RECORD OF DECISION

WHEREAS, Section 402 of the Water Quality Protection Act (WQPA), identifies the Water Quality Program as "responsible for the general administration and enforcement of this Act," including promulgating rules and standards, § 402.1(a).

WHEREAS, to that end, WQPA § 502 states that the Water Quality Program "shall adopt, pursuant to the rulemaking procedures in Chapter 6, surface and groundwater quality standards."

WHEREAS, pursuant to WQPA § 502, the Water Quality Program developed Surface Water Quality Standards to control and prevent water pollution on the Fort Hall Reservation, preserve existing surface water quality, serve as cleanup standards, and implement the requirements of the federal Clean Water Act, 33 U.S.C. §§ 1251-1387.

WHEREAS, consistent with WQPA § 601(1)(a), the Water Quality Program published a public notice of the proposed rule in the Sho-Ban News which included the information required by WQPA § 601(2). The Water Quality Program also emailed other Tribal departments and programs, USEPA, the Idaho Department of Environmental Quality, and presented the draft standards at all five of the Reservation District Meetings, WQPA § 601(1)(a). The Notice of Public Hearing was included with the Notice of Proposed Rulemaking.

WHEREAS, the Water Quality Program provided 60 calendar days to submit written comments, see WQPA § 601(1)(b) (requiring a minimum of 30 days), and held a public hearing on January 4, 2022, after providing 46 days of notice, WQPA § 601(1)(c). The Water Quality Program received and recorded oral comments made at the public hearing, and subsequently received written comments from USEPA, Idaho Department of Environmental Quality, FMC, and Simplot.

WHEREAS, the Water Quality Program fully considered all comments—both written and oral—on the Proposed Rule, as required under WQPA § 601(1)(b), and prepared a written response to all significant comments, as required by WQPA § 601(1)(d). The Response to Comments "briefly describe[s] and respond[s] to all significant comments raised during the public comment period, including the public hearing." WQPA § 601(9). In some instances, the Water Quality Program modified the water quality standards, based in part on comments that were submitted. The Response to Comments "specif[ies] where the proposed rule has been changed … and the reasons for the change." *Id.*

WHEREAS, the Response to Comments will be emailed, together with the final rule, to all commenters and posted on the Tribes' Environmental Waste Management website upon approval of this resolution by the Water Resources Commission. See WQPA § 603.

WHEREAS, the Water Quality Program is maintaining a file of the administrative record of this rulemaking, per WQPA § 601.8. The record includes the proposed Surface Water Quality Standards; the public notice; all comments received during the public comment period; the tape or transcript of the public hearing and any written materials submitted at the hearing; the response to comments and any material that is referenced in response to comments; any other documents contained in the supporting file; and the final rule. If requested, the administrative

record will be made available for review, but any copies requested will be made at the requester's expense. *Id.*

WHEREAS, after complying with the rulemaking provisions set out in the Water Quality Protection Act, the Water Quality Program presented these regulations to the Water Resources Commission for approval. The Water Quality Protection Act delegates authority from the Fort Hall Business Council to the Commission to "approve rules pursuant to § 601." WQPA § 302.3.

WHEREAS, pursuant to WQPA § 601.4, the Water Quality Standards will become effective upon passage by the Water Resources Commission.

THEREFORE, BE IT RECORDED THE WATER RESOURCES COMMISSION, the Water Quality Standards have been passed and are effective as of the date of this Record of Decision.

Dated this 20 day of June, 2023.

Arnold Appeney, Chair
Water Resources Commission

CERTIFICATION

I HEREBY CERTIFY, that the foregoing record of decision was passed by a vote of 4 in favor, 0 abstaining ( ), 0 absent ( ), and 1 not voting (AA) on the date this bears.

Sonae Watson, Secretary
Water Resources Commission