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**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. 27-00003C, <i>et al.</i>
	)	(See Attachment A)
Case No. 39576	)	
	)	UNITED STATES' NOTICE OF
	)	VOLUNTARY WITHDRAWAL
	)	OF OBJECTIONS TO DIVERSION
	)	VOLUME

The United States, on behalf of the Department of the Interior, Bureau of Indian Affairs, files this Notice of Voluntary Withdrawal of its Objections to diversion volume in the SRBA subcase numbers indicated in Attachment A.

On March 9, 2006, the Bureau of Indian Affairs filed SF-1 Objections to numerous water rights in SRBA Basin 27. Most objections included an objection to the quantity element which stated that the water right "must include the total annual volume of diversion" in

order to ensure “proper administration of the water right”. See, e.g., SF-1 Objection by BIA to Water Right No. 27-00003C.

On October 25, 2010 the State of Idaho filed *State of Idaho's Motion for an Accounting of All Water Rights Benefitting From the Subordination Provisions of the Fort Hall Consent Decree and Insertion of a Remark Memorializing That Benefit on Each Affected Water Right* in Subcase No. 27-11375. This was followed on October 28, 2010 with the *Shoshone-Bannock Tribes' and United States' Motion for Enforcement of the Fort Hall Indian Water Rights Consent Decree and Memorandum in Support*, also in Subcase No. 27-11375. The effect of these motions was to argue that further efforts to resolve the objections to diversion volume were unlikely to have the desired result, namely compliance with the terms of the 1990 Fort Hall Settlement Agreement and the 1995 Fort Hall Consent Decree. Therefore the motions argued in favor of using other approaches to protect the Shoshone-Bannock Tribes' water rights under those agreements.

A status and scheduling conference was held on November 8, 2010 before Presiding Judge Wildman which addressed the two motions and the procedures by which they might be considered. Subsequently, on November 10, 2010, the Court entered an “Initial Scheduling Order Setting Forth Procedures on State’s Motion for Accounting, and United States’ and Tribes’ Joint Motion to Enforce Re: Fort Hall Indian Water Rights Consent Decree.” Among other things, the Court requested the recommendation of Special Master Bilyeu “as to whether the trial set December 6-10, 2010, should go forward after hearing from the parties and the Department during the pre-trial conference scheduled for November 17, 2010.”

In response to the request of the Presiding Judge, Special Master Bilyeu issued a **Special Master’s Report and Recommendation Vacating Test Case Trial** in subcase Nos. 27-

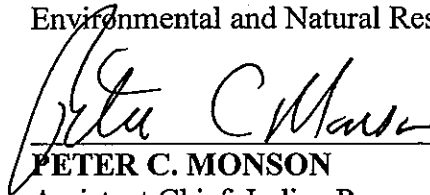
04096 and 27-11375 on November 22, 2010. Special Master Bilyeu noted that “the parties indicated that they see the Motion to Enforce in front of Judge Wildman as raising broader issues than the test case [27-4096].” Special Master’s Report and Recommendation, at 2. She further noted that the Tribes and United States had expressed a desire to withdraw their objections in favor of proceeding on the Motion to Enforce in 27-11375. *Id.*, at 3. Master Bilyeu recommended vacating the planned trial in test sub-case 27-04096 in favor of proceeding in subcase no. 27-11375. The Special Master also recommended that the District Court seek recommendations for a mediator for a mandatory settlement conference involving all parties. Following a further status conference held in Subcase No. 27-04096 on December 6, 2010, Special Master Bilyeu issued on December 10, 2010, an “Order Setting Deadlines and Status Conference” wherein the process for withdrawal of U.S. and Tribal objections was discussed and determined. Among other deadlines, the Court set a deadline of January 28, 2011 as the “Deadline to Withdraw Objections (1st Round)”.

Therefore, in accordance with the Court’s deadlines and the desire of the United States and Shoshone-Bannock Tribes to withdraw their Objections to the absence of an annual diversion volume limitation on surface water rights in favor of proceeding on their Motion to Enforce in 27-11375, the United States, on behalf of the Department of the Interior, Bureau of Indian Affairs, hereby gives notice that it withdraws its objections to the water right element of quantity for each of the subcases listed in Attachment A insofar as those objections involve the issue of annual volume of diversion. Only the diversion volume objections are being withdrawn at this time, and not any other outstanding objections which the United States filed to any of these water rights.

DATED this 19th day of January, 2011.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on January 19th, 2011, I served true and correct copies of the foregoing **UNITED STATES' NOTICE OF VOLUNTARY WITHDRAWAL OF OBJECTIONS TO DIVERSION VOLUME** as follows:

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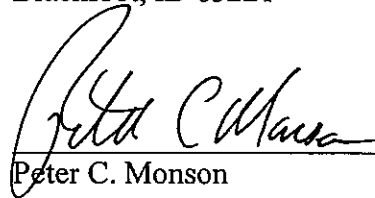
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Attachment A

27-00003C	27-00041	27-04077	27-11273	27-12136
27-00003G	27-00045	27-04078	27-11317	27-12137
27-00004AC	27-00047	27-04079	27-11330	27-12142
27-00004F	27-00049	27-04096	27-11334	27-12200
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27-00037A	27-02069	27-10999	27-12068	
27-00037C	27-02075	27-11016	27-12069	
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27-00038	27-04010	27-11262	27-12116	
27-00039	27-04058	27-11269	27-12118	
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