BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF ADMINISTRATION OF WATER IN WATER DISTRICT NOS. 1 AND 27	)	**FINAL ORDER REGARDING INSTRUCTIONS TO THE WATERMASTERS FOR WATER DISTRICT NOS. 1 AND 27**
	)	**(THE BLACKFOOT RIVER WATER MANAGEMENT PLAN)**

The Director of the Idaho Department of Water Resources ("Director") has reviewed the plan developed by and between the Shoshone-Bannock Tribes of the Fort Hall Reservation ("Tribes"), the State of Idaho, the United States, the Committee of Nine of Water District No. 1 and the Advisory Committee of Water District No. 27, for implementation as the water management plan ("WMP") in the Blackfoot River basin, which is attached hereto as Exhibit 1. This final order approves the WMP and instructs the watermasters for water district nos. 1 and 27 to administer and distribute water in their respective water districts in accordance with the provisions of the WMP.

HISTORY

On July 5, 1990, the Tribes, the State of Idaho, the United States and certain Idaho water users entered into *The 1990 Fort Hall Indian Water Rights Agreement* ("Fort Hall Agreement") to settle water rights claimed by the United States for the benefit of the Tribes.

On August 2, 1995, the SRBA District Court entered the *Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water In the Upper Snake River Basin*, which approved the Fort Hall Agreement and decreed the water rights set forth in Article 7 of the Fort Hall Agreement.

Pursuant to Section 8.3 of the Fort Hall Agreement, parties to the Fort Hall Agreement agreed to prepare and implement a WMP that satisfies the following purposes set forth in the Attachment to the Fort Hall Agreement:

1. Determine the natural flow at each point of diversion on the Blackfoot River.
2. Determine the storage accumulation to Blackfoot Reservoir.

* * *

6. Determine how gains to the Reservation Canal below the head and above the drop will be measured.

* * *

9. Distribute Blackfoot River natural flow among the users by priority giving deference to the Tribe's protection of existing non-Indian non-project users.

10. Deliver Blackfoot Reservoir and Grays Lake Storage to owners.

11. Define the computations that will be used to determine the amount of storage water that is exchanged as a result of the operational limitations of the Equalizing Reservoir to utilize Sand Creek as part of the Tribal water right.1

In accordance with provision Section 8.3 of the Fort Hall Agreement, the parties to the Fort Hall Agreement and the Advisory Committee for Water District 27 submitted the WMP to the Director.

CONCLUSIONS

The Director finds the WMP submitted to the Director by the parties to the Fort Hall Agreement and the Advisory Committee for Water District 27 to be consistent with the purposes 1,2, 6, and 9-11 set forth in the Attachment to the Fort Hall Agreement.

Pursuant to Section 13, page 25 of the WMP, the provisions of the WMP are effective upon the approval of the Director.

ORDER

The WMP submitted by the parties to the Fort Hall Agreement and the Advisory Committee for Water District 27 is HEREBY APPROVED.

IT IS HEREBY ORDERED that the Watermaster of Water District No. 1 and the Watermaster of Water District No. 27 shall administer and distribute water in their respective water districts in accordance with the provisions of the WMP, effective the 2014 irrigation season.

Dated this 22nd day of July, 2013.

GARY SPACKMAN
Director

[1] The Plan does not address purposes 3-5 or 7-8 of the Blackfoot River Water Management Plan Statement of Purposes. Purposes 4, 5 and 8 of the Attachment pertain to Grays Lake and will be addressed in a future amendment to the Plan. Purposes 3 and 7 pertain to the internal operations of the Fort Hall Irrigation Project and will be addressed in a separate agreement between the Tribes and the United States.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of July, 2013, a true and correct copy of the documents described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: FINAL ORDER REGARDING INSTRUCTIONS TO THE WATERMASTERS FOR WATER DISTRICT NOS. 1 AND 27 (The Blackfoot River Water Management Plan) and Explanatory Information to Accompany a Final Order

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BLACKFOOT RIVER WATER MANAGEMENT PLAN PURSUANT TO THE 1990 FORT HALL INDIAN WATER RIGHTS AGREEMENT

EXHIBIT 1

Table of Contents

BLACKFOOT RIVER WATER MANAGEMENT PLAN PURSUANT TO THE 1990 FORT HALL INDIAN WATER RIGHTS AGREEMENT

This Blackfoot River Water Management Plan is developed pursuant to the *1990 Fort Hall Indian Water Rights Agreement* and constitutes an agreed upon plan and program by and between the Shoshone-Bannock Tribes of the Fort Hall Reservation, the State of Idaho, the United States, the Committee of Nine and Water District 27, as represented by the Advisory Committee described in Idaho Code § 42-605(6), for implementation of effective water management in the Blackfoot River Basin. It is made in reference to the following facts.

RECITALS

WHEREAS,

A. On July 5, 1990, the Shoshone-Bannock Tribes, the State of Idaho, the United States, and certain Idaho Water Users entered into an agreement to settle the water rights claimed by the United States for the benefit of the Shoshone-Bannock Tribes. This Agreement, known as the 1990 Fort Hall Indian Water Rights Agreement, was approved by the legislative branches of these three governments, and on November 16, 1990, the United States Congress enacted Pub. L. 101-602, the Fort Hall Indian Water Rights Settlement Act of 1990.

B. On August 2, 1995, the Presiding Judge of the Snake River Basin Adjudication entered an Order approving the Fort Hall Agreement and decreeing water rights to the United States for the benefit of the Tribes. *See* Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River.

C. Article 7 of the Fort Hall Agreement and Section II of the Court's Order recognized the Shoshone-Bannock Tribes' right to use water from the Blackfoot River system and Grays Lake.

D. Subsection 8.3 and the Attachment to the Fort Hall Agreement titled "Blackfoot River Water Management Plan, Statement of Purposes, April 20, 1990" provided for the development of a Blackfoot River Water Management Plan.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Purposes

This Blackfoot River Water Management Plan establishes a comprehensive program to facilitate efficient and accurate measurement and regulation of Basin 27 diversions, to promote transmission of data amongst the Parties, and to develop a computer accounting program that determines the amount of natural flow available to water users on the Blackfoot River. [1]

[1] This Plan does not address purposes 3-5 or 7-8 of the Blackfoot River Water Management Plan Statement of Purposes dated April 20, 1990 attached to the 1990 Fort Hall Indian Water Rights Agreement. Purposes 4, 5 and 8 of the Attachment pertain to Grays Lake and will be addressed in a future amendment to this Plan. Purposes 3 and 7

Figures 1 and 2 are included at the end of this document to aid the reader with understanding and implementing this Plan. The Figures are included for illustrative purposes and the text of the Plan takes precedence over any discrepancy between the text and the Figures.

2. Definitions

The following definitions apply for purposes of this Plan:

a) "Agreement" means the "Blackfoot River Equitable Adjustment Settlement Agreement" entered into by the Tribes, the United States, the State, the Basin 27 Water Users and the Committee of Nine.

b) "Basin 27 Water Users" mean persons diverting Natural Flow from the Blackfoot River Basin under water rights listed on Attachment E to the Consent Decree and under *de minimis* domestic and stock water rights with a priority date earlier than January 1, 1990. "Basin 27 Water Users" includes the Miners Ditch water bypassed as mitigation for water right no. 27-7577 in the name of the City of Blackfoot.[2]

c) "Basin 27 Primary Volume" is the cumulative annual volume of Blackfoot River Basin Natural Flows diverted by the Basin 27 Water Users during the irrigation season as a direct result of being allowed to divert Blackfoot River Basin Natural Flows ahead of the Tribes as provided by the Fort Hall Agreement and described in water right 27-11375.[3] The calculation of the Basin 27 Primary Volume is described in Section 4.i) of this Plan.

d) "Committee of Nine" means the advisory committee of Water District 01 and any successor thereto.

e) "*De minimis* domestic water right" for purposes of this Plan means (a) the use of water for homes, organization camps, public campgrounds, livestock and for any purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen (13,000) gallons per day, or 14.5 acre-feet per year or less for storage, or (b) and other uses, if the total use does not exceed a diversion rate of four one-hundreds (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. Domestic rights shall not include water for multiple ownership subdivisions, mobile home

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pertain to the internal operations of the Fort Hall Irrigation Project and will be addressed in a separate agreement between the Tribes and the United States.

[2] All or part of 16 water rights may be diverted into the Miners Ditch, none of which are in the name of Miners Ditch nor do they include any designation they are to be bypassed for mitigation purposes. Those 16 water rights are: 27-3G, 27-17, 27-20A, 27-20B, 27-22A, 27-23E, 27-35A, 27-10296, 27-10341, 27-10344, 27-10505, 27-10756, 27-10790, 27-10999, 27-11117, 27-11940.

