

**NOTICE OF FILING OF
CLAIMS TO FEDERAL RESERVED WATER RIGHTS
IDWR BASINS 81, 82, 83, 84, 85, and 86
(NEZ PERCE TRIBE MULTIPLE USE CLAIMS)**

INTRODUCTION

On August 3, 2005, the Snake River Basin Adjudication (SRBA) District Court issued a *Scheduling Order and Notices of Hearing Re: Implementation of Nez Perce Settlement Agreement*. (Scheduling Order) The court set forth a schedule for the filing of the federal reserved water rights claims that have been filed by the United States, as trustee of the Nez Perce Tribe, in Basins 81, 82, 83, 84, 85, and 86. Pursuant to the *Scheduling Order*, the Director of the Idaho Department of Water Resources (IDWR) has filed with the SRBA District Court these claims to federal reserved water rights filed in IDWR Basins 81, 82, 83, 84, 85, and 86 (Nez Perce Tribe Multiple Use Claims). IDWR does not investigate or make recommendations for claims based upon federal law. These claims to federal reserved water rights can be reviewed at any of the locations listed at the end of this Notice or from the IDWR Web Site: www.idwr.idaho.gov/nezperce. Additional information on the Nez Perce Tribe's claims, including a copy of the settlement agreement and the "term sheet" which outlines the components of the negotiated settlement can also be obtained from the IDWR Web Site.

The federal reserved water right claims to springs and fountains that were previously reported in Consolidated Subcase 67-13701 will proceed in accordance with the SRBA Court's *Scheduling Order and Notices of Hearing, Re: Implementation of Nez Perce Settlement Agreement*. p. 8 (August 3, 2005).

The State of Idaho, by and through the Idaho Water Resource Board, Minimum Flow Claims, 71-10886 *et al.*, for the Clearwater and Salmon River basins, were filed with the SRBA District Court in the *Director's Report of the Idaho Water Resource Board Claims Pursuant to I.C. § 42-1507* on or about August 13, 2005. This Director's Report can be reviewed at the locations listed at the end of this Notice or from the IDWR Web Site listed above.

SUMMARY OF THE SETTLEMENT OF NEZ PERCE TRIBE MULTIPLE USE WATER RIGHTS¹

As part of a comprehensive settlement of the Nez Perce Tribe's water right claims in the Snake River Basin Adjudication, the United States, as trustee for the Tribe, has filed Negotiated Agreements describing claims for 50,000 acre-feet of water to serve the Nez Perce Tribe's multiple use water needs. The majority of the water claimed comes from the Clearwater River or from groundwater sources directly connected to the Clearwater River. The claims serve a variety of tribal water needs including irrigation, domestic, commercial, municipal, industrial, stockwatering, hatchery, cultural, and other purposes. The water is to be used on lands held by the United States in trust for the Tribe, on lands owned by the Tribe in fee, and on allotted lands held in trust or under restrictions against alienation. The water rights will be administered by the Nez Perce Tribe pursuant to a water code to be developed by the Tribe.

¹ This Summary is provided for the convenience of the reader and contains only a summary of the water rights. It is not a part of the water right claims and in the event of any inconsistency between this Summary and the claims, the claims control.

The following table contains a general summary of the claims:

Source	Surface water volume	Groundwater volume	Total Diversion Volume
	(Acre-feet)		
Clearwater River*	33,629	1021	34,650
Tributaries	12,178	3,172	15,350
Total	45,807	4,193	50,000

*Includes diversions from the mainstem, North Fork, Middle Fork, and South Fork of the Clearwater River.

These multiple use claims are one component of a negotiated comprehensive settlement among parties to the mediation process ordered by the Snake River Basin Adjudication Court. That mediation process was initiated to resolve issues relating to the Nez Perce claims for instream flows to support the Tribe's fishing rights, but also sought a comprehensive resolution of the Tribe's water rights. The 50,000 acre-feet of water rights for the Tribe's multiple use water needs is a compromise from the original 238,327 acre-foot claim filed by the United States and the Tribe in 1992. By the terms of the settlement agreement, the 50,000 acre-feet claimed in the Negotiated Agreements are either from the Clearwater River or are conditioned to assure no injury to any existing water users. The 50,000 acre-feet also include 21 acre-feet of water rights on Lapwai Creek and its tributaries that were previously decreed in the 1916 *Siegrist* decree. A more detailed summary of the claims can be found at the end of this Notice.

INSTRUCTIONS FOR TAKING A CLAIM TO COURT

What do I do if I disagree with a federal reserved water right claim?

