

DEPARTMENT OF
WATER RESOURCES

"Parties"), who constitute all the Parties to these consolidated subcases, hereby stipulate and agree, by and through their undersigned counsel, as follows:

1. Stipulation to Entry of Partial Decrees. The United States and the State stipulate to entry of the partial decrees for the United States' Wild and Scenic Rivers Act federal reserved water rights claims numbered 51-13089, 51-13090, 51-13091, 51-13092, 51-13093, 51-13094, 51-13095, 51-13096, 51-13097, 55-13897, 55-13898, 55-13899, 55-13900, 55-13901, 55-13902 and 55-13903, attached hereto and incorporated herein as Attachments 1 through 16 (the "Partial Decrees"). The Partial Decrees confirm the United States' federal reserved water rights pursuant to the Wild and Scenic Rivers Act. The Parties request the Snake River Basin Adjudication Court ("SRBA Court" or "Court") to approve, by granting the Joint Motion for Order Approving Stipulation and Entry of Partial Decrees and entering the attached proposed Order, these Wild and Scenic Rivers federal reserved water rights as agreed to by the Parties and set forth in the Partial Decrees. The Parties agree that the Parties shall bear their own costs and fees. The Parties also agree to entry of a final decree incorporating the Partial Decrees.

2. Administration of Subordination Provisions of Partial Decrees. The Wild and Scenic River water rights to be confirmed by the Partial Decrees are subordinated to certain water rights and uses junior to these federal reserved water rights that have points of diversion or impoundment and places of use within the Wild and Scenic River Basins upstream from the ending point of each Wild and Scenic River reach ("Wild and Scenic River Basins"). Administration of the subordination provisions set forth in Section 10.b. of the Partial Decrees shall be as follows:

a. Receipt of Application by IDWR and Notice. Pursuant to I.C. § 42-203A(3), the Idaho Department of Water Resources ("IDWR") will provide notice of all new

applications for permit to use water on its website. IDWR will also provide notice of all new applications in a newspaper pursuant to I.C. § 42-203A(2). If IDWR determines that the application is entitled to the benefits of subordination under Section 10.b. of the Partial Decrees, a statement regarding subordination will be included on IDWR's website and in the I.C. § 42-203A(2) newspaper notice.

b. New Applications for Permit to Use Water Within Wild and Scenic River Basins.

(1) IDWR will determine whether a new application for permit to use water lists a source that is within any of the Wild and Scenic River Basins.

(2) IDWR will report information regarding all new applications, and the permits and licenses emanating therefrom, that have a source within any of the Wild and Scenic River Basins on a separate display on the IDWR website dedicated to reporting applications, permits, and licenses in the Wild and Scenic River Basins. The website display will:

(A) Include information regarding each application, permit, and license including, but not limited to: (i) water right number, (ii) source, (iii) priority date, (iv) quantity, (v) purpose of use, (vi) ownership, and (vii) the Wild and Scenic River Basin in which appropriation is sought.

(B) Identify whether an application, permit, or license to use water for domestic purposes is entitled to the subordination protection of Section 10.b.(1) of the Partial Decrees based upon

the definition in that Section, including the definition of “subdivision” set forth in Owyhee County Code, Title 10: Subdivision Regulations, Section 10-2-2, Subsections A through D, as it exists on the February 2, 2016 effective date of this Stipulation, and which is attached hereto and incorporated herein as Attachment 17. Any amendments or changes to the definition of “subdivision” in the Owyhee County Code Subdivision Regulations shall have no effect on the definition of “subdivision” for purposes of Section 10.b.(1) of the Partial Decrees or on the purposes or uses, or the diversion rates and volume limitations, encompassed by the subordination to *de minimis* domestic water rights described in that Section.

(C) Identify whether an application, permit, or license to use water for stock watering purposes is entitled to the subordination protection of Section 10.b.(2) of the Partial Decrees based on the definition set forth in that Section.

(D) Identify whether an application, permit, or license to use water for other purposes is entitled to the subordination protection of Section 10.b.(3) of the Partial Decrees based on the definition, amounts, and time periods set forth in that Section. IDWR will also identify whether an application, permit, or license is a right of the United States, an instream flow water right, a nonconsumptive water right, or a replacement water right,

based on the definition set forth in Section 10.b.(3)(D) of the Partial Decrees, such that it should not be deducted from the subordination amounts identified in Section 10.b.(3). For applications, permits, and licenses enjoying the subordination protection of Section 10.b.(3) the database will also include information regarding the quantity enjoying the benefits of subordination for each semi-monthly period from March – June.

(3) IDWR will also maintain information on its website for each Wild and Scenic River Basin including:

(A) Total future subordination quantity listed in Section 10.b.(3) for each semi-monthly period from March – June for each of the Partial Decrees;

(B) Quantity of the Section 10.b.(3) subordination amount that has been used for each semi-monthly period from March – June for each of the Partial Decrees; and

(C) Quantity of the Section 10.b.(3) subordination amount that remains for each semi-monthly period from March – June for each of the Partial Decrees.

c. New Well Driller Reports for Domestic Wells.

(1) IDWR will maintain on its website a current GIS data set of new well driller reports located within the geographic area depicted in Attachment 18, which is incorporated herein by reference.

- (2) Any Party may access the GIS data set and monitor new well construction within the geographic area depicted in Attachment 18 as indicated by new well driller reports added to the data set.
- (3) Any Party who believes a new well is for a purpose or amount that does not meet the definition of *de minimis* domestic use set forth in Section 10.b.(1) of the Partial Decrees, or does not meet the definition of *de minimis* stock water use set forth in Section 10.b.(2) of the Partial Decrees, or is not accounted for as set forth in Section 10.b.(3) of the Partial Decrees, may contest that water use with IDWR.
- (4) If the Party contesting a water use and IDWR cannot resolve the dispute, the disputing Party may seek judicial review under Section 2.f. below.

d. Subordination Conditions. IDWR will include an appropriate subordination condition on any permit or license that enjoys the benefit of subordination under Section 10.b.(3) of the Partial Decrees. The subordination condition for rights enjoying the benefits of subordination under Section 10.b.(3) will list the quantity of the right enjoying subordination for each semi-monthly period March – June. IDWR will not include subordination conditions under Section 10.b.(3) in water right permits and licenses in cumulative amounts that exceed the subordination quantities of the Partial Decrees.

e. Requests to IDWR for Additional Information. Any Party may contact IDWR at any time to request additional information concerning the matters described in paragraphs 2.a. through 2.d. above, or to inform IDWR of concerns raised by IDWR's proposed

determination with respect to any application, permit, or license. Any Party may request reconsideration or explanation by IDWR of implementation or proposed implementation of any subordination provision and the Parties agree to make a good faith effort to resolve questions and reach agreement regarding implementation of the subordination provisions.

f. Resolution of Disputes Concerning Implementation of Stipulation. The Parties and IDWR agree to make good faith efforts to resolve any disputes which arise concerning IDWR's implementation of this Stipulation. IDWR will provide any Party requested information concerning the subject matter of any such disputes. In the event the Parties are unable to resolve any such dispute, any Party may seek review of IDWR's implementation and enforcement of this Stipulation and administration of the water rights confirmed by the Partial Decrees, including, but not limited to, administration of the subordination provisions of the Partial Decrees in the SRBA Court or any successor state court with jurisdiction to enforce the final decree issued by the SRBA Court. Upon a satisfactory showing of IDWR's failure to properly implement, enforce, or administer the Stipulation, Partial Decrees, or subordination provision, such Party shall be entitled to an order under the Court's continuing jurisdiction compelling IDWR to properly administer the Stipulation, Partial Decrees, or subordination provision. Review shall be *de novo* and any disputed factual issues shall be decided based upon a preponderance of the evidence. Judicial review must be brought within six months of the challenged action, or within six months of the notification of the challenged action (if notice is required under the terms of the Stipulation), whichever is later.

3. Continuing Jurisdiction. The Parties request the SRBA Court, by granting the Joint Motion for Order Approving Stipulation and Entry of Partial Decrees and entering the attached proposed Order, to retain jurisdiction for the purpose of resolving disputes regarding the

implementation and enforcement of this Stipulation and administration of the water rights confirmed by the Partial Decrees, including, but not limited to, the administration of the subordination provisions of the Partial Decrees.

4. Parties' Rights to Object to Claims and Protest Permit Applications.

a. Adjudication Claims. This Stipulation does not affect the right of either Party to object to any claim in the SRBA (*i.e.*, claims other than the United States' Wild and Scenic Rivers Act claims which are the subject of this Stipulation), or any claim in any other adjudication, including claims for water uses that come within the subordination provisions of Section 10.b. of the Partial Decrees. Objections to deferred *de minimis* domestic and stock water claims shall be limited to assertions: (1) that the claim does not come within the definition of *de minimis* domestic and stock water rights set forth in Sections 10.b.(1) and (2) of the Partial Decrees; (2) that the claimant does not have necessary federal authorization to occupy or conduct the contemplated activity on federal lands, or other necessary federal approvals; and (3) based on any other grounds permitted by state law, other than that the claimed water right will reduce the quantity of water under the Partial Decrees.

b. Permit Applications. This Stipulation does not affect the right of either Party to protest any application for permit to appropriate water filed with IDWR. The United States expressly reserves the right to protest any application for permit, including applications for water uses that come within the subordination provisions of Section 10.b. of the Partial Decrees: (1) on the grounds that the application is not entitled to the protection of Section 10.b. of the Partial Decree; (2) on the grounds that the applicant does not have necessary federal authorization to occupy or conduct the contemplated activity on federal lands, or other necessary federal approvals; and (3) on any grounds permitted by state law, other than that the claimed

water right: (A) will reduce the quantity of water under the Partial Decrees; (B) will conflict with the local public interest; or (C) is contrary to conservation of water resources within the State of Idaho.

5. Stipulation Does Not Affect Statutory or Regulatory Authority. The Parties agree that nothing in this Stipulation or the Partial Decrees shall be construed or interpreted:

- a. to establish any standard to be used for the quantification of federal reserved water rights;
- b. to limit or affect the authority of the United States or the State provided by statute or regulation; or
- c. as authorization for any person to occupy or conduct activities on lands owned by the United States or the State.

