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DEPARTMENT OF
WATER RESOURCES

JEANETTE WOLFLEY (ISB #3948)
Special Counsel for Shoshone-Bannock Tribes
202 N. Arthur
Pocatello, ID 83202
(208) 232-1922
Counsel for the Shoshone-Bannock Tribes

PETER C. MONSON
Assistant Chief, Indian Resources Section
Environmental and Natural Resources Div.
U.S. Department of Justice
1961 Stout Street, 8th Floor
Denver, Colorado, 80294
Phone: (303) 844-1384
Fax: (303) 844-1350

Counsel for the United States

LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
P.O. Box 44449
Boise, Idaho 83711-4449
Telephone: (208) 334-2400
Facsimile: (208) 334-2690

Counsel for the State of Idaho

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	)	Subcase Nos: 27-04096
	)	
	)	
	)	FIFTH JOINT CASE MANAGEMENT REPORT OF
	)	GOVERNMENTAL PARTIES
Case No. 39576	)	
	)	
	)	
	)	

The United States of America as Trustee on behalf of the Shoshone-Bannock Tribes of the Fort Hall Reservation (hereinafter referred to as the "United States"), the State of Idaho and the Shoshone-Bannock Tribes (hereinafter referred to as the "Tribes"), hereby submit this *Fifth Joint Case Management Report of Governmental Parties* in accordance with the *Order Setting Deadline and Scheduling Conference* entered on April 7, 2009 and the extension granted on April 29, 2009:

1. AN UPDATE OF SETTLEMENT DISCUSSIONS HELD SINCE THE LAST STATUS HEARING

As earlier reported to the Court, the parties agreed to address the Equitable Adjustment issue in two primary documents. The first document would address water management issues in the Blackfoot River Basin and would be called the "Blackfoot River Water Management Plan". The second document would only concern the equitable adjustment and ensure compliance with the terms of the Court's Decree approving the Fort Hall Indian Water Rights Agreement of 1990. Both of these documents were identified as to be implemented under the Fort Hall Indian Water Rights Agreement of 1990.

Additionally, the parties agreed the interim administration of Basin 27 water rights by the State would enhance and facilitate the management and monitoring of water rights in Basin 27 and protect senior water right, and thereby would assist in the management of water use contemplated by the Fort Hall Indian Water Rights Agreement. On August 21, the Court issued an Order Granting State of Idaho's Motion for Order of Interim Administration As To Surface and Storage Water Rights in Basin 27.

On July 21, the parties provided the Court a draft copy of the Blackfoot River Water Management Plan ("Plan"). In July, the Technical Committee Members completed a final round of revisions to the Plan. On August 4, the United States', State's and Tribes' legal counsel and technical staff held a conference call to review comments and make final recommendation on the draft Plan. Following the conference call, the Plan was circulated by the United States to all the governmental parties. Since August the Plan has been under review by each party and the parties anticipated it may need to be revisited upon the governmental parties receiving the Committee of Nine's recommendations for options to resolve the diversion volume objections. As currently presented, the proposed equitable adjustment framework would necessitate slight modifications

to be made to the Plan. The extent of these needed minor revisions will not be known until the equitable adjustment is fully resolved. However, the overall framework of the Plan will remain the same.

Based on the parties' discussions, the Committee of Nine agreed to prepare a redraft of the Equitable Adjustment Agreement (re-titled as a "Stipulation to Resolve Diversion Volume Objections ...") and present it to the United States, State and Tribes. Since July 1, representatives of the Committee of Nine, Water Districts 01 and 27, and the Idaho Department of Water Resources have worked diligently and held six meetings with Water Districts 01 and 27 water users, Idaho Irrigation Canal Company, including the Lower Blackfoot River ditch users public meeting. The meetings were intended to provide interested parties information about the equitable adjustment component under the Fort Hall Indian Water Rights Agreement of 1990, present the proposal, gain consensus about an Equitable Adjustment agreement, and provide more meaningful participation for the Water Districts 01 and 27 water users. Meetings were also held to develop options which would be acceptable to the governmental parties and to the water users. These meetings were held on August 26, September 9, September 10, September 22, October 1 and November 4, 2009.

