

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. 92-11081C

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 Merry Creek-St Maries River subwatershed (HUC12 170103040702).

QUANTITY: 1.000 CFS
7.500 AFY

The quantity under this water right is limited to up to 7.500 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. 92-11067A thru 92-11075 and 92-11080A thru 92-11081D.

See Attachment 2.

This right is used in conjunction with water right nos. 92-11081A, 92-11081B, 92-11081C and 92-11081D and is limited to a total combined annual diversion volume of 7.500 acre feet.

PRIORITY DATE: 05/21/1976

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 7.500 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 Merry Creek-St Maries River subwatershed (HUC12 170103040702), Middle Fork St Maries River subwatershed (HUC12 170103040701), West Fork St Maries River subwatershed (HUC12 170103040703), Olson Creek-St Maries River subwatershed (HUC12 170103040802), Bussel Creek subwatershed (HUC12 170103040502) and Middle Marble Creek subwatershed (HUC12 170103040503).

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

Attachment 1

| | A | B | C | D | E | F | G |
|---|----------------|-----------------------------|----------|-------|---------|----|------------------------|
| 1 | SOURCE NAME | TO TRIBUTARY | TOWNSHIP | RANGE | SECTION | QQ | SURVEY CODE AND NUMBER |
| 2 | Anthony Creek | Middle Fork St Maries River | 42N | 02E | 16 | | |
| 3 | Dutch Creek | Middle Fork St Maries River | 42N | 02E | 16 | | |
| 4 | Unnamed Stream | Anthony Creek | 42N | 02E | 16 | | |
| 5 | Unnamed Stream | Dutch Creek | 42N | 02E | 16 | | |

Attachment 2

| | | | |
|----------|---|----------|---|
| 92-11067 | A | 92-11072 | E |
| 92-11067 | B | 92-11072 | F |
| 92-11067 | C | 92-11072 | G |
| 92-11067 | D | 92-11072 | H |
| 92-11067 | E | 92-11072 | I |
| 92-11067 | F | 92-11072 | J |
| 92-11067 | G | 92-11072 | K |
| 92-11067 | H | 92-11072 | L |
| 92-11067 | I | 92-11073 | A |
| 92-11067 | J | 92-11073 | B |
| 92-11067 | K | 92-11073 | C |
| 92-11067 | L | 92-11073 | D |
| 92-11067 | M | 92-11073 | E |
| 92-11067 | N | 92-11074 | |
| 92-11067 | O | 92-11075 | |
| 92-11067 | P | 92-11080 | A |
| 92-11068 | A | 92-11080 | B |
| 92-11068 | B | 92-11080 | C |
| 92-11068 | C | 92-11080 | D |
| 92-11068 | D | 92-11080 | E |
| 92-11068 | E | 92-11080 | F |
| 92-11068 | F | 92-11080 | G |
| 92-11068 | G | 92-11080 | H |
| 92-11068 | H | 92-11080 | I |
| 92-11068 | I | 92-11080 | J |
| 92-11068 | J | 92-11081 | A |
| 92-11068 | K | 92-11081 | B |
| 92-11068 | L | 92-11081 | C |
| 92-11068 | M | 92-11081 | D |
| 92-11068 | N | | |
| 92-11068 | O | | |
| 92-11069 | A | | |
| 92-11069 | B | | |
| 92-11069 | C | | |
| 92-11069 | D | | |
| 92-11069 | E | | |
| 92-11069 | F | | |
| 92-11069 | G | | |
| 92-11070 | A | | |
| 92-11070 | B | | |
| 92-11071 | A | | |
| 92-11071 | B | | |
| 92-11071 | C | | |
| 92-11071 | D | | |
| 92-11071 | E | | |
| 92-11071 | F | | |
| 92-11072 | A | | |
| 92-11072 | B | | |
| 92-11072 | C | | |
| 92-11072 | D | | |