6. Request for Approval of Stipulation. The Parties agree to submit this Stipulation and Joint Motion for Order Approving Stipulation to the SRBA Court in full satisfaction of Claim Nos. 51-13089, 51-13090, 51-13091, 51-13092, 51-13093, 51-13094, 51-13095, 51-13096, 51-13097, 55-13897, 55-13898, 55-13899, 55-13900, 55-13901, 55-13902 and 55-13903. The Parties agree to jointly present affidavits and such other evidence as may be required by the Court for the approval of the Stipulation and Partial Decrees.

7. Defense of Stipulation. The Parties agree to jointly support and defend the Joint Motion for Order Approving the Stipulation and Entry of Partial Decrees against any and all objections or other challenges that may arise in any phase of the SRBA, including any appeals. If the SRBA Court fails to approve the Stipulation and enter the Partial Decrees exactly as set forth herein, the Stipulation is voidable by either Party, provided that the Party electing to void the Stipulation shall notify the other Party and the SRBA Court in writing of that election within

30 days of the order of the Court not approving the Stipulation and/or the Partial Decrees as set forth herein. Failure to provide such notification in the manner provided shall result in forfeiture of such right to void the Stipulation. If the Stipulation is voided, the Parties shall retain all existing claims and objections as though no Stipulation ever existed.

8. Stipulation Not to be Used Against Parties. The Parties agree and request the SRBA Court to confirm by granting the Joint Motion for Order Approving Stipulation and entering the attached proposed Order, that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving legal disputes, including impending litigation, by compromise and settlement and that nothing in this Stipulation, the Partial Decrees, any affidavits or other evidence or pleading submitted for the approval of the Stipulation and/or the Partial Decrees, or any offers or compromises made in the course of negotiating this Stipulation, shall be construed as admissions against interest or tendered or used as evidence to support or oppose any party's claims or objections in the SRBA or in any other adjudication involving claims for the same or similar purposes, including the quantities of water claimed, or in any other manner by any party in the SRBA in any future proceedings in the SRBA, in any appellate proceedings concerning the SRBA, or in any other proceeding, other than those seeking approval of the Order Approving Stipulation and Entry of Partial Decrees, for interpretation, enforcement or administration of this Stipulation or the Partial Decrees, or for a purpose contemplated by Idaho Rule of Evidence 408.

9. Mutual Covenants of Authority. The Parties represent and acknowledge that each of the undersigned is authorized to execute this Stipulation and Joint Motion on behalf of the Party they represent.

10. Non-Severability. The provisions of this Stipulation are not severable. If any provision of this Stipulation is found to be unlawful and of no effect, then the Parties hereto shall resume negotiations to revise such unlawful provision.

11. Effective Date. The effective date of this Stipulation shall be February 2, 2016.

**JOINT MOTION FOR ORDER APPROVING STIPULATION
AND ENTRY OF PARTIAL DECREE**

The Parties request the SRBA Court to: (1) approve the foregoing Stipulation; (2) approve and enter the Partial Decrees for claims numbered 51-13089, 51-13090, 51-13091, 51-13092, 51-13093, 51-13094, 51-13095, 51-13096, 51-13097, 55-13897, 55-13898, 55-13899, 55-13900, 55-13901, 55-13902 and 55-13903; (3) retain jurisdiction for the purpose of resolving any disputes concerning implementation and enforcement of the Stipulation and administration of the water rights confirmed by the Partial Decrees, including, but not limited to, the administration of the subordination provisions of the Partial Decrees, and (4) order that, pursuant to Idaho Rule of Evidence 408, nothing in the Stipulation, the Partial Decrees, any affidavits or other evidence or pleading submitted for the approval of the Stipulation, or any offers or compromises made in the course of negotiating the Stipulation, shall be construed as admissions against interest or tendered or used as evidence to support or oppose any claims or objections in the SRBA or in any other adjudication involving claims for the same or similar purposes, including the quantities of water claimed, or in any other manner by any party in the SRBA in any future proceedings in the SRBA, in any appellate proceedings concerning the SRBA, or in any other proceeding, other than those for interpretation, enforcement, or administration of this Stipulation or the Partial Decrees, or for a purpose contemplated by Idaho Rule of Evidence 408.

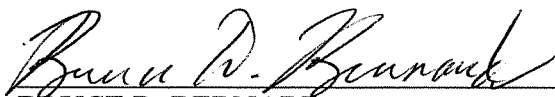
The order sought by this Joint Motion, which is attached hereto, is fully in accordance with Idaho Rule of Evidence 408, as well as the policy underlying that rule and the policy of the SRBA Court directed at furthering the strong public policy favoring out-of-court settlement of disputes over litigation.

Wherefore, the United States and the State respectfully request that this Court grant this Joint Motion in all respects by entering the attached proposed order.

The United States and the State request expedited consideration of this Joint Motion.

The Parties have executed this Stipulation and Joint Motion on the date following their respective signatures.

FOR THE UNITED STATES:



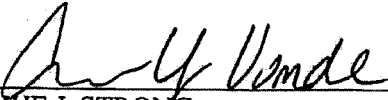
BRUCE D. BERNARD
U.S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
999 18th Street, Suite 370
Denver, Colorado 80202
303 844-1361
bruce.bernard@usdoj.gov

Date: _____

3/29/16

DAVID L. NEGRI
U.S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
550 W. Fort St. MSC033
Boise, ID 83724
208 331-5943
david.negri@usdoj.gov

FOR THE STATE OF IDAHO:



Date: 3/29/16

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
ANN Y. VONDE
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Natural Resources Division
P.O Box 83720
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CERTIFICATE OF SERVICE

I certify that on March 29, 2016, I served true and correct copies of the foregoing STIPULATION AND JOINT MOTION FOR ORDER APPROVING STIPULATION AND ENTRY OF PARTIAL DECREES as follows:

Original via FedEx Overnight delivery:

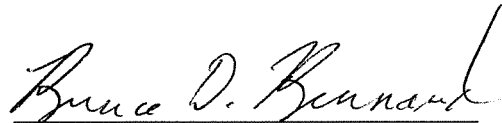
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303
Phone: 208-736-3011

Copies via First Class U.S. Mail, pre-paid:

U.S. Department of Justice
Environment & Natl' Resources
550 West Fort Street, MSC O33
Boise, ID 83724

Director of IDWR
PO Box 83720
Boise, ID 83720-0098

Clive J. Strong
Ann Y. Vonde
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

A handwritten signature in cursive script, reading "Bruce D. Bernard", written in black ink over a horizontal line.

Bruce D. Bernard
U. S. Department of Justice

RECEIVED

NOV 14 1988

DEPARTMENT OF
COMMERCE

ATTACHMENT 1

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APR 04 2016

DEPARTMENT OF
WATER RESOURCES

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 51-13089

Wickahoney Creek Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Wickahoney Creek, tributary to Big Jacks Creek.

3. Quantity of right:

a. Stream flows at the Wickahoney Creek quantification site:

- (1) When the stream flow at the Wickahoney Creek quantification site, as identified in Section 3.a.(3) below ("Wickahoney Creek quantification site"), is less than 7.53 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	0.12	July 1-15	1.14
January 16-31	0.18	July 16-31	0.27
February 1-15	0.19	August 1-15	0.11
February 16-28(29)	0.32	August 16-31	0.06
March 1-15	0.49	September 1-15	0.05
March 16-31	1.46	September 16-30	0.06
April 1-15	3.01	October 1-15	0.08
April 16-30	5.05	October 16-31	0.09
May 1-15	6.93	November 1-15	0.10

May 16-31	8.88	November 16-30	0.11
June 1-15	7.14	December 1-15	0.11
June 16-30	3.79	December 16-31	0.12

- (2) When the stream flow at the Wickahoney Creek quantification site is greater than or equal to 7.53 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 1,720 cfs.
 - (3) The quantification site for the flows identified above at the Wickahoney Creek quantification site is on Wickahoney Creek located in SE1/4 SW1/4NE1/4, Sec.16, T.10S., R.04E., Boise Meridian; Latitude 42° 33' 25.878" N, Longitude 115° 59' 21.115" W (NAD 83).
 - b. This water right does not prohibit the appropriation, diversion and use of water within the Wickahoney Creek Basin upstream from the ending point, as identified in element 5.b. below ("Wickahoney Creek Wild and Scenic River Basin"), when the stream flow at the Wickahoney Creek quantification site exceeds the flow amount in Section 3.a.(1) and is less than 7.53 cfs, or when the stream flow at the Wickahoney Creek quantification site exceeds 1,720 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the Wickahoney Creek Wild and Scenic River Basin.
4. **Priority date:**
- March 30, 2009.
5. **Point of diversion:**
- There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
- a. Location of beginning point:
- At the point where Wickahoney Creek intersects the upstream boundary of the Big Jacks Creek Wilderness:
- SW1/4SW1/4SE1/4, Sec. 09, T.10S., R.04E., Boise Meridian.
Latitude 42° 33' 51.432" N, Longitude 115° 59' 27.954" W
(NAD 83).

b. Location of ending point:

At the point where Wickahoney Creek intersects the confluence with
Big Jacks Creek:

SW1/4SW1/4SW1/4, Sec. 04, T.10S., R.04E., Boise Meridian.
Latitude 42° 34' 47.687" N, Longitude 115° 59' 51.356" W
(NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(195)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated
Wickahoney Creek Wild and Scenic River from the beginning point to the
ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and
evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(195)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 (“Stipulation for Entry of Partial Decrees”), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are

junior to this federal reserved water right and that have points of diversion or impoundment and places of use within the Wickahoney Creek Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1-15	0.04
March 16-31	0.09
April 1-15	0.09
April 16-30	0.18
May 1-15	0.12
May 16-31	0.16
June 1-15	0.09
June 16-30	0.04

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1-15	0.09
March 16-31	0.15
April 1-15	0.33
April 16-30	0.71
May 1-15	1.10
May 16-31	1.42
June 1-15	1.34
June 16-30	0.43

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). "Non-consumptive water rights" means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this _____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 2

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

RECEIVED

APR 04 2016

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576) PARTIAL DECREE FOR
) Federal Reserved Water Right 51-13090
) Sheep Creek Wild & Scenic River
)
)
)
)
)
)

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Sheep Creek, tributary to Bruneau River.

