

DISTRICT COURT - 1228
TWIN FALLS CO., IDAHO
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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

CONSENT DECREE APPROVING
ENTRY OF PARTIAL FINAL DECREES
DETERMINING THE RIGHTS OF THE
UNITED STATES AS TRUSTEE FOR
THE BENEFIT OF THE NEZ PERCE
TRIBE AND THE NEZ PERCE TRIBE
TO THE USE OF WATER IN THE
SNAKE RIVER BASIN WITHIN IDAHO
AND PARTIAL FINAL DECREES
DETERMINING MINIMUM STREAM
FLOW WATER RIGHTS HELD BY THE
IDAHO WATER RESOURCES BOARD

CONSENT DECREE

The Parties to this Consent Decree are the United States, the State of Idaho, the Nez Perce Tribe, and the Idaho Water Users listed on Attachment 1.

1. Definitions.

The following definitions apply for the purposes of this Consent Decree.

A. "Agreement" means the document titled "Mediator's Term Sheet", a copy of which is attached as Attachment 2, previously submitted to this Court on April 20, 2004, as an attachment to the Joint Status Report on Settlement Efforts and Motion for

Stay, and since ratified and confirmed by the Congress of the United States, the Idaho Legislature, and the Nez Perce Tribal Executive Committee.

B. "Partial Decrees" means the partial decrees for multiple use federal reserved water rights held by the United States as trustee for the benefit of the Nez Perce Tribe, "springs or fountains" federal reserved water rights held by the United States as trustee for the benefit of the Nez Perce Tribe, and state minimum stream flow water rights held by the Idaho Water Resources Board, all attached as Attachments 4 through 6.

2. General dismissal of all water right claims. With the exception of the partial decrees described herein, the Parties agree to the dismissal, with prejudice, of all water right claims submitted in the Snake River Basin Adjudication (SRBA) by the Nez Perce Tribe and by the United States as trustee for the benefit of the Nez Perce Tribe. Attachment 3 provides a list of all claim numbers to be dismissed and explains certain clerical corrections required for claim numbers.

3. Entry of Partial Decrees for multiple use federal reserved water rights.

The parties agree to entry of and incorporate herein the partial decrees for multiple use federal reserved water rights, attached hereto as Attachment 4, following compliance with the notice, objection, and hearing requirements of Section 42-1411A, Idaho Code. The United States and the Nez Perce Tribe will continue to exercise these water rights in a manner consistent with the expectation of the parties to the Agreement that most of the 50,000 acre feet per year will be diverted from the Clearwater River.

4. Entry of Partial Decrees for "springs or fountains" federal reserved water rights.

The parties agree to entry of and incorporate herein the partial decrees for "springs or fountains" federal reserved water rights, attached hereto as Attachment 5. Notices of claim were filed for each of the water rights described in the partial decrees and opportunity was provided for objections. The notices of claim and the objections thereto have been the subject of litigation in SRBA Consolidated Subcase 67-13701. Entry of the partial decrees and dismissal of all remaining claims pursuant to Section 2 of this Consent Decree would resolve the outstanding issues between the signatories¹ by confirming the federal reserved water rights of the United States as trustee for the benefit of the Nez Perce Tribe for the non-exclusive use of springs or fountains on federal public lands within the area ceded by the Nez Perce Tribe in the Nez Perce Treaty of June 9, 1863, 14 Stat. 647 and dismissing all claims to springs and fountains on private and state-owned lands.

5. Entry of Partial Decrees for state minimum stream flow water rights. The parties stipulate to the entry of the partial decrees for state minimum stream flow water rights, attached hereto as Attachment 6, following compliance with the notice, objection, and hearing requirements of Section 42-1411, Idaho Code. The minimum stream flow water rights were approved by resolution of the Idaho Water Resources Board dated February 8, 2005, and

¹ The following objectors in Consolidated Subcase 67-13701 are not signatories to this Consent Decree: Marilyn McKenna, Idaho Power Company, John W. Brewer, Willis D. Deveny, Scott and Connie Harris. However, we understand that Idaho Power Company does not oppose the entry of this Consent Decree, and the other parties objected only to those claims which were to springs on private land owned by the individual objectors, which claims are being dismissed pursuant to this Consent Decree.

established by the Idaho Legislature in chapter 148 of the 2005 Idaho Session Laws.² The water rights are held in the name of the Idaho Water Resources Board in trust for the people of the state of Idaho. The flows may be modified in accordance with chapter 148 of the 2005 Idaho Session Laws and Section II(A)(4) of the Agreement.

6. Administration of water rights. The United States will administer the multiple use federal reserved water rights set forth in this Consent Decree and the Partial Decrees until such time as the Nez Perce Tribe adopts a Nez Perce Tribe Water Code and such Code is approved by the Secretary of Interior pursuant to Section 7(b) of Title X of Division J of Public Law 108-447 (Snake River Water Rights Act of 2004). Administration of the multiple use water rights by the United States or the Nez Perce Tribe will not be construed or interpreted to preempt or inhibit administration of any state-based water right by the Idaho Department of Water Resources (IDWR) or the jurisdiction of the SRBA Court or its successor over the administration of the attached Partial Decrees.

7. Sharing of Water Use Information. In order to ensure compliance with this Consent Decree and to assure cooperation with regard to the administration of water rights, the Nez Perce Tribe and the State of Idaho will make available to each other a database of all diversions authorized pursuant to that party's authorities within the hydrologic subbasins identified in the attached Partial Decrees for federal reserved multiple use water rights. The

² Two minimum stream flows were inadvertently omitted from the resolution; the Water Board has filed applications 83-11962 and 83-11963 for the two omitted water rights. To fulfill the Agreement, these two omitted water rights are required to be decreed by the Court; it is expected the applications will be approved by the 2006 Legislature, after which recommendations will be filed in the SRBA for the two omitted water rights.

databases will include the following information: (1) the water right number or permit number under which the use will occur; (2) the source of water; (3) a legal description of the point of diversion; (4) a legal description of the place of use; (5) the amount of water to be diverted, stated in cubic feet per second and acre feet per year; and (6) the nature of the use. The databases will be updated as necessary to include new diversions, changes in points of diversion, and changes in places of use.

8. Implementation and Incorporation of Agreement. This Consent Decree implements the Agreement by decreeing the water rights as they were agreed to by the parties to the Agreement. This Consent Decree incorporates the Agreement; provided that nothing in the Agreement or this Consent Decree restricts, enlarges, or otherwise determines the subject matter jurisdiction of this Court or any other court, nor requires the enforcement by this Court of any matter outside of its jurisdiction. Many provisions in the Agreement are covenants among the signatory parties and are neither binding on, nor enforceable by, this Court or non-signatory parties. In the event of a conflict between the Agreement and the Consent Decree, the Consent Decree shall control.

9. Jurisdiction. Nothing in this Consent Decree, the Agreement, or the Partial Decrees shall be construed to restrict, enlarge, or otherwise determine the territorial or subject matter jurisdiction of any parties to the Agreement.

10. Waivers and Releases. At the time the Consent Decree shall be subject to no further appeal, and subject to the certification requirements of the Snake River Water Rights Act of 2004, Title X of Division J of Public Law 108-447; 2005 Idaho Session Laws Chapter 148,

and Nez Perce Tribal Executive Committee Resolution No. 05-210, the waivers and releases specified in Section IV(D)(1) of the Agreement shall become effective.

