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DEPARTMENT OF
WATER RESOURCES

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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 No. 27-11375
	)	
Case No. 39576	)	JOINT STATUS REPORT RE:
_____	)	MOTION FOR ACCOUNTING

In accordance with the Court's Scheduling Order and Order Setting Status Conference (entered August 3, 2011), the undersigned parties respectfully submit this Joint Status Report.

As the Court's Order indicates, two issues remain to be resolved in connection with the State of Idaho's Motion for Accounting: (1) whether *de minimis* domestic and stockwater water rights diverting

from the Blackfoot River prior to January 1, 1990 are entitled to the protections of Paragraph 27-11375.x.d of the *Fort Hall Consent Decree*; and (2) the form of the subordination remark to be placed in the Partial Decrees of each of the natural flow water rights benefitting from the subordination protection of Paragraph 27-11375.x.d of the *Fort Hall Consent Decree*. With respect to objections made by FMC Production, LLC, the parties have stipulated that its rights are entitled to the protections of 27-11375.x.d., and this Court has so ordered. See **Order on FMC Production, LLC's Objection**, entered August 3, 2011. FMC Production, LLC, also requests that a remark be included in the decree of its water rights.

As we indicated during the status conference held on August 2, 2011, the issue regarding whether *de minimis* domestic and stockwater water rights are entitled to the benefit of the subordination is one which requires some technical work to estimate the quantity of water involved. The *Fort Hall Consent Decree* and the 1990 Agreement do not specifically address how such rights are to be treated and estimates of the diversion volumes associated with such rights were not prepared at the time. One view is that such rights should be entitled to the protections. The Shoshone-Bannock Tribes and the United States believe that if such rights are to receive the benefit of the subordination, then the annual diversion volume associated with these water rights needs to be included in the accounting of water rights to determine if an equitable adjustment to the Tribal water rights is required as provided for in 27-11375.x.d.

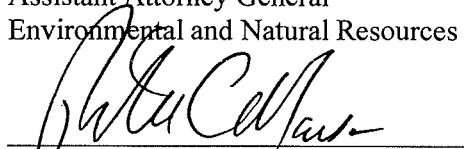
Accordingly, the parties requested time to undertake the technical work necessary to come up with an estimate. A consultant to the State of Idaho was tasked with attempting to determine the extent of the *de minimis* domestic and stock uses to inform our discussions. The consultant provided all the members of the technical representatives for the Tribes and United States with his findings on that question on Tuesday, September 20, 2011. The other technical representatives are in the process of reviewing the State's estimate, and have noted some initial questions and possible omissions from the calculation. It may take another 30-60 days for the parties to develop a more complete and accurate estimate, at which time the parties will be better informed as to the magnitude of the diversion volumes associated with these rights.

Once the parties have agreed upon an estimate of the diversion volumes, it will be possible for the governmental parties to agree upon the form of the subordination remark, if any, to be placed in the partial decrees of the natural flow water rights benefitting from the subordination provision of Right No. 27-11735.x.d, including FMC's partial decree.

Respectfully submitted this 23rd day of September, 2011.

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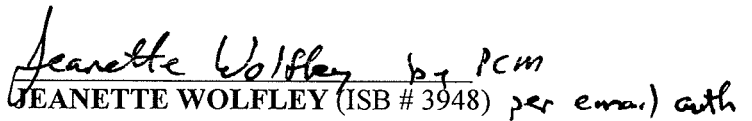
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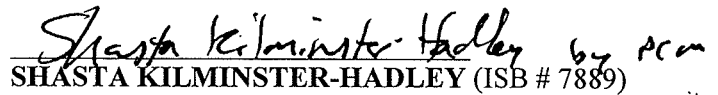
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CERTIFICATE OF SERVICE

I certify that on September 23, 2011, I served true and correct copies of the foregoing JOINT STATUS REPORT RE: MOTIONS FOR ACCOUNTING as follows:

via facsimile:

Clerk of the District Court
Snake River Basin Adjudication
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Fax: (208) 736-2121

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

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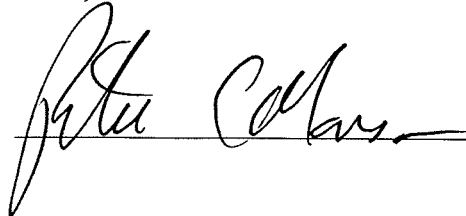
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A handwritten signature in black ink, appearing to read "Peter Collins", is written over a horizontal line.