[3] D*e minimis* domestic or stock water rights diverting Blackfoot River Natural Flow with a priority date earlier than January 1, 1990 do not count toward Basin 27 Primary Volume. *Order on January 31, 2012 Joint Status Report Re: Motion for Accounting* ("*[D]e minimis* domestic and stock use rights will not be counted toward the 45,000 acre-feet per year estimate from the Blackfoot River contained in Paragraph 27-11375x.d of the Fort Hall Consent Decree.")

parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitation set forth in (b) above.

f) "*De minimis* stock water right" for purposes of this Plan means the use of water solely for livestock or wildlife where the total diversion is not in excess of thirteen thousand (13,000) gallons per day or 14.5 acre-feet per year or less for storage.

g) "Director" means the Director of the Idaho Department of Water Resources, or any successor.

h) "Equitable Adjustment Water" is a supplemental water supply provided to the Tribes for the purpose of protecting water right no. 27-11375 if the Basin 27 Primary Volume exceeds 45,000 ac-ft per year and all available credits, consistent with the terms of the Agreement.

i) "Fort Hall Agreement" means the 1990 Fort Hall Indian Water Rights Agreement executed by the Shoshone-Bannock Tribes of the Fort Hall Reservation, the State, the United States, and the Committee of Nine.

j) "Intergovernmental Board" means the three-member Intergovernmental Board established in Article 9 of the Fort Hall Agreement.

k) "IDWR" or the "Idaho Department of Water Resources" means the executive agency of the State of Idaho created by Idaho Code § 42-1701, or any successor agency.

l) "Measuring Device Order" means the *Order Requiring Measuring Devices and Controlling Works on the Blackfoot River, Water District 27* entered on April 18, 2008 by IDWR, and subsequent amendments thereto. A true and correct copy of the Measuring Device Order is attached for informational purposes as Attachment I.

m) "Measuring Device Standards" means the IDWR document entitled "*Minimum Acceptable Standards for Open Channel and Closed Conduit Measuring Devices*" and subsequent amendments thereto. A true and correct copy is attached for informational purposes as Attachment II.

n) "Natural Flow" means the natural flow of the Blackfoot River Basin that is available for diversion as referred to in section x.d of water right 27-11375 and as specifically defined and calculated in this Plan. When the term "natural flow" is used in this Plan rather than "Natural Flow" the classic meaning of natural flow is intended as illustrated in Section 4.k) of this Plan.

o) "Parties" means the Tribes, the United States, the State, the Basin 27 Water Users, and the Committee of Nine of Water District 01.

p) "Plan" means this Blackfoot River Water Management Plan.

q) "SRBA District Court" means the District Court of the Fifth Judicial District, State of Idaho, in and for the County of Twin Falls that is assigned Civil Case No. 39576.

r) "State" means the State of Idaho, admitted to the Union on July 3, 1890.

s) "Supplemental Equitable Adjustment Water" is an additional supplemental water supply provided to the Tribes for the purpose of protecting and satisfying water right No. 27-11375 if the Basin 27 Primary Volume exceeds 45,000 acre-feet per year, all available credits provided for under paragraph 1 of the Agreement and all Equitable Adjustment Water provided for under paragraph 2 of the Agreement.

t) "Tribes" or "Tribal" means the Shoshone-Bannock Tribes of the Fort Hall Reservation in Idaho as the collective successors-in-interest of Indian signatories to the Second Treaty of Fort Bridger of July 3, 1868, 15 Stat. 673, and subsequent Tribal/federal agreements.

u) "United States" means the United States of America acting through the United States Department of the Interior, Bureau of Indian Affairs.

v) "Water District 01" means the instrumentality created by the Director of the IDWR pursuant to Idaho Code § 42-604 (1992) and any successor thereto.

w) "Water District 27" means the water district designated by the Director of IDWR pursuant to Idaho Code § 42-604 (1992) for the distribution of water in the Blackfoot River Basin and any successor thereto.

x) "Watermaster" means the person elected by Water District 27 and appointed by the Director of IDWR to distribute water within Water District 27.

3. Measurement Program

a) Improvement Program.
The Parties shall undertake an on-going program to improve water measurement and delivery throughout the Blackfoot River Basin. IDWR issued the Measuring Device Order in 2008, which required natural flow water users on the Blackfoot River to install and maintain lockable headgates and adequate measuring devices in accordance with the Measuring Device Standards prior to any delivery of water to the water user beginning in 2010. The Watermaster will determine, on a case-by-case basis, the specific improvements needed to facilitate efficient and accurate measurements at each point of diversion within Basin 27 in accordance with the Measuring Device Order. The owner of a point of diversion is responsible for any costs associated with installation and maintenance of lockable headgates and measuring devices and is also responsible for ensuring that the

point of diversion remains in compliance with the Measuring Device Order in the future.

b) Regulation of Basin 27 Points of Diversion.
The Watermaster will regulate Basin 27 points of diversion according to the following guidelines. The frequency and method of regulation for each point of diversion is determined by its flow rate and location. All diversion measurement sites shall be located as close as possible to the point of diversion consistent with the Measuring Device Standards.

i) Continuous Monitoring.
The Watermaster shall monitor the following points of diversion through the use of sensors and continuous data-logging equipment:

A) Smith-Maxwell diversion,
B) Riverton diversion,
C) Stevens diversion,
D) Central diversion,
E) Miners / Younie Blackfoot River pump diversion,
F) Miners ground water well diversion(s),
G) Little Butte diversion,
H) Eastern Idaho / Blackfoot Slough diversion,
I) Just Ditch diversion,
J) Sand Creek Ditch diversion - not included in Basin 27 calculations.

ii) Installation and maintenance responsibility.
The owners of the diversions described in subdivision 3.b)i) are responsible for maintaining the headgates and measurement sections of their respective ditches. Water District 27 shall install and maintain sensors and continuous data-logging equipment at each site identified.

iii) Pumps.
Some natural flow water users divert water from the Blackfoot River or its tributaries through the use of pumps. Water users who use pumps are required to install an adequate measuring device on each pump in accordance with the Measuring Device Order. The Watermaster shall record and report pump diversions at a minimum frequency of once per two weeks.

iv) Non-Continuous Monitoring.
The Watermaster shall monitor and measure manually all other Basin 27 points of diversion. Measurements shall be performed using consistent and accurate methods. All active points of diversion shall be measured at a minimum of once every two weeks. Small variances from this minimum measurement frequency are acceptable if unusual or unique circumstances arise in spite of the Watermaster's best efforts. Non-functional, inactive points of diversion shall be periodically monitored to verify the inactive

status. Daily diversion flow rates shall be determined based on a linear interpolation between manual measurements, unless reliable information sources indicate that another methodology is more appropriate. Diversion data shall be reported on a weekly basis.

v) Rating curves.
Rating curves shall be established and maintained for all sites that utilize water stage data for the estimation of flow rates. Once the rating curve for a site has been established, flow rate and stage measurements will continue to be collected by the Watermaster at least once per month from April to October. Adjustments to the rating curves and shifts in the rating curve relationships will be applied by the Watermaster as appropriate.

c) Regulation of Tribal Points of Diversion.
The Tribes and United States shall monitor the Fort Hall Main Canal, the Fort Hall North Canal, and the Fort Hall Little Indian Canal through the use of sensors and continuous data-logging equipment. The United States and Tribes shall be responsible for maintenance of their respective sensors, data-logging equipment, and gage houses, and shall comply with all measurement and reporting standards provided under Section 3.b). Copies of the measured flow rate data shall be sent to Water District 27 on a weekly basis.

d) Blackfoot River Basin Stream Gaging.
This subdivision identifies those gaging sites and the minimum operation standards that shall constitute the Blackfoot River stream gage system, which will be used to determine the amount of natural flow and storage flow in the Blackfoot River. The description for each gaging site includes six parts. The first part identifies the name of the site. The second part provides the general location of the site in latitude and longitude (NAD 83). The third part describes the period of the year when monitoring data is collected and reported. Small variances from the specified period of the year are acceptable if unusual or unique circumstances arise in spite of the responsible entity's best efforts. The fourth part identifies the operator of the site. The fifth part identifies the entity or entities responsible for the site. Site responsibilities shall include purchase and replacement of measurement equipment, equipment installation, maintenance of equipment and gage houses, and annual operating costs, including rating curve data collection, data processing, and data transmission. The sixth part describes the stream gage type at each site where continuous indicates the use of electronic sensor equipment that has the ability to transmit real-time data to a common data repository, or a gage type as described below. The stream gages are as follows:

i) Name: Clarks Cut
Location: Lat 43° 00' 20" Long 111° 29' 37"
Monitoring Season: April through October when Grays Lake water is

