

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF REVISING THE BOUNDARIES)
OF WATER DISTRICT NO. 120, AMERICAN FALLS)
AREA, IN ADMINISTRATIVE BASIN 27)**

**PUBLIC HEARING
January 29, 2007 at 2:00 P.M.
Blackfoot City Council Chambers
157 Broadway Blackfoot, Id**

HEARING TRANSCRIPT

Hearing conducted on January 29, 2007, Blackfoot Idaho
Before Presiding Officer, Tim Luke
Idaho Department of Water Resources

Transcribed by Christine Roberts
Technical Records Specialist
Idaho Department of Water Resources

Hearing proceedings transcribed from electronic sound recording.

1 **PRESIDING OFFICER TIM LUKE:** Good afternoon, I am Tim Luke, Water
2 Distribution Section Manager of the Idaho Department of Water Resources. I'm
3 serving as the hearing officer in this matter today. This matter concerns the
4 proposed revisions of WD120, specifically the department proposed expansion of
5 WD120 to include ground water rights with in the departments administrative
6 basin 27, overlying the Eastern Snake Plain Aquifer.

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8 The provisions of Idaho Code § 42-604 require this hearing to be held prior to the
9 revision of a water district by the Director of the Department of Water Resources.

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11 The hearing is being conducted on January 29, 2007, commencing at
12 approximately 3:35 P.M., at the Blackfoot City Council Chambers, located at 157
13 N Broadway, in Blackfoot Idaho.

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15 The purpose of this hearing is to provide affected water right holders or their
16 representatives, an opportunity to make oral statements, on the record stating their
17 position, views, or concerns on the proposed revision of WD120.

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19 For the purposes of this hearing, persons making statements do not need to be
20 sworn, nor will they be subject to cross-examination. All persons signing up to
21 speak will be heard before others are heard, all persons wishing to speak will be
22 heard once before anyone speaks a second time.

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24 Notice of this hearing was mailed to each affected water user in the proposed
25 district as required under the provisions of section § 42-604 Idaho Code. In
26 addition, notice was published in the Morning News, which is a local Blackfoot
27 newspaper of general circulation in the area of the proposed district.

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29 If there are no further questions, we are now at the point where we may begin
30 taking statements and comments from those persons who desire to be heard in this
31 proceeding. For the record, we started this meeting at 2:00 P M and presented
32 some background information and took a series of questions and discussion for
33 about 90 minutes.

34
35 At this point I would go through the roster and checking those that have indicated
36 a willingness to testify and ask if Mr Lavelle Strickland would like to testify.

37
38 **UNIDENTIFIED PERSON:** Inaudible. (Something like) No, just a couple of questions
39 after this

40
41 **PRESIDING OFFICER TIM LUKE:** OK...Uh...Clarice Villa. If you could please
42 come to the front and make a statement for the record. Before proceeding with
43 your statement could you please state your name and address and also please
44 indicate if you are speaking for yourself only or representing others.

45
46 **CLARICE VILLA:** Good afternoon.

47 **PRESIDING OFFICER TIM LUKE:** Just sit over there so the audience can hear you
48 as well. Thank You.

49
50 **CLARICE VILLA:** Good afternoon. My name is Clarice Villa. I am with the Tribal
51 Water Commission and I'm testifying on behalf of the Shoshone-Bannock Tribes
52 and here is a copy of the testimony and this is the testimony of the Shoshone
53 Bannock Tribes before the Department of Water Resources of the State of Idaho
54 in the matter of revising the boundaries of water district 120, American Falls
55 Area, within the Eastern Snake Plain Aquifer, in Administrative Basin 27.

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

65
66 In the Agreement the parties agreed to cooperate in the administration of water
67 resources. The parties agreed to administer water rights within the Reservation as
68 follows: the Tribes administers the distribution of all Tribal water rights within
69 the Reservation; and United States administers the distribution of the Fort Hall
70 Irrigation Project water rights and the Fort Hall Agency water rights; and the State
71 administers the distribution of those water rights acquired under state law within
72 the Reservation that are not part of the Fort Hall Agency Tribal or Fort Hall
73 Irrigation Project water rights.

74
75 It is critical that the proposed boundary revision of Water District No. 120 does not
76 interfere with the Tribes ability to develop and manage future points of groundwater
77 diversions for utilization on any Indian lands pursuant to the Agreement.

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

84
85 The Tribes believes that the inclusion of portions of Basin 29 overlying the Eastern
86 Snake River Plain Aquifer must not interfere with the provisions, nature, scope, or
87 spirit of the "1990 Fort Hall Indian Water Rights Agreement" and rights decreed and
88 protected under the Agreement. The Shoshone-Bannock Tribes maintain jurisdiction
89 to implement and administer the water rights on the Reservation that would be
90 potentially impacted by this change pursuant to the "1990 Fort Hall Indian Water
91 Rights Agreement."

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, demand 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.

Dated this 29th day of January, 2007.

Respectfully Submitted,

Clarice Villa Shoshone-Bannock Tribes Water Resources Commission

PRESIDING OFFICER TIM LUKE: Ms. Villa, before you leave, I wanted to ask one question. Part of your testimony mentioned inclusions portions of Basin 29 overlying the Eastern Snake Plain Aquifer. This hearing is has to do with those rights in Basin 27 overlying the Eastern Snake Plain. Did you mean to say.....

CLARICE VILLA: I don't know if that was a typo or not

PRESIDING OFFICER TIM LUKE: Ok. I noticed you heading said basin 27

CLARICE VILLA: It could have been a typo. I will make note of that.

PRESIDING OFFICER TIM LUKE: Ok, Thank You

CLARICE VILLA: All right, Thank you

PRESIDING OFFICER TIM LUKE: Let's begin while we are on record, Nile Bailey, you indicated you might want to testify.

NILE BAILEY: (inaudible)

PRESIDING OFFICER TIM LUKE: Ok Are there any others present that came late or indicated they did not want to testify but now wish to testify? Ok If there are no other persons who desire to make a statement then that will conclude the record of oral statements in this proceeding. Thank you for your participation.....(machine cuts off at this point)

PROCEEDINGS CONCLUDED

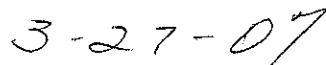
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CERTIFICATION

I HEREBY CERTIFY that the foregoing hearing transcript is true and correct to the best of my ability as transcribed from an electronic sound recording of the hearing held on January 29, 2007 in the above-entitled matter.



Christine Roberts



Date