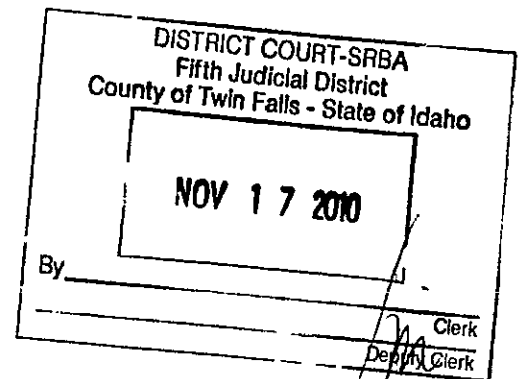


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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COURT OF TWIN FALLS**

In Re SRBA	)	Subcase No. 27-04096
	)	JOINT WITNESS AND EXHIBIT LIST
Case No. 39576	)	OF SHOSHONE-BANNOCK TRIBES
	)	AND THE UNITED STATES

In accordance with the directions of the Special Master during the telephonic hearing on November 10, 2010, at 10:30 a.m. and in the Court's subsequent Order,¹ the United States and Shoshone-Bannock Tribes respectfully submit this preliminary joint list of potential witnesses and exhibits. The United States and Tribes reserve the right to change or augment this list depending upon evidence submitted at the trial. The United

¹ During this hearing, the Special Master granted the Motions to Quash Discovery by the State of Idaho, but requested that all parties provide each other with a list of fact and expert witnesses, together with a short statement as to their expected testimony, and a list of exhibits which they intend to offer at the trial, scheduled to begin on December 6, 2010. These rulings were confirmed by the Court in its Order Granting Motion to Quash Discovery Requests and Setting Deadlines, dated November 15, 2010.

States and Tribes further reserve the right to use other witnesses and exhibits as they deem necessary for cross-examination and rebuttal purposes.

**WITNESSES EXPECTED TO TESTIFY ON BEHALF OF THE UNITED STATES
AND SHOSHONE-BANNOCK TRIBES**

1. Dr. Woldezion Mesghinna. Dr. Mesghinna may be called to testify as to facts known and expert opinions held concerning the understanding of negotiators as to the equitable adjustment provisions at issue here, annual diversions by non-Indian water users in the Blackfoot River System, and the appropriate remedy for the Court to adopt in this matter.
2. Mr. Ronald E. Billstein, P.E. Mr. Billstein may be called to testify as facts known and expert opinions held regarding the appropriateness of the element of annual diversion volume in administering water rights in the western states generally, and in SRBA Basin 27, in particular. He may also testify regarding data collection and interpretation regarding water use in Basin 27.

**EXHIBITS WHICH MAY BE OFFERED BY THE UNITED STATES AND
SHOSHONE-BANNOCK TRIBES.**

The United States and Shoshone-Bannock Tribes may offer the following exhibits at the trial in this matter:

1. Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake Basin, dated Aug. 2, 1995.
2. The 1990 Fort Hall Indian Water Rights Agreement.
3. Public Law 101-602, 104 Stat. 3059 ("Fort Hall Indian Water Rights Act of 1990"), dated Nov. 16, 1990.
4. Reporter's Transcript (re Proposed Consent Decree on 1990 Fort Hall Indian Water Rights Settlement Agreement) dated July 18, 1995.
5. House Report 101-831 ("Approving the Fort Hall Indian Water Rights Settlement, and for Other Purposes"), dated October 10, 1990.
6. State of Idaho's Response to Discovery Requests of the Shoshone-Bannock Tribes and the United States, SRBA Subcase 27-04096, dated Sep. 30, 2010.

