

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. 95-17409D

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 Fernan Lake subwatershed (HUC12 170103030405).

QUANTITY: 1.000 CFS
14.20 AFY

The quantity under this water right is limited to up to 14.20 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. 95-17404A thru 95-17414F.

See Attachment 2.

Right nos. 95-17409A, 95-17409B, 95-17409C, 95-17409D, 95-17409E, 95-1740F, 95-17409G, 95-17409H and 95-17409I are limited to a total combined annual diversion volume of 14.200 acre feet.

PRIORITY DATE: 12/01/1941

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 14.20 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 Fernan Lake subwatershed (HUC12 170103030405), Coeur d'Alene Lake subwatershed (HUC12 170103030406), Rathdrum Prairie-Spokane River subwatershed (HUC12 170103050200), Yellowbanks Creek-Hayden Lake subwatershed (HUC12 170103050102), Wolf Lodge Creek subwatershed (HUC12 170103030302) and Burnt Cabin Creek-Little North Fork Coeur d'Alene River subwatershed (HUC12 170103010602).

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 |
|-----|----------------|--------------|----------|-------|---------|------|------------------------|
| 001 | SOURCE NAME | TO TRIBUTARY | TOWNSHIP | RANGE | SECTION | QQ | SURVEY CODE AND NUMBER |
| 002 | Unnamed Stream | Fernan Creek | 50N | 03W | 03 | | |
| 003 | Unnamed Stream | Fernan Creek | 50N | 03W | 03 | | |
| 004 | Unnamed Stream | Fernan Creek | 50N | 03W | 03 | | |
| 005 | Unnamed Stream | Fernan Creek | 50N | 03W | 11 | | |
| 006 | Unnamed Stream | Fernan Creek | 50N | 03W | 11 | | |
| 007 | Unnamed Stream | Fernan Creek | 50N | 03W | 11 | | |
| 008 | Unnamed Stream | Fernan Creek | 50N | 03W | 11 | | |
| 009 | Unnamed Stream | Fernan Creek | 50N | 03W | 11 | | |
| 010 | Unnamed Stream | Fernan Lake | 50N | 03W | 11 | | |
| 011 | Unnamed Stream | Tottens Pond | 51N | 03W | 29 | NWNW | L1 |
| 012 | Unnamed Stream | Tottens Pond | 51N | 03W | 29 | NENW | |
| 013 | Unnamed Stream | Tottens Pond | 51N | 03W | 29 | SENW | |
| 014 | Unnamed Stream | Tottens Pond | 51N | 03W | 29 | SWNE | |
| 015 | Unnamed Stream | Fernan Creek | 51N | 03W | 34 | SESE | |

Attachment 2

95-17404A
95-17404B
95-17405A
95-17405B
95-17405C
95-17406A
95-17406B
95-17406C
95-17407A
95-17407B
95-17407C
95-17408A
95-17408B
95-17408C
95-17409A
95-17409B
95-17409C
95-17409D
95-17409E
95-17409F
95-17409G
95-17409H
95-17409I
95-17410A
95-17410B
95-17410C
95-17410D
95-17410E
95-17410F
95-17410G
95-17411A
95-17411B
95-17411C
95-17412A
95-17412B
95-17412C
95-17412D
95-17412E
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95-17413
95-17414A
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95-17414F