		being transported to Blackfoot Reservoir.
	Operator:	USGS (Station #13057300)
	Responsible Entity:	United States
	Gage type:	Continuous
ii)	Name:	Blackfoot River near Henry
	Location:	Lat 42° 48' 55" Long 111° 30' 24"
	Monitoring Season:	April through October when irrigation diversions are occurring in Basin 27.
	Operator:	USGS (Station #13063000)
	Responsible Entity:	U.S. Department of the Interior, Bureau of Land Management
	Gage type:	Continuous
iii)	Name:	Blackfoot Reservoir Gage
	Location:	Lat 43° 00' 20" Long 111° 43' 00"
	Monitoring Season:	Year round
	Operator:	Idaho Power Company
	Responsible Entity:	Tribes
	Gage type:	Continuous
iv)	Name:	Blackfoot River at Rocky Ford
	Location:	Lat 43° 00' 05" Long 111° 43' 45"
	Monitoring Season:	Year round
	Operator:	Idaho Power Company
	Responsible Entity:	Tribes
	Gage type:	Continuous
v)	Name:	Blackfoot River near Shelley
	Location:	Lat 43° 15' 46" Long 112° 02' 52"
	Monitoring Season:	Year round
	Operator:	USGS (Station #13066000)
	Responsible Entity:	IDWR
	Gage type:	Continuous
vi)	Name:	Blackfoot River at Rich Lane
	Location:	Lat 43° 11' 27" Long 112° 13' 39"
	Monitoring Season:	April through October when irrigation diversions are occurring in Basin 27.
	Operator:	Tribes
	Responsible Entity:	Tribes
	Gage type:	Continuous
vii)	Name:	Blackfoot River below Fort Hall North
	Location:	Lat 43° 10' 06" Long 112° 20' 05" Upstream of Corbett Slough Inflow
	Monitoring Season:	April through October when irrigation diversions

		are occurring in Basin 27.
	Operator:	USGS (Station #13068300)
	Responsible Entity:	United States
	Gage type:	Continuous
viii)	Name:	Blackfoot River Bypass
	Location:	Lat 43° 10' 15" Long 112° 23' 16"
	Monitoring Season:	Year round
	Operator:	USGS (Station #13068495)
	Responsible Entity:	IDWR
	Gage type:	Continuous
ix)	Name:	Blackfoot River near Blackfoot
	Location:	Lat 43° 07' 50" Long 112° 28' 36"
	Monitoring Season:	Year round
	Operator:	USGS (Station #13068500)
	Responsible Entity:	IDWR
	Gage type:	Continuous
x)	Name:	Meadow Creek near Reservoir
	Location:	Lat 42° 55' 29" Long 111° 30' 53"
	Monitoring Season:	April through October when irrigation diversions are occurring in Basin 27.
	Operator:	Water District 27
	Responsible Entity:	Water District 27
	Gage type:	No equipment; manual flow measurements, once every 2 weeks
xi)	Name:	Little Blackfoot River near Reservoir
	Location:	Lat 42° 54' 34" Long 111° 31' 53"
	Monitoring Season:	April through October when irrigation diversions are occurring in Basin 27.
	Operator:	Water District 27
	Responsible Entity:	Water District 27
	Gage type:	No equipment; manual flow measurements, once every 2 weeks
xii)	Name:	Corbett Slough near Blackfoot River
	Location:	Lat 43° 10' 23" Long 112° 20' 13"
	Monitoring Season:	April through October when irrigation diversions are occurring in Basin 27.
	Operator:	Water District 27
	Responsible Entity:	Water District 27
	Gage type:	Sensor and datalogger only; no real-time data transmittal; site should be operated under the policies provided in 3.b).

xiii)

Name:	Idaho Canal near Blackfoot River[4]
Location:	Lat 43° 15' 26" Long 112° 08' 42"
Monitoring Season:	April through October when irrigation diversions are occurring in Basin 27.
Operator:	Water District 27
Responsible Entity:	Water District 27
Gage type:	Sensor and datalogger only; no real-time data transmittal; site should be operated under the policies provided in 3.b).

xiv)

Name:	Sand Creek at Wolverine Road
Location:	Lat 43° 16' 58" Long 112° 09' 36"
Monitoring Season:	April through October when irrigation diversions are occurring in Basin 27.
Operator:	Water District 01 (Station #13064500)
Responsible Entity:	Water District 01
Gage type:	Continuous

xv)

Name:	Reservation Canal at Head
Location:	Lat 43° 22' 24" Long 112° 09' 14"
Monitoring Season:	April through October when irrigation diversions from the Snake River are occurring.
Operator:	Water District 01 (Station #13060500)
Responsible Entity:	Water District 01
Gage type:	Continuous

xvi)

Name:	Reservation Canal at Drop
Location:	Lat 43° 14' 37" Long 112° 11' 04"
Monitoring Season:	April through October when irrigation diversions are occurring in Basin 27 or from the Snake River.
Operator:	Water District 01 (Station #13065500)
Responsible Entity:	Water District 01
Gage type:	Continuous

e) Changes to Stream Gage System.
Changes to any of the elements set forth in Section 3.d) shall be subject to review by the Parties. If any of the Parties have concerns that the quality of the gaging program will be affected by the changes, the concerns will be brought to the Intergovernmental Board and subject to the dispute resolution provisions in Section 7 of this Plan. If any of the stream gages listed in Section 3.d) are not

[4] This gage will be installed prior to the delivery of any injected flows through the Idaho Canal ($IF_{IdahoCanal}$) for delivery to the Basin 27 Water Users or prior to delivery of any Equitable Adjustment Water through the Idaho Canal for Tribal use, whichever occurs first. The Watermaster will, from time to time, make observations and estimates of the discharge amount from the Idaho Canal into the Blackfoot River and record and report those observations in the Water District records and on the data sharing website.

providing data of sufficient quality or at a sufficient frequency to be useful for the purposes set forth in this Plan, any Party may request that the operation standards for the gage be upgraded, with any changes to be approved by the Intergovernmental Board.

f) Data Sharing.
All data collected under Section 3 shall be communicated by the Responsible Entities to a mutually agreed upon website. The data will be made available to the Responsible Entities and will be publicly available. The data shall be communicated at the same frequency at which the data are collected. The website shall contain all real-time stream gage data, Basin 27 and Tribal diversion data (both continuous and non-continuous sites), and elements of the accounting program specified in Section 4. The Director will instruct the Watermaster to, host, develop, and maintain the data sharing website as required in this Plan. See Appendix I for a list of all data contained on the data sharing website.

g) Gage Site Funding.
Each Responsible Entity listed in Section 3.d) shall have the responsibility of funding the installation, if a new site, and the operation of the gage site(s) to which it is assigned. Some of the funding required under this subdivision is contingent upon the appropriation of funds by the appropriate legislative entity. If funds are not available to establish, operate, and maintain a gage site, the Responsible Entity shall inform the other Responsible Entities as soon as possible, and the Responsible Entity shall make efforts to acquire or allocate funding for the site in the future.

4. Accounting Program

a) Accounting program development and maintenance.
The Watermaster, with approval of the Intergovernmental Board, shall develop and maintain a computer accounting program, as required in this plan, that quantifies the amount of natural flow available to water users on the Blackfoot River, the amount of storage water released from the Blackfoot Reservoir, the amount of water imported from Grays Lake, the amount of Snake River water injected into the Blackfoot River, the amount of water diverted from the Blackfoot River and its tributaries, and the Sand Creek Exchange. Once developed and approved, any subsequent changes to calculations and methods employed in the accounting program will require approval of the Intergovernmental Board.

b) Available Flow Calculations.
The accounting program shall calculate the amount of Blackfoot River natural flow available for diversion within the Blackfoot River basin. The accounting program shall also calculate the portion of natural flow that is available for diversion as Natural Flow by Basin 27 Water Users. These natural flow calculations do not provide the true theoretical undepleted flow, but rather the

actual direct flow that is available for diversion by water users at each location including the natural and storage flows from the Blackfoot River that are available for use by the Tribes and the United States. The accounting program calculations of natural flow shall always include calculation of Natural Flow and shall be made for each of the following locations using the equations specified.

The following data symbols are used in this Plan:

IF = amount of Snake River water ordered by the Basin 27 Water Users and injected into the Blackfoot River for their us e, calculated as the lesser of the water amount reported to the Watermaster for delivery and the measured amount of water actually being injected

NF = Blackfoot River Basin Natural Flows available for Basin 27 Water User diversion

TSF = Tribal storage flows released from Blackfoot Reservoir that are dedicated for diversion by the Tribes, which may be comprised of storage flow or Blackfoot River natural flow accruing to the Blackfoot River above Blackfoot Dam, or both.