If you disagree with any element of the claim to the federal reserved water right and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form available from any IDWR office or from the SRBA Court. You may also download a copy of the objection form from the SRBA Web Site at www.srba.state.id.us.

Your objection to a federal reserved water right must be **received** by the SRBA Court on or before **November 1, 2005**.

What do I do if I want to participate in the court case on a claim to a federal reserved right?

If you want to be involved in the court case on a claim to a federal reserved right, you must file either an objection or a response by the dates provided in this notice. Responses must be made on the standard response form available from any IDWR office or from the SRBA Court. You may also download a copy of the response form from the SRBA Web Site at www.srba.state.id.us.

Your response must be **received** by the SRBA Court on or before **January 6, 2006**.

What happens if there are no objections to the federal reserved water right claim?

An evidentiary hearing on any uncontested federal reserved water rights will be held. Partial decrees will be issued following this hearing.

A **Status Conference** on uncontested federal reserved water rights and the initial hearing for any objected to federal reserve water right is set for **January 17, 2006, at 1:30 p.m. (MST) at the SRBA Courthouse, 253 3rd Ave. N., Twin Falls, Idaho. Telephone participation is available by calling 1-918-583-3445, then dialing participant code 406128.**

How will I know about the proceedings on claims to federal reserved water rights to which objections were filed?

A notice will be mailed to you for court dates on those claims where you filed an objection or a response. You will not receive notice of court dates on any other claims to federal reserved rights for which you did not file an objection or response.

If you have a change in address or ownership of your water rights during the SRBA Court case please contact your regional IDWR office with the change so that the records may be updated.

Additional information regarding federal reserved water right claims can be found on the SRBA Web Site at: www.srba.state.id.us.

Note: The SRBA Court publishes a monthly Docket Sheet listing all objections and responses filed as well as when Director's Reports are filed. It does not list court dates for individual water right cases, but provides general information helpful to all participants in the SRBA.

The Docket Sheet is available at your county courthouse, or you may subscribe by contacting the SRBA Court. The annual subscription fee is \$7.50. The Docket Sheet is also available on the SRBA Web Site at www.srba.state.id.us.

ADDITIONAL INFORMATION

If you have questions about the SRBA, public information brochures are available at any IDWR office or on the IDWR Web Site at www.idwr.idaho.gov. You are also welcome to call IDWR at any of its offices or the SRBA Court. You may also want to consider contacting an attorney to assist you.

Snake River Basin Adjudication

District Court

253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
(208) 736-3011

Idaho Department of Water Resources

322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098
(208) 287-4800
(800) 451-4129

Idaho Department of Water Resources

Western Region

2735 Airport Way
Boise, Idaho 83705-5082
(208) 334-2190

Idaho Department of Water Resources

Northern Region

1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814-2615
(208) 769-1450

Idaho Department of Water Resources

Southern Region

1341 Fillmore, Suite 200
Twin Falls, Idaho 83301-3380
(208) 736-3033

Clearwater County Courthouse

150 Michigan Avenue
Orofino, ID 83544

Latah County Courthouse

522 S. Adams
Moscow, ID 83843

Nez Perce County Courthouse

1230 Main St.
Lewiston, ID 83501

Idaho Department of Water Resources

Eastern Region

900 North Skyline, Suite A
Idaho Falls, Idaho 83402-3653
(208) 525-7161

Idaho County Courthouse

320 W. Main
Grangeville, ID 83530

Lewis County Courthouse

510 Oak St.
Nezperce, ID 83543

Shoshone County Courthouse

700 Bank St.
Wallace, ID 83873

DEFINITIONS OF THE ELEMENTS OF A WATER RIGHT

RIGHT NUMBER: A water right is identified by a number assigned by IDWR. The first two digits identify IDWR's administrative basin number; for example, 23.

NAME AND ADDRESS: The claimant's name and address should appear here. IDWR will use the most recent name and address in their records for the water right.

SOURCE: The name and/or type of the source where water is diverted. For example: "groundwater," "unnamed spring," "Common Creek."

QUANTITY: The amount of water recommended in either cubic feet per second (cfs) and/or the volume of water in acre feet per year (AFY).

PRIORITY DATE: The date used to determine the priority of the water right in relation to other water rights using water from the same source.

POINT OF DIVERSION: The legal location where water is diverted from its source; generally described as 1/4 1/4 sections down to a 40-acre tract, or smaller. Other legal descriptions that might be used are: government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys and other survey information.

PURPOSE OF USE: The general category of the type of use that can be made with the water. Typical purposes of use include irrigation, domestic, and stock watering.

PERIOD OF USE: The period of time during the year when water can be used under the water right.

