistoric Context of Nez Perce Fishing for Resident Fish in the Palouse River Basin: A Rebuttal Report to the State of Idaho’s Expert Witness Disclosure* (NPTPRBA06457-NPTPRBA06524), produced in discovery on March 31, 2026.

Further, the General Land Office (“GLO”) surveyor's "General Description" of Township 40N, Range 5W, in 1871 stated that this entire township was "well watered by numerous springs and creeks"

(US0004343 at US0004379). In addition, the 1871 GLO survey plat shows a trail roughly three miles west of this spring (US0011950). As noted in the United States' expert report, *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River Basin in Idaho* (US0002731), Nez Perce Tribal members relied on their vast network of trails to access springs and other resource areas throughout their traditional territory, likely including this spring, as well as the other "numerous springs and creeks" noted by GLO surveyors in Township 40N, Range 5W.

INTERROGATORY NO. 3. Describe fully and in detail all the facts that support the Nez Perce Tribe's claim to the Spring that is referenced in the Caption of these discovery requests, including but not limited to how the Spring was identified to be claimed.

RESPONSE: The United States objects to this Interrogatory to the extent it conflates the United States' claim as trustee on behalf of the Nez Perce Tribe and Allottees with the Nez Perce Tribe's joinder in the United States' claim for the spring that is referenced in the caption of this discovery request. The Nez Perce Tribe is an independent, sovereign government, and is not an agent or instrumentality of the United States. Without waiving its objection, the United States responds that it continues to develop its claims and may develop additional facts in accordance with the litigation schedule approved for the federal subcases. At this time, the facts that support the United States' claim in Subcase No. 87-12105, including how the spring was identified to be claimed, are provided in the expert report, *Palouse River Basin Adjudication Springs Expert Report*, and supporting documents (US0000823-2730), and the expert report, *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River Basin in Idaho*, and supporting documents (US0002731-6605), which were produced to the parties in the federal subcases on April 18, 2025, and the expert report titled *Rebuttal to State of Idaho Experts*, and supporting documents (US0011639-11661 and US0007104-7876), produced to the parties in the federal subcases on March 31, 2026. Further documents regarding the springs were

produced by the United States to the parties on March 4, 2026. See *United States Supplemental Disclosure re Springs' Reports*, US_PRBA_00008962-14814. And further documents are produced by the United States in response to this discovery request. US0011681-US0011964. Information supporting the United States' claim to the spring referenced in the above caption can also be found in the United States' Standard Form 1 Objection (filed Jan. 10, 2022) filed in Subcase No. 87-7125 and in the United States' Notice of Claim form in Subcase No. 87-12105 (filed Dec. 30, 2019). Finally, additional facts supporting the United States' springs claims in the federal subcases were provided in the Nez Perce Tribe's expert report titled *The Nez Perce Tribe's Traditional Cultural Connections to and Uses of the Palouse Lands and Waters within the Palouse River Basin*, and its supporting documents (NPTPRBA04767-06285), produced in discovery on April 18, 2025; and the expert report titled *Additional Ethnographic and Ethnohistoric Context of Nez Perce Fishing for Resident Fish in the Palouse River Basin: A Rebuttal Report to the State of Idaho's Expert Witness Disclosure* (NPTPRBA06457-NPTPRBA06524), produced in discovery on March 31, 2026.

INTERROGATORY NO. 4. Describe fully and in details what "watering places" means as contained in Article 8 of the 1863 Nez Perce Treaty.

RESPONSE: The United States objects to this Interrogatory because it seeks a legal conclusion as to the interpretation of the phrase "watering places" found in Article 8 of the 1863 Treaty. The 1863 Treaty and contemporaneous historical documentation of the 1863 Treaty proceedings speak for themselves and are the best evidence of the meaning of the phrase "watering places" as used in Article 8 of the Treaty. Without waiving its objection, the United States responds that its expert report, *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River Basin in Idaho*, and supporting documents (US0002731-6605), which was produced to the parties in the federal subcases on April 18, 2025, contains discussion of Article 8 of the 1863 Treaty at pages 50 through 52 of that report (US0002783-85). The Nez Perce Tribe's various

