

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

Fifth Judicial District
County of Twin Falls - State of Idaho

AUG 13 2014

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

Clerk

Deputy Clerk

In re SRBA
Case No. 39576

PARTIAL DECREE FOR
Federal Reserved Water Right 27-11375

1. Name and address of owner: UNITED STATES OF AMERICA, as trustee for the benefit of the SHOSHONE-BANNOCK TRIBES OF THE FORT HALL INDIAN RESERVATION acting through the DIRECTOR, PORTLAND AREA OFFICE
Bureau of Indian Affairs
911 N.E. 11th Avenue
Portland OR 97232
2. Source of Water: Blackfoot River
3. Annual Diversion Volume: 150,000 acre-feet per year (AFY)
4. Diversion Rate: 1,380 CFS
5. Annual Volume of Consumptive Use: 79,546 AFY
6. Priority Date: June 14, 1867
7. Points of Diversion: SENWNW Sec 7 Twp 2S Rge 38E BM
(Blackfoot River into Little Indian Canal)
NENENE Sec 13 Twp 3S Rge 35E BM
(Blackfoot River into Fort Hall Main Canal)
NWNENW Sec 14 Twp 3S Rge 35E BM
(Blackfoot River into North Canal)
SWSESW Sec. 3 Twp 7S Rge 32E BM
SENWSE Sec. 3 Twp 7S Rge 32E BM
NWNWSW Sec. 2 Twp 7S Rge 32E BM
NESENW Sec. 2 Twp 7S Rge 32E BM
NWNENE Sec. 1 Twp 7S Rge 32E BM
SWNWNW Sec. 6 Twp 7S Rge 33E BM
NESESW Sec. 6 Twp 7S Rge 33E BM
NESESW Sec. 6 Twp 7S Rge 33E BM
SWSWSW Sec. 30 Twp 6S Rge 33E BM
Future Points of Diversion may be developed to divert water from (1) anywhere on the Blackfoot River or (2) ground water within the Reservation as described in

Matters Necessary for Definition, Clarification or Administration of the Right, below.

8. Purposes and Periods
of Use:

Irrigation 3/15 to 11/15

9. Place of Use:

30,469 present and future acres within the Reservation.

10. Basis of Right:

Winters Doctrine.

11. Matters Necessary for
Definition, Clarification,
or Administration
of the Right:

- a. If the natural flow of the Blackfoot River is not sufficient to satisfy this right and other rights to divert Blackfoot River natural flow pursuant to state law, the Tribes may satisfy this right by using water right nos. 27-02007 and 25-02160, provided that the combined use in satisfaction of this right shall not exceed 150,000 AFY.
- b. If the diversions under this right exceed 150,000 AFY, the amount in excess of 150,000 AFY shall be charged against water right no. 01-10223.
- c. This right combined with water right nos. 01-10223, 27-02007 and 25-02160 can be used to irrigate up to 53,828 present and future acres from the combined water sources.
- d. The Tribes and United States agree to exercise this water right in a manner that ensures persons diverting natural flow from the Blackfoot River under water rights listed on Attachment E to the Revised Partial Final Consent Decree dated August 13, 2014, and under *de minimis* domestic and stock water rights with a priority date earlier than January 1, 1990, will continue to receive their full legal entitlement under state law. "*De minimis* domestic water right" for purposes of this paragraph means (a) the use of water for homes, organization camps, public campgrounds, livestock and for any purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen (sic) (13,000) gallons per day, or 14.5 acre-feet per year or less for storage, or (b) and other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. Domestic rights shall not include water for multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume

limitation set forth in (b) above. "*De minimis* stock water right" for purposes of this paragraph means the use of water solely for livestock or wildlife where the total diversion is not in excess of thirteen thousand (13,000) gallons per day or 14.5 acre-feet per year or less for storage. These state created water rights listed on Attachment E to the Revised Partial Final Consent Decree dated August 13, 2014, are estimated to divert not more than 45,000 AFY of water from the Blackfoot River. The Blackfoot River Equitable Adjustment Settlement Agreement Pursuant to the 1990 Fort Hall Indian Water Rights Settlement Agreement set forth in Attachment F to the Revised Partial Final Consent Decree dated August 13, 2014, provides for an equitable adjustment to this water right in the event the Primary Volume diversions under the partial decrees listed on Attachment E to the Revised Partial Final Consent Decree dated August 13, 2014, exceed 45,000 AFY. *[This paragraph was formerly known as paragraph x.d for purposes of the Blackfoot River Water Management Plan, the Blackfoot River Equitable Adjustment Settlement Agreement, the Partial Decrees identified in Attachment E and the Revised Partial Final Consent Decree.]*

e. The Tribes and the United States shall exercise this right in a manner that will not impair the project entitlements of the Fort Hall Irrigation Project water users.

f. If the water supplied under this right and water right nos. 27-02007 and 25-02160 does not provide 150,000 AFY, the Tribes may divert groundwater within the Reservation under this right, exclusive of the water right nos. 27-11376 and 29-12052, such that the combined water supply from water right nos. 27-02007 and 25-02160 and surface and groundwater under this right yields 150,000 AFY.

IT IS SO ORDERED

DATED this 13th day of August, 2014



Presiding Judge
Snake River Basin Adjudication

This partial decree was entered pursuant to the Revised Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin dated August 13, 2014, contained in Attachment 4 to the Final Unified Decree, and is subject to the terms and conditions set forth therein.