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Parties' Names: FMC Production LLC

Attorney Name & Address:

Linda B. Jones
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JUL 20 2006

DEPARTMENT OF
WATER RESOURCES

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

IN RE SRBA

Case No. 39576

) **A.** Subcase No. 27-02050
)
) **STANDARD FORM 2**
) **RESPONSE TO OBJECTION**
)
)

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Linda B. Jones
Holland & Hart LLP
PO Box 2527
Boise, Idaho 83701
Daytime Phone: (208) 342-5000

Name & Address of Attorney, if any:

Same

(Attorneys for Claimant FMC Production LLC)

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION
TO WHICH YOU ARE RESPONDING:

Shoshone-Bannock Tribes
P.O. Box 306
Fort Hall, ID 83203

Name & Address of Attorney, if any:

Jeanette Wolfley
202 N. Arthur
Pocatello, ID 83204

1.	☐	Name and Address
2.	☐	Source
3.	☒	Quantity
4.	☐	Priority Date
5.	☐	Point(s) of Diversion
6.	☐	Instream Flow Description
7.	☐	Purpose(s) of Use
8.	☒	Period of Year
9.	☐	Place of Use

[SEE ATTACHMENT FOR RESPONSE]

11. Recommendation

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. VERIFICATION (Must Be Completed)

STATE OF IDAHO)
)ss.
County of Ada)

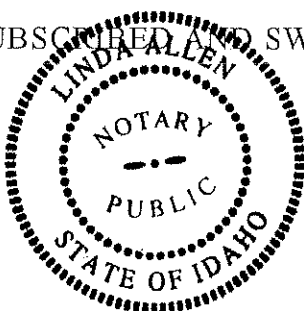
LINDA B. JONES, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6), or that I am the attorney for the party/claimant responding, and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing response)


(Attorney signing in representative capacity)
Linda B. Jones
Attorney for Claimant FMC Production LLC

SUBSCRIBED AND SWORN TO before me this 19th day of July, 2006.



Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires

5-04-2011

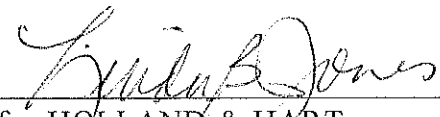
INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I hereby certify that on this 19th day of July, 2006, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Original to: Clerk of the District Court Snake River Basin Adjudication P.O. Box 2707 Twin Falls, ID 83303-2707	☐ U.S. Mail ☐ Hand Delivered ☒ Overnight Mail ☐ Telecopy (Fax)
Copies to: Shoshone-Bannock Tribes Fort Hall Indian Reservation Business Council P.O. Box 306 Fort Hall, ID 83203 <i>Party Filing Objection</i>	☒ U.S. Mail ☐ Hand Delivered ☐ Overnight Mail ☐ Telecopy (Fax)
Nu-West Industries, Inc. Dba Agrium Conda Phosphate c/o Zach C. Miller, Esq. Davis Graham & Stubbs LLP 1500 17th Street, Ste. 500 Denver, CO 80202 <i>Water Right Claimant</i>	☒ U.S. Mail ☐ Hand Delivered ☐ Overnight Mail ☐ Telecopy (Fax)
Mr. Rob Hartman FMC Production LLC P.O. Box 4111 Pocatello, ID 83205 <i>Water Right Claimant</i>	☒ U.S. Mail ☐ Hand Delivered ☐ Overnight Mail ☐ Telecopy (Fax)
Chief, Natural Resources Division Office of the Attorney General State of Idaho P.O. Box 44449 Boise, ID 83711-4449	☒ U.S. Mail ☐ Hand Delivered ☐ Overnight Mail ☐ Telecopy (Fax)
United States Department of Justice Environment & Natural Resource Division 550 West Fort Street MSC 033 Boise, ID 83724	☒ U.S. Mail ☐ Hand Delivered ☐ Overnight Mail ☐ Telecopy (Fax)
IDWR Document Depository 322 East Front Street P.O. Box 83720 Boise, ID 83720-0098	☒ U.S. Mail ☐ Hand Delivered ☐ Overnight Mail ☐ Telecopy (Fax)


for HOLLAND & HART LLP

ATTACHMENT

Objector Shoshone-Bannock Tribes object that (1) a total annual volumetric limit should be imposed on this right, and (2) the period of use should terminate every year on July 1. **Claimant replies as follows:**

(1) Annual Volumetric Unit. This water rights covers instream stockwater, for 400 head, range pair of cattle per year, all along Dry Valley Creek in the pastures described as the place of use in the water right Recommendation. The water rights Claim and Recommendation for this water right lists the rate of 0.02 cfs, which is the standard rate for instream stockwatering. The pastures have been grazed and water has historically been available in Dry Valley Creek from spring through late fall. The season of use is claimed as May 15 through November 15 annually. To the extent this water right and use can be quantified as a volume that provides water sufficient for this many cattle over this period each year, Claimant may agree to list a volume rather than a rate and period. Claimant does not agree to reduce the amount of water historically used and available for stockwater under this water right.

(2) Period of Year. As indicated above and in the Claim for this water right and the Notice of Error filed on July 28, 2005 for this water right, stockwatering in fact has occurred under this right from May 15 through November 15. Therefore, the latter date, and not July 1, should be retained to define the period of use for this right.