3. Quantity of right:

a. Stream flows at the Sheep Creek quantification site:

- (1) When the stream flow at the Sheep Creek quantification site, as identified in Section 3.a.(3) below ("Sheep Creek quantification site"), is less than 735 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	26.3	July 1-15	66.3
January 16-31	38.0	July 16-31	33.1
February 1-15	96.8	August 1-15	15.7
February 16-28(29)	38.7	August 16-31	4.51
March 1-15	191	September 1-15	8.26
March 16-31	730	September 16-30	8.79
April 1-15	638	October 1-15	23.6
April 16-30	602	October 16-31	20.2
May 1-15	1080	November 1-15	256
May 16-31	1150	November 16-30	50.6

June 1-15	814	December 1-15	25.6
June 16-30	225	December 16-31	22.9

- (2) When the stream flow at the Sheep Creek quantification site is greater than or equal to 735 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 4,950 cfs.
 - (3) The quantification site for the flows identified above at the Sheep Creek quantification site is on Sheep Creek located in NW1/4NE1/4SW1/4, Sec. 02, T.11S., R.07E., Boise Meridian; Latitude 42° 29' 47.982" N, Longitude 115° 36' 16.023" W (NAD 83).
 - b. This water right does not prohibit the appropriation, diversion and use of water within the Sheep Creek Basin upstream from the ending point, as identified in element 5.b. below ("Sheep Creek Wild and Scenic River Basin"), when the stream flow at the Sheep Creek quantification site exceeds the flow amount in Section 3.a.(1) and is less than 735 cfs, or when the stream flow at the Sheep Creek quantification site exceeds 4,950 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the Sheep Creek Wild and Scenic River Basin.
4. **Priority date:**
- March 30, 2009.
5. **Point of diversion:**
- There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
- a. Location of beginning point:

At the point where Sheep Creek intersects the upstream boundary of the Bruneau-Jarbridge Rivers Wilderness:

SW1/4SE1/4NE1/4, Sec. 20, T.13S., R.06E., Boise Meridian.
Latitude 42° 16' 53.92" N, Longitude 115° 46' 12.327" W (NAD 83).

b. Location of ending point:

At the point where Sheep Creek intersects the confluence with the Bruneau River:

SE1/4SW1/4NE1/4, Sec. 02, T.11S., R.07E., Boise Meridian.
Latitude 42° 29' 53.09" N, Longitude 115° 35' 49.353" W (NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(193)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Sheep Creek Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(193)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 ("Stipulation for Entry of Partial Decrees"), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or

impoundment and places of use within the Sheep Creek Basin upstream from the ending point identified in Section 5.b. above:

- (1) All “*de minimis* domestic water rights” which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, “subdivision” is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All “*de minimis* stock water rights” which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	2.16
March 16–31	5.88
April 1–15	9.71
April 16–30	10.32
May 1–15	9.79
May 16–31	8.39
June 1–15	5.44
June 16–30	2.81

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	25.5
March 16–31	52.2
April 1–15	229
April 16–30	282
May 1–15	272
May 16–31	237
June 1–15	149
June 16–30	70.2

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this _____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 3

RECEIVED

APR 11 2018

OFFICE OF THE
CLERK OF THE DISTRICT COURT

RECEIVED

APR 04 2016

DEPARTMENT OF
WATER RESOURCES

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 51-13091

Little Jacks Creek Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Little Jacks Creek, tributary to Big Jacks Creek.

3. Quantity of right:

a. Stream flows at the Little Jacks Creek quantification site:

- (1) When the stream flow at the Little Jacks Creek quantification site, as identified in Section 3.a.(3) below ("Little Jacks Creek quantification site"), is less than 98 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	2.04	July 1-15	2.47
January 16-31	2.19	July 16-31	2.00
February 1-15	2.50	August 1-15	1.72
February 16-28(29)	2.86	August 16-31	1.68
March 1-15	3.31	September 1-15	1.69
March 16-31	4.02	September 16-30	1.72
April 1-15	4.19	October 1-15	1.79
April 16-30	4.46	October 16-31	2.00

May 1-15	4.66	November 1-15	2.00
May 16-31	4.65	November 16-30	2.00
June 1-15	4.13	December 1-15	2.04
June 16-30	3.25	December 16-31	2.04

(2) When the stream flow at the Little Jacks Creek quantification site is greater than or equal to 98 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 1,960 cfs.

(3) The quantification site for the flows identified above at the Little Jacks Creek quantification site is on Little Jacks Creek located in SW1/4SE1/4NW1/4, Sec. 16, T.08S., R.03E., Boise Meridian; Latitude 42° 43' 44.909" N, Longitude 116° 06' 16.033" W (NAD 83).

b. This water right does not prohibit the appropriation, diversion and use of water within the Little Jacks Creek Basin upstream from the ending point, as identified in element 5.b. below ("Little Jacks Creek Wild and Scenic River Basin"), when the stream flow at the Little Jacks Creek quantification site exceeds the flow amount in Section 3.a.(1) and is less than 98 cfs, or when the stream flow at the Little Jacks Creek quantification site exceeds 1,960 cfs.

c. This water right precludes any diversion of water out of the watershed of the Little Jacks Creek Wild and Scenic River Basin.

4. Priority date:

March 30, 2009.

5. Point of diversion:

There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:

a. Location of beginning point:

At the point where Little Jacks Creek intersects the confluence with OX Prong Creek:

NE1/4NW1/4SE1/4, Sec. 21, T.09S., R.02E., Boise Meridian.
Latitude 42° 37' 36.131" N, Longitude 116° 13' 25.037" W
(NAD 83).

b. Location of ending point:

At the point where Little Jacks Creek intersects the confluence with
Little Jacks Creek Wilderness:

NW1/4NW1/4NW1/4, Sec. 21, T.08S., R.03E., Boise Meridian.
Latitude 42° 43' 14.947" N, Longitude 116° 06' 36.993" W
(NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(189)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Little Jacks Creek Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(189)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 (“Stipulation for Entry of Partial Decrees”), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or

impoundment and places of use within the Little Jacks Creek Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	0.50
March 16–31	0.62
April 1–15	0.31
April 16–30	0.34
May 1–15	0.14
May 16–31	0.14
June 1–15	0.09
June 16–30	0.07

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	2.09
March 16–31	2.32
April 1–15	2.70
April 16–30	2.86
May 1–15	3.06
May 16–31	2.99
June 1–15	2.64
June 16–30	2.04

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this _____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 4

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

RECEIVED
APR 04 2016
DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 51-13092

Jarbridge River Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Jarbridge River, tributary to Bruneau River.

3. Quantity of right:

a. Stream flows at the Jarbridge River quantification site:

- (1) When the stream flow at the Jarbridge River quantification site, as identified in Section 3.a.(3) below ("Jarbridge River quantification site"), is less than 691 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	32.4	July 1-15	321
January 16-31	41.6	July 16-31	114
February 1-15	42.6	August 1-15	60.3
February 16-28(29)	48.3	August 16-31	39.6
March 1-15	64.0	September 1-15	33.8
March 16-31	120	September 16-30	30.8
April 1-15	250	October 1-15	34.3
April 16-30	398	October 16-31	38.0

May 1-15	676	November 1-15	42.3
May 16-31	1120	November 16-30	38.6
June 1-15	1030	December 1-15	33.3
June 16-30	801	December 16-31	33.8

- (2) When the stream flow at the Jarbidge River quantification site is greater than or equal to 691 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 6,450 cfs.
- (3) The quantification site for the flows identified above at the Jarbidge River quantification site is on the Jarbidge River located in NE1/4SE1/4NE1/4, Sec. 05, T.13S., R.07E., Boise Meridian; Latitude 42° 19' 42.111" N, Longitude 115° 39' 2.356" W (NAD 83).
- b. This water right does not prohibit the appropriation, diversion and use of water within the Jarbidge River Basin upstream from the ending point, as identified in element 5.b. below ("Jarbidge River Wild and Scenic River Basin"), when the stream flow at the Jarbidge River quantification site exceeds the flow amount in Section 3.a.(1) and is less than 691 cfs, or when the stream flow at the Jarbidge River quantification site exceeds 6,450 cfs.
- c. This water right precludes any diversion of water out of the watershed of the Jarbidge River Wild and Scenic River Basin.

4. Priority date:

March 30, 2009.

5. Point of diversion:

There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:

a. Location of beginning point:

At the point where Jarbidge River intersects the upstream boundary of the Bruneau-Jarbidge Rivers Wilderness:

SE1/4SW1/4NE1/4, Sec. 10, T.16S., R.09E., Boise Meridian.
Latitude 42° 03' 0.686" N, Longitude 115° 23' 26.022" W (NAD 83).

b. Location of ending point:

At the point where Jarbidge River intersects the confluence with the West Fork Bruneau River:

Lot 1 (SE1/4NE1/4NE1/4), Sec. 05, T.13S., R.07E., Boise Meridian. Latitude 42° 19' 46.525" N, Longitude 115° 39' 8.801" W (NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(188)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Jarbidge River Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(188)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 ("Stipulation for Entry of Partial Decrees"), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or

impoundment and places of use within the Jarbidge River Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	2.89
March 16–31	4.73
April 1–15	8.71
April 16–30	14.50
May 1–15	26.39
May 16–31	40.63
June 1–15	46.35
June 16–30	26.95

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	28.7
March 16–31	46.2
April 1–15	72.8
April 16–30	144
May 1–15	272
May 16–31	374
June 1–15	287
June 16–30	147

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this _____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

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APR 04 2018

DEPARTMENT OF
WATER RESOURCES

ATTACHMENT 5

May 16–31	9.41	November 16–30	2.87
June 1–15	6.21	December 1–15	3.14
June 16–30	4.39	December 16–31	2.24

- (2) When the stream flow at the Duncan Creek quantification site is greater than or equal to 66.7 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 861 cfs.
 - (3) The quantification site for the flows identified above at the Duncan Creek quantification site is on Duncan Creek located in NE1/4NW1/4, Sec. 17, T.10S., R.04E., Boise Meridian; Latitude 42° 33' 45.02" N, Longitude 116° 00' 49.936" W (NAD 83).
 - b. This water right does not prohibit the appropriation, diversion and use of water within the Duncan Creek Basin upstream from the ending point, as identified in element 5.b. below ("Duncan Creek Wild and Scenic River Basin"), when the stream flow at the Duncan Creek quantification site exceeds the flow amount in Section 3.a.(1) and is less than 66.7 cfs, or when the stream flow at the Duncan Creek quantification site exceeds 861 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the Duncan Creek Wild and Scenic River Basin.
4. **Priority date:**
- March 30, 2009.
5. **Point of diversion:**
- There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
- a. Location of beginning point:

At the point where Duncan Creek intersects the East boundary of Sec. 18, T10S., R.04E.