11. No Establishment of Precedent. Nothing in this Consent Decree or in the Agreement shall be so construed or interpreted: (1) to establish any standard to be used for the quantification of federal reserved water rights or any other Indian water claims of any other Indian Tribes in any judicial or administrative proceeding; (2) to limit in any way the rights of the parties or any person to litigate any issue or question not resolved by this Consent Decree or the Agreement; or (3) to enlarge, restrict, or in any way affect the Treaty hunting, fishing, gathering, or pasturing rights of the Nez Perce Tribe or any other Tribe. This Consent Decree and the Agreement were the result of good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding and nothing in this Consent Decree or the Agreement shall be read as an admission or determination by the parties that any of the actions anticipated by this Consent Decree or the Agreement are necessarily required under any federal or state law.

12. Continuing Jurisdiction. The parties agree that the Court shall retain jurisdiction for the purpose of resolving disputes regarding the implementation and enforcement of this Consent Decree, as well as jurisdiction over the administration of the attached Partial Decrees, to the extent such administration is consistent with the terms of Title 42, Chapter 14, Idaho Code and the McCarran Amendment, 43 U.S.C. § 666.

13. Prior Orders and Judgments. Notwithstanding the status of previous orders, determinations, and judgments entered in Consolidated Subcase 03-10022 (Nez Perce Instream Flow Claims) and Consolidated Subcase 67-13701 (Nez Perce Springs or Fountains Claims), the parties agree that this Consent Decree and the Agreement constitute the final, complete and exclusive agreement and understanding of the parties and the final judgment of this Court as to all water right claims of the Nez Perce Tribe and the United States as trustee for the benefit of the Nez Perce Tribe in this Case.

14. Resolution and Finality. All parties agree that the Consent Decree and Agreement represent a just, fair, adequate and equitable resolution of the water right claims of the Nez Perce Tribe and the United States as trustee for the benefit of the Nez Perce Tribe in this Case and that the Consent Decree, Partial Decrees and Agreement constitute the final, complete and exclusive understanding of the parties and the final judgment of the Court with respect to all such claims.

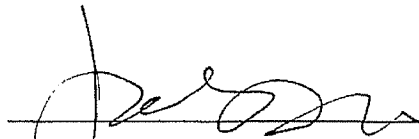
15. Costs and Fees. All parties to this Consent Decree will bear their own costs and fees with regard to the entry of the Consent Decree and all litigation relating to the water right claims submitted in SRBA by the Nez Perce Tribe and the United States as trustee for the benefit of the Nez Perce Tribe.

16. Consent Decree Binding. The Consent Decree shall bind and inure to the benefit of the respective successors of the parties. Upon entry of the Consent Decree, the Consent Decree shall be binding on all parties in the SRBA.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order 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 judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATE: January 30, 2007

A handwritten signature in black ink, appearing to read "John M. Melanson", written over a horizontal line.

JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

Attachment 1 to Consent Decree
In re SRBA Case No. 39576

The Idaho Water Users who are Parties to this Consent Decree include the following:

A & B Irrigation District	City of New Plymouth
Aberdeen-Springfield Canal Company	City of Oakley
Agland, Inc.	City of Parma
Agwild, Inc.	City of Paul
Bar-U-Inc.	City of Payette
Basic American Foods, Inc.	City of Pocatello
Big Bend Irrigation District	City of Rigby
Boise-Kuna Irrigation District	City of Ririe
Buck Creek Ranch, Inc.	City of Roberts
Burgess Canal & Irrigation Company	City of Rupert
Burley Irrigation District	City of Salmon
City of Ashton	City of St. Anthony
City of Bliss	City of Sugar City
City of Buhl	City of Ucon
City of Burley	City of Weiser
City of Cascade	ConAgra/Lamb-Weston, Inc.
City of Challis	Egin Bench Canal, Inc.
City of Chubbuck	Enterprise Irrigation District
City of Council	Falls Irrigation District
City of Declo	Glen Dale Farms, Inc.
City of Donnelly	Harrison Canal & Irrigation Company
City of Eden	Idaho Irrigation District
City of Emmett	J.R. Simplot Company
City of Fairfield	Lewiston Orchards Irrigation District
City of Fruitland	Little Salmon River Water Users
City of Garden City	Association
City of Glenns Ferry	M.L. Investment Company
City of Grand View	Milner Irrigation District
City of Heyburn	Minidoka Irrigation District
City of Inkom	New York Irrigation District
City of Ketchum	Newfoundland Partners
City of Kuna	North Freemont Canal Systems
City of Lewiston	North Side Canal Company
City of Mackay	Payette River Water Users Association,
City of Meridian	Inc.
City of Middleton	Peoples Canal & Irrigation District
City of Minidoka	Pioneer Irrigation District
City of Mountain Home	Port of Lewiston
City of Mud Lake	Potato Storage, Inc.
City of Nampa	Potlatch Corporation

Progressive Irrigation District
Settlers Irrigation District
Simplot Cattle Company
Simplot Dairy Products, Inc.
Simplot Livestock Company
Simplot Meat Products, Inc.
Sinclair Oil Corporation d/b/a Sun
Valley Company
Snake River Valley Irrigation District
SSI Food Services, Inc.
SSI Foods, Inc.
Sunnyslope Orchards Partnership
Thompson Creek Mining Company
Thousand Springs Ranch
TM Ranch Company
Twin Falls Canal Company
Wilder Irrigation District

MEDIATOR'S TERM SHEET

I. Nez Perce Tribal Component.

- A. The Tribe's on-reservation, consumptive use reserved water right will be quantified in the amount of 50,000 AF per year, with a priority date of 1855. This water right will be established so as to allow for irrigation, DCMI, hatchery and cultural uses, at the discretion of the Tribe. The parties expect the source of most of this water right will be the Clearwater River; however, the source of some this water right may be from tributary streams adjacent to tribal lands to the extent unappropriated water is available and no injury to existing water rights will occur. The Tribe will administer the on-reservation use of this water right pursuant to the tribal water code. The Tribe may rent this water within the State of Idaho through the state water bank or water banks.
- B. The United States will establish a \$50 million multiple-use water and fisheries resource trust fund for the Tribe to use in acquiring lands and water rights, restoring/improving fish habitat, fish production, agricultural development, cultural preservation, and water resource development or fisheries-related projects.
- C. Subject to authority, the United States will enter into an agreement with the Tribe as to the use of 200 KAF in Dworshak Reservoir, which will include an operational MOA between the Tribe, Corps of Engineers (COE), National Marine Fisheries Service (NOAA Fisheries), the Bonneville Power Administration (BPA), and the State of Idaho implementing a flow augmentation plan beneficial to fish. Prior to the agreement implementing this term sheet,¹ the Tribe and the US will mutually agree that the power revenue effect of implementing this term will be either neutral or positive, or in the absence of such agreement, will revise this term so that such effect will be neutral or positive.
- D. The United States will fund the design and construction of domestic water supply and sewer systems for tribal communities on the reservation, including a water quality testing laboratory, in the total amount of \$23 million.
- E. The United States will enter into a long-term contract with the Tribe at the time of settlement, transferring management control of the federal hatchery at Kooskia to the Tribe. The United States and the Tribe will enter into an agreement for joint management of hatchery programs at the Dworshak National Hatchery.
- F. Prior to the completion of the agreement, the United States and the Tribe will agree to a quantity of BLM lands within the reservation to be transferred from the United States to the Tribe, to be selected by the Tribe from within the 11,000 acres identified as available for selection by the BLM, up to a total value of \$7 million as determined by mutual agreement or, in the absence of mutual agreement, by an independent appraisal report based upon the fair market value that is prepared in accordance with the *Uniform Standards of Professional Appraisal Practice* (USPAP) and the *Uniform Appraisal Standards for Federal Land Acquisitions*. The BLM and the Tribe, under the authority of the Federal Land Policy and

¹Implementation of this Term Sheet will involve drafting of a number of implementation documents including federal and state legislation, a consent decree, biological assessments and opinions in accordance with the Endangered Species Act, and other documents. References in this Term Sheet to "agreements" refer to those implementation documents.