traditional uses of the springs as watering places are also discussed on pages 25 through 29 of the United States' expert report titled *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River* and throughout the expert report titled *The Nez Perce Tribe's Traditional Cultural Connections to and Uses of the Palouse Lands and Waters within the Palouse River Basin* (NPTPRBA04767-06285). Moreover, the terms of Article 8 of the 1863 Treaty such as "watering places" must be defined in accordance with their ordinary plain meanings at Treaty time and in a way that gives their practical meaning the effect as the terms would have been understood by the treaty negotiators. It is the United States' position that the phrase "watering places" within Article 8 of the 1863 Treaty should be read to apply to all the springs or fountains within the lands ceded by the 1863 Treaty and to the entire reservation made within Article 8. Moreover, it is the United States' position that "watering places" includes both consumptive uses for the Nez Perce Tribe tribal members and their livestock, along with all other traditional and ceremonial purposes for which the Nez Perce have used springs since time immemorial. *The Nez Perce Tribe's Traditional Cultural Connections to and Uses of the Palouse Lands and Waters within the Palouse River Basin* at NPTPRBA04813; *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River Basin in Idaho* at US0002758-2762. To the extent the meaning of "watering places" is not answered in the historical record, the canons of Indian treaty construction must be applied.

INTERROGATORY NO. 5. Please identify any spring claim in this adjudication for which you did not file an objection.

RESPONSE: The United States objects to this Interrogatory on the grounds of relevance, as it seeks information beyond the limits of I.R.C.P. 26(b)(1)(A). The Interrogatory is not relevant to any party's claim or defense, since neither entitlement nor quantification of the springs claim referenced in the above caption depends on what springs claims the United States did not file objections to. Relatedly, the United States also objects to this Interrogatory because it is overly broad and unduly burdensome. Without waiving its

objection, the United States responds that it compiled a comprehensive list of springs in 2019 in the file titled: PRBA_All_SeepsSprings_Claims_20191211.xlsx (US0011913). This file contains all springs considered for submittal of water rights claims by the United States in the PRBA as developed in December 2019. Springs were originally evaluated between 2017 and 2019. As described in the *Palouse River Basin Adjudication Springs Expert Report* (US0000823-2730), data sources reviewed included U.S. Geologic Survey (“USGS”) 7.5 minute quadrangle maps, water right documents submitted to the Idaho Department of Water Resources (“IDWR”), historical land survey maps, and the University of Idaho Archives. From this comprehensive list of all springs, those outside of the PRBA boundary, those outside of the 1855 Treaty boundary (i.e., north of the Palouse River), and those that were within ¼ mile of a perennial stream were removed from consideration (*Palouse River Basin Adjudication Springs Expert Report*, US0000823-2730). This subset of springs was used to compile the claims filed by the United States in December 2019.

The PRBA_All_SeepsSprings_Claims_20191211.xlsx file (US0011913) containing the comprehensive list of all springs includes unique identifiers, basin, watershed, and tributary information, location information, and data source information as it was compiled in 2019. Note that the file has some of the same fields as Appendix A Springs Claim Database (US0000871) submitted with the *Palouse River Basin Adjudication Springs Expert Report*. However, some spring locations have changed as a result of updates to the mirror IDWR private claims so will not match the location information provided in the comprehensive file. Finally, the United States notes that information regarding any spring claim to which the United States did not file an objection is equally available to the claimant here.

INTERROGATORY NO. 6. Please identify any spring you have knowledge of that is not adjacent to or directly connected with the streams or rivers within the lands relinquished under the 1863 Treaty.

RESPONSE: The United States objects to this Interrogatory because this information is not relevant to any party’s claim or defense for the claim referenced in the above caption. The United States objects to

this Interrogatory because it is overly broad and unduly burdensome. The United States also objects to this Interrogatory because not all lands ceded by the Nez Perce Tribe pursuant to the 1863 Treaty are within the area being adjudicated in the PRBA, making any requests regarding those lands outside the adjudication area irrelevant. The United States therefore limits its response to this Interrogatory to those lands that are both within the PRBA area and that were ceded by the Nez Perce Tribe pursuant to the 1863 Treaty. Finally, the United States objects to this Interrogatory because it does not define “adjacent to or directly connected with,” making this request ambiguous. Without waiving its objections, the United States refers to **Attachment A**, which includes a list of all springs claims made by the United States on behalf of the Nez Perce Tribe, which the United States alleges are not “adjacent to or directly connected with” any streams or rivers as the United States interprets that phrase within Article 8 of the 1863 Treaty.

INTERROGATORY NO. 7. Please describe all of the steps you took to determine whether or not the Spring that is referenced in the Caption of these discovery requests is adjacent to or directly connected with a stream or river.