SW1/4NW1/4SW1/4, Sec. 17, T.10S., R.04E., Boise Meridian.
Latitude 42° 33' 14.925" N, Longitude 116° 01' 17.023" W
(NAD 83).

b. Location of ending point:

At the point where Duncan Creek intersects the confluence with Big Jacks Creek:

SW1/4SE1/4SW1/4, Sec. 08, T.10S., R.04E., Boise Meridian.
Latitude 42° 33' 51.78" N, Longitude 116° 00' 56.282" W (NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(187)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Duncan Creek Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(187)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 ("Stipulation for Entry of Partial Decrees"), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are

junior to this federal reserved water right and that have points of diversion or impoundment and places of use within the Duncan Creek Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	0.20
March 16–31	0.40
April 1–15	0.26
April 16–30	0.36
May 1–15	0.18
May 16–31	0.14
June 1–15	0.08
June 16–30	0.06

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	0.83
March 16–31	0.94
April 1–15	1.04
April 16–30	1.79
May 1–15	2.54
May 16–31	2.19
June 1–15	1.84
June 16–30	1.55

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this _____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 6

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DEPARTMENT OF
WATER RESOURCES

May 1-15	4.16	November 1-15	1.84
May 16-31	4.36	November 16-30	1.88
June 1-15	4.17	December 1-15	1.88
June 16-30	3.70	December 16-31	1.90

- (2) When the stream flow at the Cottonwood Creek quantification site is greater than or equal to 4.14 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 429 cfs.
- (3) The quantification site for the flows identified above at the Cottonwood Creek quantification site is on Cottonwood Creek located in SW1/4NW1/4, Sec. 23, T.10S., R.03E., Boise Meridian; Latitude 42° 32' 41.071" N, Longitude 116° 04' 41.083" W (NAD 83).
- b. This water right does not prohibit the appropriation, diversion and use of water within the Cottonwood Creek Basin upstream from the ending point, as identified in element 5.b. below ("Cottonwood Creek Wild and Scenic River Basin"), when the stream flow at the Cottonwood Creek quantification site exceeds the flow amount in Section 3.a.(1) and is less than 4.14 cfs, or when the stream flow at the Cottonwood Creek quantification site exceeds 429 cfs.
- c. This water right precludes any diversion of water out of the watershed of the Cottonwood Creek Wild and Scenic River Basin.

4. Priority date:

March 30, 2009.

5. Point of diversion:

There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:

a. Location of beginning point:

At the point where Cottonwood Creek intersects the upstream boundary of the Big Jacks Creek Wilderness:

SE1/4NW1/4NE1/4, Sec. 34, T.10S., R.03E., Boise Meridian.
Latitude 42° 31' 02.404" N, Longitude 116° 05' 08.378" W
(NAD 83).

b. Location of ending point:

At the point where Cottonwood Creek intersects the confluence with Big Jacks Creek:

SE1/4NW1/4NW1/4, Sec. 23, T.10S., R.03E., Boise Meridian.
Latitude 42° 32' 52.28" N, Longitude 116° 04' 38.844" W (NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(184)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Cottonwood Creek Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(184)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 (“Stipulation for Entry of Partial Decrees”), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or

impoundment and places of use within the Cottonwood Creek Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	0.43
March 16–31	0.50
April 1–15	0.27
April 16–30	0.30
May 1–15	0.13
May 16–31	0.14
June 1–15	0.10
June 16–30	0.08

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	1.82
March 16–31	1.99
April 1–15	2.32
April 16–30	2.68
May 1–15	2.91
May 16–31	3.06
June 1–15	3.03
June 16–30	2.42

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

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ATTACHMENT 7

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APR 04 2013

DEPARTMENT OF
WATER RESOURCES

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 51-13095

West Fork Bruneau River Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

West Fork Bruneau River, tributary to Bruneau River.

3. Quantity of right:

a. Stream flows at the West Fork Bruneau River quantification site:

- (1) When the stream flow at the West Fork Bruneau River quantification site, as identified in Section 3.a.(3) below ("West Fork Bruneau River quantification site"), is less than 625 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	49.0	July 1-15	203
January 16-31	60.4	July 16-31	81.9
February 1-15	66.1	August 1-15	44.6
February 16-28(29)	90.9	August 16-31	30.8
March 1-15	118	September 1-15	28.4
March 16-31	900	September 16-30	30.1
April 1-15	900	October 1-15	36.8
April 16-30	900	October 16-31	39.1
May 1-15	900	November 1-15	43.2

May 16-31	900	November 16-30	46.6
June 1-15	900	December 1-15	46.6
June 16-30	900	December 16-31	48.0

- (2) When the stream flow at the West Fork Bruneau River quantification site is greater than or equal to 625 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 7,210 cfs.
 - (3) The quantification site for the flows identified above at the West Fork Bruneau River quantification site is on the West Fork Bruneau River located in NW1/4SE1/4NE1/4, Sec. 05, T.13S., R.07E., Boise Meridian; Latitude 42° 19' 40.011" N, Longitude 115° 39' 11.978" W (NAD 83).
 - b. This water right does not prohibit the appropriation, diversion and use of water within the West Fork Bruneau River Basin upstream from the ending point, as identified in element 5.b. below ("West Fork Bruneau River Wild and Scenic River Basin"), when the stream flow at the West Fork Bruneau River quantification site exceeds the flow amount in Section 3.a.(1) and is less than 625 cfs, or when the stream flow at the West Fork Bruneau River quantification site exceeds 7,210 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the West Fork Bruneau River Wild and Scenic River Basin.
4. **Priority date:**
- March 30, 2009.
5. **Point of diversion:**
- There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
- a. Location of beginning point:

At the point on the West Fork Bruneau River approximately 0.35 miles upstream of the confluence with the Jarbidge River within SE1/4 NE1/4, Sec. 05, T.13S., R.07E., BM:

SW1/4SE1/4NE1/4, Sec. 05, T.13S., R.07E., Boise Meridian.
Latitude 42° 19' 30.124" N, Longitude 115° 39' 15.705" W
(NAD 83).

b. Location of ending point:

At the point where West Fork Bruneau River intersects the confluence with the Jarbidge River:

Lot 1 (SE1/4NE1/4NE1/4), Sec. 05, T.13S., R.07E., Boise Meridian. Latitude 42° 19' 46.257" N, Longitude 115° 39' 9.097" W (NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(183)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated West Fork Bruneau River Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(183)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 ("Stipulation for Entry of Partial Decrees"), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or

impoundment and places of use within the West Fork Bruneau River Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	2.03
March 16–31	3.41
April 1–15	4.83
April 16–30	7.32
May 1–15	10.50
May 16–31	12.13
June 1–15	9.23
June 16–30	5.46

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	41.5
March 16–31	56.0
April 1–15	92.7
April 16–30	150
May 1–15	197
May 16–31	231
June 1–15	223
June 16–30	107

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 8

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

RECEIVED

APR 04 2016

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 51-13096

Big Jacks Creek Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Big Jacks Creek, tributary to Bruneau River.

3. Quantity of right:

a. Stream flows at the Big Jacks Creek quantification site:

- (1) When the stream flow at the Big Jacks Creek quantification site, as identified in Section 3.a.(3) below ("Big Jacks Creek quantification site"), is less than 83.4 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	0.50	July 1-15	2.90
January 16-31	1.10	July 16-31	1.50
February 1-15	2.60	August 1-15	0.97
February 16-28(29)	7.36	August 16-31	0.97
March 1-15	14.0	September 1-15	0.93
March 16-31	35.0	September 16-30	0.93
April 1-15	27.0	October 1-15	0.97
April 16-30	14.0	October 16-31	1.20
May 1-15	12.0	November 1-15	1.40

May 16-31	9.10	November 16-30	1.40
June 1-15	6.82	December 1-15	1.00
June 16-30	3.80	December 16-31	0.0333

(2) When the stream flow at the Big Jacks Creek quantification site is greater than or equal to 83.4 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 5,110 cfs.

(3) The quantification site for the flows identified above at the Big Jacks Creek quantification site is on Big Jacks Creek located in NE1/4 SE1/4NW1/4, Sec. 08, T.08S., R.04E., Boise Meridian; Latitude 42° 44' 46.029" N, Longitude 116° 00' 14.956" W (NAD 83).

- b. This water right does not prohibit the appropriation, diversion and use of water within the Big Jacks Creek Basin upstream from the ending point, as identified in element 5.b. below ("Big Jacks Creek Wild and Scenic River Basin"), when the stream flow at the Big Jacks Creek quantification site exceeds the flow amount in Section 3.a.(1) and is less than 83.4 cfs, or when the stream flow at the Big Jacks Creek quantification site exceeds 5,110 cfs.
- c. This water right precludes any diversion of water out of the watershed of the Big Jacks Creek Wild and Scenic River Basin.

4. Priority date:

March 30, 2009.

5. Point of diversion:

There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:

a. Location of beginning point:

At the point where Big Jacks Creek enters the NW1/4, Sec. 26, T.10S, R.02E.:

NW1/4SW1/4NE1/4, Sec. 26, T.10S., R.02E., Boise Meridian.
Latitude 42° 31' 46.164" N, Longitude 116° 11' 16.787" W
(NAD 83).

b. Location of ending point:

At the point where Big Jacks Creek intersects the downstream border of Big Jacks Creek Wilderness in Sec. 08, T.08S., R.04E.:

NE1/4SE1/4NW1/4, Sec. 08, T.08S., R.04E., Boise Meridian.
Latitude 42° 44' 46.029" N, Longitude 116° 00' 14.956" W
(NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(181)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Big Jacks Creek Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(181)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 ("Stipulation for Entry of Partial Decrees"), and pursuant to that Stipulation,

this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or impoundment and places of use within the Big Jacks Creek Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	0.00
March 16–31	0.71
April 1–15	0.33
April 16–30	0.15
May 1–15	0.04
May 16–31	0.00
June 1–15	0.00
June 16–30	0.00

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	7.07
March 16–31	7.07
April 1–15	3.11
April 16–30	3.11
May 1–15	4.66
May 16–31	4.66
June 1–15	3.51
June 16–30	3.51

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 9

RECEIVED
APR 14 2018
DEPARTMENT OF
SOCIAL SERVICES

RECEIVED

APR 04 2016

DEPARTMENT OF
WATER RESOURCES

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 51-13097

Bruneau River Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Bruneau River, tributary to the Snake River.

