

5-17-2017

## Mtn to Set Aside and Modify

Howard Funke

*Attorney, Howard Funke & Associates*

Jeffrey H. Wood

*Acting Assistant Attorney General, US Department of Justice*

Vanessa Boyd Willard

*Trial Attorney, Indian Resources Section, Environment & Natrual Resources Division, US Department of Justice*

Follow this and additional works at: <https://digitalcommons.law.uidaho.edu/all>

---

### Recommended Citation

Funke, Howard; Wood, Jeffrey H.; and Willard, Vanessa Boyd, "Mtn to Set Aside and Modify" (2017). *Hedden-Nicely Collection, All*. 65.

<https://digitalcommons.law.uidaho.edu/all/65>

This Brief is brought to you for free and open access by the Digital Commons @ UIIdaho Law at Digital Commons @ UIIdaho Law. It has been accepted for inclusion in Hedden-Nicely Collection, All by an authorized administrator of Digital Commons @ UIIdaho Law. For more information, please contact [annablaine@uidaho.edu](mailto:annablaine@uidaho.edu).

ORIGINAL

DISTRICT COURT - CSRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho  
MAY 17 2017

Howard A. Funke, ISB No. 2720  
Kinzo H. Mihara, ISB No. 7940  
Dylan Hedden-Nicely, ISB No. 8856  
HOWARD FUNKE & ASSOCIATES, P.C.  
Attorneys at Law  
424 Sherman Avenue, Suite 308  
P. O. Box 969  
Coeur d'Alene, Idaho 83816-0969  
P (208) 667-5486  
F (208) 667-4695

Jeffrey H. Wood  
Acting Assistant Attorney General  
Vanessa Boyd Willard  
Deputy Clerk  
Tribal Attorney, Indian Res. Sec.  
& Nat'l Res. Division  
U.S. DEPARTMENT OF JUSTICE  
999 18<sup>th</sup> St., S. Terrace, Ste. 370  
Denver, Colorado 80202  
P (303) 844-1353  
F (303) 844-1350

*Counsel for the Coeur d'Alene Tribe*

*Counsel for the United States*

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

)  
) Subcase Nos: 91-7755 (and 353 consolidated  
) subcases)  
)  
)  
In Re CSRBA )  MOTION TO FILE LATE OBJECTION  
) OR  
)  MOTION TO SET ASIDE AND MODIFY  
) PARTIAL DECREE OR FINAL ORDER  
Case No. 49576 ) DISALLOWING WATER RIGHT CLAIM  
)  
)  
\_\_\_\_\_ )

NAME AND ADDRESS OF PERSON FILING MOTION FOR LATE OBJECTION OR MOTION  
TO SET ASIDE PARTIAL DECREE/FINAL ORDER DISALLOWING

Name: United States of America and Coeur d'Alene Tribe.  
Address: Please see attorney addresses above and below.  
Daytime Phone: Please see attorney phone numbers above and below.

- We are attorneys representing above-named claimants.  
Our names are: Howard Funke (attorney for Coeur d'Alene Tribe); Vanessa  
Boyd-Willard (attorney for the United States of America)  
Our addresses are: (Howard Funke) Howard Funke & Associates, P.C., P.O. Box

969, 424 Sherman Ave, Ste. 308, Coeur d'Alene, Idaho 83816-0969; (Vanessa Boyd Willard) U.S. Department of Justice, Environmental and Nat'l Resources Section, 550 W. Fort Street, MSC 033, Boise, Idaho 83724

Our Phone Numbers are: Howard Funke (208) 667-5486; Vanessa Boyd Willard (303) 844-1353.

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT OR  
PARTIAL DECREE/FINAL ORDER DISALLOWING

Name: United States of America, as trustee on behalf of the Coeur d'Alene Tribe of the Coeur d'Alene Indian Reservation, acting through the Northwest Regional Director

Address: Department of the Interior, Bureau of Indian Affairs, 911 N.E. 11<sup>th</sup> Ave., Portland, OR 97232

If you are seeking to file a late Objection, list the reason(s) this objection is late and why it was not filed by the Objection deadline:

N/A.

If you are seeking leave to file a late Objection,

**YOU MUST ATTACH A COMPLETED STANDARD FORM 1 (Objection form).**

If you are seeking to set aside and modify a Partial Decree/Final Order Disallowing, indicate the basis for your motion:

- Idaho Rule of Civil Procedure 59 (e)
- Idaho Rule of Civil Procedure 60(a)
- Idaho Rule of Civil Procedure 60(b)

And list the reason(s) why the Partial Decree/Final Order Disallowing should be set aside:

Please see attached two memoranda (in relation to the issues of fish habitat and gathering) in support of this SF-7 form. Such memoranda are expressly incorporated herein by this reference.

**Certificate of Service**

I hereby certify that on the 16<sup>th</sup> day of May, 2017, in addition to mailing the original document to the Clerk of the CSRBA Court, I caused to be served a true and correct copy of the foregoing document upon the following individuals via email and/or by placing the document in the United States Mail, postage prepaid, addressed as follows:

US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATURAL RESOURCES  
DIVISION  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

VANESSA WILLARD  
US DEPARTMENT OF JUSTICE  
999 18<sup>TH</sup> STREET  
SOUTH TERRACE STE 370  
DENVER CO 80202

CHRISTOPHER H MEYER  
JEFFREY C FEREDAY  
JEFFREY BOWER  
MICHAEL P LAWRENCE  
GIVENS PURSLEY LLP  
PO BOX 2720  
BOISE, ID 83701-2720

NORMAN M SEMANKO  
SCOTT L CAMPBELL  
MOFFAIT THOMAS BARRETT ROCK & FIELDS  
PO BOX 829  
BOISE, ID 83701-0829

MARIAH R DUNHAM  
NANCY A. WOLFF  
MORRIS & WOLFF, P.A.  
722 MAIN AVE  
ST MARIES, ID 83861

ALBERT P BARKER  
BARKER ROSHOLT & SIMPSON LLP  
PO BOX 2139  
BOISE, ID 83701-2139

WILLIAM J SCHROEDER  
PAINE HAMBLIN LLP  
717 W SPRAGUE AVE, STE 1200  
SPOKANE, WA 99201-3505

CLIVE STRONG  
STEVEN W STRACK  
IDAHO ATTORNEY GENERAL'S OFFICE  
NATURAL RESOURCES DIVISION  
PO BOX 83720  
BOISE, ID 83720-0010


CHRIS M BROMLEY  
CANDICE M MCHUGH  
MCHUGH BROMLEY PLLC  
380 S 4TH STREET STE 103  
BOISE, ID 83702

DIRECTOR OF IDWR  
IDWR DOCUMENT DEPOSITORY  
PO BOX 83720  
BOISE, ID 83720-0098

RATLIFF FAMILY LLC #1  
13621 S HWY 95  
COEUR D'ALENE, ID 83814

JOHN T MCFADDIN  
20189 S EAGLE PEAK RD  
CATALDO, ID 83810

RONALD D HEYN  
828 WESTFORK EAGLE CREEK  
WALLACE ID 83873

  
\_\_\_\_\_  
Kinzo H. Mihara