RESPONSE: The United States objects to this Interrogatory because it does not define “adjacent to or directly connected with,” making this request ambiguous. The United States also objects to this request as premature because the United States continues to develop facts to support its objection in Subcase No. 87-7125 and its spring claim in the related federal subcase, Subcase No. 87-12105, and may develop additional facts consistent with the litigation schedule adopted for the federal subcases. Specifically, the United States’ disclosed experts may provide further analysis regarding the meaning of the phrase “adjacent to, or directly connected with,” as that language is found within Article 8 of the 1863 Treaty. Without waiving its objections, the United States responds that its expert report titled *Palouse River Basin Adjudication Springs Expert Report*, and supporting documents (US0000823-2730), which was produced to the parties in the federal subcases on April 18, 2025, details the process the United States’ experts took in applying a 0.25-

mile buffer to the hydrography of perennial streams within the PRBA area to remove any springs within that 0.25-mile buffer. *See Palouse River Basin Adjudication Springs Expert Report* at Sections 3.2, 4.4, and 7. The United States therefore only made claims to springs, and objected to others' springs claims, that were outside that 0.25-mile buffer zone. *See also* United States' Response to Request for Admission No. 4.

INTERROGATORY NO. 8. Please describe what you believe to be the definition of 'adjacent to or directly connected with' as it relates that term used in the 1863 Treaty upon which you rely.

RESPONSE: The United States objects to this Interrogatory because it seeks a legal conclusion as to the interpretation of the phrase "adjacent to, or directly connected with" found in Article 8 of the 1863 Treaty. The 1863 Treaty and contemporaneous historical documentation of the 1863 Treaty proceedings speak for themselves and are the best evidence of the meaning of the phrase "adjacent to, or directly connected with" as used in Article 8 of that treaty. Without waiving its objection, the United States responds that the terms of Article 8 of the 1863 Treaty such as "not adjacent to" and "directly connected with" must be defined in accordance with their ordinary plain meanings at Treaty time and in a way that gives their practical meaning the effect as the terms would have been understood by the treaty negotiators. These terms in Article 8 were meant to convey the common or lay understandings of the day and not technical, legal or scientific understanding. The meaning of "adjacent" which gives effect to the 1863 Treaty is "next to, contiguous, bordering upon." Given the limited state of hydrologic knowledge at the time of the 1863 Treaty, the meaning of "directly connected" must be read to apply only to a surface connection between the subject spring's natural, perennial flow through a continuous channel that reaches and is deposited into a perennial stream or river. In other words, the treaty right in Article 8 of the 1863 Treaty reserves "all springs" within the ceded area, except for those which are shown to be either next to a perennially flowing stream or river or otherwise directly connected over the surfaces in a perennially flowing way to such stream or river. To the extent the meaning of these terms is not

answered in the historical record, the canons of Indian treaty construction must be applied.

INTERROGATORY NO. 9. Describe fully and detail the basis for the quantity claimed for the claim listed above including why that quantity is the amount needed for the purposes claimed.

RESPONSE: The United States objects to this Interrogatory because the phrase “needed for the purposes claimed” is vague and undefined, and because this Interrogatory is impermissibly compound. The United States also objects to this Interrogatory to the extent it implies that the quantity of water claimed by the United States in its objection in Subcase No. 87-7125 and in its Notice of Claim in Subcase No. 87-12105 must be put to use for the United States’ claim to be valid. The United States’ water rights cannot be lost by state-law principles of non-use, and thus requests regarding non-use seek information beyond the limits of I.R.C.P. 26(b)(1)(A), as neither entitlement nor quantification of the springs claim that is the subject of the discovery request is based on use, but upon rights reserved in the 1855 and 1863 Treaties. Moreover, the United States objects to this Interrogatory to the extent it seeks a legal interpretation or legal conclusions regarding Article 8 of the 1863 Treaty, which speaks for itself.

Without waiving its objections, the United States responds that, per Article 8 of the 1863 Treaty, which preserves for the Nez Perce Tribe springs and fountains “for the use in common of both whites and Indians,” the United States claims half the natural flow of the spring or fountain that is the subject of this claim. The legal basis of this claim is outlined in the “Basis of Claim” section of the Notice of Claim for Subcase No. 87-12105 and in the United States’ Objection in Subcase No. 87-7125. Moreover, at this time, the facts that support the United States’ claim are described in response to Interrogatory No. 3, *supra*.

