

RECEIVED

JUL 24 2009

**DEPARTMENT OF
WATER RESOURCES**

JOHN C. CRUDEN
Acting Assistant Attorney General
Environmental and Natural Resources Division

PETER C. MONSON
Assistant Chief, Indian Resources Section
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, Colorado, 80202
(303) 312-7350

Attorneys for the United States of America

**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

Subcase No.: See Attachment A.

**INFORMATION FILING
REGARDING STATUS
OF NEGOTIATIONS**

On July 10, 2009, the parties to this subcase provided a verbal update to the Court concerning the progress to reach a global solution on outstanding objections relating to the absence of the element of diversion volume in the Director's reports for surface water irrigation rights, as well as a handful of other issues. As we explained, the negotiating parties contemplate that there will be three components for resolving these objections: 1) an order of interim administration, 2) a Blackfoot River water management plan, and 3) a settlement agreement

which will ensure compliance of the objected-to Basin 27 water rights with the terms of the Court's Decree approving the 1990 Fort Hall Settlement Agreement.

Significant progress has been made on all three components. First, in a filing dated July 17, 2009, the State of Idaho filed its Motion for Order of Interim Administration of Surface and Storage Water Rights in Basin 27 in Accordance with the Director's Report and Applicable Partial Decrees and Notice of Hearing. As stated in the Motion, "Better distribution of water in the Blackfoot River Basin is essential to resolve the pending objections and to insure administration in accordance with the prior appropriation doctrine, * * *." Motion, at 3, para. 7.

Second, the parties are conducting their final reviews of the Blackfoot River Management Plan. Attached for the Snake River Basin Adjudication Court's information is a draft copy of the Blackfoot River Water Management Plan (Attachment B). This plan was called for in the 1990 Fort Hall Indian Water Rights Settlement and Decree, and will provide another component which is essential to the resolution of the pending diversion volume objections, as well as improving administration of water rights in Basin 27. The attached draft management agreement shows a number of recommended changes and technical questions that the parties currently have under discussion, but also reflects a high degree of agreement on the key elements of the plan. The parties will inform the court as soon as the Plan has been executed by the parties.

Third, the parties have been discussing a conceptual resolution of the remaining objections and have shared a number of draft documents among each other. Those discussions are making progress and we expect that they will be greatly facilitated by the entry of an Order for Interim Administration, as it will help to organize the Basin 27 water users so that they may more meaningfully participate in the discussions.

Finally, the parties continue to reach stipulations on other elements of objected-to water rights on a case-by-case basis, and a number of stipulations have been filed with the Court. While these stipulations expressly reserve the diversion-volume objections, we are making considerable progress on this front as well.

Respectfully submitted this 21st day of July, 2009.

A handwritten signature in black ink, appearing to read "Peter C. Monson", is written over a horizontal line.

Peter C. Monson
Assistant Chief, Indian Resources Section
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, Colorado, 80202

Attorneys for the United States of America

CERTIFICATE OF SERVICE

I certify that on July 21, 2009, I served true and correct copies of the foregoing Information Filing Regarding Status of Negotiations as follows:

via FedEx mail:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303-2707
Phone: 208-736-3011

via First Class U.S. Mail, pre-paid:

Casey W. Reid
1051 Reid Rd.
Firth, ID 83236

Billie Reid
Paul Reid
875 Reid Rd.
Firth, ID 83236

Stanley M. Hill
522 W. Riverton Rd.
Blackfoot, ID 83221

Susan Cronquist
526 W. Riverton Rd.
Blackfoot, ID 83221

Lori Bingham
Paul Bingham
404 W. Riverton Rd.
Blackfoot, ID 83221

Deanna Stecklein
La Verelle Stecklein
Scott L. Stecklein
757 W. Riverton Rd.
Blackfoot, ID 83221

C. Keith Fielding
Karma Fielding
597 N 1100 E
Shelley, ID 83274

Audrey H. Bean
1240 Rebecca Dr.
Blackfoot, ID 83221

John B. Heintzelman
Stacie D. Heintzelman
485 W. Riverton Rd.
Blackfoot, ID 83221

Anita K. Pratt
Gary L. Pratt
486 E. Weeding Ln.
Blackfoot, ID 83221

Susan L. Matteson
749 E 450 N
Firth, ID 83236

Carole J. Coffman
Harvey G. Coffman
487 W. Riverton Rd.
Blackfoot, ID 83221

Dwight E. Baker
Baker & Harris
266 West Bridge
Blackfoot, ID 83221

Alma Reid
Fred Reid
989 Reid Rd.
Firth, ID 83236

Christy J. Reid
Robert E. Reid
911 Reid Rd.
Firth, ID 83236

Blackfoot Younie Ditch Co.
c/o Jerry Hobbs, President
944 McAdoo St.
Blackfoot, ID 83221

Elmer Stecklein
Lucile Stecklein
P.O. Box 116
Blackfoot, ID 83221

Eastern Idaho Water Co.
c/o Larry Hinderager
434 W. Riverton Rd.
Blackfoot, ID 83221

Eliza Hinderager
Larry Hinderager
434 W. Riverton Rd.
Blackfoot, ID 83221

Rawlings Creek Land and Livestock Co.
c/o Jane Crawford
843 N 550 E
Firth, ID 83238

Dorothy Lyon
Everett L. Lyon
397 N 800 E
Firth, ID 83236

Linda E. Collard
Max E. Collard
1622 Riverton Rd.
Blackfoot, ID 83221

Norman Winter
230 S 550 W Nagisty Rd.
Blackfoot, ID 83221

Irma M. Gay
Walter A. Gay
628 W 300 S
Blackfoot, ID 83221

Charlie M. Powers
623 W 300 S
Blackfoot, ID 83221

Colleen R. Marriott
James M. Marriott
799 W 200 S
Blackfoot, ID 83221

Hunsaker Ranching, Inc.
P.O. Box 324
Soda Springs, ID 83276

Ronald Jensen
708 E 800 N
Firth, ID 83236

Mark B. Pratt
279 N 400 E
Blackfoot, ID 83221

Meadow Creek Ranch
2330 S. Dallin St.
Salt Lake City, UT 84109

Jerry R. Rigby
Rigby, Andrus & Moeller, Chtd.
P.O. Box 250
Rexburg, ID 83440-0250

Kent W. Foster
Holden, Kidwell, Hahn & Crapo, PLLC
P.O. Box 50130
Idaho Falls, ID 83405-0130

