

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

NOTICE OF CLAIM FOR  
Federal Reserved Water Right 83-11944

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- 1. Name and address of owner:** UNITED STATES OF AMERICA, as trustee for the benefit of the NEZ PERCE TRIBE, acting through the AREA DIRECTOR, PORTLAND AREA OFFICE  
Bureau of Indian Affairs  
911 N.E. 11<sup>th</sup> Ave.  
Portland, OR 97232
- 2. Source of water** Ground water sources within the North Fork Clearwater River subbasin of Basin 83 that are not hydrologically connected with the North Fork Clearwater River.
- 3. Annual diversion volume** 20 acre-feet per year (AFY)
- 4. Diversion rate** Diversion rates will depend on the purpose for which this water is used in accordance with the Tribal Water Code
- 5. Priority date** June 11, 1855
- 6. Points of diversion** Points of diversion may be developed from ground water sources within the North Fork Clearwater River subbasin of Basin 83.
- 7. Purpose of use** Irrigation, domestic, commercial, municipal, industrial, hatchery, cultural, and other uses in accordance with the Tribal Water Code.
- 8. Period of use** January 1 to December 31, or as appropriate for the specific use in accordance with the Tribal Water Code.
- 9. Place of use** Tribal trust, tribal fee, or allotted land held in trust or under restrictions against alienation within the North Fork Clearwater River subbasin of Basin 83.
- 10. Basis of right** The legal basis for this water right is the doctrine of reserved water rights articulated in *Winters v. United States*, 207 U.S. 564 (1908), and its progeny.
- 11. Other provisions necessary for definition or**
  - a. North Fork Clearwater River subbasin of Basin 83 includes all lands draining into North Fork Clearwater River. The area included within this subbasin is depicted on a map entitled “North Fork Clearwater River subbasin within IDWR Basin 83,” on file

**administration of  
this water right**

with the Director of the Idaho Department of Water Resources.

b. Notwithstanding the Priority Date of this water right, the Tribe and the United States shall exercise this water right in a manner that ensures persons lawfully diverting water prior to April 20, 2004, will continue to receive their full legal entitlement under state law.

c. To the extent that groundwater sources within the North Fork Clearwater River subbasin of Basin 83 are hydrologically connected to the North Fork Clearwater River, diversions from those sources shall be considered to be exercise of water right 83-11941 and not a part of this water right. The presumptions regarding connectivity in water right 83-11941 apply to determinations of whether a diversion is part of this water right.

d. This water right will be administered by the Nez Perce Tribe in accordance with the Tribal Water Code. Specific locations for Points of Diversion or Place of Use shall be determined pursuant to the Tribal Water Code. The Tribal Water Code shall be no less protective of the ground water resource than is state law governing the use of aquifers, including those state laws restricting the depletion of groundwater resources and the lowering of the pumping level of other ground water users.

e. Notwithstanding the Priority Date of this water right, changes in Points of Diversion or Place of Use to locations outside of this subbasin shall not injure the legal entitlement to water of those persons lawfully diverting water prior to the time of the change to the Points of Diversion or Place of Use. Any proposed changes in Points of Diversion or Places of Use to locations outside of this subbasin will be jointly reviewed by an intergovernmental board consisting of one representative of the Nez Perce Tribe, one representative of the Idaho Department of Water Resources, and one representative jointly appointed by the Tribe and the State of Idaho. The intergovernmental board will determine whether injury to other water users will result from the proposed change, and may examine other related issues regarding the interpretation of the 2004 settlement agreement on which this water right is based. The intergovernmental board will provide appropriate public notice and meet in open session to consider all relevant data, including, where appropriate, testimony from any person claiming that the proposed change will injure such person's water rights. In the event the intergovernmental board determines that the proposed change would injure the legal entitlements to water of those persons lawfully diverting water prior to the time of the proposed change or makes other related determinations, it shall make appropriate recommendations to the Tribe of the actions necessary to avoid such injury. This intergovernmental board's authority and review process is advisory only and shall not inhibit any party from seeking judicial enforcement of this 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  
Case No. 39576

