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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	)	AMENDED JOINT STATUS REPORT RE:
_____	)	MOTION FOR ACCOUNTING

In accordance with the Court's Order Setting Deadline For Joint Status Report (entered September 27, 2011), the undersigned parties respectfully submit this Joint Status Report.

The Court's Order asked that the parties inform the Court of the following: 1) whether there is agreement between the parties as to 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, or whether the issue needs to be decided by the Court, and 2) the parties' recommendation as to the best manner to proceed in this

matter going forward with respect to the State's *Motion for Accounting* and the United States and Tribes' *Motion for Enforcement*.

As we indicated during the status conference held on September 26, 2011, the technical experts of the respective parties have been working to determine the quantity of water diverted from the Blackfoot River under stockwater water rights. The initial estimates made by the governmental parties' respective technical teams are quite divergent. As a result, the governmental parties agree that more time is needed to arrive at an estimated diversion under stockwater rights. Once that number is available, the parties will be able to address whether domestic and stockwater diversions should be accounted for in determining whether Blackfoot natural flow diversions exceed 45,000 acre feet.

Accordingly, the parties requested additional time to undertake the technical work necessary to develop an estimate of the amount of water diverted for stockwater use. Technical representatives for the Tribes and the United States have conducted their own analysis of total stockwater diversions, in response to the initial estimate provided by the State's representative. The State received that analysis on November 29, 2011, and it is currently under review by our expert. The technical team for the United States and Tribes are also continuing to analyze the numbers. Another 30-60 days is needed for the parties to collaborate, at which time it will be possible for the governmental parties to determine whether agreement can be reached on 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.

As to the question of how to proceed on the pending motions, the parties agree that the issue of domestic and stockwater water rights must be decided before the *Motion for Accounting*

can be resolved, and that the results of the *Motion for Accounting* will inform the Court's decision on the *Motion for Enforcement*.

Respectfully submitted this 30th day of November, 2011.

STATE OF IDAHO



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Deputy Attorney General

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 for

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UNITED STATES OF AMERICA

 for

Peter C. Monson
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 for

William G. Myers III
Attorney for FMC Production, LLC

CERTIFICATE OF SERVICE

I certify that on November 30th, 2011, I served true and correct copies of the foregoing AMENDED JOINT STATUS REPORT as follows:

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