Christopher H. Meyer
Givens Pursley, LLP
P.O. Box 2720
Boise, ID 83701-2720

Brett McDaniel
631 W 225 S
Blackfoot, ID 83221

Nina L. Rowbury
Rex C. Rowbury
260 S 625 W
Blackfoot, ID 83221

Dallen Worthington
685 West 300 South
Blackfoot, ID 83221

Lloyd Stolworthy Ltd. Family Partnership
1525 E. Wolverine Rd.
Firth, ID 83236

CV Ranches
3124 Nipper Rd.
Bancroft, ID 83217

Annette F. Hamilton
Wesley R. Hamilton
626 W 225 S
Blackfoot, ID 83221

Dorothy H. Yancey
Merlin Yancey
707 W 300 S
Blackfoot, ID 83221

Donald Anderson
Lorette Anderson
264 S 625 W
Blackfoot, ID 83221

Louis Morales
Susan Morales
1577 E. Wolverine Rd.
Firth, ID 83236

Brent Steffler
Ronda Steffler
625 N 800 E
Firth, ID 83236

Meadow Creek Ranch
c/o David Bosen
2545 W 2400 N
Preston, ID 83263

Randall C. Budge
Scott J. Smith
Racine, Olson, Nye, Budge & Bailey, Chtd.
P.O. Box 1391
Pocatello, ID 83204-1391

Bear Lake Grazing Co.
c/o Rowdeen Keetch
3632 Bench Rd.
Montpelier, ID 83254

Cheryl H. Thompson
Sidney G. Thompson
3411 Long Valley Rd.
Soda Springs, ID 83276

Cindy Telford
Wayne M. Telford
1016 E 1000 N
Shelley, ID 83274

P. Thomas Blotter Family Ltd. Partnership
c/o P. Thomas Blotter
3250 N 1200 E
Logan, UT 84321

Beth Ann Winschell
190 S. Stout Ave.
Blackfoot, ID 83221

Stucki Revocable Trust
John R. Stucki, Trustee
Shirley O. Stucki, Trustee
325 Algonquin Dr.
Ballwin, MO 63011

Gordon H. Durney
Leda D. Durney
208 S 550 W
Blackfoot, ID 83221

Franklin D. Wright
607 W 225 S
Blackfoot, ID 83221

Becky Davis
Charlotte Reid
Rich Reid
213 Little Indian Rd.
Firth, ID 83236

Diane Mason
575 Grant St.
American Falls, ID 83211

Barbara K. Hoskins
Robert A. Hoskins
674 W 275 S
Blackfoot, ID 83221

Ken J. Wixom
260 W 300 N
Blackfoot, ID 83221

Adrian J. Young
Margot B. Young
36 E. Rich Ln.
Blackfoot, ID 83221

Naomi L. Christensen
845 E 1000 N
Shelley, ID 83274

Robert J. Ganske
Trudy Ganske
255 S 625 W
Blackfoot, ID 83221

George Oleson
317 E. Rich Ln.
Blackfoot, ID 83221

John Hamilton
2000 Riverton Rd.
Blackfoot, ID 83221

Lila Oleson
Steven Oleson
359 E 200 N
Blackfoot, ID 83221

Cordell E. Stewart
Judith Ann Stewart
563 W 200 S
Blackfoot, ID 83221

Florian Wernette
Opal Wernette
494 N 600 E
Firth, ID 83236

Gary L. Empey
Marva I. Empey
830 Riverton Rd.
Blackfoot, ID 83221

John Warren
Lisa Warren
880 Riverton Rd.
Blackfoot, ID 83221

Doran Jorgenson
Shira Jorgenson
561 W 200 S
Blackfoot, ID 83221

Diane B. Powell
Neal K. Powell
252 E 100 N
Blackfoot, ID 83221

Smith-Maxwell Ditch Co.
c/o Layne Hamilton
839 W. Riverton Rd.
Blackfoot, ID 83221

Jorgensen Farms Ltd. Partnership
1928 Old Hwy 30
Bancroft, ID 83217

Zach C. Miller
Davis, Graham & Stubbs, LLP
1500 17th St., Suite 500
Denver, CO 80202

David W. Beckstead
1498 S 800 E
Preston, ID 83263

Jougard Sheep Co., Inc.
P.O. Box 245
Rupert, ID 83350

Leo Wallace
Richard M. Wallace
Sherrilynn Bair
Starla Thompson
1921 W. Taber Rd.
Blackfoot, ID 83221

LaRue Rich
Violet B. Rich
1213 W 600 S
Pingree, ID 83262

Alice Gibson
Val Gibson
100 N. Woodland Dr.
Soda Springs, ID 83276

Lynn Rasmussen
108 Lago-Liberty Rd.
Grace, ID 83241-5352

Glenna Rasmussen
Lynn Rasmussen
168 Lago-Liberty Rd.
Grace, ID 83241-5352

Lynn Rasmussen

2204 Lago-Liberty Rd.
Grace, ID 83241-5352

Preston R. Allen & Sons Partnership
c/o Kent Allen
1744 Cedar View Road
Soda Springs, ID 83276

Bonnie P. Gardner
Leon J. Gardner
469 E 400 N
Blackfoot, ID 83221

Marvin R. Yancey
Nola B. Yancey
691 W 300 S
Blackfoot, ID 83221

Gary A. Wright
Sonja J. Wright
673 W 300 S
Blackfoot, ID 83221

David & Kathy Daniels
436 Riverton Rd.
Blackfoot, ID 83221

Bill D. Haddon
412 W. Riverton Rd.
Blackfoot, ID 83221

David R. Stark
Denise C. Stark
410 W. Riverton Rd.
Blackfoot, ID 83221

Helen Hansen
666 W 275 S
Blackfoot, ID 83221
Mikala Gneiting

Quinton Gneiting
216 S 550 W
Blackfoot, ID 83221

Jason Leiseth
Megan Leiseth
212 S 550 W
Blackfoot, ID 83221

David Stanley
474 W. Riverton Rd.
Blackfoot, ID 83221

Howard S. Nation
Jacquelyn C. Nation
594 W 200 S
Blackfoot, ID 83221

Joyce Novosad
652 W 275 S
Blackfoot, ID 83221

Casey Clements
420 S. University
Blackfoot, ID 83221

Bryce J. Fielding
Mary W. Fielding
720 N 1100 E
Shelley, ID 83274

Blue Bird Ranch LLC
149 N 200 E
Blackfoot, ID 83221

Joe Dean Brantzeg
153 N 400 W
Blackfoot, ID 83221

Linda De McDaniel

Paul B. McDaniel
275 S 625 W
Blackfoot, ID 83221

Nu-West Mining, Inc.
Attn: Jon Goode
3010 Conda Rd.
Soda Springs, ID 83276

Carol Reid
1158 E 800 N.
Shelley, ID 83274

Kim Calvert Gundersen
646 W 300 S
Blackfoot, ID 83221

Charles Brent Weaver
802 W Riverton Rd.
Blackfoot, ID 83221

David J. Barber
Natural Resources Division
IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Idaho Attorney General's Office
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