INTERROGATORY NO. 10. Describe fully and in detail your answers to Request for Admissions 1 through 5 below.

RESPONSE: *See Responses to Requests for Admission 1-5.*

REQUEST FOR ADMISSION

REQUEST FOR ADMISSION 1. Admit that there is no documentary evidence to support that the Nez Perce Tribe or any of its members actually visited or used the spring represented by the above listed claim.

RESPONSE: The United States objects to this Request for Admission because it seeks information beyond the limits of I.R.C.P. 26(b)(1)(A), since Article 8 of the 1863 Treaty contains no requirement that the Nez Perce Tribe or any of its members "actually visited or used" the spring at issue in this claim. Relatedly, the United States objects to this Request for Admission to the extent it seeks a legal interpretation or legal conclusions regarding Article 8 of the 1863 Treaty, which speaks for itself. Without waiving its objections, the United States responds that the GLO surveyor's "General Description" of Township 40N, Range 5W, in 1871 stated that this entire township was "well watered by numerous springs and creeks" (US0004343 at US0004379). In addition, the 1871 GLO survey plat shows a trail roughly three miles west of this spring (US0011950). As noted in *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River Basin in Idaho*, (US0002731) Nez Perce Tribal members relied on their vast network of trails to access springs and other resource areas throughout their traditional territory, likely including this spring, as well as the other "numerous springs and creeks" noted by GLO surveyors in Township 40N, Range 5W.

REQUEST FOR ADMISSION 2. Admit that there is no non-documentary evidence to support that the Nez Perce Tribe or any of its members actually visited or used the spring represented by the

above listed claim.

RESPONSE: The United States objects to this Request for Admission because it seeks information beyond the limits of I.R.C.P. 26(b)(1)(A), since Article 8 of the 1863 Treaty contains no requirement that the Nez Perce Tribe or any of its members “actually visited or used” the spring at issue in this claim. Relatedly, the United States objects to this Request for Admission to the extent it seeks a legal interpretation or legal conclusions regarding Article 8 of the 1863 Treaty, which speaks for itself. Without waiving its objections, the United States responds that it lacks sufficient knowledge to admit or deny this Request for Admission. While the United States is not in possession of any non-documentary evidence described in Request for Admission No. 2, that fact neither confirms nor denies its existence. *See* Nez Perce Tribe’s Response to Raymond and Tracy Paz’s Requests, Response to Interrogatory No. 2 (produced April 15, 2026).

REQUEST FOR ADMISSION 3. Admit that you did not conduct a site visit of the specific Spring referenced in the Caption of these discovery requests.

RESPONSE: Admit. *See* US0000871.

REQUEST FOR ADMISSION 4. Admit that the Spring referenced in the Caption of these discovery requests is adjacent to or directly connected with Gnat Creek, which is a stream or river.

RESPONSE: The United States objects to this Request for Admission because it does not define “adjacent to or directly connected with,” making this request ambiguous. Without waiving its objection, the United States responds that, while IDWR lists the spring referenced in the above caption as a tributary to Gnat Creek, the United States denies that automatically means the spring is “adjacent to, or directly connected with” a stream or river, as that phrase is used in Article 8 of the 1863 Treaty.

The IDWR Water Right Database includes several fields associated with each Water Right Report, including “Source” and “Tributary.” No definition or metadata are provided for either of these fields. Both fields are completed by the owner during submittal of the “Notice of Claim to a Water Right” filing. Instructions for Form No. 42-1409-1 (US0011953-US0011964) state for the claimant to use the name shown on the U.S. Geological Survey quadrangle map and to “Enter the first named stream or lake downstream to which the source is a tributary” and “If the source sinks before entering another stream or lake, enter "sinks" for tributary to. Forms may not be completed consistently across records. It is unknown if IDWR adjusts information the claimant has completed when IDWR enters it into their database. The “Tributary” field does not provide any indication of if water is actively flowing to that stream or whether the unnamed tributary or the downstream stream is perennial (year-round flow) or intermittent (seasonal water flow). The Tributary field for Claim 87-7125 is currently listed as “Gnat Creek.” However, per the USGS National Hydrography Dataset, if water were flowing, Claim 87-7125 would first drain to an unnamed tributary, and that unnamed tributary flows into Gnat Creek.