NOTICE OF CLAIM FOR  
Federal Reserved Water Right 81-11933

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- 1. Name and address of owner:** UNITED STATES OF AMERICA, as trustee for the benefit of the NEZ PERCE TRIBE, acting through the AREA DIRECTOR, PORTLAND AREA OFFICE  
Bureau of Indian Affairs  
911 N.E. 11<sup>th</sup> Ave.  
Portland, OR 97232
- 2. Source of water** Ground water sources within the Middle Fork Clearwater River subbasin of Basin 81 that are not hydrologically connected with the Middle Fork Clearwater River.
- 3. Annual diversion volume** 44 acre-feet per year (AFY)
- 4. Diversion rate** Diversion rates will depend on the purpose for which this water is used in accordance with the Tribal Water Code
- 5. Priority date** June 11, 1855
- 6. Points of diversion** Points of diversion may be developed from ground water sources within the Middle Fork Clearwater River subbasin of Basin 81.
- 7. Purpose of use** Irrigation, domestic, commercial, municipal, industrial, hatchery, cultural, and other uses in accordance with the Tribal Water Code.
- 8. Period of use** January 1 to December 31, or as appropriate for the specific use in accordance with the Tribal Water Code.
- 9. Place of use** Tribal trust, tribal fee, or allotted land held in trust or under restrictions against alienation within the Middle Fork Clearwater River subbasin of Basin 81.
- 10. Basis of right** The legal basis for this water right is the doctrine of reserved water rights articulated in *Winters v. United States*, 207 U.S. 564 (1908), and its progeny.
- 11. Other provisions necessary for definition or**
  - a. Middle Fork Clearwater River subbasin of Basin 81 includes all lands draining into Middle Fork Clearwater River. The area included within this subbasin is depicted on a map entitled "Middle Fork Clearwater River subbasin within IDWR Basin 81," on file

**administration of  
this water right**

with the Director of the Idaho Department of Water Resources.

b. Notwithstanding the Priority Date of this water right, the Tribe and the United States shall exercise this water right in a manner that ensures persons lawfully diverting water prior to April 20, 2004, will continue to receive their full legal entitlement under state law.

c. To the extent that groundwater sources within the Middle Fork Clearwater River subbasin of Basin 81 are hydrologically connected to the Middle Fork Clearwater River, diversions from those sources shall be considered to be exercise of water right 81-11932 and not a part of this water right. The presumptions regarding connectivity in water right 81-11932 apply to determinations of whether a diversion is part of this water right.

d. This water right will be administered by the Nez Perce Tribe in accordance with the Tribal Water Code. Specific locations for Points of Diversion or Place of Use shall be determined pursuant to the Tribal Water Code. The Tribal Water Code shall be no less protective of the ground water resource than is state law governing the use of aquifers, including those state laws restricting the depletion of groundwater resources and the lowering of the pumping level of other ground water users.

e. Notwithstanding the Priority Date of this water right, changes in Points of Diversion or Place of Use to locations outside of this subbasin shall not injure the legal entitlement to water of those persons lawfully diverting water prior to the time of the change to the Points of Diversion or Place of Use. Any proposed changes in Points of Diversion or Places of Use to locations outside of this subbasin will be jointly reviewed by an intergovernmental board consisting of one representative of the Nez Perce Tribe, one representative of the Idaho Department of Water Resources, and one representative jointly appointed by the Tribe and the State of Idaho. The intergovernmental board will determine whether injury to other water users will result from the proposed change, and may examine other related issues regarding the interpretation of the 2004 settlement agreement on which this water right is based. The intergovernmental board will provide appropriate public notice and meet in open session to consider all relevant data, including, where appropriate, testimony from any person claiming that the proposed change will injure such person's water rights. In the event the intergovernmental board determines that the proposed change would injure the legal entitlements to water of those persons lawfully diverting water prior to the time of the proposed change or makes other related determinations, it shall make appropriate recommendations to the Tribe of the actions necessary to avoid such injury. This intergovernmental board's authority and review process is advisory only and shall not inhibit any party from seeking judicial enforcement of this 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  
Case No. 39576