Stephen J. Blaser
Blaser, Sorensen & Oleson, Chtd.
P.O. Box 1047
Blackfoot, ID 83221

Jeanette Wolfley
Special Counsel
Shoshone-Bannock Tribes
202 N. Arthur
Pocatello, ID 83202

United States Department of Justice
Environment and Natural Resources Div.
550 W. Fort St., MSC 033
Boise, ID 83724



Peter C. Monson

Attachment A

27-00001A	27-00037E	27-02126	27-11199	27-12136
27-00001B	27-00037F	27-02165	27-11236	27-12137
27-00002A	27-00037G	27-04001	27-11245	
27-00002B	27-00037H	27-04009	27-11261	
27-00003C	27-00037J	27-04010	27-11262	
27-00003D	27-00037L	27-04058	27-11269	
27-00003E	27-00037M	27-04068	27-11271	
27-00003G	27-00037N	27-04077	27-11273	
27-00004AC	27-00038	27-04078	27-11317	
27-00004F	27-00039	27-04079	27-11330	
27-00004H	27-00040	27-04096	27-11334	
27-00004M	27-00041	27-04097	27-11918	
27-00004S	27-00045	27-04141	27-11919	
27-00004Y	27-00047	27-07013	27-11930	
27-00004Z	27-00049	27-07089	27-11939	
27-00005A	27-00050	27-10096	27-11940	
27-00005B	27-00051A	27-10116	27-11946	
27-00012A	27-00051B	27-10207	27-11966	
27-00012B	27-00052	27-10292	27-11988	
27-00013A	27-00054	27-10296	27-11989	
27-00013B	27-00055A	27-10341	27-11992	
27-00014B	27-00055B	27-10344	27-11994	
27-00014C	27-00056	27-10357	27-11995	
27-00014D	27-00073	27-10358	27-11997	
27-00016A	27-00074	27-10362	27-12006	
27-00017	27-00076	27-10370	27-12014	
27-00020A	27-00085A	27-10388	27-12015	
27-00020B	27-00088	27-10390	27-12016	
27-00021A	27-00094	27-10398	27-12017	
27-00021B	27-00102	27-10452	27-12027	
27-00021C	27-00104	27-10505	27-12028	
27-00021D	27-00105	27-10539	27-12029	
27-00022D	27-00106	27-10545	27-12030	
27-00023B	27-02001	27-10550	27-12031	
27-00023C	27-02003A	27-10552	27-12032	
27-00023E	27-02003B	27-10555	27-12035	
27-00025B	27-02008	27-10557	27-12040	
27-00025C	27-02015	27-10657	27-12045	
27-00026A	27-02019A	27-10667	27-12050	
27-00026B	27-02026	27-10728	27-12051	
27-00026C	27-02041A	27-10756	27-12064	
27-00026D	27-02041B	27-10790	27-12068	
27-00026E	27-02043	27-10844	27-12069	
27-00028	27-02048	27-10847	27-12074	
27-00029B	27-02052	27-10878	27-12081	
27-00029C	27-02054	27-10943	27-12108	
27-00029E	27-02066	27-10994	27-12109	
27-00035D	27-02078	27-10999	27-12115	
27-00037A	27-02080A	27-11016	27-12116	
27-00037C	27-02080B	27-11117	27-12118	

Attachment B

Negotiating Parties' Working Draft
Internal Review by All Parties is Incomplete.

April 14, 2009 – David Barber's Working Draft
April 21, 2009 – Shoshone-Bannock Tribes' and United States' Edited Version
May 5, 2009 – Revised Version Based on Conference Call with IDWR
May 8, 2009 – Revised version with edits by WD 27
May 19, 2009 – Revised Version Based on Conference Call
June 8, 2009 – Revised Version Based on Conference Call
June 29, 2009 – Revised Version Based on Conference Call
July 1, 2009 – Final Draft from Technical Committee
July 20 – BIA Revised Draft

**BLACKFOOT RIVER WATER MANAGEMENT PLAN PURSUANT TO
THE 1990 FORT HALL INDIAN WATER RIGHTS AGREEMENT**

Field Code Changed

This Blackfoot River Water Management Plan pursuant to the 1990 Fort Hall Indian Water Rights Agreement constitutes an agreed upon plan and program by and between the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, the State of Idaho, the United States, and certain Idaho Water Users for implementation of effective water management in the Blackfoot River Basin and is made in reference to the following facts.

RECITALS

WHEREAS,

A. On July 5, 1990, the Shoshone-Bannock Tribes, the State of Idaho, the United States and certain Idaho Water Users entered into an agreement to settle the water rights claimed by the United States for the benefit of the Shoshone-Bannock Tribes. This Agreement, known as the 1990 Fort Hall Indian Water Rights Agreement, was approved by the legislative branches of these three governments, and on November 16, 1990, the United States Congress enacted Pub. L. 101-602, the Fort Hall Indian Water Rights Settlement Act of 1990.

B. On August 2, 1995, the Presiding Judge of the Snake River Basin Adjudication entered an Order approving the Fort Hall Agreement and decreeing water rights to the United States for the benefit of the Tribes. See Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River.

C. Article 7 of the Fort Hall Agreement and Section II of the Court's Order recognized the Shoshone-Bannock Tribes' federal reserved right to use water from the Blackfoot River. This right is designated as No. 27-11375 with the source identified as the Blackfoot River, an annual diversion volume of 150,000 AFY, and a priority date of June 14, 1867.

D. Subsection 8.3 and the Attachment to the Fort Hall Agreement entitled "Blackfoot River Water Management Plan, Statement of Purposes, April 20, 1990" provided for the development of a Blackfoot River Water Management Plan. The purpose of the Blackfoot River Management Plan was to assist in the implementation of the Fort Hall Water Rights Agreement as decreed in the SRBA.

Negotiating Parties' Working Draft
Internal Review by All Parties is Incomplete.

Formatted: Font: Italic

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Purposes

This Blackfoot River Management Plan establishes comprehensive programs to facilitate efficient and accurate measurement of diversions, regulate non-Indian and Tribal points of diversion, promote transmission of data amongst the Parties, and develop a computer accounting program which quantifies the amount of natural flow available to water users on the Blackfoot River. This particular Plan does not address the purposes in the April 20, 1990 Attachment relating to Grays Lake, specifically purposes 4, 5, and 8. The Parties agree to address the Grays Lake issues in a separate plan.

