

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

<p>In Re SRBA</p> <p>Case No. 39576</p>	<p>) Subcase Nos. 51-13089, 51-13090, 51-13091,</p> <p>) 51-13092, 51-13093, 51-13094, 51-13095,</p> <p>) 51-13096, 51-13097, 55-13897, 55-13898,</p> <p>) 55-13899, 55-13900, 55-13901, 55-13902,</p> <p>) and 55-13903</p> <p>)</p> <p>) ORDER OF PARTIAL DECREE ON</p> <p>) UNCONTESTED FEDERAL WATER</p> <p>) RIGHT CLAIMS</p> <p>)</p> <p>)</p> <p>)</p>
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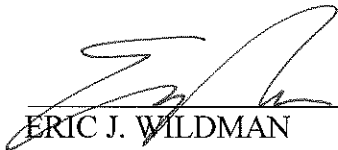
The above-captioned water rights were claimed as implied federal reserved water rights by the United States Bureau of Land Management. The federal basis for all of the claims is the Wild and Scenic Rivers Act and the Omnibus Public Land Management Act of 2009. The claims were included in the *Director's Report of Late and Miscellaneous Claims* filed on December 27, 2012. The State of Idaho filed objections to the claims. The objections were resolved via *Stipulation* filed by the parties on March 30, 2016. The *Stipulation* was approved by this Court's *Order Approving Stipulation and Entry of Partial Decrees* issued contemporaneously herewith. As a result of the *Stipulation* there are no remaining objections to the above-captioned water right claims.

As required by Idaho Code § 42-1411A(12), a hearing was held on September 20, 2016, for the purpose of allowing the United States to demonstrate a *prima facie* case regarding the existence of the above-captioned water rights established under federal law. No party appeared in opposition. The United States filed affidavits in support of its claims. The Court has reviewed the affidavits and heard the arguments of counsel in open court and finds that the

United States has met its burden of establishing the existence and elements of an implied federal reserved water right for each of the above-captioned water right claims.

THEREFORE, IT IS ORDERED that above-captioned water rights are hereby decreed as set forth in the attached *Partial Decrees* pursuant to I.R.C.P. 54(b).

Dated September 29, 2016


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

ATTACHMENT 1

SEP 29 2016

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

By _____
 Clerk
 Deputy Clerk

**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)
) PARTIAL DECREE FOR
)
 Case No. 39576)
) 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:

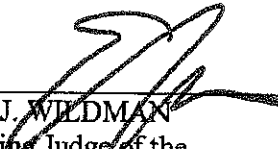
Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). "Non-consumptive water rights" means all beneficial uses of water having these characteristics: 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 29th day of September, 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

SEP 29 2016

By _____
 _____ Clerk
 _____ Deputy Clerk

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)
) PARTIAL DECREE FOR
 Case No. 39576)
) 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-Jarbidge 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 29th day of September, 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

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

SEP 29 2016

By _____

Clerk
 Deputy Clerk

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

<p>In Re SRBA</p> <p>Case No. 39576</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>PARTIAL DECREE FOR</p> <p>Federal Reserved Water Right 51-13091</p> <p>Little Jacks Creek Wild & Scenic River</p>
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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 29th day of September, 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

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 29th day of September, 2016.


ERIC S. 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 5

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

SEP 29 2016

By

Clerk
 Deputy Clerk

**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)
) **PARTIAL DECREE FOR**
)
Case No. 39576) **Federal Reserved Water Right 51-13093**
)
) **Duncan 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:

Duncan Creek, tributary to Big Jacks Creek.

3. Quantity of right:

a. Stream flows at the Duncan Creek quantification site:

(1) When the stream flow at the Duncan Creek quantification site, as identified in Section 3.a.(3) below ("Duncan Creek quantification site"), is less than 66.7 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	1.61	July 1-15	2.56
January 16-31	1.84	July 16-31	2.14
February 1-15	2.34	August 1-15	1.72
February 16-28(29)	2.16	August 16-31	1.81
March 1-15	1.97	September 1-15	1.90
March 16-31	5.96	September 16-30	2.09
April 1-15	9.98	October 1-15	2.27
April 16-30	11.29	October 16-31	2.44
May 1-15	12.60	November 1-15	2.60

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 29th day of September, 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

SEP 29 2016

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

BY _____ Clerk
 _____ Deputy Clerk

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

<p>In Re SRBA</p> <p>Case No. 39576</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>PARTIAL DECREE FOR</p> <p>Federal Reserved Water Right 51-13094</p> <p>Cottonwood Creek Wild & Scenic River</p>
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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:

Cottonwood Creek, tributary to Big Jacks Creek.