NOTICE OF CLAIM FOR  
Federal Reserved Water Right 84-12214

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| <b>1. Name and address of owner:</b>                                      | UNITED STATES OF AMERICA, as trustee for the benefit of the NEZ PERCE TRIBE, acting through the AREA DIRECTOR, PORTLAND AREA OFFICE<br>Bureau of Indian Affairs<br>911 N.E. 11 <sup>th</sup> Ave.<br>Portland, OR 97232  |
| <b>2. Source of water</b>   | Ground water sources within the Clearwater River subbasin of Basin 84 that are not hydrologically connected with the Clearwater River.   |
| <b>3. Annual diversion volume</b>   | 152 acre-feet per year (AFY)   |
| <b>4. Diversion rate</b>  | Diversion rates will depend on the purpose for which this water is used in accordance with the Tribal Water Code   |
| <b>5. Priority date</b>   | June 11, 1855  |
| <b>6. Points of diversion</b>   | Points of diversion may be developed from ground water sources within the Clearwater River subbasin of Basin 84.   |
| <b>7. Purpose of use</b>  | Irrigation, domestic, commercial, municipal, industrial, hatchery, cultural, and other uses in accordance with the Tribal Water Code.  |
| <b>8. Period of use</b>   | January 1 to December 31, or as appropriate for the specific use in accordance with the Tribal Water Code.   |
| <b>9. Place of use</b>  | Tribal trust, tribal fee, or allotted land held in trust or under restrictions against alienation within the Clearwater River subbasin of Basin 84.  |
| <b>10. Basis of right</b>   | The legal basis for this water right is the doctrine of reserved water rights articulated in <i>Winters v. United States</i> , 207 U.S. 564 (1908), and its progeny.   |
| <b>11. Other provisions necessary for definition or administration of</b> | a. Clearwater River subbasin of Basin 84 includes all lands draining into Clearwater River. The area included within this subbasin is depicted on a map entitled "Clearwater River subbasin within IDWR Basin 84," on file with the Director of the Idaho Department of Water Resources. |

**this water right**

b. Notwithstanding the Priority Date of this water right, the Tribe and the United States shall exercise this water right in a manner that ensures persons lawfully diverting water prior to April 20, 2004, will continue to receive their full legal entitlement under state law.

c. To the extent that groundwater sources within the Clearwater River subbasin of Basin 84 are hydrologically connected to the Clearwater River, diversions from those sources shall be considered to be exercise of water right 84-12213 and not a part of this water right. The presumptions regarding connectivity in water right 84-12213 apply to determinations of whether a diversion is part of this water right.

d. This water right will be administered by the Nez Perce Tribe in accordance with the Tribal Water Code. Specific locations for Points of Diversion or Place of Use shall be determined pursuant to the Tribal Water Code. The Tribal Water Code shall be no less protective of the ground water resource than is state law governing the use of aquifers, including those state laws restricting the depletion of groundwater resources and the lowering of the pumping level of other ground water users.

e. Notwithstanding the Priority Date of this water right, changes in Points of Diversion or Place of Use to locations outside of this subbasin shall not injure the legal entitlement to water of those persons lawfully diverting water prior to the time of the change to the Points of Diversion or Place of Use. Any proposed changes in Points of Diversion or Places of Use to locations outside of this subbasin will be jointly reviewed by an intergovernmental board consisting of one representative of the Nez Perce Tribe, one representative of the Idaho Department of Water Resources, and one representative jointly appointed by the Tribe and the State of Idaho. The intergovernmental board will determine whether injury to other water users will result from the proposed change, and may examine other related issues regarding the interpretation of the 2004 settlement agreement on which this water right is based. The intergovernmental board will provide appropriate public notice and meet in open session to consider all relevant data, including, where appropriate, testimony from any person claiming that the proposed change will injure such person's water rights. In the event the intergovernmental board determines that the proposed change would injure the legal entitlements to water of those persons lawfully diverting water prior to the time of the proposed change or makes other related determinations, it shall make appropriate recommendations to the Tribe of the actions necessary to avoid such injury. This intergovernmental board's authority and review process is advisory only and shall not inhibit any party from seeking judicial enforcement of this 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  
Case No. 39576