2. Definitions

The following definitions apply for purposes of this Plan:

- a) "Basin 27" means all surface water users in the Blackfoot River Basin who divert from the Blackfoot River and/or its tributaries, exclusive of the Fort Hall Irrigation Project and *de minimis* stockwater uses.
- b) "Committee of Nine" means the advisory committee of Water District 01.
- c) "Director" means the Director of the Idaho Department of Water Resources.
- d) "Fort Hall Agreement" means the 1990 Fort Hall Indian Water Rights Agreement executed by the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, the State, the United States and the Committee of Nine.
- e) "IDWR" means the Idaho Department of Water Resources and any successor thereto.
- f) "Measuring Device Order" means the *Order Requiring Measuring Devices and Controlling Works on the Blackfoot River, Water District 27* entered on April 18, 2008 by IDWR. A true and correct copy is attached for informational purposes as Attachment I.
- g) "Measuring Device Standards" means the IDWR document dated ??? and entitled "Minimum Acceptable Standards for Open Channel and Closed Conduit Measuring Devices." A true and correct copy is attached for informational purposes as Attachment II.
- h) "Parties" means the Committee of Nine, State, Tribes, United States, and Basin 27 water users.
- i) "Plan" means the Blackfoot River Water Management Plan.

Comment (A1): Note that there has been some inconsistency among the various documents as to when successors are included and by what language (said vs. or for starters). Another option, though one not used, would be to delete those references we have to successors and simply add a short provision to each document stating that in all cases when an entity is referred to, this includes any successors it may have. (This is my own preference.) In any case, for the sake of consistency, we should probably decide what we want to do and stick with it to the extent it makes sense.

Formatted: Font: Italic

- j) "SRBA District Court" means the District Court of the Fifth Judicial District, State of Idaho, in and for the County of Twin Falls.
- k) "State" means the State of Idaho, admitted to the Union on July 3, 1890.
- l) "Tribes" or "Tribal" means the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation in Idaho as the collective successors-in-interest of Indian signatories to the Second Treaty of Fort Bridger of July 3, 1868, 15 Stat. 673, and subsequent Tribal/federal agreements.
- m) "United States" means the United States Department of Interior, Bureau of Indian Affairs.
- n) "Water District 01" means ...
- n) "Water District 27" means the water district designated by the Director of IDWR for the distribution of water in the Blackfoot River Basin and any successor thereto.
- o) "Watermaster" means the person elected by Water District 27 and appointed by the Director of IDWR who shall be responsible for distribution of water within Water District 27.

3. Measurement Program

- a) Improvement Program. IDWR issued the Measuring Device Order, which requires all water users on the Blackfoot River to install and maintain lockable headgates and adequate measuring devices in accordance with the Measuring Device Standards prior to any delivery of water to the water user beginning in 2010. The Parties shall undertake an on-going program to improve water measurement and delivery throughout the Blackfoot River Basin. The Watermaster will determine, on a case-by-case basis, the specific improvements needed to facilitate efficient and accurate measurements at each point of diversion within the basin in accordance with the Measuring Device Order. The owner of a point of diversion is responsible for any costs associated with installation and maintenance of lockable headgates and measuring devices in accordance with the Measuring Device Order.

i. ??? Future changes - In the event that the "Measuring Device Order" is superseded by a future Order or the "Measuring Device Standards" is modified...

- b) Regulation of Non-Indian Points of Diversion. The Watermaster will regulate Basin 27 points of diversion according to the following guidelines. The

Comment [A2]: Term used but not defined.

Comment [A3]: Is it possible that this Order might be superseded or modified by a future Order? If so, what would we want to happen? Whatever that is, we should probably say so here. Also, see comment immediately below re Measuring Device Standards.

Formatted: Indent: Left: 1.5"

Comment [A4]: Question: Is it possible that a new Measuring Device Order might be issued at some future time or that this one might be revised? If so, what would we want to happen? Two obvious choices are to say that the new standards will govern, regardless of what they are (so long as they do not contradict anything else in this Management Plan), or else to say that the standards in effect at the time this document is finalized will prevail unless all of the parties subsequently agree to new standards. In any case, it is possible that the new/revised Order might be issued, we should probably say something here.

frequency and method of regulation for each point of diversion is determined by its flow rate and location. All diversion measurement sites shall be located as close as possible to the point of diversion.

- i) Continuous Monitoring. The Watermaster shall monitor the following points of diversion through the use of sensors and continuous data-logging equipment:
 - A) Smith-Maxwell diversion,
 - B) Riverton diversion,
 - C) Stevens diversion,
 - D) Central diversion,
 - E) Little Butte diversion,
 - F) Eastern Idaho / Blackfoot Slough diversion,
 - G) Just Ditch diversion,
 - H) Sand Creek diversion (not included in Basin 27 calculations).
- ii) The owners of the diversions described in subdivision (b)(i) are responsible in accordance with the Measuring Device Order with maintaining the headgates and measurement sections of their respective ditches. Water District 27 shall install and maintain sensors and continuous data-logging equipment at each site identified. The completion date for the installation of the sensors and data-logging equipment is April 1, 2010.
- iii) Pumps. Some water users divert water from the Blackfoot River or its tributaries through the use of pumps. Water users who use pumps are required to install an adequate measuring device in accordance with the Measuring Device Order. The Watermaster shall record and report pump diversions at a minimum frequency of once per two weeks.
- iv) Non-Continuous Monitoring. The Watermaster shall monitor and measure manually all other Basin 27 points of diversion. Manual measurement of these points will occur at a frequency necessary to establish an accurate diversion record, with the following conditions:
 - A) All points of diversion shall be measured at a minimum of once every two weeks.
 - B) Fewer (less frequent) measurements than those stated in (A) can be used by the Watermaster if fewer measurements sufficiently establish an accurate diversion record and if approval for fewer measurements has been obtained from the Parties.
 - C) Small variances from the minimum measurement frequency stated in (A) are acceptable if unusual or unique circumstances arise in spite of the Watermaster's best efforts.

Daily diversion flow rates shall be determined based on a linear interpolation between manual measurements, unless reliable information sources indicate otherwise. Diversion data shall be reported on a weekly basis. Manual measurements shall be performed using consistent and accurate methods.