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Management Act of 1976, will enter into a cooperative agreement to coordinate and cooperate in management of BLM lands within the reservation which will include a right of first refusal for the Tribe to purchase any BLM lands that the United States may choose in the future to sell, transfer, or exchange.

- G. Any non water-based claims the Tribe may have against the United States for the construction and operation of the Dworshak Dam will not be waived as a part of this agreement, nor will any compensation for such alleged claims be a part of the agreement. The United States understands that the Tribe intends to pursue such claims, moral or legal, separately from this agreement, and, without admitting any liability, agrees to meet in good faith with the Tribe to attempt to resolve such claims.
- H. In lieu of contracting 45,000 AF of uncontracted storage space in the Payette River system to the Tribe, the United States will pay the Tribe the present value of \$10.1 million of the 30-year rental value of that space based on the rental charges set in section III.C.8.
- I. The Tribe's treaty right of access to and use of water from springs and fountains on Federal public lands within the 1863 Nez Perce Treaty ceded area shall be recognized and established under the agreement.
- J. Lewiston Orchards Irrigation District (LOID)/City of Lewiston. This term sheet does not address any of the issues surrounding the proposed transfer of the LOID/Bureau of Reclamation water diversion system to the Tribe or funding by the United States of a replacement water intake system on the Clearwater River for LOID. The intention of the parties is to allow any discussions that may take place in the future among LOID, the Tribe, the Bureau of Reclamation (BOR), the City of Lewiston, and other affected water right holders to occur separately from and unaffected by this term sheet.

II. Salmon/Clearwater Component

A. Instream Flows To Be Established As Part of Settlement of Nez Perce Claims.

- 1. Idaho will establish, pursuant to state law, instream flow water rights, to be held by the Idaho Water Resource Board (IWRB), on the streams within the Salmon and Clearwater Basins listed in Appendix I, List A in accordance with the protocol set forth as part of Appendix I. Such water rights will be established by March 31, 2005.
- 2. By March 31, 2005, the IWRB will establish pursuant to state law instream flow water rights for the streams within the Salmon and Clearwater River Basins on the streams listed in Appendix I, List B, in amounts that are negotiated by the parties in consultation with local communities. In conjunction with the establishment of instream flows for the streams listed in Appendix I, List B, the parties will seek legislation from the Idaho Legislature to permit the IWRB to protect from diversion water to satisfy such instream flows, where needed, under state laws, regulations, and water bank rules. In negotiation of the quantification of instream flows, the parties will take into consideration the present hydrograph and the status of state-granted water rights on each stream.
- 3. The instream flows will be subordinated to water rights existing on or before the date of this agreement and to future domestic, commercial, industrial and municipal water rights. In issuing any new water rights for future uses that may affect the instream flows, IDWR will consider the local public interest under Idaho Code § 42-203(A)5, including but not limited to the protection of fish and wildlife habitat, aquatic life,

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- recreation, aesthetic beauty, transportation and navigation values, and water quality.
4. The SRBA court will decree the instream flows established by the IWRB on the streams listed in Appendix I, Lists A and B. In the event the State proposes to change any instream flow listed in Appendix I, Lists A and B, the State agrees to: 1) provide 6 months advanced written notice to the parties of any proposed change, including the basis for the proposed change and an analysis of the impacts, if any, resulting from the proposed change to fish and wildlife resources; and 2) to consult with the Nez Perce Tribe on a government-to-government basis prior to making the change.
 5. Federal reserved water rights for the Selway, Lochsa, Middle Fork Clearwater, Rapid River, Main Salmon and Middle Fork Salmon River will be decreed under the Wild and Scenic Rivers Act to the United States pursuant to a separate settlement in the SRBA.
 6. Existing state instream flows on the mainstem Clearwater, the mainstem Salmon, the Lemhi and the Pahsimeroi Rivers will be maintained as presently quantified, subject to I.C. § 42-1504.
 7. The parties will study the relationship of the IWRB instream flows on the Clearwater River with the potential future operations of Dworshak Reservoir including evaluations of the existing rule curve and proposed future integrated rule curves to provide for operation of Dworshak consistent with anadromous and resident fishery objectives, and other information as appropriate. The parties will complete the study by December 31, 2004.
 8. In the Lemhi and Pahsimeroi, additional habitat actions will be developed by the Parties in consultation with the local community and stakeholder groups in the course of developing the proposed Section 6 Cooperative Agreement (see Section II.D). The Parties' anticipation is the development of the actions will be specifically directed toward (1) assembling by March 31, 2005 sufficient agreement on actions to ensure settlement of the Nez Perce instream water right claims, and (2) maximizing the consistency between those actions and all provisions of any proposed Section 6 Cooperative Agreement that may relate to the Lemhi or Pahsimeroi basins.
 9. Enforcement. In accordance with Idaho Code Title 42, Chapter 6, or other applicable law, IDWR will regulate the delivery of the instream flow water rights and protect from diversion water to satisfy such instream flows through the designated stream reaches, subject to priority and to the subordinations specified in section II.A.3.
- B. **Salmon/Clearwater Habitat Management and Restoration Initiative.** The State of Idaho will implement a Salmon and Clearwater Habitat Management and Restoration Initiative for the conservation and restoration of habitat within the Salmon and Clearwater River Basins. The Initiative will consist of three components: 1) instream flow program, 2) forest practices program, and 3) a habitat restoration program.
1. **Instream Flow Program.**
 - a. The State will identify as part of the development of a Section 6 Cooperative Agreement(s) as provided in Section II.D a list of streams for which it desires incidental take coverage. Within 60 days of this notice, the State will provide existing and expected future water depletions, including quantity and location (basin) for those streams that are to be included in the Section 6 Cooperative Agreement. Streams determined by the Services to be flow limited will be

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addressed in collaboration among the parties and local communities in order for the Section 6 Cooperative Agreement described in section II.D to satisfy the requirements of section 7(a)(2) of the ESA. Any state instream flows established under this section will not be decreed by the SRBA court nor will such instream flows be subject to the notice and consultation process described in section II.A.4 above.