TNF = Tribal natural flows accruing to the Blackfoot River below Blackfoot Dam that are not requested for use by Basin 27 Water Users, and are available for diversion by the Tribes

TS = total Tribal water supply, calculated as the sum of the natural flow (TNF) and storage flow (TSF) supplies from the Blackfoot River system

TSR = Tribal water supply from the Snake River and Sand Creek diverted through the Reservation Canal as measured at the Drop

NISF = non-Indian storage flows released from Blackfoot Reservoir for use by the non-Indian portion of the Fort Hall Irrigation Project under water rights 27-11561 and 25-13615

NISR = non-Indian water supply from the Snake River and Sand Creek diverted for use by the non-Indian portion of the Fort Hall Irrigation Project pursuant to their 1891 Snake River water right (01-10248) and their 1914 Sand Creek water right (27-11560)

$RFT_{BelowNorth}$ = Total required flow at the Blackfoot River below Fort Hall North gage site as set forth in Section 4.g)v) below

Q = measured or estimated flow data

$Q_{BigBlackfoot}$ = Blackfoot River near Henry

$Q_{MeadowCk}$ = Meadow Creek near Reservoir

$Q_{ClarksCut}$ = Clarks Cut (Grays Lake Diversion)

Q_{LBR} = Little Blackfoot River near Reservoir
$Q_{RockyFord}$ = Blackfoot River at Rocky Ford
$Q_{Shelley}$ = Blackfoot River near Shelley
$Q_{Additional}$ = Estimated non-measured inflows to Blackfoot Reservoir
$Q_{Available}$ = Basin 27 natural flow
$V_{Available}$ = Cumulative annual volume of natural flow for an irrigation season
$Q_{RichLane}$ = Blackfoot River at Rich Lane
Q_{Drop} = Reservation Canal at Drop
$Q_{BelowNorth}$ = Blackfoot River below Fort Hall North Canal
$Q_{SandCreek}$ = Sand Creek at Wolverine Road
Q_{End} = Blackfoot River near Blackfoot
Q_{Bypass} = Blackfoot River Bypass
$D_{MainCanal}$ = Fort Hall Main Canal diversion
$D_{NorthCanal}$ = Fort Hall North Canal diversion
$D_{SandCreek}$ = Sand Creek Ditch diversion
$D_{MinersWell}$ = Miners ground water diversion(s) to be mitigated by Blackfoot River Natural Flow
$D_{LittleIndian}$ = Fort Hall Little Indian Canal diversion
$D_{LittleButte}$ = Little Butte Canal diversion of Blackfoot River Natural Flow
$D_{ShelleytoRichLane}$ = total Blackfoot River reach gain / loss (loss is positive, gain is negative) between the Shelley and Rich Lane gage sites, including diversions by Basin 27 Water Users of Blackfoot River Natural Flow
$D_{ShelleytoBelowNorth}$ = total Blackfoot River reach gain / loss (loss is positive, gain is negative) between the Shelley and below Fort Hall North gage sites, including diversion by Basin 27 Water Users of Blackfoot River Natural Flow
$IF_{ResCanal}$ = Net inflows intentionally ordered from the Reservation Canal for use by Basin 27 Water Users.
$IF_{IdahoCanal}$ = Net inflows intentionally ordered from the Idaho Canal for use by Basin 27 Water Users.
$IF_{CorbettSlough}$ = Net inflows intentionally ordered to be delivered through the Corbett Slough channel for use by Basin 27 Water Users.
DIF_{Used} = Diverted flow that had been intentionally injected (IF) for use by entitled Basin 27 Water Users.

i) Blackfoot River at Blackfoot Dam:

$$Q_{IntoReservoir} = Q_{BigBlackfoot} + Q_{LBR} + ((Q_{MeadowCk} - Q_{ClarksCut}) \geq 0) + Q_{Additional}$$

Total Grays Lake imported water in acre-feet equals the sum of all $Q_{ClarksCut}$ daily values multiplied by 1.9835.

ii) Blackfoot River at Rocky Ford:

$NF_{RockyFord}$ is equal to the amount of Natural Flow requested for discharge by the Watermaster to satisfy the Basin 27 Water User diversion demands below Blackfoot Reservoir, see 4.e) below. The maximum amount that can be requested by the Watermaster is $Q_{IntoReservoir}$.

$NISF_{RockyFord}$ is equal to the amount of Blackfoot Reservoir and/or Grays Lake storage requested for release by the non-Indian portion of the Fort Hall Irrigation Project, as described in item 4.b)v) below.

$$TSF_{RockyFord} = Q_{RockyFord} - NF_{RockyFord} - NISF_{RockyFord}$$

iii) Blackfoot River near Shelley:

$TSF_{Shelley} = TSF_{RockyFord}$ for previous day (1 day time lag)

$NISF_{Shelley} = NISF_{RockyFord}$ for previous day (1 day time lag)

$D_{ShelleytoRichLane} = Q_{Shelley} + Q_{Drop} + IF_{IdahoCanal} - D_{LittleIndian} - Q_{RichLane} - DIF_{UsedRichLanetoRockyFord} - DIF_{UsedAboveReservoir}$ for previous day (1 day time lag)

$RF_{BelowShelley} = D_{ShelleytoRichLane} + D_{LittleButte} + RF_{BelowNorth}$
($RF_{BelowNorth}$ is defined in Section 4.g)i))

$NF_{Shelley} = Q_{Shelley} - TSF_{Shelley} - NISF_{Shelley}$

$NF_{BelowShelley}$ = lesser of $NF_{Shelley}$ and $RF_{BelowShelley}$

$TNF_{Shelley} = NF_{Shelley} - NF_{BelowShelley}$

$TS_{Shelley} = TNF_{Shelley} + TSF_{Shelley}$

iv) Blackfoot River at Rich Lane:

$NISF_{RichLane} = NISF_{Shelley}$

$NF_{RichLane} = NF_{BelowShelley} - D_{ShelleytoRichLane}$

$TS_{RichLane} = TS_{Shelley} - D_{LittleIndian}$

$TNF_{RichLane} = (TNF_{Shelley} - D_{LittleIndian}) \geq 0$
(if greater than zero, $TNF_{RichLane} = 0$ otherwise)

$TSF_{RichLane} = TS_{RichLane} - TNF_{RichLane}$

v) Rocky Ford flows.

The measured flows at Rocky Ford, below the outlet of Blackfoot Reservoir, can consist of four distinct streams of water: (1) Blackfoot River Natural Flows requested to be discharged by the Watermaster to satisfy Basin 27 Water User demands, (2) storage releases from Blackfoot Reservoir and/or Grays Lake for non-Indian users in the Fort Hall Irrigation Project, (3) storage releases from Blackfoot Reservoir and/or Grays Lake (or natural flows passing through the Reservoir) for diversion under the Tribes' Blackfoot River water

rights, and (4) water spilled or released in excess of the downstream demands and in excess of water that can be stored in Blackfoot Reservoir. The Watermaster shall account for these separate streams based on the reported flow at the Rocky Ford gage. The Fort Hall Irrigation Project will inform the Watermaster how the storage releases should be allocated between (2) and (3).

vi) Unmeasured Blackfoot Reservoir gain.
At the present time, additional spring and tributary inflows to the Blackfoot Reservoir ($Q_{Additional}$) are estimated as 35 cfs of continuous flow. The Parties agree that the estimate of $Q_{Additional}$ will be revised 5 years after the date that all of the Upper Basin gage sites become operational, or earlier if the Parties agree. The revised estimate of $Q_{Additional}$ will be calculated for each month based on the water balance of Blackfoot Reservoir using the most current 5 years of data.

vii) Natural flow accuracy.
The accuracy and reliability of the above natural flow calculations shall be checked once per year by the Watermaster, who shall recommend adjustments as appropriate. These adjustments to the above natural flow calculations can be made following approval by the Intergovernmental Board.

c) Accounting updates.
The accounting will be updated throughout the irrigation season as data are collected. Revised estimates of natural flow should be updated once per week following the collection of diversion data. Weekly accounting data posted by the Watermaster to the data-sharing website shall indicate the forecasted natural and storage flows for the week following, to be used by water users for scheduling deliveries until new accounting data are posted. Accounting data that is obtained from outside sources such as the USGS will be considered final for purposes of the accounting program as of October 31 of each irrigation season, even if the data are considered "preliminary" by the data collection entity. The natural flow estimates for each of the specified locations will be posted to the data sharing website.

d) Flow allocation.
Based on water rights, priority dates, provision x.d of water right 27-11375 and available water supply, the Watermaster shall assign the amount of allowable diversion for each Basin 27 Water User's point of diversion. The allowable diversion shall be updated weekly and posted to the data sharing website. In addition to storage releases and Snake River/Sand Creek water, the allowable diversion by the Tribes and United States on behalf of the Tribes shall include all natural flows not identified by the Watermaster for the Basin 27 Water Users' allowable diversions.