- v) Rating curves shall be established for all sites that utilize water stage data for the estimation of flow rates. Initial rating curves shall be established for such sites by April 1, 2011. Once the rating curve for a site has been established, flow rate and stage measurements will continue to be collected at least once per month from April to October. Adjustments to the rating curves and shifts in the rating curve relationships will be applied by the Watermaster as appropriate.
- vi) The cumulative annual diversion volume for Basin 27 shall be updated as a running total and reported to the Parties on a weekly basis. The cumulative annual diversion volume shall be calculated as the sum of all daily diversion volumes, for all diversion sites in Basin 27, from the start of the irrigation season to the present day. The daily diversion volume for each site shall be calculated as follows:

$$\text{Daily Diversion Volume (acre-feet)} = \text{Mean Daily Flow Rate (cfs)} \times 1.9835$$

- c) Regulation of Tribal Points of Diversion. The Tribes and United States shall monitor the Fort Hall Main Canal, the Fort Hall North Canal, and the Fort Hall Little Indian Canal through the use of sensors and continuous data-logging equipment. The United States and Tribes shall be responsible for maintenance of the sensors, data-logging equipment, and gage houses, and shall comply with all measurement and reporting standards provided under section 3(b). Copies of the measured flow rate data shall be sent to Water District 27 on a weekly basis.
- d) Blackfoot River Basin Stream Gaging. This subdivision identifies those gaging sites that shall constitute the Blackfoot River stream gage system; which will be used to determine the amount of natural flow and storage flow in the Blackfoot River. The description for each gaging site includes six parts. The first part identifies the name of the site. The second part provides the location of the site in latitude and longitude (NAD 83). The third part describes the period of the year when monitoring data is collected and reported. The fourth part identifies the operator of the site. The fifth part identifies the Party or Parties responsible for the site; and site responsibilities shall include purchase and replacement of measurement equipment, equipment installation, maintenance of equipment and gage houses, and annual operating costs, including rating curve data collection, data processing, and data transmission. The sixth part describes the completion date on which the site must be installed and operational. The stream gages shall be operated using electronic sensor equipment and shall have the ability to

Comment [A5]: I may just be missing something here, but it would seem that there could be a potential conflict between the weekly reporting requirement and the linear interpolation between essentially bi-weekly measurements. Say a measurement is made on a Thursday of one week and the next measurement is to be made two Thursdays later. Say that the water master is trying to get his reports out on each Monday for the previous week. For the measurement point in question, you won't have enough data for the interpolation until two weeks after the first reading. Otherwise, all you can do is straight line the last measurement taken, unless you want to extrapolate from the previous two readings, which doesn't make sense (to do here, inasmuch as the averages work out to the same, would this be a better approach? (Note: if the weekly reports are sufficiently delayed, this is not an issue.)

Negotiating Parties' Working Draft
Internal Review by All Parties is Incomplete.

transmit real-time data to a common data repository, unless stated otherwise in the gage site description below. The stream gages are as follows:

- i) Name: Clarks Cut
Location: Lat 43° 00' 20" Long 111° 29' 40"
Monitoring Season: April through October
Operator:
Responsible Party: under discussion
Completion Date: April 1, 2010
- ii) Name: Blackfoot River near Henry
Location: Lat 42° 48' 55" Long 111° 30' 24"
Monitoring Season: April through October
Operator: USGS (Station #13063000)
Responsible Party: U.S. Department of the Interior,
Bureau of Land Management
Completion Date: Existing gage
- iii) Name: Blackfoot Reservoir Gage
Location: Lat 43° 00' 20" Long 111° 43' 00"
Monitoring Season: Year round
Operator: Idaho Power Company
Responsible Party: Tribes
Completion Date: Existing gage
- iv) Name: Blackfoot River at Rocky Ford
Location: Lat 43° 00' 05" Long 111° 43' 45"
Monitoring Season: Year round
Operator: Idaho Power Company
Responsible Party: Tribes
Completion Date: Existing gage
- v) Name: Blackfoot River near Shelley
Location: Lat 43° 15' 46" Long 112° 02' 52"
Monitoring Season: Year round
Operator: USGS (Station #13066000)
Responsible Party: IDWR
Completion Date: Existing gage
- vi) Name: Blackfoot River at Rich Lane
Location: Lat 43° 11' 27" Long 112° 13' 39"
Monitoring Season: April through October
Operator: Tribes

Comment [A6]: Should a sentence be added here or elsewhere to the effect that, if the entity responsible for a specific gage wishes to change the operator, the consent of the other parties to this agreement must be obtained?

Comment [A7]: BLM has the commitment to construct and operate this gage under discussion. ALSO, the completion date may need to be adjusted due to access, funding, and contracting issues.

Comment [A8]: For those stations in this list for which the USGS Station number is provided, I'm wondering if the Station number shouldn't be on the line for Name rather than Operator.

Comment [A9]: Ditto. But has BLM agreed or else are they otherwise obligated to continue this site?

Negotiating Parties' Working Draft
Internal Review by All Parties is Incomplete.

- Responsible Party: Tribes
Completion Date: Existing gage
- vii) Name: Blackfoot River below Fort Hall North
Location: Downstream of Corbett Slough Inflow
Monitoring Season: April through October
Operator:
Responsible Party: under discussion
Completion Date: April 1, 2010
- viii) Name: Blackfoot River Bypass
Location: Lat 43° 10' 15" Long 112° 23' 16"
Monitoring Season: Year round
Operator: USGS (Station #13068495)
Responsible Party: IDWR
Completion Date: Existing gage
- ix) Name: Blackfoot River near Blackfoot
Location: Lat 43° 07' 50" Long 112° 28' 36"
Monitoring Season: Year round
Operator: USGS (Station #13068500)
Responsible Party: IDWR
Completion Date: Existing gage
- x) Name: Meadow Creek near Reservoir
Location: Lat 42° 55' 29" Long 111° 30' 53"
Monitoring Season: April through October
Operator: Water District 27
Responsible Party: Water District 27
Completion Date: No equipment; manual flow measurements, once every 2 weeks
- xi) Name: Little Blackfoot River near Reservoir
Location: Lat 42° 54' 34" Long 111° 31' 53"
Monitoring Season: April through October
Operator: Water District 27
Responsible Party: Water District 27
Completion Date: No equipment; manual flow measurements, once every 2 weeks
- xii) Name: Corbett Slough near Blackfoot River
Location: Lat 43° 10' 23" Long 112° 20' 13"
Monitoring Season: April through October
Operator: Water District 27

Formatted: Tab stops: Not at 1.5"

Comment [A10]: BIA has the commitment to construct and operate this gage under discussion. ALSO, the completion date may need to be adjusted due to access, funding, and contracting issues.

Comment [A11]: Here and elsewhere where Water District 27 is identified as the "operator" of stations for which manual measurements are being made, a sensor and data logger are being installed. It is really intended that the Water District per se should be directly responsible to operate the facilities. Or was it intended to say "Water Master" or the latter should this be changed here and below?

Negotiating Parties' Working Draft
Internal Review by All Parties is Incomplete.