- b. **Monitoring.** The parties will negotiate a monitoring plan and method for determining compliance with the instream flow program.
 - c. **Enforcement.** IDWR will regulate the delivery of the instream flow water rights and protect from diversion water to satisfy such instream flows through the designated stream reaches, subject to priority and to the subordinations specified in section II.A.3 above.
2. **Idaho Forestry Program.** [Appendix II contains the figures and other references in this section.] Owners or operators who participate in the following State of Idaho Section 6 forest practices program will receive incidental take coverage under the ESA for any incidental take that may occur of listed species covered by this Agreement due to forest practices conducted in accordance with this Agreement. The forest practice program will be based on the Idaho Forest Practices Act ("IFPA"), Idaho Code §§ 38-1301 et seq. Owners and operators participating in the forest practices program voluntarily commit to implement the following prescriptions, in addition to the IFPA, to provide additional short-term and long-term conservation benefits for listed species. The Section 6 Agreement to be negotiated by the parties will not vary materially from the following terms, but may explain and define these terms, including establishment of standards relating to subsequent administrative decisions by the Idaho Department of Lands, as mutually agreed by the parties. This forestry program is a cooperative agreement between the State and the Services pursuant to Section 6(c) of the ESA, and neither applies to Nez Perce tribal lands nor impairs Nez Perce treaty fishing, hunting, pasturing, or gathering rights.
- a. **DEFINITIONS:**
 - i. **Bank Full Depth:** The average depth of the stream when the flow is at the ordinary high water mark. This is used to determine the average depth of the stream for the reach adjoining management activities.
 - ii. **Class I Stream:** For purposes of this Agreement, Class I streams are those that contain habitat which is used by fish at any life stage at any time of the year including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat. Where it is unknown whether the stream may contain fish, fish habitat or potential habitat, the current IFPA rules based on upstream drainage area will be used to determine the Class I-Class II boundary. The Class I-Class II boundary may be determined from other, analytically-based or empirical methods, as approved by the IDL.
 - iii. **Class II Stream:** For purposes of this Agreement, Class II streams are headwater streams or minor drainages that do not contain habitat likely to be used by fish at any life stage at any time of the year. The principle value of Class II streams lies in their influence on ecological functions, water

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- quality and water quantity downstream in Class I streams.
- iv. Cumulative Watershed Effects Process (CWE): Forest Practices Cumulative Watershed Effects Process for Idaho, as amended.
- v. Distances: All distances referenced in these supplement measures are slope distances, unless otherwise provided herein.
- vi. Flood Prone Width: Flood prone width is defined as the width of the water's surface at twice the bank full depth.
- vii. Idaho Department of Lands (IDL): The administering agency of the IFPA.
- viii. Hot spot: (as defined in the Native Fish Habitat Conservation Plan (NFHCP)).
- ix. Large Woody Debris (LWD): Live or dead trees and parts or pieces of trees that are large enough or long enough or sufficiently buried in the stream bank or bed to be stable during high flows.
- x. Multiple Unconfined Channel: Valley bottom contains multiple (braided) channels that are active or relic.
- xi. Ordinary High Water Mark: That mark on all water courses in respect to vegetation, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland.
- xii. Riparian Protection Zone (RPZ): The combined widths of the no harvest and buffer zones defined in these measures.
- xiii. Single Confined Channel: Bank full flow is contained within a single channel and the flood prone width is less than four times the bank full channel width.
- xiv. Single Unconfined Channel: Bank full flow is contained within a single channel and the flood prone width is greater than four times the bank full channel width.
- xv. SPZ: Stream Protection Zone as defined in the IFPA.
- b. **RIPARIAN MANAGEMENT MEASURES**
 - i. Because of the diversity of terrain and forest types in Idaho, it is difficult to design a "one-size fits all" set of riparian management measures. Thus, while the supplemental measures set forth below are designed for application to all enrolled forest lands, the program to be included in the Section 6 Agreement will also provide a mechanism for enrollees to design site-specific stream protection measures that must be reviewed and approved by the IDL forest practices coordinator or designee and a fisheries biologist as appropriate prior to implementation. An approved site-specific stream protection plan shall provide for equivalent or better results than these supplemental conservation measures.
 - ii. **RIPARIAN MEASURES FOR CLASS I STREAMS.** -- On Class I streams the following measures shall apply to the RPZ.
 - (a) No Harvest Zone Measures
 - i) The No Harvest Zone is defined as:
 - a) Twenty-five (25) feet (each side) of the ordinary high

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- water mark where the stream is contained in a Single Confined Channel (Figures 1, 4).
- b) Twenty-five (25) feet (each side) of the ordinary high water mark where the stream is contained in a Single Unconfined Channel (Figures 2, 5).
 - c) The entire flood prone width where the stream is contained in Multiple Unconfined Channels (Figures 3, 6). Where the current channel, or any relic channel is within 25 feet of the valley sidewall, the No Harvest Zone will be extended upslope twenty-five (25) feet from the ordinary high water mark of that channel.
- ii) Harvest will not occur in the No Harvest Zone unless determined by the IDL, on a site-specific basis, that harvest is necessary to maintain or improve riparian function, which may include reduction of the risk of forest fires, disease, or insect infestation. An enrollee who believes harvest is necessary to maintain or improve riparian function must submit a site-specific plan for IDL review and approval prior to implementation. Such harvest plan must describe how riparian function will be protected.
 - iii) Yarding corridors will not be placed through the No Harvest Zone unless required to minimize road construction, for operator safety, or to achieve sound forestry practices in the adjacent area. Any such yarding corridor shall be placed in a No Harvest Zone only to the minimum extent necessary, and only as approved by the IDL forest practices coordinator or designee, with advice from a fisheries biologist as appropriate. Any approved plan authorizing a yarding corridor within the No Harvest Zone must still ensure the minimum stocking levels are retained within the RPZ. Yarding corridors that affect more than ten (10) percent of the RPZ will be mitigated as approved by IDL.
 - iv) When harvesting in areas adjacent to Class I streams, LWD may be added (through active placement of LWD) from the buffer zone, in accordance with an approved site-specific plan (II.B.2.b.i). This may alter the leave tree requirements.
- (b) Buffer Zone Measures
- i) The buffer zone is defined as:
 - a) Fifty (50) feet (each side) of the No Harvest Zone where the stream is contained in a Single Confined Channel (Figures 1, 4).
 - b) The entire flood prone width beyond the No Harvest Zone where the stream is contained in a Single Unconfined Channel (Figure 2, 5). Where the channel is within twenty-five (25) feet of the valley sidewall, the