3. Quantity of right:

a. Stream flows at the Bruneau River quantification site:

- (1) When the stream flow at the Bruneau River quantification site, as identified in Section 3.a.(3) below ("Bruneau River quantification site"), is less than 895 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	163.0	July 1-15	380.0
January 16-31	196.5	July 16-31	248.0
February 1-15	230.0	August 1-15	116.0
February 16-28(29)	345.0	August 16-31	105.0
March 1-15	460.0	September 1-15	94.0
March 16-31	805.0	September 16-30	107.0
April 1-15	1150	October 1-15	120.0
April 16-30	1440	October 16-31	129.5
May 1-15	1730	November 1-15	139.0

May 16-31	1540	November 16-30	143.5
June 1-15	1350	December 1-15	148.0
June 16-30	865.0	December 16-31	155.5

- (2) When the stream flow at the Bruneau River quantification site is greater than or equal to 895 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 7,640 cfs.
 - (3) The quantification site for the flows identified above at the Bruneau River quantification site is on the Bruneau River located in NW1/4NW1/4NW1/4, Sec. 26, T.07S., R.06E., Boise Meridian; Latitude 42° 47' 29" N, Longitude 115° 43' 7" W (NAD 83).
- b. This water right does not prohibit the appropriation, diversion and use of water within the Bruneau River Basin upstream from the ending point, as identified in element 5.b. below ("Bruneau River Wild and Scenic River Basin"), when the stream flow at the Bruneau River quantification site exceeds the flow amount in Section 3.a.(1) and is less than 895 cfs, or when the stream flow at the Bruneau River quantification site exceeds 7,640 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the Bruneau River Wild and Scenic River Basin.

4. Priority date:

March 30, 2009.

5. Point of diversion:

There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:

a. Location of beginning point:

At the point where Bruneau River intersects the confluence with the West Fork Bruneau River:

Lot 1 (SE1/4NE1/4NE1/4), Sec. 05, T.13S., R.07E., Boise Meridian. Latitude 42° 19' 46" N, Longitude 115° 39' 9" W (NAD 83).

b. Location of ending point:

At the point where Bruneau River intersects the downstream boundary of the Bruneau-Jarbidge Wilderness:

SW1/4SW1/4SW1/4, Sec. 02, T.08S., R.06E., Boise Meridian.
Latitude 42° 45' 16" N, Longitude 115° 43' 32" W (NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(182)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Bruneau River Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(182)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 (“Stipulation for Entry of Partial Decrees”), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or

impoundment and places of use within the Bruneau River Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	7.77
March 16–31	13.67
April 1–15	15.46
April 16–30	22.11
May 1–15	29.46
May 16–31	25.68
June 1–15	19.84
June 16–30	12.15

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	148.0
March 16–31	231.7
April 1–15	315.0
April 16–30	452.7
May 1–15	590.0
May 16–31	502.9
June 1–15	416.0
June 16–30	256.9

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 10

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

RECEIVED

APR 04 2016

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 55-13897

Deep Creek Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Deep Creek, tributary to Owyhee River.

3. Quantity of right:

a. Stream flows at the Deep Creek quantification site:

- (1) When the stream flow at the Deep Creek quantification site, as identified in Section 3.a.(3) below ("Deep Creek quantification site"), is less than 1,650 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	2.56	July 1-15	29.30
January 16-31	6.04	July 16-31	3.54
February 1-15	5.47	August 1-15	0.67
February 16-28(29)	12.00	August 16-31	0.24
March 1-15	53.50	September 1-15	0.24
March 16-31	600	September 16-30	0.42
April 1-15	1630	October 1-15	0.83
April 16-30	3020	October 16-31	1.21
May 1-15	3420	November 1-15	1.56

May 16-31	3200	November 16-30	1.68
June 1-15	1240	December 1-15	1.68
June 16-30	294	December 16-31	1.96

- (2) When the stream flow at the Deep Creek quantification site is greater than or equal to 1,650 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 7,720 cfs.
- (3) The quantification site for the flows identified above at the Deep Creek quantification site is on Deep Creek located in SW1/4NE1/4NW1/4, Sec. 25, T.13S., R.03W., Boise Meridian; Latitude 42° 16' 06.931" N, Longitude 116° 38' 30.215" W (NAD 83).
- b. This water right does not prohibit the appropriation, diversion and use of water within the Deep Creek Basin upstream from the ending point, as identified in element 5.b. below ("Deep Creek Wild and Scenic River Basin"), when the stream flow at the Deep Creek quantification site exceeds the flow amount in Section 3.a.(1) and is less than 1,650 cfs, or when the stream flow at the Deep Creek quantification site exceeds 7,720 cfs.
- c. This water right precludes any diversion of water out of the watershed of the Deep Creek Wild and Scenic River Basin.
4. **Priority date:**
- March 30, 2009.
5. **Point of diversion:**

There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:

a. Location of beginning point:

At the point where Deep Creek intersects the boundary of the Owyhee River Wilderness:

SW1/4SE1/4SW1/4, Sec. 30, T.12S., R.02W., Boise Meridian.
Latitude 42° 20' 47.288" N, Longitude 116° 37' 16.413" W
(NAD 83).

b. Location of ending point:

At the point where Deep Creek intersects the confluence with the Owyhee River:

NE1/4NW1/4SW1/4, Sec. 25, T.13S., R.03W., Boise Meridian.
Latitude 42° 15' 53.13" N, Longitude 116° 38' 39.018" W (NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(185)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Deep Creek Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(185)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 ("Stipulation for Entry of Partial Decrees"), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are

junior to this federal reserved water right and that have points of diversion or impoundment and places of use within the Deep Creek Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	0.22
March 16–31	1.40
April 1–15	6.48
April 16–30	12.91
May 1–15	29.74
May 16–31	18.05
June 1–15	14.41
June 16–30	2.69

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	2.29
March 16–31	10.20
April 1–15	34.50
April 16–30	80.40
May 1–15	76.50
May 16–31	88.70
June 1–15	45.90
June 16–30	3.58

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

RECEIVED
APR 04 2008
DEPARTMENT OF
CORRECTIONS

ATTACHMENT 11

RECEIVED

APR 04 2016

DEPARTMENT OF
WATER RESOURCES

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 55-13898

Dickshooter Creek Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Dickshooter Creek, tributary to Deep Creek.

3. Quantity of right:

a. Stream flows at the Dickshooter Creek quantification site:

- (1) When the stream flow at the Dickshooter Creek quantification site, as identified in Section 3.a.(3) below ("Dickshooter Creek quantification site"), is less than 146 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	4.22	July 1-15	8.17
January 16-31	4.025	July 16-31	6.78
February 1-15	4.09	August 1-15	5.38
February 16-28(29)	3.85	August 16-31	5.58
March 1-15	3.61	September 1-15	5.78
March 16-31	14.56	September 16-30	6.55
April 1-15	25.50	October 1-15	7.32
April 16-30	28.00	October 16-31	7.83
May 1-15	30.50	November 1-15	8.33

May 16-31	23.95	November 16-30	8.69
June 1-15	17.40	December 1-15	9.04
June 16-30	12.79	December 16-31	5.77

- (2) When the stream flow at the Dickshooter Creek quantification site is greater than or equal to 146 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 1,970 cfs.
 - (3) The quantification site for the flows identified above at the Dickshooter Creek quantification site is on Dickshooter Creek located in NW1/4NW1/4, Sec. 32, T.12S., R.02W., Boise Meridian; Latitude 42° 20' 34.451" N, Longitude 116° 36' 23.189" W (NAD 83).
- b. This water right does not prohibit the appropriation, diversion and use of water within the Dickshooter Creek Basin upstream from the ending point, as identified in element 5.b. below ("Dickshooter Creek Wild and Scenic River Basin"), when the stream flow at the Dickshooter Creek quantification site exceeds the flow amount in Section 3.a.(1) and is less than 146 cfs, or when the stream flow at the Dickshooter Creek quantification site exceeds 1,970 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the Dickshooter Creek Wild and Scenic River Basin.
4. **Priority date:**
- March 30, 2009.
5. **Point of diversion:**
- There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
- a. Location of beginning point:
- At a point on Dickshooter Creek 1/4 miles due west of the east boundary of Sec. 16, T.12S., R.02W.:
- NE1/4SW1/4NE1/4, Sec. 16, T.12S., R.02W., Boise Meridian.
Latitude 42° 23' 0.871" N, Longitude 116° 34' 26.421" W (NAD 83).

b. Location of ending point:

At the point where Dickshooter Creek intersects with the confluence of Deep Creek:

NE1/4SE1/4NE1/4, Sec. 31, T.12S., R.02W., Boise Meridian.
Latitude 42° 20' 26.765" N, Longitude 116° 36' 31.449" W
(NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(186)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Dickshooter Creek Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(186)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 ("Stipulation for Entry of Partial Decrees"), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are

junior to this federal reserved water right and that have points of diversion or impoundment and places of use within the Dickshooter Creek Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	0.04
March 16–31	0.09
April 1–15	0.21
April 16–30	0.27
May 1–15	0.40
May 16–31	0.33
June 1–15	0.51
June 16–30	0.41

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	1.77
March 16–31	2.42
April 1–15	3.06
April 16–30	4.88
May 1–15	6.70
May 16–31	5.96
June 1–15	5.21
June 16–30	4.28

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this _____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 12

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

RECEIVED
APR 04 2016
DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 55-13899

North Fork Owyhee River Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

North Fork Owyhee River, tributary to Owyhee River.