Idaho Administrative Code defines an intermittent stream as one having a hydrologically based, unregulated 7-day, 2-year low flow (7Q2) of less than 0.1 cubic foot per second (State of Idaho 2023, US0011723-US0011912). A 2009 USGS study estimated the locations of perennial streams using a generalized least squares regression model (Wood et al. 2009 (US0011914-US0011949); Rea and Skinner 2009 (US0011681-US0011722)).² The unnamed tributary to which the spring 87-7125 drains is so small as to not be categorized by the 2009 USGS study and would therefore be considered ephemeral (short periods of flow after precipitation). The unnamed tributary flows into Gnat Creek, which is categorized as intermittent (percode = 1). In addition, spring 87-7125 was identified to be outside of the

² Estimated Perennial Streams of Idaho and Related Geospatial Datasets (<https://pubs.usgs.gov/publication/ds412>).

0.25-mile buffer from a perennial stream (*Palouse River Basin Adjudication Springs Expert Report*). Therefore, Claim 87-7125 would not fit the definition of “adjacent to or directly connected with.” See Response to Interrogatory No. 8.

REQUEST FOR ADMISSION 5. Admit that if the Spring referenced in the Caption of these discovery requests is adjacent to or directly connected with Gnat Creek, then you have no rights to the Spring under the 1863 Treaty.

RESPONSE: The United States objects to this Request for Admission because it does not define “adjacent to or directly connected with,” making this request ambiguous. The United States therefore denies this request. Moreover, while the Idaho Department of Water Resources does list the spring referenced in the above caption as a tributary to Gnat Creek, the United States denies that automatically means the spring is “adjacent to, or directly connected with” a stream or river, as that phrase is used in Article 8 of the 1863 Treaty, such that the United States and Nez Perce Tribe have no right to the spring under the Treaty. See response to Request for Admission No. 4.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1. Produce clear and legible copies of each and every document that supports the answers to ROG 1 -10 above and ROA 1-5 above.

RESPONSE: Acknowledging its obligation to supplement its disclosures and discovery responses, the United States responds that documents responsive to this Request for Production have been produced in the litigation concerning the federal subcases and include the following: *Palouse River Basin Adjudication Springs Expert Report*, and supporting documents (US0000823-2730); *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River Basin in*

Idaho, and supporting documents (US0002731-6605); *Rebuttal to State of Idaho Experts*, and supporting documents (US0011639-11661 and US0007104-7876); June 9, 1863 Treaty with the Nez Perce Indians (US0003721-3729); June 11, 1855 Treaty with the Nez Perce Indians (US0003054-3060); Nez Perce Tribe's expert report titled *The Nez Perce Tribe's Traditional Cultural Connections to and Uses of the Palouse Lands and Waters within the Palouse River Basin*, and its supporting documents (NPTPRBA04767-06285); Nez Perce Tribe's expert report titled *Additional Ethnographic and Ethnohistoric Context of Nez Perce Fishing for Resident Fish in the Palouse River Basin: A Rebuttal Report to the State of Idaho's Expert Witness Disclosure* (NPTPRBA06457-NPTPRBA06524), produced in discovery on March 31, 2026; *United States Supplemental Disclosure re Springs' Reports* (produced March 4, 2026), US_PRBA_00008962-14814; and documents produced with this discovery response, US0011681-US0011964. The United States' Notice of Claim form for the Subcase No. 87-12105 was filed December 30, 2019. The United States' Standard Form 1 Objection for Subcase No. 87-7125 was filed January 10, 2022. The United States also reviewed IDWR's water rights database at:

<https://research.idwr.idaho.gov/apps/waterrights/wrajsearch/wradjsearch.aspx>.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2. Provide all documents, measurements, reports, studies, and information that relate to the Spring represented by the above listed claim.

RESPONSE: The United States objects to this Request for Production to the extent the United States is only obligated to produce documents in its possession, custody, or control. *See* I.R.C.P. 34(a). Without waiving its objection, the United States responds that all documents, measurements, reports, studies, and information that the United States has in its possession, custody, or control related to the spring referenced in the above-captioned claim are provided in the expert report, *Palouse River Basin Adjudication Springs Expert Report*, and supporting documents