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- buffer zone will be extended fifty (50) feet upslope of the No Harvest Zone.
- c) Where the stream is contained in Multiple Unconfined Channels, and the current channel, or any relic channel is within twenty-five (25) feet of the valley sidewall, the buffer zone will be extended fifty (50) feet upslope from the No Harvest Zone (Figures 3, 6).
- ii) During development of the section 6 agreement, the parties will work to evaluate the appropriateness of the LWD instream target and the leave trees per acre target and make revisions as mutually agreed. Absent such agreement, within the buffer zone an average of 88 trees per acre of trees larger than 8 inches diameter breast height (DBH) will be retained, selected as follows;
- a) Trees leaning toward the stream or flood plain will be favored for retention,
 - b) Trees retained will be lineally distributed along the length of the stream segment even though they may be concentrated closer to the stream,
 - c) Trees with the highest crown to height ratios (crowns from the tip to the ground) will be favored for retention to enhance stream shading,
 - d) Native species leave trees will be selected based on their suitability to survive and thrive in the RPZ.
 - e) All snags will be retained in the No Harvest Zone (where they do not interfere with logger safety), with no more than 9 snags to be included in the total tree count per acre. Snags must be over 10 feet tall to be included in the total tree count,
 - f) Trees less than 8 inches DBH and shrubs will be retained to the extent possible,
 - g) The diameter distribution of the live leave trees in the buffer zone will match a forest stand diameter distribution consistent with the age of the stand in its pre-harvest condition. The Parties envision that the section 6 agreement will include provisions that will encourage recruitment of large, older trees to the RPZ.
- iii) Because Idaho forest ecology varies tremendously from north to south, it may not be possible to maintain 88 trees per acre of trees larger than 8 inches DBH on all forest lands. Thus, in the event an enrollee demonstrates that the site productivity within the riparian zone cannot support an average of 88 trees per acre of trees larger than 8 inches DBH, then IDL will work with the enrollee(s) to determine an appropriate site-specific tree retention policy that ensures protection of riparian habitat. In

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- no event will the tree retention be less than 60 trees per acre of trees larger than 8 inches DBH.
- (c) Measures Applicable to Entire Riparian Zone
 - i) Operation of ground-based equipment shall not be allowed within the RPZ.
 - ii) The outer perimeter of the RPZ will be designated on the ground/trees prior to the commencement of logging activities.
 - iii. **RIPARIAN MEASURES FOR CLASS IIa STREAMS.** Class IIa streams are Class II streams that contribute surface stream flow directly into a Class I stream.
 - (a) There will be a fifty (50) foot buffer zone adjacent to the main stem of Class IIa streams. Within this zone a minimum of thirty-five (35) trees per acre larger than 8 inches DBH will be retained. This corresponds to an average thirty-five (35) foot spacing. Trees retained must be representative of the size of trees that existed in the stand prior to harvest.
 - (b) The buffer zone of perennial Class IIa streams that contribute, based on contributory acres, more than twenty (20) percent of the flow to a Class I stream will extend one-thousand (1000) feet above the confluence. Above this point, Class II SPZ requirements in the IFPA will apply.
 - (c) The buffer zone of perennial Class IIa streams that contribute, based on contributory acres, less than twenty (20) percent of a perennial Class I stream flow will extend five-hundred (500) feet above the confluence. Above this point, Class II SPZ requirements in the IFPA will apply.
 - (d) The riparian management of intermittent Class IIa streams will be covered by the IFPA Class II rules.
 - iv. Removal of LWD from Class I and Class IIa streams shall be prohibited unless necessary to maintain or improve riparian function, which may include reduction of the risk of forest fires, disease or insect infestation. A site-specific management plan approved by IDL will be required for the removal of any LWD prior to implementation.
 - v. As part of these Supplemental Measures, participating enrollees commit to mapping all stream segments on their ownerships as Class I and Class II within 15 years from the date of enrollment. Enrollees also agree to participate in any efforts by IDL, USFWS, NOAA Fisheries, and Idaho Department of Fish and Game to update mapping of stream segments on their ownerships.
 - vi. As part of these Supplemental Measures, the parties will cooperate in developing and undertaking a series of research projects designed to compare the effectiveness of these Supplemental Measures with alternative management strategies in enhancing native fish habitat and populations. These projects would include examples of active management within riparian areas.

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- c. **ROAD MANAGEMENT MEASURES.** The road management measures set forth herein will constitute the measures to be included in the Section 6 Agreement. Additional road measures may be included in the Section 6 Agreement only with the consent of all parties.
- i. New Road Construction:
- (a) An attempt will be made to find a suitable alternative location for new roads that are proposed for construction on side slopes greater than sixty (60) percent and/or in unstable or erodible soils. Unstable or erodible soils are those defined as "high" in the Idaho CWE Process for Idaho (Table B-1) or other agreed upon hazard-rating analysis process. Where an alternative location is not feasible, the road will be full benched without fill slope disposal.
 - (b) Where road grades slope toward stream crossings, the enrollee will install drivable drain dips and/or ditch relief pipes at the nearest practicable location to streams so that an adequate filtration zone exists to minimize sediment delivery to streams;
 - (c) Road fills over stream crossings will be grass seeded and straw-mulched concurrent with construction. Other road cuts and fills on newly constructed roads will be seeded within one operating season. The tread on native-surface roads will also be grass seeded within one operating season following construction unless the road will be used for hauling within two (2) years of construction;
 - (d) New road construction will be minimized in stream RPZs. If road construction occurs in an RPZ, slash filter windrows or suitable alternative measures will be installed at the toe of all fill slopes;
 - (e) Fills at culvert inlets on stream crossings where the culvert is 24-inch-diameter or larger will be well-armored with rock or other erosion control measures. A flared inlet structure may be used as an alternative;
 - (f) Stream crossing culvert installations will be designed to accommodate at least the fifty (50) year peak flow as determined by U.S. Geological Survey flood magnitude prediction procedures. As an alternative, the culvert size for a fifty (50) year flow may be calculated by an IDL hydrologist based on an analysis of channel dimensions;
 - (g) New roads will be minimized where the potential for erosion is high. If roads are built in an area where soils are identified in the CWE process surface erosion hazard ratings as high (Table B-2), the road tread over stream crossings will be rocked or otherwise stabilized to prevent sediment transport.
 - (h) Road cross-drainage will be provided as frequently as necessary to control road tread erosion. On active native-surfaced roads, road drainage features will be located such that road runoff distances generally do not exceed three-hundred (300) feet (and will not exceed four-hundred (400) feet) along the road centerline. On

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erodible soil types, or on road grades steeper than eight (8) percent, this spacing will be reduced from the specifications listed above; alternatively a localized IDL approved method to adequately control road tread erosion will be applied.

- (i) Road right of way clearings will be minimized where roads cross streams.
 - (j) Seeps or springs will be avoided during road design and construction, if possible. If roads cross seeps or springs, drainage features will be installed that pass accumulated surface water across the road prism and return it to the forest floor as close to the point of origin as reasonably practicable;
 - (k) New roads will be minimized in the RPZ. Roads located in RPZs will be constructed with appropriate fill depths and will include properly sized drainage features at all active channels;
 - (l) Stream crossing culvert installations must be designed to accommodate fish passage on Class I streams (an inspection program for culvert failures following significant hydrologic events will be negotiated as a part of the Section 6 agreement);
 - (m) The enrollee will inspect roads to determine their status and condition in comparison to these supplemental measures and results will be included in the periodic update of the road database.
 - (n) Road surface drainage will keep drainage within the source watershed.
- ii. Road Reconstruction and Upgrading:
- (a) A prioritization of road upgrades will be developed through CWE and/or an enrollee inventory of roads within five years of enrollment in this program. The prioritization schedule shall set forth a time frame for upgrading roads within fifteen years of the date of enrollment to the standards listed in the Supplemental Measures below. To the extent practicable, roads that have the potential to deliver sediment to Class I and Class II streams will receive priority for upgrading.
 - i) Within an operation area (Timber Sale) when the haul routes cross Class I streams, the Class I stream crossing culverts will be upgraded to meet the Supplemental Measures listed below no later than one year after completion of harvesting operations.
 - ii) For all roads, using the data from the CWE and/or enrollee inventory, enrollees will identify "hot spots." Hot spots will be addressed within five years from the date of identification. Hot spots will be upgraded to the standards in these Supplemental Measures when indicated by the CWE and/or enrollee inventory. An incentive program to encourage early response to hot spots will be included.