3. Quantity of right:

a. Stream flows at the North Fork Owyhee River quantification site:

- (1) When the stream flow at the North Fork Owyhee River quantification site, as identified in Section 3.a.(3) below ("North Fork Owyhee River quantification site"), is less than 242 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	16.30	July 1-15	43.80
January 16-31	23.10	July 16-31	18.60
February 1-15	22.20	August 1-15	9.52
February 16-28(29)	30.50	August 16-31	6.23
March 1-15	55.80	September 1-15	6.23
March 16-31	200	September 16-30	7.86
April 1-15	222	October 1-15	10.40
April 16-30	285	October 16-31	12.10
May 1-15	300	November 1-15	13.40

May 16-31	292	November 16-30	13.80
June 1-15	200	December 1-15	13.80
June 16-30	200	December 16-31	14.70

- (2) When the stream flow at the North Fork Owyhee River quantification site is greater than or equal to 242 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 2,200 cfs.
 - (3) The quantification site for the flows identified above at the North Fork Owyhee River quantification site is on the North Fork Owyhee River located in NE1/4SE1/4SE1/4, Sec. 36, T.09S., R.06W., Boise Meridian; Latitude 42° 35' 17.597" N, Longitude 117° 00' 1.422" W (NAD 83).
- b. This water right does not prohibit the appropriation, diversion and use of water within the North Fork Owyhee River Basin upstream from the ending point, as identified in element 5.b. below ("North Fork Owyhee River Wild and Scenic River Basin"), when the stream flow at the North Fork Owyhee River quantification site exceeds the flow amount in Section 3.a.(1) and is less than 242 cfs, or when the stream flow at the North Fork Owyhee River quantification site exceeds 2,200 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the North Fork Owyhee River Wild and Scenic River Basin.
- 4. Priority date:**
- March 30, 2009.
- 5. Point of diversion:**
- There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
- a. Location of beginning point:
- At the point where North Fork Owyhee River intersects the boundary of the North Fork Owyhee River Wilderness:
- NW1/4SW1/4SW1/4, Sec. 02, T.09S., R.04W., Boise Meridian.
Latitude 42° 39' 54.582" N, Longitude 116° 47' 04.44" W (NAD 83).

b. Location of ending point:

At the point where North Fork Owyhee River intersects the Idaho-Oregon border:

Lot 3 (NE1/4SE1/4), Sec. 10, T.10S., R.06W., Boise Meridian.
Latitude 42° 34' 01.281" N, Longitude 117° 01' 35.172" W
(NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(190)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated North Fork Owyhee River Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(190)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 ("Stipulation for Entry of Partial Decrees"), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are

junior to this federal reserved water right and that have points of diversion or impoundment and places of use within the North Fork Owyhee River Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	0.58
March 16–31	1.23
April 1–15	2.74
April 16–30	3.61
May 1–15	5.64
May 16–31	4.59
June 1–15	6.27
June 16–30	3.19

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	15.6
March 16–31	28.6
April 1–15	46.7
April 16–30	65.8
May 1–15	64.5
May 16–31	68.5
June 1–15	52.5
June 16–30	18.7

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 13

RECEIVED
APR 04 2012
DEPARTMENT OF
STATE RECORDS

RECEIVED
APR 04 2016
DEPARTMENT OF
WATER RESOURCES

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 55-13900

Owyhee River Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Owyhee River, tributary to Snake River.

3. Quantity of right:

a. Stream flows at the Owyhee River quantification site:

- (1) When the stream flow at the Owyhee River quantification site, as identified in Section 3.a.(3) below ("Owyhee River quantification site"), is less than 4,060 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	122	July 1-15	134
January 16-31	274	July 16-31	73.1
February 1-15	343	August 1-15	58.2
February 16-28(29)	601	August 16-31	48.9
March 1-15	1110	September 1-15	46.8
March 16-31	2380	September 16-30	52.2
April 1-15	2310	October 1-15	51.4
April 16-30	1730	October 16-31	55.5
May 1-15	1440	November 1-15	61.3

May 16-31	1050	November 16-30	75.8
June 1-15	674	December 1-15	97.3
June 16-30	313	December 16-31	117

- (2) When the stream flow at the Owyhee River quantification site is greater than or equal to 4,060 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 47,400 cfs.
 - (3) The quantification site for the flows identified above at the Owyhee River quantification site is on the Owyhee River located in NW1/4SW1/4SE1/4, Sec. 25, T.13S., R.05W., Boise Meridian; Latitude 42° 15' 36.558" N, Longitude 116° 52' 12.404" W (NAD 83).
 - b. This water right does not prohibit the appropriation, diversion and use of water within the Owyhee River Basin upstream from the ending point, as identified in element 5.b. below ("Owyhee River Wild and Scenic River Basin"), when the stream flow at the Owyhee River quantification site exceeds the flow amount in Section 3.a.(1) and is less than 4,060 cfs, or when the stream flow at the Owyhee River quantification site exceeds 47,400 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the Owyhee River Wild and Scenic River Basin.
4. **Priority date:**
- March 30, 2009.
5. **Point of diversion:**
- There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
- a. Location of beginning point:
- At the point where the Owyhee River intersects the upstream boundary of the Owyhee River Wilderness:
- Lot 2 (SE1/4SE1/4NE1/4), Sec. 24, T.15S., R.01W., Boise Meridian. Latitude 42° 06' 18.904" N, Longitude 116° 23' 35.59" W (NAD 83).

b. Location of ending point:

At the point where the Owyhee River intersects the Idaho-Oregon border:

Lot 3 (SW1/4NE1/4), Sec. 03, T.13S., R.06W., Boise Meridian.
Latitude 42° 19' 29.471" N, Longitude 117° 01' 35.281" W
(NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(191)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Owyhee River Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(191)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 (“Stipulation for Entry of Partial Decrees”), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are

junior to this federal reserved water right and that have points of diversion or impoundment and places of use within the Owyhee River Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	6.32
March 16–31	14.10
April 1–15	23.67
April 16–30	23.01
May 1–15	22.01
May 16–31	15.17
June 1–15	15.16
June 16–30	7.39

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	108
March 16–31	199
April 1–15	229
April 16–30	184
May 1–15	144
May 16–31	90.9
June 1–15	75.6
June 16–30	49.5

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 14

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

Red Canyon Wild & Scenic River

June 1-15	21.80	December 1-15	13.20
June 16-30	16.70	December 16-31	15.80

- (2) When the stream flow at the Red Canyon quantification site is greater than or equal to 111 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 1,430 cfs.
 - (3) The quantification site for the flows identified above at the Red Canyon quantification site is on Red Canyon located in SW1/4NW1/4NW1/4, Sec. 20, T.13S., R.04W., Boise Meridian; Latitude 42° 17' 1.835" N, Longitude 116° 50' 25.002" W (NAD 83).
 - b. This water right does not prohibit the appropriation, diversion and use of water within the Red Canyon Basin upstream from the ending point, as identified in element 5.b. below ("Red Canyon Wild and Scenic River Basin"), when the stream flow at the Red Canyon quantification site exceeds the flow amount in Section 3.a.(1) and is less than 111 cfs, or when the stream flow at the Red Canyon quantification site exceeds 1,430 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the Red Canyon Wild and Scenic River Basin.
4. **Priority date:**
- March 30, 2009.

5. **Point of diversion:**

There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:

a. Location of beginning point:

At the point where Red Canyon intersects the upstream boundary of the Owyhee River Wilderness:

NW1/4NE1/4SE1/4, Sec. 31, T.12S., R.04W., Boise Meridian.
Latitude 42° 20' 11.687" N, Longitude 116° 50' 54.593" W
(NAD 83).

b. Location of ending point:

At the point where Red Canyon intersects the confluence of the Owyhee River:

SW1/4NW1/4NW1/4, Sec. 20, T.13S., R.04W., Boise Meridian.
Latitude 42° 17' 1.739" N, Longitude 116° 50' 23.334" W (NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(192)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Red Canyon Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(192)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 (“Stipulation for Entry of Partial Decrees”), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or

impoundment and places of use within the Red Canyon Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	0.46
March 16–31	0.53
April 1–15	0.81
April 16–30	0.75
May 1–15	0.81
May 16–31	0.66
June 1–15	0.98
June 16–30	0.75

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	13.80
March 16–31	13.65
April 1–15	13.50
April 16–30	12.85
May 1–15	12.20
May 16–31	10.71
June 1–15	9.22
June 16–30	7.13

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this _____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 15

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 55-13902

South Fork Owyhee River Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

South Fork Owyhee River, tributary to Owyhee River.

3. Quantity of right:

a. Stream flows at the South Fork Owyhee River quantification site:

- (1) When the stream flow at the South Fork Owyhee River quantification site, as identified in Section 3.a.(3) below ("South Fork Owyhee River quantification site"), is less than 1,810 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	93.9	July 1-15	102
January 16-31	186	July 16-31	61.0
February 1-15	225	August 1-15	50.4
February 16-28(29)	650	August 16-31	43.5
March 1-15	650	September 1-15	41.9
March 16-31	1150	September 16-30	45.9
April 1-15	1120	October 1-15	45.4
April 16-30	878	October 16-31	48.4
May 1-15	751	November 1-15	52.6

May 16-31	650	November 16-30	63.0
June 1-15	650	December 1-15	77.7
June 16-30	208	December 16-31	90.8

- (2) When the stream flow at the South Fork Owyhee River quantification site is greater than or equal to 1,810 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 30,500 cfs.
 - (3) The quantification site for the flows identified above at the South Fork Owyhee River quantification site is on the South Fork Owyhee River located in SE1/4NE1/4NW1/4, Sec. 36, T.14S., R.05W., Boise Meridian; Latitude 42° 10' 3.541" N, Longitude 116° 52' 18.556" W (NAD 83).
- b. This water right does not prohibit the appropriation, diversion and use of water within the South Fork Owyhee River Basin upstream from the ending point, as identified in element 5.b. below ("South Fork Owyhee River Wild and Scenic River Basin"), when the stream flow at the South Fork Owyhee River quantification site exceeds the flow amount in Section 3.a.(1) and is less than 1,810 cfs, or when the stream flow at the South Fork Owyhee River quantification site exceeds 30,500 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the South Fork Owyhee River Wild and Scenic River Basin.
4. **Priority date:**

March 30, 2009.
 5. **Point of diversion:**

There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
 - a. Location of beginning point:

At the point where the South Fork Owyhee River intersects the upstream boundary of the Owyhee River Wilderness, which is at the Idaho-Nevada State Border:

Lot 1 (SW1/4SE1/4SE1/4), Sec. 29, T.16S., R.03W., Boise Meridian. Latitude 41° 59' 52.658" N, Longitude 116° 42' 32.208" W (NAD 83).

b. Location of ending point:

At the point where the South Fork Owyhee River intersects the confluence with the Owyhee River:

SW1/4SW1/4NE1/4, Sec. 26, T.13S., R.05W., Boise Meridian.
Latitude 42° 15' 55.419" N, Longitude 116° 53' 21.054" W
(NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(194)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated South Fork Owyhee River Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037–1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(194)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 (“Stipulation for Entry of Partial Decrees”), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or

impoundment and places of use within the South Fork Owyhee River Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	15.88
March 16–31	31.24
April 1–15	42.54
April 16–30	41.53
May 1–15	57.15
May 16–31	41.74
June 1–15	38.13
June 16–30	20.82

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	84.9
March 16–31	142
April 1–15	159
April 16–30	133
May 1–15	108
May 16–31	73.4
June 1–15	62.8
June 16–30	43.9

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than incidental evaporation or seepage) as determined at the point(s)

of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 16

See Note at End of Partial Decree and
Attachment 4 to the Final Unified
Decree

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

PARTIAL DECREE FOR

Federal Reserved Water Right 55-13903

Battle Creek Wild & Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the
Department of the Interior, Bureau of Land Management
Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709-1657

2. Source of water:

Battle Creek, tributary to Owyhee River.