(US0000823-2730), and the expert report, *A History of Nez Perce Treaty Rights and Traditional Uses of the Palouse River Basin in Idaho*, and supporting documents (US0002731-6605), which were produced to the parties in the federal subcases on April 18, 2025, and the expert report titled *Rebuttal to State of Idaho Experts*, and supporting documents (US0011639-11661 and US0007104-7876), produced to the parties in the federal subcases on March 31, 2026. Further documents regarding the springs were produced by the United States to the parties in the federal subcases on March 4, 2026. See *United States Supplemental Disclosure re Springs' Reports*; US_PRBA_00008962-14814. Further documents are produced with this discovery response. US0011681-US0011964. Additional facts supporting the United States' springs claims in the federal subcases were provided in the Nez Perce Tribe's expert report titled *The Nez Perce Tribe's Traditional Cultural Connections to and Uses of the Palouse Lands and Waters within the Palouse River Basin*, and its supporting documents (NPTPRBA04767-06285), produced in discovery on April 18, 2025; and the Nez Perce Tribe's expert report titled *Additional Ethnographic and Ethnohistoric Context of Nez Perce Fishing for Resident Fish in the Palouse River Basin: A Rebuttal Report to the State of Idaho's Expert Witness Disclosure* (NPTPRBA06457-NPTPRBA06524), produced in discovery on March 31, 2026. Information regarding the spring referenced in the above caption can also be found in the United States' Standard Form 1 Objection (filed Jan. 10, 2022) filed in Subcase No. 87-7125, and in the United States' Notice of Claim form in Subcase No. 87-12105 (filed Dec. 30, 2019). Finally, documents generated by IDWR related to the claim (water right claim files and GIS coverages) that were downloaded by the United States' experts over the years and were produced previously to the parties in the federal subcases. (US0007018 – US0007057 and US0006880 – US0006953).

DATED this 15th day of April 2026.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I certify that true and correct copies of the foregoing were sent via electronic mail and/or U.S.

Post to the parties below on this 15th day of April 2026.

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ATTACHMENT A

ALLOTMENT SUBCASES

87-12157
87-12158

INSTREAM FLOW SUBCASES

Group F2

87-11982	87-11988	87-11994	87-12000
87-11983	87-11989	87-11995	87-12001
87-11984	87-11990	87-11996	87-12002
87-11985	87-11991	87-11997	87-12003
87-11986	87-11992	87-11998	87-12004
87-11987	87-11993	87-11999	

SPRINGS AND FOUNTAINS SUBCASES

87-12366
87-12338

Group F3

87-12007	87-12028	87-12052	87-12078
87-12008	87-12029	87-12054	87-12079
87-12009	87-12030	87-12055	87-12080
87-12010	87-12031	87-12056	87-12081
87-12011	87-12032	87-12057	87-12082
87-12012	87-12033	87-12059	87-12083
87-12013	87-12036	87-12060	87-12084
87-12014	87-12037	87-12062	87-12085
87-12015	87-12038	87-12063	87-12086
87-12016	87-12039	87-12064	87-12088
87-12017	87-12040	87-12066	87-12089
87-12018	87-12041	87-12067	87-12090
87-12019	87-12042	87-12068	87-12092
87-12020	87-12043	87-12069	87-12106
87-12021	87-12044	87-12071	87-12107
87-12022	87-12045	87-12072	87-12108
87-12023	87-12046	87-12073	87-12111
87-12024	87-12047	87-12074	87-12342
87-12025	87-12048	87-12075	87-12366
87-12026	87-12049	87-12076	
87-12027	87-12051	87-12077	

Group F4

87-12050	87-12117	87-12138	87-12162*
87-12091	87-12118	87-12139	87-12163*
87-12093	87-12119	87-12140	87-12165*
87-12095	87-12120	87-12141	87-12166*
87-12096	87-12121	87-12142	87-12167*
87-12097	87-12122	87-12143	87-12168*
87-12098	87-12123	87-12144	87-12169*
87-12099	87-12124	87-12145	87-12170*
87-12100	87-12125	87-12146	87-12171*
87-12101	87-12126	87-12147	87-12172*
87-12102	87-12127	87-12148	87-12173*
87-12103	87-12128	87-12149	87-12174*
87-12104	87-12129	87-12150	87-12176*
87-12105	87-12130	87-12151	87-12337
87-12109	87-12131	87-12152	87-12339
87-12110	87-12132	87-12153	87-12340
87-12112	87-12133	87-12154	87-12343
87-12113	87-12134	87-12155	87-12344
87-12114	87-12135	87-12156	87-12346
87-12115	87-12136	87-12159*	87-12364
87-12116	87-12137	87-12161*	87-12365