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- (b) Supplemental Measures for Reconstructing and Upgrading Existing Roads:
 - i) Road Tread Erosion—Within the RPZ of Class I streams, road cross-drainage will be provided as frequently as necessary to control road tread erosion. On active native-surfaced roads, road drainage features will be located such that road runoff distances generally do not exceed three hundred (300) feet (and will not exceed four-hundred (400) feet) along the road centerline. On highly erodible soil types, or on road grades steeper than eight (8) percent, this spacing will be reduced from the specifications listed above; alternatively, a localized method to adequately control road tread erosion from providing sediment to Class I streams will be applied. Procedures for alternative methods will be agreed upon.
 - ii) Culvert Replacement and Upgrading—Where existing stream crossing culverts do not pass the fifty (50) year flow, or where blockage of fish passage is documented, replacements will be designed and constructed to carry the fifty (50) year peak flow as determined by U.S. Geological Survey flood magnitude prediction procedures (as an alternative, the culvert size for a fifty (50) year flow may be calculated by a IDL hydrologist based on an analysis of channel dimensions and/or drainage size);
 - iii) Filtration—When the outlet of road drainage features are too close to streams for effective forest-floor filtration, supplemental sediment filtration will be provided (such as slash filter windrows, straw-bales, silt fences, etc.) and/or drainage feature spacing will be decreased to minimize sediment delivery;
 - iv) Relocation—For stream-adjacent/parallel roads or where there is a high density of stream crossings, simple/inexpensive relocation will be utilized in addition to (or in lieu of) road drainage improvements where possible.
- iii. Other Road Management. Site-specific access restriction commitments currently in place in cooperation with the Idaho Department of Fish and Game and/or other cooperators will be continued (and updated as necessary for new road construction and road abandonment) to protect riparian habitats and listed species.
- iv. Road Management Database
 - (a) The enrollee will commit to tracking the status of road conditions on enrolled lands. The methods for this will be either an updateable geographic information system (GIS), or a system of hand or computer aided drawing (CAD) maps, and tabular data suitable for periodic audits. It will show the road network spatially and facilitate estimation of road miles by road class. Additionally there is a

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- commitment to periodically (ten (10) year cycle) re-inspect roads that have been constructed or upgraded to the supplemental standards and to perform any maintenance necessary to preserve the upgraded function.
- (b) The inspection process will be performed using several methods including but not limited to: Forestry personnel reviewing roads for use in management activities, personnel knowledgeable about such road inspection, and through the Cumulative Watershed Effects Analysis (CWE) field review activities.
 - (c) The checklist for inspection will include all the elements necessary to ensure roadbed integrity, sediment management, and drainage structure function in regard to protecting streams.
- d. **VARIANCE COMMITMENTS.** All variances to these Supplemental Measures that affect fish habitat shall be reviewed by the IDL Forest Practices Coordinator or designee in consultation, as defined in the IFPA, with a fisheries biologist and approved and signed by the IDL Area Supervisor.
- e. **IMPLEMENTATION MONITORING.**
- i. IDL will monitor implementation and effectiveness of the IFPA and these additional conservation measures in protecting riparian function.
 - ii. Implementation Monitoring Plan. Each enrollee will be monitored separately within the program. Management Responses generated by the various methods listed below will be tailored to the landowner. Standards, criteria, and methods for implementation monitoring will be agreed upon.
 - (a) Three basic methods of implementation monitoring will occur to ensure the IFPA and these supplemental conservation measures are being applied on the ground. The first will be the routine on-site inspections carried out by IDL Forest Practice Advisors in the course of their work. These inspections are reviewed by staff and trends noted and reported on a yearly basis. The second is by periodic audits of management activities by an Interdisciplinary Team to review IFPA rule implementation and effectiveness. The third is by systematic implementation of CWE, which provides a framework to assess all the elements that may affect habitat and water quality, and provide a feedback loop for implementation of corrective measures and further assessment.
 - (b) For each of these methods, a report will be generated and sent to the landowner(s) with specific corrective action options presented and a timeframe in which the action is to be completed. An Interdisciplinary team will be available for consultation in reviewing the site if necessary and offering inputs on the corrective action.
 - i) Nonperformance issues documented in yearly reports may result in an increased rate of inspection and a revision of the enrollee's implementation plan.
 - ii) Nonperformance issues identified in periodic IFPA audits and CWE analyses will lead to adjusting inspection cycles and

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- iii) frequencies and reviews of enrollee's implementation plan.
 - iii) It is the responsibility of the person seeking authorization for incidental take of listed fish to show that actions taken are in compliance with the Section 6 Agreement and the Idaho Forest Practices Act.
 - f. **ADAPTIVE MANAGEMENT:** The parties will implement an adaptive management plan comparable in kind to that in the NFHCP, which will include among other things the following:
 - i. **Effectiveness Monitoring Plan:** All of the supplemental measures in this program are expected to benefit listed fish, however, some of the commitments provide more certain benefits than others. At present, the scientific information regarding the cause-and-effect relationships between some forest management activities and aquatic resource concerns are not well understood. Thus, methods by which adaptive management strategies will investigate scientific questions on the following issues will be identified:
 - (a) Evaluation of the effects of riparian management on woody debris loads and fish habitat diversity.
 - (b) Evaluation of effectiveness of supplemental measures at minimizing stream temperature increases.
 - (c) Evaluation of the sediment inputs, including the effectiveness of road measures.
 - ii. **Changed Circumstances.**
 - (a) A "changed circumstance" is a change in the circumstances affecting a covered species that can be reasonably anticipated to occur during the term of the agreement. Changed circumstances include, among others:
 - i) Forest fires that are stand replacement fires 300 acres and larger or that affect more than 25 percent of the stream length within the watershed. "Stand replacement" is of sufficient intensity to kill 90 percent or more of the trees (i.e., a fire that would necessarily result in the need to establish a new stand);
 - ii) Flooding when the flood has a recurrence interval greater than 25 years based on stream gauging station data in the watershed, for 4th order watersheds and above; and
 - iii) Landslides larger than 500 cubic yards that deliver sediment to streams.
 - (b) Promptly after a changed circumstance is discovered, IDL will be notified and invited to help craft a site-specific management alternative.
 - iii. **Evaluation and Response Plan:** Adaptive Management triggers, similar in kind to the NFHCP will be established utilizing the data from effectiveness monitoring projects, the annual and periodic reports on implementation monitoring, and independent research as applicable to watersheds covered by these Supplemental Measures. The basic response mechanism for

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instituting programmatic changes in these measures is as follows:

- (a) A trigger can be tripped by findings from any level of reporting (yearly, periodic IFPA, or CWE) or scientific study conducted as part of this program.
- (b) When a trigger is tripped, an assessment of the biological relevance of the findings between expectations and results will be performed and a determination made as to whether there is a causal linkage, or an unforeseen circumstance.
- (c) Depending on the determination above, a management response will be crafted to address the issue and enrollee implementation plans will be modified accordingly.