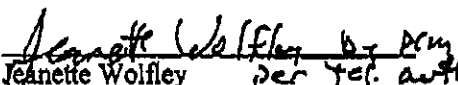
7. Report of Ronald E. Billstein, P.E., "Water Administration and Annual Diversion Volumes," November, 2010.
8. Exhibits to Billstein Report, including:
 - A. Exhibit 1 – North Side Water Users Total Yearly Water Diversions, 1912-1996
 - B. Exhibit 2 – December 3, 2008 Cefalo Memo, Basin 27 – Estimated Total Annual Diversions
 - C. Exhibit 3 – Preliminary Report, Equitable Adjustment Assessment, Updated to July 30, 2008
 - D. Exhibit 4 – Ronald Billstein Resume
 - E. Exhibit 5 – Report Regarding Development of Standard for Annual Volume of Irrigation Requirements at the Field Headgate, IDWR, August 1, 1996
 - F. Exhibit 6 – Telephone Conversation with Ernie Carlson, September 4, 2007
 - G. Exhibit 7 – LaVerelle Stecklein Recommended Water Right
 - H. Exhibit 8 – United States Objection to Recommended Water Right 27-3C
 - I. Exhibit 9 – David Shaw Letter Documenting Tribal Settlement Water Use Values
 - J. Exhibit 10 – Daily Diversion Records from 2004-2008, Lower Basin Canal Companies, Cefalo, 12/4/2008
 - K. Exhibit 11 – Tom Witnoth Memo, Arizona Department of Water Resources, June 18, 1998
 - L. Exhibit 12 – Provision 73-1-4 of Water Laws of Utah
 - K. Exhibit 13 – Title 42, Section 42-220, Idaho Code.
9. Report of Woldezion Mesghinna.
10. Exhibits to Mesghinna Report, including:
 - A. Bushman, J.S. May 23, 1990. Record of Decision Document and Analysis in Support of Interior Department Approval of the 1900 Fort Hall Water Rights Settlement Agreement. Letter from the Chairman of the Fort Hall Reservation Water Rights Negotiation Team to the Working Group on Indian Water Rights Settlements.
 - B. Equitable Adjustment Technical Team. August 11, 2010. *Draft - Blackfoot River Water Management Plan*. Prepared by Federal, Tribal, and State Technical Team. Sent to case attorneys by D. Shaw.
 - C. Funke, H. July 20, 1990. *Letter Re: Project Rights on Blackfoot River*. Sent from Tribal Attorney to Peter Monson, U.S. Department of Justice Attorney.
 - D. HKM Engineering, Inc. March 1, 1997. *Northside Users Analysis, Status Report*. Fax transmittal of second draft of report to Tribes from R. Waples on March 6, 1997.

- E. Idaho Department of Water Resources (IDWR). August 1, 1996. *Report Regarding Development of Standards for Annual Volume of Irrigation Requirements at the Field Headgate*. Report to the SRBA District Court. Prepared by J. Peppersack.
- F. Idaho Department of Water Resources (IDWR). November 10, 2005. *Notice of Filing of Director's Report for Irrigation and Other Water Rights in Basin 27*. Letter from K. Dreher to water claimants accompanied notice.
- G. Idaho Department of Water Resources (IDWR). April 18, 2008. *Preliminary Order. In the Matter of Requiring Measuring Devices and Controlling Works on the Blackfoot River, Water District 27*. G. Spackman, IDWR Administrator. Attachment I to April 22, 2008 IDWR Letter.
- H. Idaho Department of Water Resources (IDWR). November 2008. *Recommended Water Rights, Water District 27*. Preliminary Draft.
- I. Shoshone-Bannock Tribes. 1990. *The 1990 Fort Hall Indian Water Rights Agreement*. 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.
- J. Snake River Basin Adjudication (SRBA). 1995. Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin. *State of Idaho et al. v. United States et al.* Daniel C. Hurlbutt, Jr., Presiding SRBA Judge.
- K. Udall, M. October 10, 1990. *Approving the Fort Hall Indian Water Rights Settlement, and for Other Purposes*. Report to accompany H.R. 5308 from the Committee on Interior and Insular Affairs. Report 101-831, 101st Congress, 2nd Session.

Dated this 16th day of November, 2010.

Respectfully submitted,


 Peter C. Monson
 Attorney for the United States


 Jeanette Wolfley per J.C. auth
 Attorney for Shoshone-Bannock Tribes

CERTIFICATE OF SERVICE

I certify that on November 16, 2010, I served true and correct copies of the foregoing **JOINT WITNESS AND EXHIBIT LIST OF THE SHOSHONE-BANNOCK TRIBES AND THE UNITED STATES** as follows:

via facsimile transmission:

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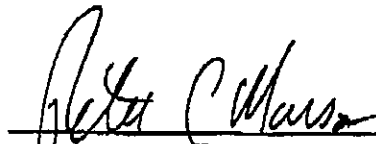
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