3. Quantity of right:

a. Stream flows at the Battle Creek quantification site:

- (1) When the stream flow at the Battle Creek quantification site, as identified in Section 3.a.(3) below ("Battle Creek quantification site"), is less than 389 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	17.20	July 1-15	18.60
January 16-31	35.30	July 16-31	10.90
February 1-15	43.10	August 1-15	8.90
February 16-28(29)	200	August 16-31	7.61
March 1-15	200	September 1-15	7.33
March 16-31	242	September 16-30	8.07
April 1-15	236	October 1-15	7.97
April 16-30	182	October 16-31	8.53
May 1-15	154	November 1-15	9.31

May 16-31	117	November 16-30	11.30
June 1-15	78.70	December 1-15	14.10
June 16-30	39.80	December 16-31	16.60

- (2) When the stream flow at the Battle Creek quantification site is greater than or equal to 389 cfs (as adjusted by upstream junior depletions, including depletions from water rights enjoying the subordination provided in this right), the United States is entitled to all flows, up to 4,810 cfs.
 - (3) The quantification site for the flows identified above at the Battle Creek quantification site is on Battle Creek located in Lot 3 (SW1/4NE1/4NW1/4), Sec. 01, T.14S., R.02W., Boise Meridian; Latitude 42° 14' 24.088" N, Longitude 116° 31' 26.95" W (NAD 83).
 - b. This water right does not prohibit the appropriation, diversion and use of water within the Battle Creek Basin upstream from the ending point, as identified in element 5.b. below ("Battle Creek Wild and Scenic River Basin"), when the stream flow at the Battle Creek quantification site exceeds the flow amount in Section 3.a.(1) and is less than 389 cfs, or when the stream flow at the Battle Creek quantification site exceeds 4,810 cfs.
 - c. This water right precludes any diversion of water out of the watershed of the Battle Creek Wild and Scenic River Basin.
4. **Priority date:**
- March 30, 2009.
5. **Point of diversion:**
- There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
- a. Location of beginning point:

At the point where the Battle Creek intersects with the boundary of the Owyhee River Wilderness:

SE1/4SE1/4NW1/4, Sec. 17, T.12S., R.01E., Boise Meridian.
Latitude 42° 22' 56.21" N, Longitude 116° 21' 58.459" W (NAD 83).

b. Location of ending point:

At the point where Battle Creek intersects with the confluence of the Owyhee River:

Primary channel: NW1/4SW1/4NW1/4, Sec. 01, T.14S., R.02W., Boise Meridian. Latitude 42° 14' 17.187" N, Longitude 116° 31' 44.996" W (NAD 83).

6. **Purpose of use:**

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(180)).

7. **Period of use:**

January 1–December 31.

8. **Place of use:**

This instream flow water right is used throughout the designated Battle Creek Wild and Scenic River from the beginning point to the ending point as identified above.

9. **Annual volume of consumptive use:**

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. **Other Provisions Necessary for Definition or Administration of the Water Right:**

- a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 [1037-1039], March 30, 2009 (codified as amended at 16 U.S.C. § 1274(a)(180)).
- b. This Partial Decree is entered pursuant to the Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees entered into by and between the United States of America and the State of Idaho, effective February 2, 2016 ("Stipulation for Entry of Partial Decrees"), and pursuant to that Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right and that have points of diversion or

impoundment and places of use within the Battle Creek Basin upstream from the ending point identified in Section 5.b. above:

- (1) All "*de minimis* domestic water rights" which, for purposes of this Partial Decree, shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock, and for any other 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-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree, "subdivision" is defined as set forth in Owyhee County Code Title 10: Subdivision Regulations, Section 10-2-2, which is attached as Attachment 17 to the Stipulation for Entry of Partial Decrees, and which is incorporated herein by reference.
- (2) All "*de minimis* stock water rights" which, for the purposes of this Partial Decree, shall be defined to mean 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. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of *de minimis* stock water use.
- (3) In-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights with total combined diversions up to the amounts set forth in subsection (A) below for each semi-monthly period during March, April, May, and June, or the amount available above the base flow amount for each of those semi-monthly periods as identified in subsection (B) below, whichever is less.

(A) Subordination amounts March through June:

Period of Use	Subordination (cfs)
March 1–15	0.80
March 16–31	1.63
April 1–15	2.68
April 16–30	2.61
May 1–15	2.56
May 16–31	1.84
June 1–15	1.98
June 16–30	1.05

(B) Base flow amounts below which subordination does not apply:

Period of Use	Base Flows (cfs)
March 1–15	15.4
March 16–31	26.6
April 1–15	30.0
April 16–30	24.8
May 1–15	19.9
May 16–31	13.3
June 1–15	11.2
June 16–30	7.7

(C) Subordination limited to months of March through June:

This subordination to in-basin irrigation, commercial, municipal, industrial, and other state-recognized water rights described in this subsection 10.b.(3) applies during the months of March through June only.

(D) Certain water rights not included in subordination limits:

Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). “Non-consumptive water rights” means all beneficial uses of water having these characteristics: i) the use involves no diversion from the designation reach of the Wild and Scenic River as identified in this Partial Decree; ii) all return flows from the use accrue to the Wild and Scenic reach; and iii) the use does not cause a depletion or a change in timing of the flow (other than

incidental evaporation or seepage) as determined at the point(s) of return, whether or not the depletion or change in timing can be measured within the designated reach. Examples of such uses include: i) run-of-the-river hydroelectric facilities; ii) fish propagation uses; and iii) other similar uses. "Replacement water rights" means all irrigation appropriations issued for the same purpose of use and place of use covered by an existing water right with no increase in period of use, diversion rate, and, if applicable, volume of water. To be considered a replacement water right: i) no element of the new appropriation may exceed that of the original water right; ii) only the original or the replacement water right or part of each water right may be used at the same time; and iii) the replacement water right cannot be used when water would not be legally and physically available under the original water right.

- c. These additional provisions contained in Section 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of this federal reserved water right; and (2) describe the rights and uses to which this federal reserved water right is subordinated in order to provide for proper administration of this water right and other existing and future water rights.

IT IS SO ORDERED.

DATED this ____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge of the
Snake River Basin Adjudication

This Partial Decree was entered pursuant to the [Order Approving Stipulation and Entry of Partial Decrees] dated [Date], contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.

ATTACHMENT 17

TITLE 10
SUBDIVISION REGULATIONS

Subject	Chapter
Title, Authority, Purpose	1
Definitions	2
Procedure For Subdivision Approval	3
Design Standards	4
Improvement Standards	5
Special Development Subdivisions	6
Vacations And Dedications	7
Variances	8
Amendments	9
Enforcement; Penalties	10

CHAPTER 2
DEFINITIONS

SECTION:

- 10-2-1: Interpretation Of Terms Or Words
10-2-2: General Definitions

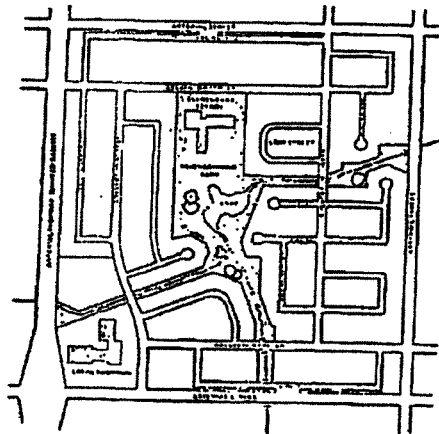
10-2-1: **INTERPRETATION OF TERMS OR WORDS:** Terms or words used herein shall be interpreted as follows:

- A. The present tense includes the past or future tense, the singular includes the plural, and the plural includes the singular.
- B. The word "shall" is mandatory; "may" is permissive; and the word "should" is preferred.
- C. The masculine shall include the feminine. (Ord. 09-09, 10-6-2009)

10-2-2: **GENERAL DEFINITIONS:** As used in this title, the following words and terms shall have the meanings ascribed to them in this section:

- ADMINISTRATOR:** An official, having knowledge in the principles and practices of subdividing, who is appointed by the county commissioners to administer this title.
- BLOCK:** A group of lots, tracts, or parcels within well defined boundaries, usually streets.
- BOARD:** The board of county commissioners.
- BUILDING:** A structure designed or used as the living quarters for one or more families, or a structure designed or used for occupancy by people for commercial or industrial uses.

- Minor:** A street which has the primary purpose of providing access to abutting properties.
- Partial:** A dedicated right of way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.
- Private:** A street that is not accepted for public use or maintenance which provides vehicular and pedestrian access.



STREET TYPES

- SUBDIVIDER:** Deemed to be the individual, firm, corporation, partnership, association, syndicate, trust, or other legal entity that executes the application and initiates proceedings for the subdivision of land in accordance with the provisions of this title. The subdivider need not be the owner of the property; however, he shall be an agent of the owner or have sufficient proprietary rights in the property to represent the owner.
- SUBDIVISION:** A. The division of an original lot, tract, or parcel of land as recorded as of August 13, 1979, into more than four (4) parts any of which is less than five (5) acres for the purpose of development, or any land development where four (4)

or more homesites of any size will be sold for the purpose of development. "Development" shall include, but not be limited to, improvements for residential, commercial, industrial, or recreational use, including mobile home parks as defined in Idaho Code section 55-2003; the dedication of a public street; and the addition to or creation of a cemetery.

B. An "original lot, tract or parcel of land" is defined as a lot or tract or parcel of land as recorded on any plat recorded on file in the office of the county recorder, and/or any unplatted contiguous parcel of land held in one ownership on record in the office of the county recorder on the effective date hereof.