g. **ADMINISTRATION AND IMPLEMENTATION OF SECTION 6 PROGRAM**

- i. **IDL Administration:** IDL shall be responsible for administering and ensuring compliance with the Idaho Forestry Program.
- ii. **Enrollment and Commitment:** A landowner may enroll in this program by submitting a written request to IDL. IDL shall develop an enrollment form for use by landowners. The enrollment form shall require, at a minimum, that the enrollee:
 - (a) Identify all lands for which enrollment is sought;
 - (b) Agree to abide by the supplemental measures set forth in this program;
 - (c) Set forth a detailed schedule for implementation of the commitments required by these supplemental measures on the enrollee's forest lands;
 - (d) Authorize IDL access to the enrollee's land for purposes of monitoring compliance with this program;
 - (e) Provide IDL with an explanation of the landowners system for record keeping; and
 - (f) Provide a plan for how the enrollees' personnel will implement the supplemental measures and report actions to the landowner for compliance with these supplemental measures. This plan will include:
 - i) What internal auditing procedures will be used to check compliance with the supplemental measures;
 - ii) How hot-spot reporting and repair will be handled;
 - iii) How the schedule for tracking road condition and stream class will be accomplished; and
 - iv) Procedures for reporting changed circumstances.
- iii. **Noncompliance:** In the event that IDL determines that an enrollee is not in compliance with these supplemental measures, IDL shall work with the enrollee to cure any noncompliance or take action to revoke the enrollee's participation in the program.
- iv. **Administration Methods:** The IDL, as the administrator of the supplemental measures program, will undertake the following actions to

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implement this program and to ensure enrollee compliance:

- (a) **Field Manual:** The IDL will create a field implementation manual for all enrollees to the plan within 3 months.
 - (b) **Participant Training:** IDL will create a standardized training workshop program, including field and office procedures, to be utilized by enrollees within 6 months of signing an enrollment agreement. This program will be utilized to certify that field personnel understand the supplemental measures and can apply them on the ground.
 - (c) **Inspections:** As part of the normal process of IFPA notification and inspection, the IDL will conduct field inspections of enrollee operations. All inspection items relevant to the Supplemental Measure will be reported separately, with copies sent to the operator and landowner as standardized in the Field Manual.
 - (d) **Enrollee Annual Audits:** IDL will require the enrollee to file an annual report. This report will include a summation of performance on all program activities, and progress on items such as hot-spot location and repair, stream classification and road system mapping, and road construction, upgrading, repairs and obliterations.
 - (e) **IDL Annual Audit:** IDL will prepare an annual report to NOAA Fisheries and the U.S. Fish and Wildlife Service (FWS, or collectively "Services") summarizing all program activities and detailing the performance of enrollees. This report will also include all applicable data from periodic IFPA audit results and CWE report summations on conditions and trends for enrolled lands that occurred during the preceding year. Also, any final or interim results from adaptive management activities will be reported.
 - (f) **IDL Five Year Audit:** Within 5 years of enrolling in the program the IDL will conduct an audit of all enrollee activities and prepare a report that documents a summary of those activities and compliance/non-compliance with the Supplemental Measure terms. This report will also state the total enrollee statistics as to acres of activity, miles of streams and roads surveyed and/or on which action has been taken. A comparison of the total acres enrolled and the trends of activity will also be included. These periodic audits will also include any accomplishments in adaptive management projects and any changes in procedures or standards brought about from adaptive management projects.
- h. **Forest Landowner Program.** The parties will explore the development of a landowners incentive program as a part of the Section 6 agreement.
 - i. **General Provisions**
 - i. The measures set forth in this document are the product of good faith negotiations for the purpose of resolving legal disputes, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal

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proceeding. Nothing in this document shall be read as an admission or determination by the parties that any of the actions anticipated by this document are necessarily required in order to comply with the Endangered Species Act. Nothing in this document shall be interpreted as suggesting that the FPA standards as they presently exist are insufficient to avoid take of listed species.

- ii. By entering into this Agreement, neither the State of Idaho nor the private parties to this component concede that the present FPA standards are insufficient to avoid take of listed species.

- 3. **Habitat Improvement Program.** The State will develop a program to provide incentives for improving fish habitat. The habitat program will include the following types of measures:
 - a. Correcting existing man-made passage barriers such as unscreened diversions, stream crossings, or instream structures;
 - b. Consolidation of diversions to minimize the number of screens and bypasses;
 - c. Development and construction of suitable alternatives to push-up dams;
 - d. Projects that will restore large organic debris (LOD) in streams and riparian zones, repair or remove structures that degrade fish habitat, stabilize or abandon roads, and other habitat improvement projects identified through the Cumulative Watershed Effects process;
 - e. Incentives to private landowners to undertake projects or implement other measures to enhance riparian habitat;
 - f. Habitat improvement or protection projects, such as land acquisition, conservation easements and the development of best management practices designed to provide for water quality for resident and anadromous fish;
 - g. Improving or protecting flow conditions to augment streamflows; and
 - h. Planning and monitoring.
- 4. **Purpose.** These measures are expected to protect and restore listed fish and their habitat in the Salmon and Clearwater basins and downstream basins.
- 5. **Funding.** Funds from the Habitat Trust Fund, in part (and without judgment or conclusion as to whether the amount available from the fund is, by itself, sufficient to adequately implement the Initiative), will be used to implement the Salmon/Clearwater Habitat Management and Restoration Initiative.

C. Habitat Trust Fund.

- 1. As part of the settlement agreement, the parties will establish a trust fund to which the United States will contribute \$38 million (in 2004 dollars) according to a schedule determined by Congress in legislation implementing this Agreement.
- 2. The purpose of the fund is to supplement monies otherwise available for habitat protection and restoration in the Salmon and Clearwater basins through projects, purchases, and investments such as those specified in section II.B.3 above.
- 3. The fund will be divided into two accounts: (1) one-third of the contribution of the United States to the fund will be placed into an account for which the Nez Perce Tribe will develop a process for administration ("tribal account"), and (2) the remainder will be placed into an account for the which primary purpose will be implementation of a

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Section 6 Cooperative Agreement(s) anticipated by this Agreement (see section II.D below) ("Section 6 account"). The State will collaborate with the Nez Perce Tribe and the United States to determine how to direct use of the Section 6 account. If any part of the Section 6 account is available beyond that needed for implementation of any Section 6 Cooperative Agreement(s) anticipated by this Agreement, remaining funds may be used for other habitat purposes as directed by the State, the Nez Perce Tribe, and the United States. In administration of the Section 6 account, the State of Idaho will contribute a value of no less than 33% of the contribution of the United States (*i.e.*, Idaho and the United States will provide 25%/75% matching contributions). If any portion of the fund is used to implement a Section 6 Cooperative Agreement(s), the proportional federal contribution to that portion of the fund will be considered to be a federal contribution towards implementation of the Section 6 agreement.