i) Administration for storage.
Priority administration of water rights in Basin 27 includes administration with regard to the September 3, 1907 priority date of Blackfoot Reservoir during the storage season. The end of the storage season for Blackfoot Reservoir is identified by the maximum physical fill or the release of flood control flows. During the storage season the Watermaster can request the discharge of natural flow past Blackfoot Dam to meet the needs of any downstream Basin 27 Water User's water rights, as described in Section 4.e), senior to September 3, 1907 and will administer junior water rights to protect the Blackfoot Reservoir storage right.

ii) Storage fill.
For purposes of this Plan, Blackfoot Reservoir maximum physical storage for the irrigation season will be determined by three (3) consecutive days of storage decline after April 1 of each year. As gaging of reservoir storage and stream flows improves in Basin 27, this method of determining maximum physical storage may need to be modified. Modifications of the Plan are described in Section 7.

iii) Begin storage.
The beginning of the storage season for Blackfoot Reservoir is the day all Fort Hall Canals are turned off for the irrigation season.

iv) Storage season.
The term "storage season" as used in these paragraphs 4.d)i) through 4.d)iv) is solely for the purpose of administering junior water rights and does not change the authorized storage season of 1/1 through 12/31 of water right 27-2007.

e) Blackfoot Dam discharge.
The Watermaster shall inform the Tribes and United States, as part of the weekly accounting report or as needed, of the necessary Natural Flows to be discharged below Blackfoot Dam to satisfy downstream Basin 27 Water User diversions. The Basin 27 Water User diversion requests shall not exceed the natural flow calculated as inflows to the Blackfoot Reservoir, and shall account for tributary inflows below Blackfoot Dam and Snake River inflows (from the Idaho Canal, Reservation Canal, and Corbett Slough) to the extent possible. The Tribes and United States on behalf of the Tribes will have the right to store or otherwise use any available natural flows upstream of Blackfoot Dam, which are not requested by the Watermaster or used by the Basin 27 Water Users above the Blackfoot Reservoir, according to the terms of their water rights. The Tribes and United States shall not be required to discharge any water from the Blackfoot Reservoir for Basin 27 Water Users during the non-irrigation season, November 1 – March 31.

f) Formula for Blackfoot Dam discharge.

The Parties agree to develop a formula to assist the Watermaster in determining the necessary discharges from the Blackfoot Dam. Necessary discharges refer to the natural inflow passing through the Blackfoot Reservoir for which the Basin 27 Water Users have a right on any given day. The formula will be incorporated in the accounting program and will establish a relationship between the Natural Flow request from the Blackfoot Dam and the diversion demands of the downstream Basin 27 Water Users.

i) Formula guidelines.

The formula to be developed shall be based on the following guidelines for determining Basin 27 Water User discharge requests from the Blackfoot Dam. These guidelines provide the general framework within which a more detailed formula is to be developed.

1. Estimate natural gains and/or losses to the Blackfoot River downstream of Blackfoot Dam. These natural gains and/or losses shall consist of reliable inflows that are likely to be sustained for the subsequent week.

2. Estimate all Basin 27 Water User diversion demands located below Blackfoot Dam, including main-stem Blackfoot River demands above the Shelley gage site and all Basin 27 Water User demands located below the Shelley gage site.

3. Determine whether a Basin 27 Water User discharge request is necessary from Blackfoot Dam. If the estimated natural flow supply below Blackfoot Dam is greater than the estimated Basin 27 Water User diversion demands located below Blackfoot Dam, then no Basin 27 Water User discharge request from Blackfoot Dam is necessary. If the estimated natural flow supply is less than the estimated Basin 27 Water User demands, then some Natural Flow deficit exists and some amount of Basin 27 Water User discharge request is likely needed.

4. Determine the Basin 27 Water User discharge request by comparing the Natural Flow deficit below Blackfoot Dam to the available natural flow supply entering into Blackfoot Reservoir. The Basin 27 Water User discharge request shall be calculated as the lesser of: (1) the natural flows entering into Blackfoot Reservoir ($Q_{IntoReservoir}$) and (2) the Natural Flow deficit below Blackfoot Dam calculated in Step 4.f)ii) below.

ii) Interim formula.
Until the formula is developed, the Basin 27 Water User discharge requests below Blackfoot Dam shall be based upon the following interim formula:

$NF_{RockyFord} = RF_{BelowShelley} - (Q_{Shelley} - Q_{RockyFord}$ (for previous day (1 day time lag))) ± Diversion Change Requests

Provided $NF_{RockyFord} \leq Q_{IntoReservoir}$

1. The Watermaster may use his discretion to determine if the results for a single day's data or an average of no more than 5 days will give the best results for calculating $NF_{RockyFord}$.

2. The Watermaster will verify that 90% of $NF_{RockyFord}$ requested below Blackfoot Dam is diverted by the Basin 27 Water User(s) when the water is available at the water user(s) point(s) of diversion. For purposes of computing Basin 27 Primary Volume as described in Section 4.i) of this Plan, the water user(s) requesting additional water below Blackfoot Dam will be charged for no less than 90% of the water requested when available, whether the water is diverted or not, and these charges will be considered daily diversion volumes.

3. The Watermaster will verify that a Basin 27 Water User(s) reducing or ending their diversion(s) has requested a diversion reduction. For purposes of computing Basin 27 Primary Volume as described in Section 4.i) of this Plan, if the water user(s) reducing or ending their diversion(s) did not request the change, and water for diversion is available at their point(s) of diversion, then that water user(s) shall continue to be charged at the rate of diversion prior to the reduction or turn off and these charges will be considered daily diversion volumes.

g) Flow below Fort Hall North Gage.
The Watermaster shall direct the Tribes and United States in advance to maintain a flow rate at the Blackfoot River below Fort Hall North gage site that is greater than or equal to the Basin 27 Water User diversion demands located downstream of the gage site. The equations set forth are based upon the Blackfoot River below Fort Hall North gage site's location upstream of the Corbett Slough inflow into the Blackfoot River.

i) Required flow.
The required flow rate represents the flow rate requested by the Watermaster to satisfy Basin 27 Water User diversion demands for Blackfoot River Natural Flow located downstream of the below Fort Hall North gage site, based on the available flow supply for the Basin

27 Water Users. The required flow rate (RF) shall be calculated as follows:

$$RF_{BelowNorth} = C_{Loss}(D_{BelowNorth}) \leq (NF_{Shelley} - D_{ShelleytoBelowNorth})$$

C_{Loss} = conveyance loss coefficient to account for natural river losses and gains occurring between Blackfoot River below Fort Hall North gage site and the most downstream Basin 27 Water User diversion.

$D_{BelowNorth}$ = valid Basin 27 Water User diversion demands for Blackfoot River Natural Flow downstream of the Blackfoot River below Fort Hall North gage site, estimated based on the previous five-day average diversions including Miners Ditch mitigation requirements ($D_{MinersWell}$). Allowance shall be made for all $IF_{CorbettSlough}$ injected flows, and those portions of $IF_{ResCanal}$, and $IF_{IdahoCanal}$ injected flows used to satisfy Basin 27 Water User demand downstream of the below Fort Hall North gage.

$D_{ShelleytoBelowNorth} = D_{ShelleytoRichLane} + Q_{RichLane} - Q_{BelowNorth} - D_{MainCanal} - D_{NorthCanal} - DIF_{UsedBelowNorthtoRichLane}$

ii) Conveyance loss.
The conveyance loss coefficient (C_{Loss}) is not known at this time. The Parties agree to cooperatively develop an accurate estimate of C_{Loss} within 5 years of the date of the signature of this plan, which shall be approved by the Intergovernmental Board. In the interim, until a more accurate loss coefficient is developed, C_{Loss} shall be estimated as 1.1 and injected flows (IF) shall presume to be delivered without loss in this reach of the Blackfoot River. If the actual loss is determined to be larger than 10% ($C_{Loss} > 1.1$) the injected flows shall be charged loss at the same rate as determined by C_{Loss}.

iii) Flow adjustment.
The Watermaster shall inform the Tribes and United States if the flow rate at the Blackfoot River below Fort Hall North gage site differs from the total required flow rate calculated in 4.g)v) below. The Tribes and United States will adjust the discharges below the Fort Hall North Canal within two days of the Watermaster's notice.

iv) Required flow limit.
The required flow rate at the Blackfoot River below Fort Hall North gage site is limited by the Natural Flow of the Blackfoot River available for use by the Basin 27 Water Users. The required flow rate shall not exceed the available Natural Flow calculated at Shelley gage less the Natural Flow diversions below Shelley to the below Fort Hall North gage site.

