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Attorneys/Representatives for Shoshone-Bannock Tribes

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

IN THE MATTER OF THE PETITION)	Docket No. P-WRA-2017-002
REGARDING STORAGE RESET IN WATER)	
DISTRICT 01 FILED BY MILNER IRRIGATION)	SHOSHONE-BANNOCK TRIBES'
DISTRICT)	PETITION TO INTERVENE
)	

COMES NOW, the Shoshone-Bannock Tribes (herein referred to as "Tribes"), by and through their undersigned counsel of record, and, pursuant to the *Notice of Prehearing Conference; Order Setting Deadline for Petitions to Intervene* dated October 5th, 2017, as well as the Department's Rules of Procedure 350-354 (IDAPA 37.01.01), hereby petitions to intervene in the above-captioned matter.

FACTS

On October 5, 2017, the director issued a *Notice of Pre-Hearing Conference; Order setting Deadlines for Petition to Intervene* requiring all who wish to participate to file Petition to Intervene by November 12, 2017.

ANALYSIS

1. The Shoshone-Bannock Tribes' Petition is Timely.

There is no formal hearing date set and this Petition is filed prior to the prehearing conference (which is scheduled for November 13, 2017).

Receipt - E043477

2. The Shoshone-Bannock Tribes' and the Tribes' Direct and Substantial Interest.

a. Name and Address

The name of the potential intervenor is the Shoshone-Bannock Tribes ("Tribes"). The address is:

Shoshone-Bannock Tribes
PO Box 306
Fort Hall, Idaho 83203

b. Attorneys/Representatives

All filings and other correspondence should be served on the following Attorneys/Representatives of the Tribes:

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c. Direct and Substantial Interest in Petition

In 1990 the Shoshone-Bannock Tribes entered into an agreement with the State of Idaho and the United States, entitled "*The 1990 Fort Hall Indian Water Rights Agreement*" (hereinafter the "Fort Hall Agreement"). The Fort Hall Agreement was subsequently approved by the United States in P.L. 101-602, 104 Stat. 3061, on November 16, 1990; and approved by the State of Idaho in 1991 Idaho Session Laws, Chapter 228 at 547.2. The Agreement settled claims of the Shoshone-Bannock Tribes in the Upper Snake River Basin. The Agreement was submitted to the Snake Basin River Adjudication Court and was entered into a Partial Decree entitled: "*Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in Upper Snake River Basin,*" dated August 2, 1995.

The *Final Unified Decree* of the Snake River Basin Adjudication of August 25, 2014, and the *Revised Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use*
Shoshone-Bannock Tribes Petition to Intervene

of Water in the Upper Snake River Basin, dated August 12, 2014, enumerates the rights of the Shoshone-Bannock Tribes to use of water in the Upper Snake River Basin, which includes federal contract storage rights.

Section II. B., of the *Revised Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin* identifies federal contract storage rights held by the United States for the benefit of the Shoshone-Bannock Tribes for the Fort Hall Reservation. Those contract storage rights are in the American Falls and Palisades Reservoirs.

The Tribes' water rights and Fort Hall Reservation water supply will be directly and substantially impacted by the outcome of the current Milner Irrigation District demand, which, if granted, could result in a reduction of the amount of water available to satisfy the Tribes' contract storage rights. The Tribes seek to fully participate in any and all issues related to Milner Irrigation District's assertion and demand that: "*The 'fall storage 'reset' is not authorized in the current storage water right partial decrees, including the Lake Walcott storage right (1-219). Therefore, if conditions arise this fall, we would request the Water District and Director ensure Milner receives the appropriate natural flow as required by Idaho law.*" Granting the Milner Irrigation District's demand will result in a significant alteration in the storage and allocation of water in the American Falls and Palisades Reservoirs, and could thus result in a reduction in the amount of stored water available to meet the Tribes' contract water rights. Those rights were negotiated as a part of and guaranteed by the Fort Hall Agreement and subsequent decrees and statutory law incorporating that Agreement.

The Tribes thus have a direct and substantial interest in this proceeding.

3. The Shoshone-Bannock Tribes' Petition Does Not Unduly Broaden the Issues.

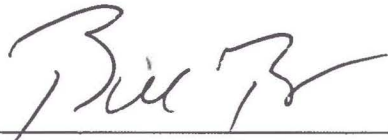
The Shoshone-Bannock Tribes seek to intervene to advance factual and legal arguments related to the issues raised by the Milner Irrigation District, to demonstrate that the Milner Irrigation District's claims are without merit and that granting the relief sought would result in a legally impermissible reduction in the Tribes' contract storage water rights. Therefore, this Petition does not unduly broaden the issues.

CONCLUSION

Based on the foregoing, the Shoshone-Bannock Tribes respectfully request that this petition to intervene be granted.

Dated this 16th day of October, 2017

SHOSHONE-BANNOCK TRIBES

By: 
William Bacon, General Counsel

By: 
Edmund Clay Goodman


CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of October, 2017, I served a true and correct copy of the foregoing "Shoshone-Bannock Tribes Petition to intervene," by U.S. Postal Service to the following:

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