On October 28, the Committee of Nine representative Don Hale and Legal Counsel Jerry Rigby, Water District 27 representative Alan Kelsch, Idaho Department of Water Resources representative James Cefalo, and Water District 01 Watermaster Lyle Swank met with the Tribes' Water Resources Director Else Teton, Paralegal Gail Martin and Legal Counsel Jeanette Wolfley, at Fort Hall to present and discuss their option for resolving the equitable adjustment issue. This proposed option has been presented to the Water Districts 27 and 01 water users. The Tribes subsequently provided details of the proposal to the United States. The United States

and Tribes are encouraged by the proposed option, and their technical experts are reviewing the Idaho Department of Water Resources data utilized in the proposed equitable adjustment option. There will be more discussion among the parties and drafting of language.

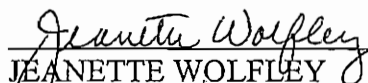
2. A LIST OF ADDITIONAL SUBCASES SETTLED WITH SF5S FILED WITH THE COURT.

While the negotiations on the global volume diversion issue have proceeded, the governmental parties have continued to review and settle other subcases. The parties have filed Standard Forms 5 in the following subcases: 27-4020; 27-11897; 27-12010; 27-12000; 27-12004; 27-12005; 27-12009; and 27-12145. In addition, there are currently seven Standard Forms 5 circulating among the parties, along with three Stipulations to Resolve Objections that are also in circulation. Four Stipulations to Resolve Objections have been filed concerning the group of subcases.

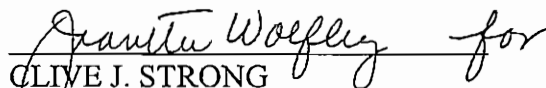
In conclusion, the parties are working diligently to reach a negotiated stipulation to submit to the Court to resolve the numerous objections of the United States and Tribes.

Respectfully submitted this 13th day of November 2009.

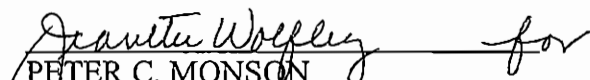
SHOSHONE-BANNOCK TRIBES


JEANETTE WOLFLEY
Special Counsel

STATE OF IDAHO


CLIVE J. STRONG
Deputy Attorney General

UNITED STATES OF AMERICA


PETER C. MONSON
Attorney for United States of America

CERTIFICATE OF SERVICE

I certify that on this 13th day of November 2009, I caused to be served the original and copies of the **FIFTH JOINT CASE MANAGEMENT REPORT OF GOVERNMENTAL PARTIES** to the persons listed below and via the method indicated::

Original to:	Clerk of the District Court Snake River Basin Adjudication P.O. Box 2707 253 Third Avenue North Twin Falls, Idaho 83303-2707	U. S. Mail, First Class Postage Prepaid and Facsimile
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Copies via U.S. Mail, First Class Postage Prepaid to:

U.S. Department of Justice
Environment & Natural Resources
550 West Fort Street, MISC 033
Boise, ID 83724

Robert Harris
1000 Riverwalk Dr., Suite 200
PO Box 50130
Idaho Falls, ID 83405

Committee of Nine
Represented By:
Barker, Rosholt & Simpson LLP
113 Main Ave. W, suite 303
PO Box 485
Twin Falls, ID 83303-0485

Jerry R. Rigby
25 N 2nd E
PO Box 250
Rexburg, ID 83440-0250

Randall C Budge
201 E Center, Suite A2
PO Box 1391
Pocatello, ID 83204-1391

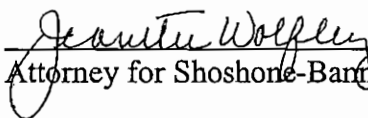
Patrick Taney
Represented by:
Scott E. Axline
PO Box 100
Blackfoot, ID 83221

Ray W. Rigby
25 N 2d E
PO Box 250
Rexburg, ID 83440-0250

Scott Smith
201 E. Center
PO Box 1391
Pocatello, ID 83204-1391

State of Idaho
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449

Director of IDWR
PO Box 83720
Boise, ID 83720-0098


Attorney for Shoshone-Bannock Tribes