v) Total flow.
In addition to $RF_{BelowNorth}$ the total discharge passing the Blackfoot River below Fort Hall North gage must include any portions of the $IF_{IdahoCanal}$ and $IF_{ResCanal}$ injected flows to be diverted and used downstream of the gage, $IF_{IdahoCanalBelowNorth}$ and $IF_{ResCanalBelowNorth}$. Initially these injected flows will be presumed to be delivered without loss in the Blackfoot River. If improved measurement and accounting show either of these injected flows experience a 10% or greater loss from their respective point of injection to the below Fort Hall North gage, the water right accounting formulas shall be adjusted to charge these injected flows the actual loss they encounter as they are conveyed to the gage site. The total required flow (RFT) below the Fort Hall North gage shall be calculated as follows:

$$RFT_{BelowNorth} = RF_{BelowNorth} + IF_{IdahoCanalBelowNorth} + IF_{ResCanalBelowNorth}$$

vi) Make-up flow.
If there are times when the flow rate at the Blackfoot River below Fort Hall North gage is less than the total required flow rate due to over-diversion by the Fort Hall Irrigation Project system, the downstream ditches affected by the shortage shall be entitled to divert, in addition to their water rights, a volume of water equivalent to the volume of the shortage. Any make-up water requested by the Watermaster as part of $RFT_{BelowNorth}$ must be requested and diverted within two weeks of the return of the total required flows and, except for the injected flows, will count against the Basin 27 Primary Volume described in Section 4.i).

h) Accounting for injected flows.
The Watermaster shall account for all Snake River injected flows into the Blackfoot River system that are intended for diversion by Basin 27 Water Users. This information shall be updated at least once per week and posted to the data sharing website. Snake River water that is injected into the Blackfoot River for use by specific Basin 27 Water Users (such as shareholders in Snake River canal companies) will be delivered to the appropriate diversions first, before any water is delivered under their Blackfoot River water rights. Deliveries of Snake River water to Basin 27 Water Users are limited to the lesser of the amount of water scheduled for delivery with the Watermaster and the measured flow that is actually injected into the Blackfoot River less any losses as determined above.

i) Basin 27 Primary Volume calculation.
The accounting program shall include equations to calculate the Basin 27 Primary Volume and the calculated value shall be updated weekly and posted to the data sharing website. The Basin 27 Primary Volume represents the cumulative volume

of water diverted by Basin 27 Water Users, located both upstream and downstream of Blackfoot Reservoir, during the irrigation season as a benefit and direct result of being allowed to divert water ahead of the Tribes, as described in the Tribes' Blackfoot River water right 27-11375. The Basin 27 Primary Volume shall be calculated as the sum of daily diversion volumes, for all Basin 27 Water User diversions upstream of the below Fort Hall North gage plus the $RF_{BelowNorth}$ quantified as the lesser amount of the Watermaster request or the discharge measured at the below Fort Hall North gage, from the start of the irrigation season to the present day, excluding the following diversions:

i) Exclude injected flows.
Diversions of Snake River water intentionally injected into the Blackfoot River for Basin 27 Water User use, which shall be separately accounted for by the Watermaster.

ii) Exclude diversions when Fort Hall Canals are off.
In priority diversions on days when all of the Fort Hall Canals are off and the requested reservoir discharges described in Section 4.e) are zero for the previous day.

iii) Exclude in priority diversions.
Diversions occurring downstream of the Blackfoot Reservoir on days when the Tribes' Blackfoot River water right 27-11375 is delivered and satisfied to the extent of Tribal demand as the senior-most priority water right on the Blackfoot River and there are no discharges from the Blackfoot Dam, other than flood control, spill, or minimum flows, if any, for the previous day. This situation only occurs when $NF_{RockyFord} = 0$ for the previous day and $RF_{BelowNorth} = 0$ for the current day.

j) Agreement implementation.
The Agreement sets forth a procedure for use of credits, Equitable Adjustment Water and Supplemental Equitable Adjustment Water. When the Water District 27 accounting indicates the Basin 27 Primary Volume is approaching 45,000 ac-ft for the year, the Watermaster will post on the data sharing website notice of the use of credits and that the use of Equitable Adjustment Water and Supplemental Equitable Adjustment Water is about to begin. The Watermaster will allow use of the maximum credits, Equitable Adjustment Water, and Supplemental Equitable Adjustment Water provided by the Agreement. The amount of credit, Equitable Adjustment Water, and Supplemental Equitable Adjustment Water available to the Tribes for the current year will be determined in advance as provided by the Agreement. If the Primary Volume at any point during the irrigation season exceeds 45,000 ac-ft plus credit used, Equitable Adjustment Water used, and Supplemental Equitable Adjustment Water used then the provisions of paragraph x.d of water right 27-11375 shall be deemed satisfied for the year and all water rights shall be administered in priority.

k) Credit accrual.
At the end of each year in which the Basin 27 Primary Volume diversion is less than 45,000 ac-ft credit may be accrued as provided by the Agreement. The accrual of credits is computed as the lesser of $V_{Available}$ (natural flow in ac-ft) or 45,000 ac-ft minus the Basin 27 Primary Volume diverted for the year. Where:

$Q_{Available} = Q_{RichLane} - Q_{Drop} - IF_{IdahoCanal} + Q_{IntoReservoir}$ (for previous day) – $NF_{RockyFord}$ (for previous day) + Diversions above the Reservoir (for previous day) + Diversions between Blackfoot Dam and the Rich Lane Gage - $TSF_{RockyFord}$ (for previous day) – $NISF_{RockyFord}$ (for previous day) + $D_{LittleIndian}$

and is accumulated on a daily basis for the irrigation season from 4-1 to 11-1 as:

$$V_{Available} = \sum_{4\text{-}1}^{11\text{-}1}(Q_{Available} \times 1.9835) \text{ ac-ft}$$

l) Accounting for credit.
The accounting program will keep track of the accrual of credits calculated as described in paragraph k) above as well as the use and remaining balance of credits at all times as required by the Agreement. During periods of credit use the Watermaster will account for credit use on a daily basis and report credit use and the balance remaining on a weekly basis to the data sharing web site. The Watermaster will report the remaining credit balance as specified in the Agreement.

m) Accounting for Equitable Adjustment Water.
The accounting program will keep track of the accrual and use of Equitable Adjustment Water and Supplemental Equitable Adjustment Water at all times as specified in the Agreement. During periods of Equitable Adjustment Water and Supplemental Equitable Adjustment Water use the Watermaster will account for the Equitable Adjustment Water and Supplemental Equitable Adjustment Water use on a daily basis and report Equitable Adjustment Water and Supplemental Equitable Adjustment Water use and balance remaining on a weekly basis to the data sharing web site. The Watermaster will report the remaining Equitable Adjustment Water balance plus the annual accrual as specified in the Agreement.

n) Accounting for Q_{Drop}.
The accounting program will also keep a record of the allocation of the Q_{Drop} flows, a portion of which are needed to compute the Sand Creek exchange. Q_{Drop} is a measured discharge made up of up to 4 distinct streams of water: (1) Snake River natural flow diverted pursuant to the Tribes' 1867 Snake River water right, TSR less any Sand Creek water available to the Tribes. (2) Snake River natural flow diverted pursuant to the Fort Hall Irrigation Project 1891 Snake River water right, NISR less any Sand Creek water available to the non-Indian portion of the

Fort Hall Irrigation Project. (3) Sand Creek consisting of the measured discharge of Sand Creek at Wolverine Road less the amount of water diverted by the Sand Creek Ditch, $Q_{SandCreek} - D_{SandCreek}$. (4) Snake River injected flows, $IF_{ResCanal}$. The Fort Hall Irrigation Project will inform the Watermaster of the portion of Q_{Drop} that will be allocated to (1) and (2) giving due consideration that the sum of the 4 streams of water must equal Q_{Drop}.[5]

o) Water Rights.
IDWR and the Watermaster shall enforce all Basin 27 water rights in accordance with the elements of their rights, i.e., priority, period of use, and quantity, as listed in their partial and final decrees, and in accordance with the terms of the Agreement. On days when flood control flows are passing the Snake River near Milner gage and natural flow water is available in the Blackfoot River downstream of the Fort Hall North Canal and the requested reservoir discharges described in Section 4.e) are zero for the previous day, water rights will not be enforced for the diversions located downstream of the Fort Hall North Canal.

5. Sand Creek Exchange

a) Implementation.
The Parties agree to implement the Sand Creek Exchange as provided for in the Fort Hall Agreement and described in paragraph x.d of water right 01-10223. The measurements and equations necessary to implement the Sand Creek Exchange are available under the terms of this Plan.

b) Calculation method.
The volume of water credited to the Tribes under the Sand Creek Exchange will be calculated as an after-the-fact accounting procedure, and credited water may be diverted from the Snake River through the Reservation Canal at any time during the irrigation season. The exchange calculations and provision of credited water will be completed on a weekly basis and posted to the data sharing website referenced in Section 3.f). Exchange credits will not be carried over from year to year.

c) Exchange reset.
In those years in which Water District 01 resets all storage use accounts, water right volume limits, and exchange accounts to zero, including the Tribal volume limits, calculated at the Reservation Canal at the Drop gage, the Sand Creek Exchange account will also be reset to zero on the same date.

