

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

In Re CSRBA) PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
 Case No. 49576) FOR FEDERAL RESERVED
)
) WATER RIGHT NO. 91-07985D

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
 USDA FOREST SERVICE
 550 W FORT ST MSC 033
 BOISE ID 83724

SOURCE: See Attachment 1, Column A TRIBUTARY: See Attachment 1, Column B
 Sources are located on National Forest System Land in the Lower Marble Creek subwatershed (HUC12 170103040505).

QUANTITY: 1.000 CFS
 15.20 AFY
 The quantity under this water right is limited to up to 15.20 acre feet per year, with a diversion rate never to exceed the lesser of 1.00 CFS or twenty-five (25) percent of the rate of flow then available at each point of diversion and, cumulatively, no more than twenty-five (25) percent at the furthest downstream point of diversion in use under water right nos. 91-07963A through 91-07994D.
 See Attachment 2.
 Right Nos. 91-07985A, 91-07985B, 91-07985C, 91-07985D, 91-07985E, 91-07985F, 91-07985G, 91-07985H, 91-07985I, 91-07985J, 91-07985K, 91-07985L, 91-07985M and 91-08016 are limited to a total combined annual diversion volume of 15.20 acre feet.

PRIORITY DATE: 02/24/1933

POINT OF DIVERSION: See Attachment 1, Columns C through G

| | | | |
|----------------------------|-----------------------|----------------------|------------------------|
| PURPOSE AND PERIOD OF USE: | <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
| | ADMINISTRATIVE | 01/01 - 12/31 | 1.000 CFS 15.20 AFY |

Administrative use is for National Forest Administration.

The purpose of use includes, road construction, dust abatement, prescribed fire, vegetation establishment, maintaining riding and pack stock used for administrative purposes, and any other similar incidental administrative uses necessary to fulfill the purposes of the Organic Administration Act of 1897.

PLACE OF USE: National Forest System Land in the Lower Marble Creek subwatershed (HUC12 170103040505), Flemming Creek-St Joe River subwatershed (HUC12 170103040601), Black Prince Creek-St Joe River subwatershed (HUC12 170103040603), Boulder Creek subwatershed (HUC12 170103040504), Upper Marble Creek subwatershed (HUC12 170103040501), Middle Marble Creek subwatershed (HUC12 170103040503) and Mica Creek subwatershed (HUC12 170103040604).

See Attachment 3.


OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This right is limited to the intermittent diversion and use of water for the stated purposes. This water right shall not be used as a basis to prevent the future appropriation of water or the basis to request or initiate a delivery call or otherwise have the Idaho Department of Water Resources, a Water District or a Court curtail or limit distribution in whole or in part, to existing legal uses of water to satisfy this water right. This provision shall not be construed as a basis to curtail the United States' use of water under this right to satisfy junior water rights.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than entry of a final unified decree. Idaho Code § 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above partial judgment it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above partial judgment is a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Eric S. Wildman
Presiding Judge of the
Coeur d'Alene-Spokane River Adjudication

Attachment 1

| | A | B | C | D | E | F | G |
|-----|----------------|----------------|----------|-------|---------|------|------------------------|
| 001 | SOURCE NAME | TO TRIBUTARY | TOWNSHIP | RANGE | SECTION | QQ | SURVEY CODE AND NUMBER |
| 002 | Unnamed Stream | Marble Creek | 44N | 03E | 04 | NWSW | |
| 003 | Unnamed Stream | Marble Creek | 44N | 03E | 04 | NWSW | |
| 004 | Unnamed Stream | Marble Creek | 44N | 03E | 04 | SENW | |
| 005 | Unnamed Stream | Marble Creek | 44N | 03E | 04 | SWNW | |
| 006 | Unnamed Stream | Marble Creek | 44N | 03E | 05 | NESE | |
| 007 | Unnamed Stream | Marble Creek | 44N | 03E | 05 | NESE | |
| 008 | Unnamed Stream | Marble Creek | 44N | 03E | 05 | SENE | |
| 009 | Unnamed Stream | Daveggio Creek | 44N | 03E | 13 | NESW | |

