

## Memorandum

File w/  
29-12051

To: D. Tuthill   
From: D. Shaff   
Date: June 9, 2003  
Subject: Fort Hall diversion re: 29-12051

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Department of Water Resources  
Eastern Region

The letter from Elese Teton, tribal water engineer, reached my desk last week. Ms. Teton wrote on behalf of the Shoshone-Bannock Tribes providing notice of the Tribes intent to supplement right 29-12051 with a diversion from ground water. I am uncertain whether any exchange of technical accounting has taken place previously as I think the Fort Hall Indian Water Rights Agreement (Agreement) allows and provides. A reply to Ms. Teton's letter on water right matters may be in order.

The Tribes' letter appears to allow the use of ground water under the parameters of the Mink Creek water right 29-12051. The letter certainly does not address any other authority for making the ground water appropriation. I believe the authority for tapping ground water is within the Agreement but not with 29-12051. I believe, after some study, the authority falls under 27-11376 as explained in a summary of the water rights on page 9 of the Agreement. Right 27-11376 is associated in some respect with the Tribes' right 27-11375 in Blackfoot Reservoir. The Mink Creek ground water use appears to count as a draw on 27-11376 that has a cap of 115,000 AFY for irrigation and allows future points of diversion on any Indian lands. I can find no specific water right to divert ground water in the Mink Creek drainage similar to other right of the Tribes in the Lincoln Creek or Bannock Creek drainage, for instance.

I believe a reply to the Tribe's letter is necessary to treat the letter as Notice of Use detailed in 8.5 on page 60 of the Agreement. Further, the State documents the change of the Tribe's water rights and the accounting of the 115,000 AFY in 27-11376.

# The SHOSHONE-BANNOCK TRIBES

## WATER RESOURCES DEPARTMENT

P.O. Box 306  
Fort Hall, Idaho 83203



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May 1, 2003

Idaho Department of Water Resources  
District 01  
ATTN: Ron Carlson, Watermaster  
900 North Skyline Drive  
Idaho Falls, ID 83402-1718

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Department of Water Resources

**RE: Shoshone-Bannock Tribes intent to drill well to supplement water right no. 29-12051, Mink Creek**

Dear Mr. Carlson:

I am writing this letter to apprise you of the Tribes intent to drill a supplemental well on Allotment T-8. Allotment T-8 is currently served by Mink Creek surface water (right no. 29-12051). Allotment T-8 is tribally owned land and is located in the Portneuf River Basin and is irrigated by the Tribes to cultivate hay for the Tribal Buffalo Enterprise. It has been the Tribes experience that surface water supply is exhausted by July. The Tribal Buffalo Enterprise desires to extend its growing season by supplementing the current water right with groundwater.

On Tuesday, April 29, 2003, the Fort Hall Business Council took action to approve a supplemental well on Allotment T-8. In addition to approving the well, other conditions must be met. The conditions are set forth as follows:

- The Shoshone-Bannock Tribes Application for Drilling Permit and appropriate fee will be submitted;
- Well Drilling activities comply with Shoshone-Bannock Tribes Well Construction Standards and a meter will be installed to quantify water use;
- A sample is to be collected upon completion of well drilling for analysis of water quality parameters;
- Coordination with the Shoshone-Bannock Water Resources Department to oversee well drilling activities and to ensure compliance with the "1990 Fort Hall Water Rights Agreement" (Agreement); and
- Comply with parameters outlined in Water Right No. 29-12051, Mink Creek of the Agreement.

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Ron Carlson, IDWR  
May 1, 2003

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It is anticipated that well drilling may start during the week of May 12<sup>th</sup>. Please contact me for any concerns or questions you may have regarding this letter at (208) 238-9375 by May 9, 2003.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elese D. Teton".

Elese D. Teton  
Tribal Water Engineer

Cc: Shoshone-Bannock Fort Hall Business Council  
Shoshone-Bannock Water Resources Commission  
Shoshone-Bannock Land Use Policy Commission  
Jeanette Wolfley, Shoshone-Bannock Tribes Special Counsel  
Shoshone-Bannock Buffalo Enterprises  
Shoshone-Bannock Land Use Department  
NRCE, Inc. Woldezion Mesghinna