Responsible Party: Water District 27
Completion Date: Sensor and datalogger only; no real-time data transmittal; site should be operated under the policies provided in 3(b).

xiii) Name: Idaho Canal near Blackfoot River
Location: Lat 43° 15' 26" Long 112° 8' 42"
Monitoring Season: April through October
Operator: Water District 27
Responsible Party: Water District 27
Completion Date: Sensor and datalogger only; no real-time data transmittal; site should be operated under the policies provided in 3(b).

xiv) Name: Sand Creek at Wolverine Road
Location: Lat 43° 16' 58" Long 112° 9' 36"
Monitoring Season: April through October
Operator: Water District 01 (Station #13064500)
Responsible Party: Water District 01
Completion Date: Existing gage

e) Data Sharing. All data collected under Section 3 shall be transmitted by the responsible parties to a mutually agreed upon website, on which it will be made available to all Parties. The data shall be transmitted at the same frequency at which the data are collected. The website shall contain all real-time stream gage data, Basin 27 and Tribal diversion data (both continuous and non-continuous sites), and elements of the accounting program specified in Section 4. The Watermaster shall be responsible for providing and maintaining the data sharing website.

f) Gage Site Funding. [this section under discussion] Each responsible party listed in section 3(d) shall have the responsibility of funding the installation, if a new site, and the operation of the gage site(s) to which it is assigned. The funding required under this subdivision is contingent upon the appropriation of funds by the appropriate legislative entity. If funds are not available to establish, operate and maintain a gage site, the responsible party shall inform the Parties as soon as possible, and the responsible party shall make efforts to acquire or allocate funding for the site in the future, and if possible, to reimburse other entities for reasonable costs that they may have incurred to establish or continue the gage operation in the interim.

4. Accounting Program

a) The Watermaster, with approval of the United States, Tribes, and the Director, shall develop a computer accounting program that quantifies the amount of

Comment [A12]: Similar question here. Does this really mean "any one from District 01 or 27"? Or should it say something along the lines of "the Water Master for Water District 01 as appointed by the Director of IDWR, who is responsible for distribution of water within Water District 01?"

Comment [A13]: There is no language here precluding the website from being public. If by chance, the intent was that it should not be a public site, but rather limited to the Parties, this should be spelled out.

Comment [A14]: There is no specific reference to costs associated with the website. The implication seems to be that the water master will be responsible for any costs (which I'm assuming means District 27). Is this correct? Either way, it would probably be better to spell out more clearly.

Comment [A15]: BLA has this commitment under discussion.

Comment [A16]: Just throwing out this idea for consideration.

natural flow available to water users on the Blackfoot River, the amount of storage water released from the Blackfoot Reservoir, the amount of water imported from Grays Lake, and the amount of water diverted from the Blackfoot River and its tributaries in conformance with the attachment to the Fort Hall Agreement entitled "Blackfoot River Water Management Plan, Statement of Purposes, April 20, 1990." Once developed and approved, any subsequent changes to calculations and methods employed in the accounting program will require approval of the United States, Tribes, and the Director.

- b) Natural Flow Calculations. The accounting program shall calculate the amount of Blackfoot River natural flow available for diversion by Basin 27 water users at each of the following locations, using the equations specified. These natural flow calculations do not provide the true theoretical undepleted flow, but rather the actual direct flow that is available for diversion by Basin 27 water users at each specified location. (NF = natural flow; SF = storage flow; IF = injected flow)

- i) Blackfoot River at Rocky Ford:

$$NF_{\text{IntoReservoir}} = Q_{\text{BigBlackfoot}} + Q_{\text{LBR}} + (Q_{\text{MeadowCk}} - Q_{\text{ClarksCut}}) + Q_{\text{Additional}}$$

$NF_{\text{RockyFord}}$ is equal to the amount requested for release by the Watermaster to fulfill the Basin 27 diversion demands below Blackfoot Reservoir, see 4(e) below. The maximum amount that can be requested by the Watermaster is $NF_{\text{IntoReservoir}}$.

$$SF_{\text{RockyFord}} = Q_{\text{RockyFord}} - NF_{\text{RockyFord}} \quad (\text{if } Q_{\text{RockyFord}} > NF_{\text{RockyFord}})$$

$$SF_{\text{RockyFord}} = 0 \quad (\text{if } Q_{\text{RockyFord}} \leq NF_{\text{RockyFord}})$$

- ii) Blackfoot River at Shelley:

$$SF_{\text{Shelley}} = SF_{\text{RockyFord}} \text{ for previous day (1 day time lag)}$$

$$NF_{\text{Shelley}} = Q_{\text{Shelley}} - SF_{\text{Shelley}}$$

- iii) Blackfoot River at Rich Lane:

$$SF_{\text{RichLane}} = SF_{\text{Shelley}}$$

$$NF_{\text{RichLane}} = Q_{\text{RichLane}} - SF_{\text{RichLane}} - Q_{\text{ResCanalDrop}} - I_{\text{IdahoCanal}}$$

$$IF_{\text{RichLane}} = I_{\text{IdahoCanal}} + I_{\text{ResCanal}}$$

The following data symbols are used in the above equations:
(Q = river flow data; I = inflow data)

$Q_{\text{BigBlackfoot}}$ = Blackfoot River near Henry
 Q_{MeadowCk} = Meadow Creek near Reservoir
 $Q_{\text{ClarksCut}}$ = Clarks Cut (Grays Lake Diversion)
 Q_{LBR} = Little Blackfoot River near Reservoir
 $Q_{\text{RockyFord}}$ = Blackfoot River at Rocky Ford

Comment [A17]: No references are made here to costs associated with developing, maintaining, or modifying the computer program. Who does? Should this be stated?

Comment [A18]: Assume someone has gone thru all terms in equations to make sure that the terms are defined and that all page names appear here exactly as they do above.

Negotiating Parties' Working Draft
Internal Review by All Parties is Incomplete.

Q_{Shelley} = Blackfoot River at Shelley

$Q_{\text{Additional}}$ = Estimated non-measured inflows to Reservoir

Q_{RichLane} = Blackfoot River at Rich Lane

$Q_{\text{ResCanalDrop}}$ = Reservation Canal at Drop

I_{ResCanal} = Net inflows that are injected into the Blackfoot River from the Reservation Canal for use by Basin 27 water users, inclusive of inflows for use by the Smith Maxwell Ditch Co.

$I_{\text{IdahoCanal}}$ = Net inflows that are injected into the Blackfoot River from the Idaho Canal for use by Basin 27 water users.