3. Quantity of right:

a. Stream flows at the Cottonwood Creek quantification site:

(1) When the stream flow at the Cottonwood Creek quantification site, as identified in Section 3.a.(3) below ("Cottonwood Creek quantification site"), is less than 4.14 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	1.91	July 1-15	2.94
January 16-31	2.04	July 16-31	2.23
February 1-15	2.09	August 1-15	1.86
February 16-28(29)	2.30	August 16-31	1.66
March 1-15	2.49	September 1-15	1.62
March 16-31	3.08	September 16-30	1.65
April 1-15	3.54	October 1-15	1.75
April 16-30	3.91	October 16-31	1.79

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 29th day of September, 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 7

DISTRICT COURT - SRBA
 Fifth Judicial District
 County of Twin Falls - State of Idaho

SEP 29 2016

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

By _____
 Clerk
 Deputy Clerk

**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)
) PARTIAL DECREE FOR
 Case No. 39576)
) 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 29th day of September, 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

SEP 29 2016

BY _____
 Clerk
 Deputy Clerk

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

<p>In Re SRBA</p> <p>Case No. 39576</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>PARTIAL DECREE FOR</p> <p>Federal Reserved Water Right 51-13096</p> <p>Big Jacks Creek Wild & Scenic River</p>
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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 29th day of September, 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

DISTRICT COURT - SRBA
 Fifth Judicial District
 County of Twin Falls - State of Idaho

SEP 29 2016

Clerk
 Deputy Clerk

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**

<p>In Re SRBA</p> <p>Case No. 39576</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>PARTIAL DECREE FOR</p> <p>Federal Reserved Water Right 51-13097</p> <p>Bruneau River Wild & Scenic River</p>
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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:

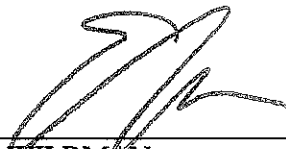
Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). "Non-consumptive water rights" means all beneficial uses of water having these characteristics: 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.

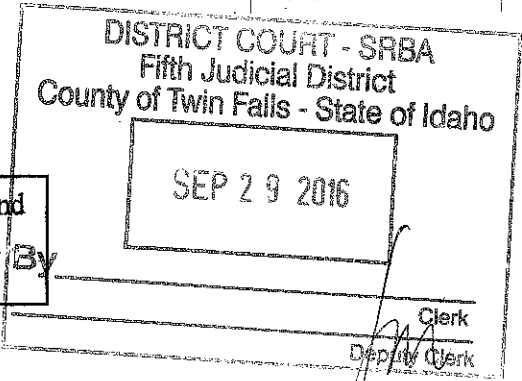
IT IS SO ORDERED.

DATED this 29th day of September, 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

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

<p>In Re SRBA</p> <p>Case No. 39576</p> <hr/>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>PARTIAL DECREE FOR</p> <p>Federal Reserved Water Right 55-13897</p> <p>Deep Creek Wild & Scenic River</p>
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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 29th day of September, 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 11

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

DISTRICT COURT - SRBA
 Fifth Judicial District
 County of Twin Falls - State of Idaho
 SEP 29 2016
 By _____
 Clerk
 Deputy Clerk

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)
) PARTIAL DECREE FOR
 Case No. 39576)
) 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 29th day of September, 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

SEP 29 2016

By _____
 Clerk
 Deputy Clerk

**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)
) PARTIAL DECREE FOR
 Case No. 39576)
) 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 29th day of September 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

DISTRICT COURT - SRBA
 Fifth Judicial District
 County of Twin Falls - State of Idaho

SEP 29 2016

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

By

Clerk
 Deputy Clerk

**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 29th day of September 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

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

SEP 23 2016

By

Clerk
 Deputy Clerk

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

<p>In Re SRBA</p> <p>Case No. 39576</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>PARTIAL DECREE FOR</p> <p>Federal Reserved Water Right 55-13901</p> <p>Red Canyon Wild & Scenic River</p>
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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:

Red Canyon, tributary to Owyhee River.

3. Quantity of right:

a. Stream flows at the Red Canyon quantification site:

(1) When the stream flow at the Red Canyon quantification site, as identified in Section 3.a.(3) below ("Red Canyon quantification site"), is less than 111 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	18.40	July 1-15	11.60
January 16-31	18.70	July 16-31	9.77
February 1-15	19.00	August 1-15	7.93
February 16-28(29)	31.10	August 16-31	7.09
March 1-15	43.20	September 1-15	6.24
March 16-31	50.20	September 16-30	6.99
April 1-15	57.20	October 1-15	7.73
April 16-30	47.30	October 16-31	8.75
May 1-15	37.40	November 1-15	9.77
May 16-31	29.60	November 16-30	11.49

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 29th day of September, 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

SEP 29 2016

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

By _____ Clerk
 _____ Deputy Clerk

**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)
) PARTIAL DECREE FOR
 Case No. 39576)
) 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:

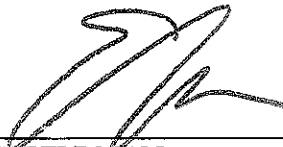
Water rights of the United States, instream flow water rights, non-consumptive water rights, and replacement water rights shall not be deducted from the subordination amounts identified in this subsection 10.b.(3). "Non-consumptive water rights" means all beneficial uses of water having these characteristics: 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 29th day of September, 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

DISTRICT COURT - SRBA
 Fifth Judicial District
 County of Twin Falls - State of Idaho

SEP 29 2016

Clerk
 Deputy Clerk

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)
) PARTIAL DECREE FOR
 Case No. 39576)
) 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 29th day of September, 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.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE ON UNCONTESTED FEDERAL WATER RIGHT CLAIMS was mailed on September 29, 2016, with sufficient first-class postage to the following:

CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 83720
BOISE, ID 83720-0010
Phone: 208-334-2400

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