Attachment 2

| | | | | | | | |
|----------|---|----------|---|----------|---|----------|---|
| 91-07963 | A | 91-07981 | D | 91-07985 | K | 91-07993 | E |
| 91-07963 | B | 91-07981 | E | 91-07985 | L | 91-07993 | F |
| 91-07964 | | 91-07981 | F | 91-07985 | M | 91-07993 | G |
| 91-07965 | A | 91-07981 | G | 91-07986 | A | 91-07994 | A |
| 91-07965 | B | 91-07981 | H | 91-07986 | B | 91-07994 | B |
| 91-07966 | | 91-07981 | I | 91-07986 | C | 91-07994 | C |
| 91-07967 | A | 91-07981 | J | 91-07986 | D | 91-07994 | D |
| 91-07967 | B | 91-07981 | K | 91-07986 | E | | |
| 91-07967 | C | 91-07981 | L | 91-07986 | F | | |
| 91-07968 | A | 91-07981 | M | 91-07986 | G | | |
| 91-07968 | B | 91-07981 | N | 91-07987 | A | | |
| 91-07968 | C | 91-07981 | O | 91-07987 | B | | |
| 91-07968 | D | 91-07981 | P | 91-07987 | C | | |
| 91-07969 | A | 91-07981 | Q | 91-07987 | D | | |
| 91-07969 | B | 91-07982 | A | 91-07987 | E | | |
| 91-07969 | C | 91-07982 | B | 91-07987 | F | | |
| 91-07969 | D | 91-07982 | C | 91-07987 | G | | |
| 91-07969 | E | 91-07982 | D | 91-07987 | H | | |
| 91-07970 | A | 91-07982 | E | 91-07987 | I | | |
| 91-07970 | B | 91-07982 | F | 91-07987 | J | | |
| 91-07970 | C | 91-07982 | G | 91-07987 | K | | |
| 91-07970 | D | 91-07982 | H | 91-07987 | L | | |
| 91-07971 | | 91-07982 | I | 91-07987 | M | | |
| 91-07972 | | 91-07982 | J | 91-07987 | N | | |
| 91-07973 | | 91-07983 | A | 91-07987 | O | | |
| 91-07974 | A | 91-07983 | B | 91-07987 | P | | |
| 91-07974 | B | 91-07983 | C | 91-07987 | Q | | |
| 91-07975 | A | 91-07983 | D | 91-07987 | R | | |
| 91-07975 | B | 91-07983 | E | 91-07987 | S | | |
| 91-07976 | | 91-07983 | F | 91-07987 | T | | |
| 91-07977 | A | 91-07983 | G | 91-07988 | A | | |
| 91-07977 | B | 91-07983 | H | 91-07988 | B | | |
| 91-07978 | A | 91-07983 | I | 91-07988 | C | | |
| 91-07978 | B | 91-07983 | J | 91-07988 | D | | |
| 91-07978 | C | 91-07983 | K | 91-07988 | E | | |
| 91-07978 | D | 91-07983 | L | 91-07988 | F | | |
| 91-07979 | A | 91-07983 | M | 91-07988 | G | | |
| 91-07979 | B | 91-07984 | A | 91-07989 | | | |
| 91-07979 | C | 91-07984 | B | 91-07990 | A | | |
| 91-07979 | D | 91-07984 | C | 91-07990 | B | | |
| 91-07979 | E | 91-07985 | A | 91-07990 | C | | |
| 91-07980 | A | 91-07985 | B | 91-07991 | A | | |
| 91-07980 | B | 91-07985 | C | 91-07991 | B | | |
| 91-07980 | C | 91-07985 | D | 91-07991 | C | | |
| 91-07980 | D | 91-07985 | E | 91-07992 | A | | |
| 91-07980 | E | 91-07985 | F | 91-07992 | B | | |
| 91-07980 | F | 91-07985 | G | 91-07993 | A | | |
| 91-07981 | A | 91-07985 | H | 91-07993 | B | | |
| 91-07981 | B | 91-07985 | I | 91-07993 | C | | |
| 91-07981 | C | 91-07985 | J | 91-07993 | D | | |