NOTICE OF CLAIM FOR  
Federal Reserved Water Right 85-15594

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| <b>1. Name and address of owner:</b>                                      | UNITED STATES OF AMERICA, as trustee for the benefit of the NEZ PERCE TRIBE, acting through the AREA DIRECTOR, PORTLAND AREA OFFICE<br>Bureau of Indian Affairs<br>911 N.E. 11 <sup>th</sup> Ave.<br>Portland, OR 97232  |
| <b>2. Source of water</b>   | Ground water sources within the Clearwater River subbasin of Basin 85 that are not hydrologically connected with the Clearwater River.   |
| <b>3. Annual diversion volume</b>   | 435 acre-feet per year (AFY)   |
| <b>4. Diversion rate</b>  | Diversion rates will depend on the purpose for which this water is used in accordance with the Tribal Water Code   |
| <b>5. Priority date</b>   | June 11, 1855  |
| <b>6. Points of diversion</b>   | Points of diversion may be developed from ground water sources within the Clearwater River subbasin of Basin 85.   |
| <b>7. Purpose of use</b>  | Irrigation, domestic, commercial, municipal, industrial, hatchery, cultural, and other uses in accordance with the Tribal Water Code.  |
| <b>8. Period of use</b>   | January 1 to December 31, or as appropriate for the specific use in accordance with the Tribal Water Code.   |
| <b>9. Place of use</b>  | Tribal trust, tribal fee, or allotted land held in trust or under restrictions against alienation within the Clearwater River subbasin of Basin 85.  |
| <b>10. Basis of right</b>   | The legal basis for this water right is the doctrine of reserved water rights articulated in <i>Winters v. United States</i> , 207 U.S. 564 (1908), and its progeny.   |
| <b>11. Other provisions necessary for definition or administration of</b> | a. Clearwater River subbasin of Basin 85 includes all lands draining into Clearwater River. The area included within this subbasin is depicted on a map entitled "Clearwater River subbasin within IDWR Basin 85," on file with the Director of the Idaho Department of Water Resources. |

**this water right**

b. Notwithstanding the Priority Date of this water right, the Tribe and the United States shall exercise this water right in a manner that ensures persons lawfully diverting water prior to April 20, 2004, will continue to receive their full legal entitlement under state law.

c. To the extent that groundwater sources within the Clearwater River subbasin of Basin 85 are hydrologically connected to the Clearwater River, diversions from those sources shall be considered to be exercise of water right 85-15593 and not a part of this water right. The presumptions regarding connectivity in water right 85-15593 apply to determinations of whether a diversion is part of this water right.

d. This water right will be administered by the Nez Perce Tribe in accordance with the Tribal Water Code. Specific locations for Points of Diversion or Place of Use shall be determined pursuant to the Tribal Water Code. The Tribal Water Code shall be no less protective of the ground water resource than is state law governing the use of aquifers, including those state laws restricting the depletion of groundwater resources and the lowering of the pumping level of other ground water users.

e. Notwithstanding the Priority Date of this water right, changes in Points of Diversion or Place of Use to locations outside of this subbasin shall not injure the legal entitlement to water of those persons lawfully diverting water prior to the time of the change to the Points of Diversion or Place of Use. Any proposed changes in Points of Diversion or Places of Use to locations outside of this subbasin will be jointly reviewed by an intergovernmental board consisting of one representative of the Nez Perce Tribe, one representative of the Idaho Department of Water Resources, and one representative jointly appointed by the Tribe and the State of Idaho. The intergovernmental board will determine whether injury to other water users will result from the proposed change, and may examine other related issues regarding the interpretation of the 2004 settlement agreement on which this water right is based. The intergovernmental board will provide appropriate public notice and meet in open session to consider all relevant data, including, where appropriate, testimony from any person claiming that the proposed change will injure such person's water rights. In the event the intergovernmental board determines that the proposed change would injure the legal entitlements to water of those persons lawfully diverting water prior to the time of the proposed change or makes other related determinations, it shall make appropriate recommendations to the Tribe of the actions necessary to avoid such injury. This intergovernmental board's authority and review process is advisory only and shall not inhibit any party from seeking judicial enforcement of this 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  
Case No. 39576

