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BEFORE THE DEPARTMENT OF WATER RESOURCES

Department of Water Resources

OF THE STATE OF IDAHO

IN THE MATTER OF REVISING THE BOUNDARIES) TESTIMONY OF THE
OF WATER DISTRICT NO. 120, AMERICAN FALLS) SHOSHONE-BANNOCK
AREA, WITHIN THE EASTERN SNAKE PLAIN) TRIBES
AQUIFER, IN ADMINISTRATIVE BASIN 29)

The Shoshone-Bannock Tribes (hereinafter referred to as "Tribes"), the State of Idaho (hereinafter referred to "State"), and the United States entered into an agreement in 1990, entitled the "1990 Fort Hall Indian Water Rights Agreement" (hereinafter referred to as Agreement) to quantify the rights of the Shoshone-Bannock Tribes in the upper Snake River Basin. The Agreement was congressionally mandated agreement and was subsequently entered into a Decree by the Snake River Basin Adjudication District Court in 1994. The Agreement and subsequent Decree recognizes and respects the sovereignty of each of the entities that are party to the Agreement.

In the Agreement the parties agreed to cooperate in the administration of water resources. The parties agreed to administer water rights within the Reservation as follows: the Tribes administers the distribution of all Tribal water rights within the Reservation; the United States administers the distribution of the Fort Hall Irrigation Project water rights and the Fort Hall Agency water rights; and the State administers the distribution of those water rights acquired under state law within the Reservation that are not part of the Fort Hall Agency, Tribal or Fort Hall Irrigation Project water rights.

It is critical that the proposed boundary revision of Water District No. 120 does not interfere with the Tribes ability to develop and manage future points of groundwater diversions for utilization on any Indian lands pursuant to the Agreement.

Furthermore, the Agreement provides that the Tribes, State and United States will work cooperatively, pursuant to provisions of the Agreement, to coordinate and monitor water use to the same extent as required of other users in Idaho. The Tribes are willing to work cooperatively with the other parties provided that any monitoring equally benefits and protects each party's interests.

The Tribes believes that the inclusion of portions of Basin 29 overlying the Eastern Snake River Plain Aquifer must not interfere with the provisions, nature, scope, or spirit of the "1990 Fort Hall Indian Water Rights Agreement" and rights decreed and protected under the Agreement. The Shoshone-Bannock Tribes maintain jurisdiction to implement and administer the water rights on the Reservation that would be potentially impacted by this change.

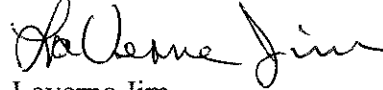
The Shoshone-Bannock Tribes reminds the State of Idaho and water users that the Shoshone-Bannock Tribes have a "unique status" with the United States Government consistent with the Fort Bridger Treaty of 1868, a congressionally ratified treaty which guarantees a trust responsibility to Tribes with the Federal government. The Tribes further assert that civil regulatory authority is vested with the Shoshone-Bannock Tribes within the exterior boundaries

of the Fort Hall Reservation; all monitoring activities will be in cooperation with the Tribes and the State relating to non-Indian lands.

We, therefore, request that the State implement enforcement measures, on both non-Indian surface water and non-Indian groundwater use, within said district to ensure that Tribal groundwater rights are preserved. The Tribes have made requests to the State regarding enforcement issues, which have not been resolved.

Dated this 29th day of December, 2003.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Laverne Jim", written over the printed name.

Laverne Jim
Shoshone-Bannock Tribes
Water Resources Commission