

DEC 15 2016

DEPARTMENT OF  
WATER RESOURCES

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

<b>IN THE MATTER OF ORDER DESIGNATING THE EASTERN SNAKE PLAIN AQUIFER GROUND WATER MANAGEMENT AREA</b>	) ) ) ) )	<b>WRITTEN RESPONSE OF THE SHOSHONE-BANNOCK TRIBES</b>
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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 and in 2014. The Agreement and subsequent Decree recognize and respect 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.

The Tribes holds water rights and land in above proposed management area which are listed in the “Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin.”

It is critical that the proposed groundwater management area does not interfere with the Tribes ability to develop and manage its water rights or future development 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 designation of a ground water management area and procedures implemented for the Eastern Snake Plain Aquifer (ESPA), may 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 maintains jurisdiction to implement and administer the water rights on the Reservation that would be

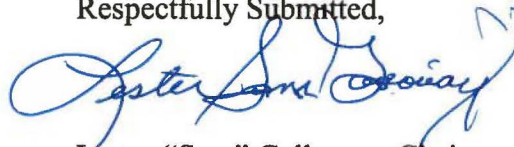
potentially impacted by this change pursuant to the "1990 Fort Hall Indian Water Rights Agreement."

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.

The Tribes 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 water rights are preserved.

Dated this 12th day of December, 2016.

Respectfully Submitted,



Lester "Sam" Galloway, Chair  
Shoshone-Bannock Tribes  
Water Resources Commission