[5] It is possible the Tribes or the non-Indian project water users could obtain storage from the Snake River for diversion through the Reservation Canal and the Drop for use on the Fort Hall Irrigation Project. Storage diversions could be substituted for or added to the streams (1) and (2) diversions without changing the allocation process described in n).

d) Calculations.
The daily volume of Sand Creek Exchange water shall be calculated based upon a comparison of the measured Sand Creek flows, the excess Blackfoot River flows below the Tribes' diversions, the Blackfoot River flows near the mouth, and the Tribes' diversion demands. The total annual volume of Sand Creek Exchange is limited to 50,000 acre-feet per year. The Sand Creek Exchange shall be calculated based on the following equations.

i) Excess flows bypassing the Tribes' diversions:
$$Excess = (Q_{BelowNorth} - RFT_{BelowNorth} - (Q_{SandCreek} - D_{SandCreek}) \times 15\%) \geq 0$$
Never less than 0.

ii) Diversion demands of the Fort Hall Main and North Canals:
$$Tribal\ Demand = (D_{MainCanal} + D_{NorthCanal}) - NISF - NISR$$

iii) Sand Creek flows available for exchange:
$$Sand\ Creek = (Q_{SandCreek} - D_{SandCreek}) \times 85\%$$

iv) Blackfoot River flows near the confluence with Snake River:
$Blackfoot\ River = Q_{End} + Q_{Bypass} - D_{MinersWell}$ (accounting for 12-hour lag time)

v) Sand Creek Exchange calculation:
Exchange = lesser of (1) *Excess*, (2) *Tribal Demand*, (3) *Sand Creek*, or (4) *Blackfoot River*

e) Review in 5 years.
The Sand Creek Exchange calculations shall be reconsidered within 5 years after implementation of the Sand Creek Exchange to validate the equations provided in Section 5.d) and to determine if changes are needed. The Parties agree to cooperatively develop any necessary changes to the calculations, and any consensus changes shall be approved by the Intergovernmental Board.

6. Equalizing Reservoir and Little Butte Canal

Due to the construction of the Equalizing Reservoir, the Little Butte Canal was asked to abandon its headgate on the Blackfoot River and begin to divert water out of the Equalizing Reservoir pool. Sedimentation in the Equalizing Reservoir can make it so that the Little Butte Canal is unable to divert water through its headgate. The United States and Tribes agree to work with Water District 27 to improve the Little Butte Canal diversion structure(s) and to operate the Equalizing Reservoir in such a way that the Little Butte Canal is provided an adequate supply of water at its headgate throughout the irrigation season.

7. Review of Plan / Resolution of Disputes

The Parties shall periodically review at a meeting of the Fort Hall Intergovernmental Board the status of the programs described in this Plan and shall provide recommendations, based upon the best available data and good science, for any changes in the programs to the Watermaster, the Director, the United States and the Tribes, taking into account the recommendations of the Parties' technical experts. The Parties agree that all disputes and objections regarding the implementation of this Plan will be taken up at the annual Intergovernmental Board meeting. Modifications to this Plan will be based on mutual agreement of the Parties.

8. Points of Contact

To effectively carry out the provisions of this Blackfoot River Management Plan, each Party will designate a representative who will serve as the point of contact to communicate and coordinate the implementation of this Plan.

9. Applicable Law

a) This Blackfoot River Management Plan shall be construed and enforced pursuant to the Fort Hall Agreement and relevant decrees entered by the SRBA District Court. Nothing in this plan shall be interpreted or implemented to change any portion of any decree entered in the SRBA.

b) The United States' and the State of Idaho's agreement is subject to the terms of applicable federal and state law, including the Anti-Deficiency Act - 31 U.S.C. § 1341 and similar requirements of state law. Nothing contained in this Agreement shall be construed to require the obligation, appropriation or expenditure of any money from the U.S. Treasury or the State General Fund. The Parties acknowledge that the federal or state agencies shall not be required under this Plan to expend any appropriated funds unless and until an authorized official of the relevant agency affirmatively acts to commit to such expenditures in writing.

10. Binding Effect.

This Plan shall bind and inure to the benefit of the respective successors of the Parties.

11. Effect of Headings

Headings appearing in this Agreement are inserted for convenience and reference and shall not be construed as interpretations of the text.

12. Multiple Originals

This agreement is executed in quintuplicate. Each of the five (5) Agreements with an original signature of each Party shall be an original.

13. Effective Date

This Plan shall be effective upon signature by the Parties and approval by the Director.

14. Signatures

The Parties have executed this Blackfoot River Water Management Plan on the date following their respective signatures.

SHOSHONE-BANNOCK TRIBES

Nathan Small

Dated: 2/5/13

NATHAN SMALL
Chairman, Shoshone-Bannock
Tribal Council

STATE OF IDAHO

Roger Chase

ROGER CHASE
Chairman, Idaho Water Resource Board

Dated: 7-2-2013

UNITED STATES

Dated: 7/01/2015

STANLEY SPEAKS
Regional Director
Pacific Northwest Region
Bureau of Indian Affairs
U.S. Department of Interior