NOTICE OF CLAIM FOR  
Federal Reserved Water Right 86-11956

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| <b>1. Name and address of owner:</b>                                      | UNITED STATES OF AMERICA, as trustee for the benefit of the NEZ PERCE TRIBE, acting through the AREA DIRECTOR, PORTLAND AREA OFFICE<br>Bureau of Indian Affairs<br>911 N.E. 11 <sup>th</sup> Ave.<br>Portland, OR 97232  |
| <b>2. Source of water</b>   | Ground water sources within the Clearwater River subbasin of Basin 86 that are not hydrologically connected with the Clearwater River.   |
| <b>3. Annual diversion volume</b>   | 203 acre-feet per year (AFY)   |
| <b>4. Diversion rate</b>  | Diversion rates will depend on the purpose for which this water is used in accordance with the Tribal Water Code   |
| <b>5. Priority date</b>   | June 11, 1855  |
| <b>6. Points of diversion</b>   | Points of diversion may be developed from ground water sources within the Clearwater River subbasin of Basin 86.   |
| <b>7. Purpose of use</b>  | Irrigation, domestic, commercial, municipal, industrial, hatchery, cultural, and other uses in accordance with the Tribal Water Code.  |
| <b>8. Period of use</b>   | January 1 to December 31, or as appropriate for the specific use in accordance with the Tribal Water Code.   |
| <b>9. Place of use</b>  | Tribal trust, tribal fee, or allotted land held in trust or under restrictions against alienation within the Clearwater River subbasin of Basin 86.  |
| <b>10. Basis of right</b>   | The legal basis for this water right is the doctrine of reserved water rights articulated in <i>Winters v. United States</i> , 207 U.S. 564 (1908), and its progeny.   |
| <b>11. Other provisions necessary for definition or administration of</b> | a. Clearwater River subbasin of Basin 86 includes all lands draining into Clearwater River. The area included within this subbasin is depicted on a map entitled "Clearwater River subbasin within IDWR Basin 86," on file with the Director of the Idaho Department of Water Resources. |

**this water right**

b. Notwithstanding the Priority Date of this water right, the Tribe and the United States shall exercise this water right in a manner that ensures persons lawfully diverting water prior to April 20, 2004, will continue to receive their full legal entitlement under state law.

c. To the extent that groundwater sources within the Clearwater River subbasin of Basin 86 are hydrologically connected to the Clearwater River, diversions from those sources shall be considered to be exercise of water right 86-11955 and not a part of this water right. The presumptions regarding connectivity in water right 86-11955 apply to determinations of whether a diversion is part of this water right.

d. This water right will be administered by the Nez Perce Tribe in accordance with the Tribal Water Code. Specific locations for Points of Diversion or Place of Use shall be determined pursuant to the Tribal Water Code. The Tribal Water Code shall be no less protective of the ground water resource than is state law governing the use of aquifers, including those state laws restricting the depletion of groundwater resources and the lowering of the pumping level of other ground water users.

e. Notwithstanding the Priority Date of this water right, changes in Points of Diversion or Place of Use to locations outside of this subbasin shall not injure the legal entitlement to water of those persons lawfully diverting water prior to the time of the change to the Points of Diversion or Place of Use. Any proposed changes in Points of Diversion or Places of Use to locations outside of this subbasin will be jointly reviewed by an intergovernmental board consisting of one representative of the Nez Perce Tribe, one representative of the Idaho Department of Water Resources, and one representative jointly appointed by the Tribe and the State of Idaho. The intergovernmental board will determine whether injury to other water users will result from the proposed change, and may examine other related issues regarding the interpretation of the 2004 settlement agreement on which this water right is based. The intergovernmental board will provide appropriate public notice and meet in open session to consider all relevant data, including, where appropriate, testimony from any person claiming that the proposed change will injure such person's water rights. In the event the intergovernmental board determines that the proposed change would injure the legal entitlements to water of those persons lawfully diverting water prior to the time of the proposed change or makes other related determinations, it shall make appropriate recommendations to the Tribe of the actions necessary to avoid such injury. This intergovernmental board's authority and review process is advisory only and shall not inhibit any party from seeking judicial enforcement of this decree.