- iv) The measured flows at Rocky Ford, below the outlet of Blackfoot Reservoir, consist of three distinct streams of water: (1) Blackfoot River natural flows requested by the Watermaster to satisfy non-Indian demands, (2) storage releases from Blackfoot Reservoir for non-Indian users in the Fort Hall Irrigation Project, and (3) storage releases from Blackfoot Reservoir (or natural flows passing through the Reservoir) for diversion under the Tribes' Blackfoot River water right. The Watermaster shall account for these separate streams based on the reported flow at the Rocky Ford gage. The Fort Hall Irrigation Project will inform the Watermaster how the storage releases should be allocated between (2) and (3).
- v) At the present time, additional spring and tributary inflows to the Blackfoot Reservoir ($Q_{\text{Additional}}$) are estimated as 35 cfs of continuous flow. The parties agree that the estimate of $Q_{\text{Additional}}$ will be revised within 5 years after the date that all of the Upper Basin gage sites become operational, or earlier if the Parties agree. The revised estimate of $Q_{\text{Additional}}$ will be calculated for each month as monthly varying values based on the water balance of Blackfoot Reservoir using the most current 5 years of data.
- vi) [this section under advisement]. As part of revising the estimates of the spring and tributary inflows to the Blackfoot Reservoir, it is desired that a resurvey of the Blackfoot Reservoir shall take place. The resurvey shall include bathymetric surveys for the inundated lands and topographic surveys for the exposed lands at the time of survey. The Bureau of Indian Affairs shall be endeavor to fund the surveys so that they shall be completed within 18 months of the date of signature of this Plan. If the surveys cannot be completed within this time period, the Bureau of Indian Affairs is not obligated under this agreement to make any further effort to complete them.
- vii) The accuracy and reliability of the above natural flow calculations shall be checked once per year by the Watermaster, who shall

Comment [A19]: It would seem that if the resurveys can be carried out, we would NOT want to recompute $Q_{\text{Additional}}$ any earlier, and may even want to consider tacking on an extra year.

Comment [A20]: According to this, there are no future plans to update $Q_{\text{Additional}}$ after the initial revision. If future updates are desired, this should be specified. (My own bias would be to have periodic assessments, but I leave this to the folks who are more familiar with the local hydrology than I am.)

Comment [A21]: BIA is requesting that this section be reconsidered and perhaps dropped from the management plan. There are concerns that a resurvey would be ineffective.

recommend adjustments as appropriate. These adjustments to the above natural flow calculations can be made following approval by the Tribes, United States, and the Director.

- c) The accounting will be updated throughout the irrigation season as data are collected. Revised estimates of natural flow should be updated once per week following the collection of diversion data. The natural flow estimates for each of the specified locations will be posted to the data sharing website.
- d) Based on water rights, priority date, and available water supply, the Watermaster shall assign the amount of allowable diversion for each diversion point below the Blackfoot River at Shelley gage site. The allowable diversion shall be updated weekly based on the natural flow calculations and posted to the data sharing website.
- e) The Watermaster shall inform the Tribes and United States on an as needed basis of the necessary natural flows to be released below Blackfoot Dam to satisfy downstream Basin 27 diversions. The requested releases shall not exceed the maximum potential natural flow calculated as inflows to the Blackfoot Reservoir, and shall account for tributary inflows below Blackfoot Dam (Middle Basin inflows) and Snake River inflows from the Idaho Canal and Corbett Slough to the extent possible. The Tribes and United States will have the right to store or otherwise use any available natural flows upstream of Blackfoot Dam that are not requested by the Watermaster. The Parties agree to develop a formula to assist the Watermaster in determining the necessary release requests from Blackfoot Dam. The formula will provide a relationship between the natural flow release requests from Blackfoot Dam made by the Watermaster and the diversion amounts requested by the downstream Basin 27 water-users. The formula will be developed within 5 years of the date of signature of this Plan, and shall be approved by the Intergovernmental Board. In the interim, until the formula is developed, the Watermaster release requests below Blackfoot Dam shall not exceed the downstream Basin 27 diversion demands by more than ten percent.
- f) The Tribes and United States are required to maintain a flow rate at the Blackfoot River Below Fort Hall North gage site that is greater than or equal to those Basin 27 diversion demands located downstream of the gage site. The equation set forth below assumes that the Blackfoot River below Fort Hall North gage site will be located downstream of the Corbett Slough Inflow into the Blackfoot River.

- i) The required flow rate (RF) shall be calculated as:

$$RF_{\text{BelowNorth}} = C_{\text{Loss}}(D_{\text{BelowNorth}})$$

C_{Loss} = conveyance loss coefficient to account for natural river losses occurring between Blackfoot River Below Fort Hall North gage site and the most downstream Basin 27 diversion, and

Comment [A22]: The term "available water supply" is used in several places but not defined. Would a definition be helpful to include (either here or in the definitions section)?

Comment [A23]: Unless I'm missing something, the first sentence states the basis for the diversion allowances, so that more is not needed here.

Comment [A24]: The term "Intergovernmental Board" is used in numerous places in this document without definition, though one case there is a reference to the Fort Hall Intergovernmental Board. Suggest that a definition be included in the definitions section.

expressed as a decimal fraction computed by taking the inverse of the remainder determined by subtracting the estimated loss fraction from 1??

$D_{\text{BelowNorth}}$ = valid Basin 27 diversion demands downstream of the Blackfoot River Below Fort Hall North gage site, estimated based on the previous five-day average diversions unless water orders are available which indicate that a different demand will be required???

Comment [A25]: If in my haste I misjudged how the coefficient is being defined, I leave it to one of the tech committee folks to correct. However, I do believe that some additional text here is appropriate to describe the nature of the coefficient.

Comment [A26]: It is too much to think that at some point these folks may provide water orders in advance. If so, there should probably be some provision for this in the agreement.

- ii) The conveyance loss coefficient (C_{Loss}) is not known at this time. The Parties agree to cooperatively develop an accurate estimate of C_{Loss} within 5 years of the date of the signature of this plan, and shall be approved by the Intergovernmental Board. In the interim, until a more accurate loss coefficient is developed, C_{Loss} shall be estimated as 1.1.
 - iii) The Watermaster shall inform the Tribes and United States if the flow rate at the Blackfoot River Below Fort Hall North gage site differs from the required flow rate calculated in the preceding equation. The Tribes and United States will adjust the releases below the Fort Hall North Canal within two days of the Watermaster's notice.
 - iv) The required flow rate at the Blackfoot River Below Fort Hall North gage site is limited by the available natural flow plus injected Snake River inflows. The required flow rate shall not exceed the available natural flow calculated at Rich Lane, factoring out the diversion by the Little Butte Canal, plus any Snake River flows injected into the Blackfoot River.
- g) The Watermaster shall account for all Snake River inflows into the Blackfoot River system that are intended for diversion by the Basin 27 water users. This information shall be updated at least once per week and posted to the data sharing website. In accounting for available water supply and allowable diversion along the Blackfoot River, the Watermaster shall consider conveyance losses in transferring Snake River diversions to the Blackfoot River and the non-Indian available water supply shall only consider the flows available at the point of injection into the Blackfoot River.
- h) Water Rights. IDWR and the Watermaster shall enforce all Basin 27 water rights in accordance with the elements of their rights, i.e., priority, period of use, and quantity, as listed in their partial decrees, and in accordance with the terms of the Stipulation Agreement.