PLACE OF USE: The legal location where use of the water right occurs; generally described as 1/4 1/4 sections down to a 40-acre tract. Other legal descriptions that might be used are: government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys and other survey information.

PLACE OF USE FOR IRRIGATION PROJECTS: Pursuant to Idaho Code Sections 42-219(2) and 42-1411(2)(h), IDWR has included GIS mapping for describing the place of use (digital boundary) for water rights meeting certain criteria (i.e. irrigation projects). The **PLACE OF USE** for irrigation projects is reported in digital format and uses GIS technology to particularly identify and display a geographic area encompassing the place of use with the aid of a computer. The GIS data is stored in digital format and contained on a CD-ROM and is properly marked for identification with the water right number. The CD-ROM will be retained by the SRBA Court. IDWR also retains a duplicate of the original CD-ROM. The electronic data contained on the CD-ROM is available for public use and is also accessible through the IDWR Internet Web Site www.idwr.idaho.gov. *Upon request, IDWR will provide a copy of the CD-ROM with the electronic data to claimants.*

BASIS OF CLAIM: The method that was used to establish the claim. Examples include prior decree, posted notice, beneficial use (historical) method, license, permit or federal reserved.

IDWR does not investigate or make recommendations regarding federal law based claims.

More Detailed Summary of the Nez Perce Tribe Multiple Use Claims

IDWR Basin	Source	Tributary To	Groundwater	Surface water	Total Diversions
				(Acre-feet)	
81	Clear Creek	Clearwater River	2	846	848
81	Maggie Creek	Clearwater River	16	13	29
81	Middle Fork Clearwater River	Clearwater River	44	4,118	4,162
82	South Fork Clearwater River	Clearwater River	53	1,304	1,357
82	Rabbit Creek	South Fork Clearwater River	5	4	9
83	North Fork Clearwater River	Clearwater River	20	2,913	2,933
84	Clearwater River	Snake River	152	2,691	2,843
84	Jim Ford Creek	Clearwater River	66	1,855	1,921
84	Lolo Creek	Clearwater River	0	12	12
84	Orofino Creek	Clearwater River	20	605	625
84	Tom Taha Creek	Clearwater River	17	23	40
84	Unnamed Creek	Clearwater River	20	32	52
85	Clearwater River	Snake River	435	11,745	12,180
85	Big Canyon Creek	Clearwater River	367	1,893	2,260
85	Posthole Canyon Creek	Big Canyon Creek	72	86	158
85	Unnamed Creek	Big Canyon Creek	26	52	78
85	Butcher Creek	Clearwater River	0	15	15
85	Cottonwood Creek	Clearwater River	197	220	417
85	Red Rock Creek	Cottonwood Creek	59	65	124
85	Effie Creek	Clearwater River	30	26	56
85	Fivemile Creek	Clearwater River	44	211	255
85	Jacks Creek	Clearwater River	7	10	17
85	Lapwai Creek	Clearwater River	457	1,238	1,695
85	Mission Creek	Lapwai Creek	138	220	358
85	Rock Creek	Lapwai Creek	29	244	273
85	Sweetwater Creek	Lapwai Creek	388	294	682
85	Sweetwater Creek, East Fork	Sweetwater Creek	89	79	168
85	Sweetwater Creek, West Fork	Sweetwater Creek	35	3	38
85	Tom Beall Creek	Lapwai Creek	145	131	276
85	Webb Creek	Lapwai Creek	34	128	162
85	Lawyer Creek	Clearwater River	285	367	652
85	Meadow Creek	Lawyer Creek	56	19	75
85	Sevenmile Creek	Lawyer Creek	79	143	222
85	Unnamed Creek (Lawyer)	Lawyer Creek	7	10	17
85	Willow Creek	Lawyer Creek	52	62	114
85	Little Canyon Creek	Clearwater River	5	918	923
85	Holes Creek	Little Canyon Creek	48	40	88
85	Long Hollow Creek	Little Canyon Creek	18	15	33
85	Sixmile Creek	Clearwater River	88	206	294
85	South Fork Clearwater River	Clearwater River	114	2,567	2,681
85	Cottonwood Creek	South Fork Clearwater River	89	159	248
85	Threemile Creek	South Fork Clearwater River	8	33	41
86	Clearwater River	Snake River	203	8,291	8,494
86	Bedrock Creek	Clearwater River	56	594	650
86	Hatwai Creek	Clearwater River	11	10	21
86	Little Potlatch Creek	Clearwater River	4	61	65
86	Pine Creek	Clearwater River	10	9	19
86	Potlatch River	Clearwater River	93	1,227	1,320
Total			4,193	45,807	50,000