COMMITTEE OF NINE OF WATER DISTRICT 01

Dated: 09-02-2013

DAN SHEWMAKER
Chairman, Committee of Nine

BASIN 27 ADVISORY COMMITTEE
FOR WATER DISTRICT 27

Robert E Reid

Dated: 7-9-13

BOB REID
Chairman, Basin 27 Advisory Committee

Figure 1

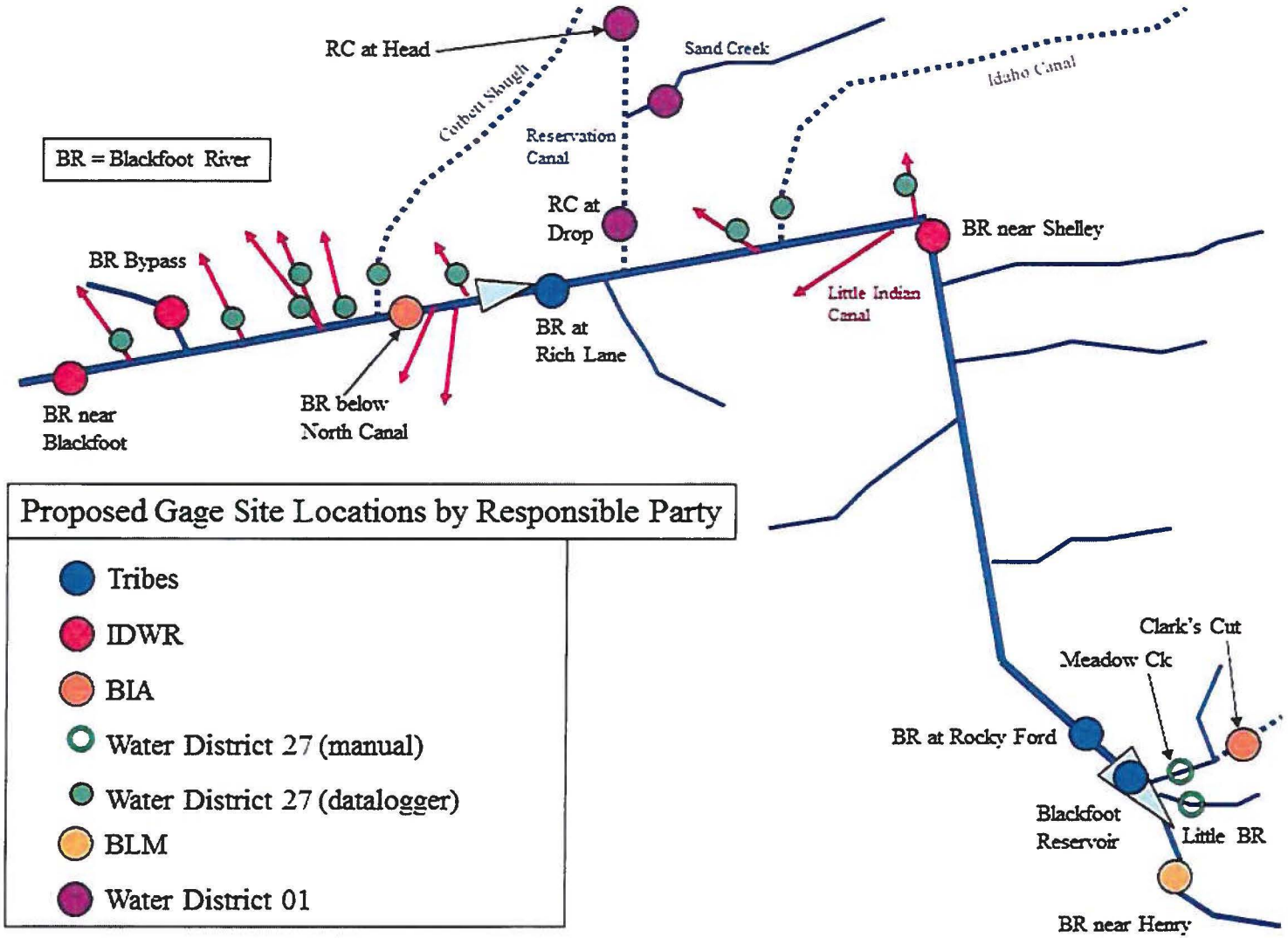
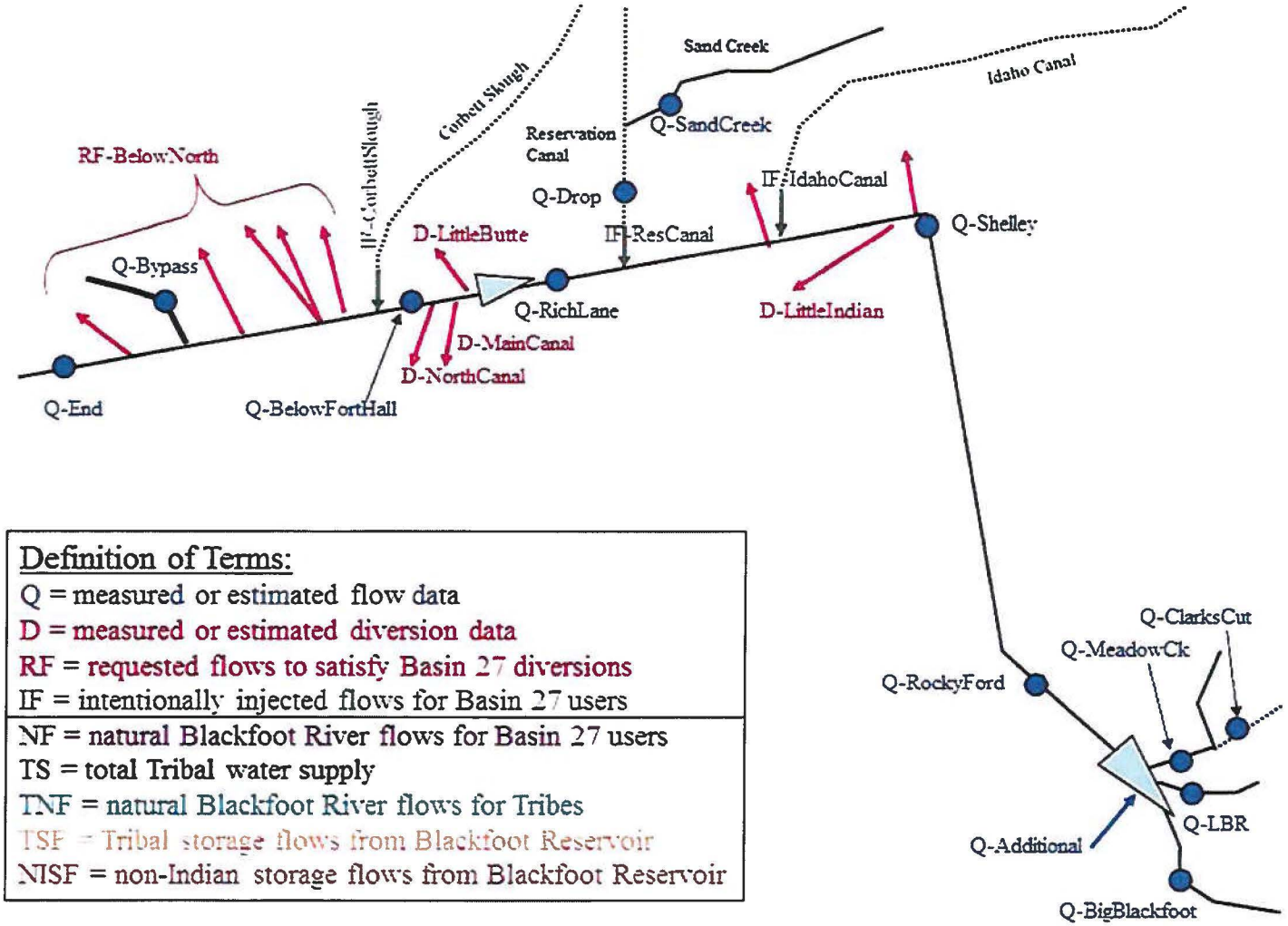

RC at Head
Sand Creek
Idaho Canal
Corbett Slough
Reservation Canal
BR = Blackfoot River
RC at Drop
BR near Shelley
BR Bypass
Little Indian Canal
BR at Rich Lane
BR near Blackfoot
BR below North Canal
Clark's Cut
Meadow Ck
BR at Rocky Ford
Blackfoot Reservoir
Little BR
BR near Henry
Proposed Gage Site Locations by Responsible Party
Tribes
IDWR
BIA
Water District 27 (manual)
Water District 27 (datalogger)
BLM
Water District 01

Figure 2



Definition of Terms:

Q = measured or estimated flow data
D = measured or estimated diversion data
RF = requested flows to satisfy Basin 27 diversions
IF = intentionally injected flows for Basin 27 users
NF = natural Blackfoot River flows for Basin 27 users
TS = total Tribal water supply
TNF = natural Blackfoot River flows for Tribes
TSF = Tribal storage flows from Blackfoot Reservoir
NISF = non-Indian storage flows from Blackfoot Reservoir

APPENDIX I

Contents of Data Sharing Website

All data from the stream gages identified in Section 3.d) of the Plan. Those gages include the following:

Clarks Cut
Blackfoot River near Henry
Blackfoot Reservoir Gage
Blackfoot River at Rocky Ford
Blackfoot River near Shelley
Blackfoot River at Rich Lane
Blackfoot River below Fort Hall North
Blackfoot River Bypass
Blackfoot River near Blackfoot
Meadow Creek near Reservoir
Little Blackfoot River near Reservoir
Corbett Slough near Blackfoot River
Idaho Canal near Blackfoot River
Sand Creek at Wolverine Road
Reservation Canal at Head
Reservation Canal at Drop
Additional unmeasured flow into Blackfoot Reservoir

All diversion data identified in Sections 3.b) and 3.c) including the following:

Smith-Maxwell diversion
Riverton diversion
Stevens diversion
Central diversion
Miners / Younie Blackfoot River pump diversion
Miners ground water well diversion(s)
Little Butte diversion
Eastern Idaho / Blackfoot Slough diversion
Just Ditch diversion
Sand Creek Ditch diversion
Fort Hall Little Indian Canal
Fort Hall Main Canal
Fort Hall North Canal
Non-continuous measurements of diversion data provided for in Section 3.b)iv)

Quantities calculated within the accounting program identified in Section 4.

$Q_{IntoReservoir}$
Total Grays Lake imported water in acre-feet
$NF_{RockyFord}$
$NISF_{RockyFord}$

$TSF_{RockyFord}$
$TSF_{Shelley}$
$NISF_{Shelley}$
$D_{ShelleytoRichLane}$
$RF_{BelowShelley}$
$NF_{Shelley}$
$NF_{BelowShelley}$
$TNF_{Shelley}$
$TS_{Shelley}$
$NISF_{RichLane}$
$NF_{RichLane}$
$TS_{RichLane}$
$TNF_{RichLane}$
$TSF_{RichLane}$
The natural flow available for diversion as provided in Section 4.d)
Projected natural flow for the following week as provided in Section 4.c)
Injected flows for use by the Basin 27 Water Users and account for injected flow use
$RF_{BelowNorth}$
C_{Loss}
$D_{BelowNorth}$
$D_{ShelleytoBelowNorth}$
$RFT_{BelowNorth}$
Primary Volume and exclusions identified in Sections 4.i)i) through 4.i)iii)
Available credit at the beginning of the irrigation season
Credit use
Remaining credit balance
$Q_{Available}$
$V_{Available}$
Credit accrual at the end of the irrigation season
Available Equitable Adjustment Water at the beginning of the irrigation season
Equitable Adjustment Water use
Remaining Equitable Adjustment Water balance
Equitable Adjustment Water accrual at the end of the irrigation season
The allocation of Q_{Drop} as provided for in Section 4.n)
Diversions made pursuant to Section 4.o)

Calculation of the Sand Creek Exchange as provide for in Section 5.
Excess flows bypassing the Tribes' diversions
Diversion demands of the Fort Hall Main and North Canals
Sand Creek flows available for exchange
Blackfoot River flows near the confluence with Snake River
Sand Creek Exchange calculation

EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "**Final Order**" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: The petition must be received by the Department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

i. A hearing was held,
ii. The final agency action was taken,
iii. The party seeking review of the order resides, or
iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) the service date of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.