5. Sand Creek Exchange

- a) The Parties agree to implement the Sand Creek Exchange as provided in Section 7.1.x.d of the Fort Hall Agreement. The measurements and equations necessary to implement the Sand Creek Exchange will be available under the terms of this Plan. The Parties agree to implement the Sand Creek Exchange provision beginning April 1, 2010.
- b) The volume of water credited to the Tribes under the Sand Creek Exchange will be calculated as an after-the-fact accounting procedure, and credited water may be diverted from the Snake River through the Reservation Canal at any time during the irrigation season. The exchange calculations and provision of credited water will be completed on a weekly basis, and posted to the data sharing website referenced in Section 3(e). Exchange credits will not be carried over from year to year.
- c) The current policy of IDWR Water District 01 is not to account for diversions at times when Milner Reservoir is spilling excess flows during the spring runoff period. During times when Milner Reservoir is spilling excess flows, no exchange credit shall be provided under the Sand Creek Exchange.
- d) The daily volume of Sand Creek Exchange water shall be calculated based upon a comparison of the measured Sand Creek flows, the excess Blackfoot River flows below the Tribes' diversions, the Blackfoot River flows near the mouth, and the Tribes' diversion demands. The total annual volume of Sand Creek Exchange is limited to 50,000 acre-feet per year. The Sand Creek Exchange shall be calculated based on the following equations.
 - i.) Excess flows bypassing the Tribes' diversions:
$$\text{Excess} = Q_{\text{BelowFortHall}} - RF_{\text{BelowNorth}} \quad (\text{if } Q_{\text{BelowFortHall}} > RF_{\text{BelowNorth}})$$
$$\text{Excess} = 0 \quad (\text{if } Q_{\text{BelowFortHall}} \leq RF_{\text{BelowNorth}})$$
 - ii.) Diversion demands of the Fort Hall Irrigation Project:
$$\text{Demand} = (D_{\text{MainCanal}} + D_{\text{NorthCanal}}) - DF_{\text{HIP, Non-Indian}}$$
$$DF_{\text{HIP, Non-Indian}} = SF_{\text{Non-Indian}} + Q_{\text{ResCanalDrop, 1891}}$$
 - iii.) Sand Creek flows available for exchange:
$$\text{Sand Creek} = (Q_{\text{SandCreek}} - D_{\text{SandCreek}}) \times 85\%$$
 - iv.) Blackfoot River flows near the confluence with Snake River:
$$\text{Blackfoot River} = Q_{\text{End}} + Q_{\text{Bypass}} \quad (\text{accounting for 12-hour lag time})$$
 - v.) Sand Creek Exchange calculation:
Exchange = lesser of (1) *Excess*, (2) *Demand*, (3) *Sand Creek*, or
(4) *Blackfoot River*

Negotiating Parties' Working Draft
Internal Review by All Parties is Incomplete.

The following data symbols are used in the above equations:

(Q = river flow data; D = diversion data; SF = storage flow data)

$Q_{\text{BelowFortHall}}$ = Blackfoot River below Fort Hall North Canal

$Q_{\text{SandCreek}}$ = Sand Creek at Wolverine Road

Q_{End} = Blackfoot River near Blackfoot (USGS Station #13068500)

Q_{Bypass} = Blackfoot River Bypass (USGS Station #13068495)

$Q_{\text{ResCanalDrop, 1891}}$ = Portion of flows in Reservation Canal at Drop that are diverted from Snake River/Sand Creek under water rights 01-10248 (1891 priority date) and 27-11560 (1914 priority date)

$D_{\text{MainCanal}}$ = Fort Hall Main Canal diversion

$D_{\text{NorthCanal}}$ = Fort Hall North Canal diversion

$D_{\text{SandCreek}}$ = Sand Creek Ditch diversion

$D_{\text{FHIP, Non-Indian}}$ = Fort Hall Irrigation Project non-Indian diversions under water rights 01-10248, 27-11561, and 27-11560

$RF_{\text{BelowNorth}}$ = Required flow at the Below Fort Hall North gage site as set forth in Section 4(f) above.

$SF_{\text{Non-Indian}}$ = Blackfoot Reservoir non-Indian storage releases under water right 27-11561

- e) The Sand Creek Exchange calculations shall be reconsidered visited within 5 years after ... to validate the equations provided in Section 5(d) or determine if changes are needed. The Parties agree to cooperatively develop any necessary changes to the calculations, and any changes shall be approved by the Intergovernmental Board.

Comment [A27]: Don't know if you want to be more specific about when this shall be done, such as shall be revisited at least 3 years but not more than 5 years after.

6. Equalizing Reservoir and Little Butte Canal

Due to the construction of the Equalizing Reservoir, the Little Butte Canal was asked to abandon its headgate on the Blackfoot River and begin to divert water out of the Equalizing Reservoir pool. Sedimentation in the Equalizing Reservoir can make it so that the Little Butte Canal is unable to divert water through its headgate. The United States and Tribes agree to work with Water District 27 to improve the Little Butte Canal diversion structure(s) in such a way that the Little Butte Canal is provided an adequate supply of water at its headgate throughout the irrigation season.

Comment [A28]: Is there a more precise term than "adequate supply" that might be preferable here? If not, I guess "adequate supply" it is.

7. Review of Plan / Resolution of Disputes

The Parties shall periodically review at a meeting of the Fort Hall Intergovernmental Board the status of the programs described in this Plan and shall provide recommendations for any changes in the programs to the Watermaster, the Director, the United States and the Tribes.

Negotiating Parties' Working Draft
Internal Review by All Parties is Incomplete.

The Parties agree that all disputes and objections regarding the implementation of this Plan will be taken up at the annual Intergovernmental Board meeting.

7-1/2. Points of ~~Contact~~

8. Idaho Law

[under advisement] This Blackfoot River Management Plan shall be construed and enforced pursuant to the laws of the State of ~~Idaho~~

The Parties have executed this Blackfoot River Management Plan on the date following their respective signatures.
[signature page]

Comment [A29]: Don't know what the interest level is, but for such agreements, it is sometimes helpful to designate points of contact for the parties and process for changing these contacts. This is purpose is to avoid a situation in which someone says, "but I was talking to so-and-so from such-and-such agency, when the person he was talking to was NOT authorized to speak for the entity."
As an alternative, we could say that the parties shall provide this info to each other within 1 month of the signing of this document, or some such, and agree as to how subsequent changes in points of contact shall be handled.

Comment [A30]: BIA has this section under consideration. It may be appropriate to also mention the 1990 Fort Hall water rights settlement act enacted by Congress.