

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

In Re CSBBA) PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
) FOR FEDERAL RESERVED
 Case No. 49576)
) WATER RIGHT NO. 92-11068E

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

SOURCE: See Attachment 1, Column A TRIBUTARY: See Attachment 1, Column B

Sources are located on National Forest System Land in the Emerald Creek subwatershed (HUC12 170103040801).

QUANTITY: 1.000 CFS
 19.80 AFY

The quantity under this water right is limited to up to 19.800 acre feet per year, with a diversion rate never to exceed the lesser of 1.00 CFS or twenty-five (25) percent of the rate of flow then available at each point of diversion and, cumulatively, no more than twenty-five (25) percent at the furthest downstream point of diversion in use under water right nos. 92-11067A thru 92-11075 and 92-11080A thru 92-11081D.

See Attachment 2.

Right Nos. 92-11068A, 92-11068B, 92-11068C, 92-11068D, 92-11068E, 92-11068F, 92-11068G, 92-11068H, 92-11068I, 92-11068J, 92-11068K, 92-11068L, 92-11068M, 92-11068N, 92-11068O and 92-11077 are limited to a total combined annual diversion volume of 19.80 acre feet.

PRIORITY DATE: 10/20/1932

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

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|----------------------------|----------------|---------------|------------------------|
| | ADMINISTRATIVE | 01/01 - 12/31 | 1.000 CFS 19.80 AFY |

Administrative use is for National Forest Administration.

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

PLACE OF USE: National Forest System Land in the Emerald Creek subwatershed (HUC12 170103040801), Olson Creek-St Maries River subwatershed (HUC12 170103040802), West Fork St Maries River subwatershed (HUC12 170103040703), Nez Perce Clearwater National Forest Headwaters Palouse River subwatershed (HUC12 170601080101), West Fork Potlatch River-Potlatch River subwatershed (HUC12 170603060802) and Carpenter Creek (HUC12 170103040803).

See Attachment 3.


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

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

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

RULE 54(b) CERTIFICATE

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



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

Attachment 1

| | A | B | C | D | E | F | G |
|----|-------------------------|--------------------------------|----------|-------|---------|------|------------------------|
| 1 | SOURCE NAME | TO TRIBUTARY | TOWNSHIP | RANGE | SECTION | QQ | SURVEY CODE AND NUMBER |
| 2 | Unnamed Stream | East Fork Emerald Creek | 42N | 01E | 9 | NESE | |
| 3 | Unnamed Stream | East Fork Emerald Creek | 42N | 01E | 9 | NESE | |
| 4 | Unnamed Stream | East Fork Emerald Creek | 42N | 01E | 9 | SESE | |
| 5 | Unnamed Stream | East Fork Emerald Creek | 42N | 01E | 15 | | |
| 6 | Unnamed Stream | Little East Fork Emerald Creek | 42N | 01E | 20 | NWNE | |
| 7 | Unnamed Stream | Little East Fork Emerald Creek | 42N | 01E | 20 | NWNE | |
| 8 | Unnamed Stream | Little East Fork Emerald Creek | 42N | 01E | 20 | NWNE | |
| 9 | Unnamed Stream | West Fork Emerald Creek | 42N | 01W | 1 | NWNW | L 4 |
| 10 | West Fork Emerald Creek | Emerald Creek | 42N | 01W | 1 | NWNW | L 4 |
| 11 | Unnamed Stream | Post Creek | 42N | 01W | 10 | SWSE | |
| 12 | Unnamed Stream | Post Creek | 42N | 01W | 10 | SWSE | |

Attachment 2

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