C. Subdivision shall also mean and include the following:

1. The dividing of land into more than four (4) tracts, lots, or parcels for transfer of ownership or building development, any part of which, when subdivided, contains less than five (5) acres.
2. The dedicating of any street or alley through or along any tract of land.
3. The placement of more than one manufactured building under the provisions of Idaho Code subsection 39-4105, and/or a commercial coach under the provisions of Idaho Code subsection 39-4105, or a "mobile home" which means a structure similar to a manufactured home, but built to a state mobile home code which existed prior to the federal manufactured housing and safety standards act (HUD code) per acre upon an existing tract of land, although there is no division of the lot, tract or parcel of land.
4. Any dwelling or residence located on a tract of land which does not provide a recorded right of way for ingress and egress to an exist-

ing public road; and the use of an easement or right of way by three (3) or more adjacent property owners for ingress and egress to an existing public road.

a. Access shall include the following:

(1) A minimum property frontage of fifty feet (50') on the right of way of a maintained public street or highway is required for the purpose of ingress/egress, excluding alleys; or

(2) A recorded private permanent perpetual easement is required of a minimum width of twenty eight feet (28') from the right of way of a maintained public road to the property for the purpose of ingress/egress. Use of this private permanent perpetual easement provision is only allowed for land which otherwise would have no frontage on the right of way of a public maintained road.

b. Access roadway construction standard:

(1) Must be constructed with six inch (6") gravel base and leveling coarse, graded and compacted, with a twenty foot (20') wide all weather driving surface.

(2) All access roads must be kept clear at all times.

D. However, this title shall not apply to any of the following:

1. Widening of existing streets to conform to the comprehensive plan;

2. The unwilling sale of land as a result of legal condemnation as defined and allowed in Idaho Code;

3. The acquisition of collector and arterial street rights of way by a public agency in conformance with the comprehensive plan;

4. The exchange of land for the purpose of straightening property boundaries or convenience, which does not result in the substantial change of the present land usage of the properties involved.

Any other transfer, development or placement of more than one mobile home, manufactured home or commercial coach per acre on an existing tract of land constitutes a subdivision and must have a variance from the planning commission and the county commissioners.

SURVEYOR:

Any person who is licensed in the state as a public land surveyor to do professional surveying.

UTILITIES:

Installations for conducting water, sewage, gas, electricity, television, stormwater, and similar facilities providing service to and used by the public.

VARIANCE:

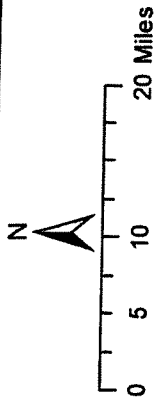
A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this title would result in unnecessary and undue hardship.

VICINITY MAP:

A small scale map showing the location of a tract of land in relation to a larger area. (Ord. 09-09, 10-6-2009)

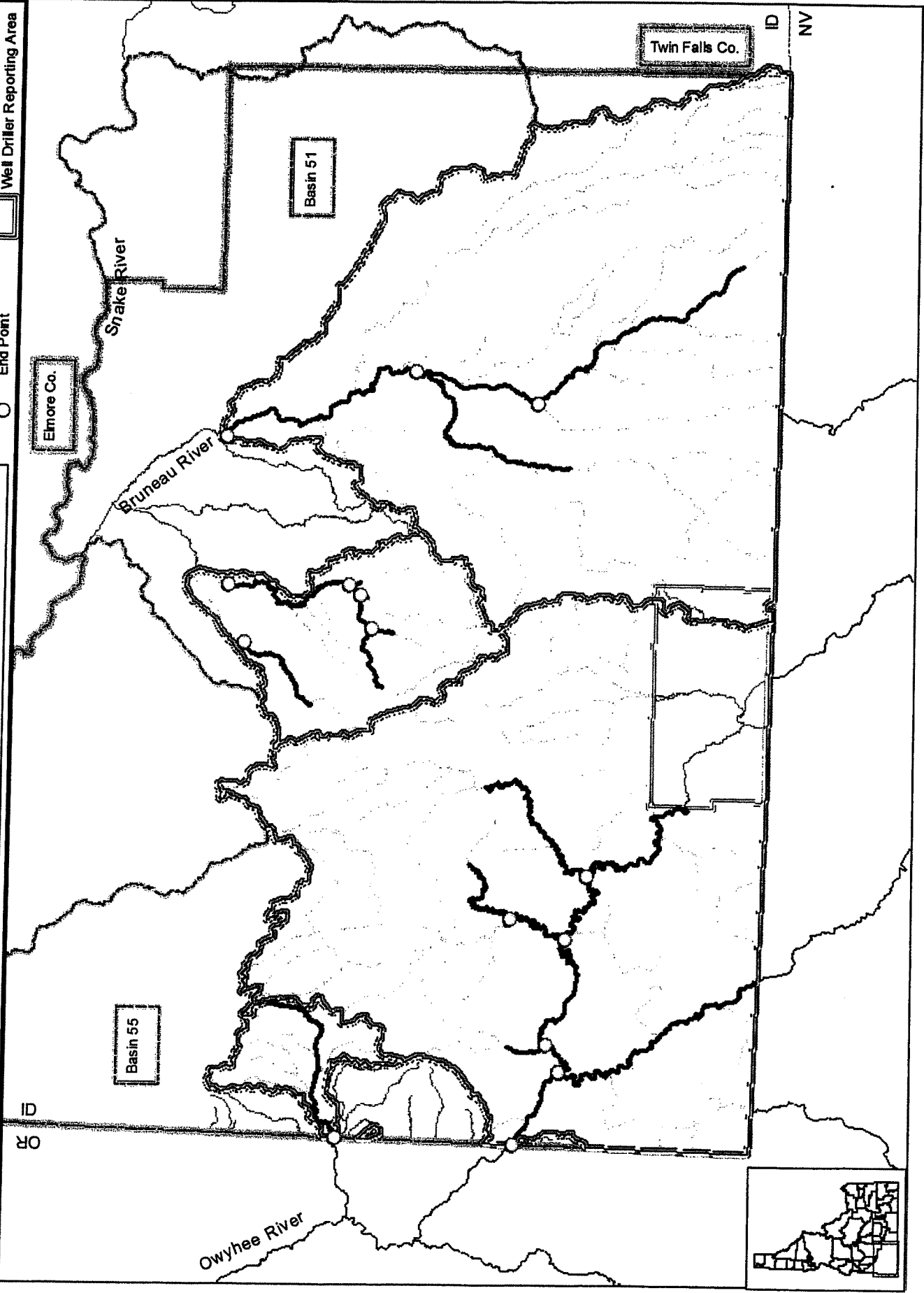
ATTACHMENT 18

ATTACHMENT 18 Well Driller Reporting Area



LEGEND

- Wild & Scenic River
- Stream
- End Point
- IDWR Administrative Basin
- County Boundary
- Well Driller Reporting Area



**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Case No. 39576

)
)
) **Consolidated Subcase No. 51-13089**
) **Wild & Scenic Rivers Act Claims**
) **(Encompassing Subcases 51-13089, 51-13090,**
) **51-13091, 51-13092, 51-13093, 51-13094, 51-13095,**
) **51-13096, 51-13097, 55-13897, 55-13898, 55-13899,**
) **55-13900, 55-13901, 55-13902, 55-13903)**

)
) **[Proposed] Order Approving Stipulation and**
) **Entry of Partial Decrees**
)
)
)

The District Court of the Fifth Judicial District in and for the County of Twin Falls, having entered its Commencement Order on November 19, 1987, commencing the Snake River Basin Adjudication ("SRBA"); the United States of America and the State of Idaho, who constitute all the parties to these consolidated subcases, through their respective counsel, having presented a Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decrees, filed February __, 2016 ("Stipulation"); due notice of the requested approval of the Stipulation and the proposed entry of the Partial Decrees having been given pursuant to the Idaho Rules of Civil Procedure and the SRBA Court Administrative Order 1; the Court having reviewed the Stipulation, the proposed Partial Decrees and supporting affidavits and having heard the parties concerning these matters;

THE SRBA DISTRICT COURT NOW FINDS AS FOLLOWS:

The parties have satisfied the requirements of Chapter 14, Title 42, Idaho Code, including Section 42-1411A, the Idaho Rules of Civil Procedure and SRBA Administrative Order 1. The

Stipulation is a fair and equitable settlement of all the United States' claims in the SRBA for these federally designated Wild and Scenic Rivers. The Stipulation does not adversely affect the interests of persons not party to the Stipulation and good cause has been shown for granting the Joint Motion for Order Approving Stipulation and Entry of Partial Decrees.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. All terms of the Stipulation and the Partial Decrees for the United States' Wild and Scenic Rivers Act federal reserved water rights claims numbered 51-13089, 51-13090, 51-13091, 51-13092, 51-13093, 51-13094, 51-13095, 51-13096, 51-13097, 55-13897, 55-13898, 55-13899, 55-13900, 55-13901, 55-13902 and 55-13903, as attached to the Stipulation (the "Partial Decrees"), are hereby ratified, confirmed and approved.
2. The Court shall retain jurisdiction for the purpose of resolving any disputes concerning implementation and enforcement of the Stipulation and administration of the water rights confirmed by the Partial Decrees, including, but not limited to, administration of the subordination provisions of the Partial Decrees.
3. Pursuant to Idaho Rule of Evidence 408, nothing in the Stipulation, the Partial Decrees, any affidavits or other evidence or pleading submitted for the approval of the Stipulation, or any offers or compromises made in the course of negotiating the Stipulation, shall be construed as admissions against interest or tendered or used as evidence to support or oppose any claims or objections in the SRBA or in any other adjudication involving claims for the same or similar purposes, including the quantities of water claimed, or in any other manner by any party in the SRBA in any future proceedings in the SRBA, in any appellate proceedings concerning the SRBA, or in any other proceeding, other than those for interpretation, enforcement or administration of the Stipulation or the Partial Decrees, or for a purpose

contemplated by Idaho Rule of Evidence 408. This Order Approving Stipulation and Entry of Partial Decrees is fully in accordance with Idaho Rule of Evidence 408, as well as the policy underlying that rule and the policy of the SRBA Court directed at furthering the strong public policy favoring out-of-court settlement of disputes over litigation.

4. The water rights adjudicated by the Partial Decrees are in full satisfaction of all the United States' claims in the SRBA for these federally designated Wild and Scenic Rivers and all objections thereto.

IT IS SO ORDERED.

DATED this _____ day of _____, 2016.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I hereby certify that on this _____ day of _____, 2016, I served a true and correct copy of the foregoing **ORDER APPROVING STIPULATION AND ENTRY OF PARTIAL DECREES**, by depositing a copy thereof in the U.S. mail, postage prepaid to the following:

All parties indicated on the SRBA Court's Certificate of Mailing for Consolidated Subcase No. 51-13089 (Encompassing Subcase Nos. 51-13089, 51-13090, 51-13091, 51-13092, 51-13093, 51-13094, 51-13095, 51-13096, 51-13097, 55-13897, 55-13898, 55-13899, 55-13900, 55-13901, 55-13902 and 55-13903), Wild and Scenic Rivers Act claims.

Deputy Clerk