D. Section 6 Cooperative Agreement.

1. The State of Idaho will submit the Salmon and Clearwater Habitat Management and Restoration Initiative or components thereof to the Services as a proposed cooperative agreement(s) under Section 6 of the Endangered Species Act, 16 U.S.C. § 1535(c). The Services will enter into a Cooperative Agreement(s) with the relevant state agencies under Section 6(c) of the Endangered Species Act for the purpose of assisting the State in implementation of components of the Initiative for a thirty-year period. This Section 6 Cooperative Agreement(s) will be limited to the matters set forth in this settlement agreement. The Section 6 Cooperative Agreement(s) between the Services and the State is intended to satisfy the requirements of section 7(a)(2) of the ESA, while at the same time providing sufficient incentives to private landowners to encourage their participation in the Initiative.
2. The Parties will commit sufficient resources to complete drafting of a Section 6 Cooperative Agreement for the State Forestry Program by March 31, 2005 in accordance with the provisions of this section. The Services are committed to collaborate with the State during development of the proposal to maximize the likelihood that the submission satisfies the requirements of Section 6 and Section 7 of the ESA.
3. Federal Procedures
 - a. Endangered Species Act.
 - i. The Services will consult on any Section 6 program submitted by the State under Section 7 of the Endangered Species Act, 16 U.S.C. § 1536(a)(2), regarding the federal approval and implementation of a Section 6 Cooperative Agreement(s). Incidental take authorization shall be extended to all state-authorized diversions and uses of water that are identified and analyzed from those streams identified by the State for inclusion in the Section 6 Cooperative Agreement upon issuance of a Biological Opinion on the Section 6 Cooperative Agreement(s).
 - ii. Similarly, the owners of state and private lands in Idaho ("owners"), and those undertaking timber management activities on such lands ("operators") who enroll in the forest practices program shall be entitled to incidental take coverage upon issuance of the Biological Opinion on the Section 6 Cooperative Agreement for the State Forestry Program so long as

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such owners or operators are employing timber management practices that meet or exceed mandatory best management practices (BMPs) set forth in the Idaho Forest Practices Act (IFPA), Idaho Code §§ 38-1301 et seq. and are implementing the program.

- iii. A Biological Opinion(s) on any Section 6 Agreement(s) also will provide incidental take authorization for those who participate in the habitat program when they implement measures (including some of those found in section II.B.3) in accordance with the findings that derive from an analysis in the biological opinion(s) on a Section 6 Cooperative Agreement(s).
 - b. National Environmental Policy Act. The Services will prepare appropriate environmental documents and comply with the procedural requirements of the National Environmental Policy Act associated with the review and approval of a Cooperative Agreement(s).
 - c. In issuing biological opinions on a Section 6 Cooperative Agreement(s), the federal agencies shall allow the State and the parties to this Agreement to participate in the consultation and comment on the draft biological opinion.
 - d. Reinitiation of consultation on the NOAA Fisheries or the FWS FCRPS or the other component biological opinions shall not automatically trigger reinitiation of consultation on any Section 6 Cooperative Agreement(s) biological opinion.
 - e. Consultation on a Section 6 Cooperative Agreement(s) biological opinion may be reinitiated only under the following circumstances:
 - i. The State or the participants fail to comply with the terms and conditions of this agreement;
 - ii. To reduce the obligations of the parties in the event the measures in the agreement are determined to no longer be necessary; or
 - iii. Pursuant to 50 C.F.R. § 402.16.
 - f. Nothing in this section is intended to limit the use of habitat conservation plans, landowner incentives, or other habitat protection and restoration programs under the Endangered Species Act, the Fish and Wildlife Coordination Act, the Fish and Wildlife Act, or other federal or State laws.
 - g. The federal agencies may only seek additional Endangered Species Act measures in the Salmon and Clearwater Basins for the covered activities and covered species if:
 - i. The federal agencies have implemented relevant RPA actions set forth in all other biological opinions intended to benefit Snake River Basin listed species; and
 - ii. All other discretionary measures, including but not limited to, reinitiation of consultation on other relevant BiOps and the component biological opinions, that provide the reasonable potential for achieving necessary reductions in the mortality of the Snake River listed species have been implemented, to the maximum extent practicable.
- E. **Termination.** If the United States reinitiates consultation on or revokes incidental take authorization, the State may terminate the Cooperative Agreement.

III. Snake River Flow Component.

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- A. General Principle: Biological Opinions will be issued for the term of this agreement which will provide incidental take coverage, if necessary, for all federal actions and related private actions including: (1) all BOR actions in the upper Snake River basin, (2) all private depletionary effects in the Snake River basin above the Hells Canyon Complex² to the extent they affect listed anadromous fish, and (3) all private depletionary effects above the Hells Canyon Complex to the extent that they are related to the federal action and affect listed resident species. These Biological Opinions shall be separate from any Federal Columbia River Power System (FCRPS) Biological Opinion. Separate biological opinions will be prepared for other components as necessary. Additionally, the parties will use their best efforts to seek enactment of state and federal legislation consistent with the terms of the general conditions to provide the necessary ESA and CWA protection for this component of the agreement and to provide statutory authority necessary to implement the agreement. The flows provided in this agreement set forth the flow contribution from the upper Snake above the Hells Canyon Complex for the benefit of listed species covered by this agreement as they travel throughout the Columbia River system, including through the FCRPS. The biological opinion on this component to be prepared by NOAA Fisheries will directly address and evaluate the expected effects of BOR's proposed operations in the Upper Snake, including any beneficial effects on anadromous fish from the flow augmentation program established in this component.
- B. Tier 1—Minimum Flow. The minimum instream flows established by the Swan Falls Agreement shall be decreed in the SRBA to the Idaho Water Resource Board (IWRB). If the Idaho Department of Water Resources fails to regulate these minimum instream flows in accordance with the Swan Falls Agreement, then any party to this agreement shall be entitled to seek injunctive relief through the state district court responsible for the SRBA.
- C. Tier 2—Flow Augmentation. The parties will establish a term-of-the-agreement flow augmentation program containing the following elements:
 - 1. All flow augmentation from waters of the State of Idaho pursuant to Idaho Code § 42-1763B shall be done in compliance with Idaho state law and regulations, existing water bank rules and existing local rental pool procedures of the appropriate local committee, including but not limited to last to fill rule and the procedures for priorities among renters and lessors, unless changes are agreed to by the spaceholders within the water district(s) in which the reservoirs are located, the State of Idaho, and BOR. Unless otherwise agreed by the parties to give effect to sections III.D and III.E, all parties agree that they will refrain from exercising the procedures for priorities among renters and lessors the specific uncontracted storage space now held by BOR assigned for flow augmentation and powerhead available for flow augmentation as shown on Appendix III as long as this agreement has not been terminated or has not expired. Except as otherwise provided, nothing in this component shall be construed or interpreted as affecting or in any way interfering with the laws of the State of Idaho relating to the control, appropriation, use, or distribution of water or any vested rights created thereunder, or as conferring new authority to, or modifying existing authority of the

² "Above the Hells Canyon Complex," when used in this term sheet, means the Snake River basin above the Complex, including any tributaries which drain into the Complex.

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- federal government.
2. The flow augmentation program above the Hells Canyon Complex is designed to assist fish survival downstream of Hells Canyon Dam. The parties understand that the flow augmentation program provides maximum amounts of flow augmentation delivered from the upper Snake and that no guarantee can be provided, beyond the terms of this agreement, that any particular amount of water will be provided in any particular water year.
 3. Sources shall include, but are not limited to contracted and uncontracted storage, powerhead, Oregon natural flow water, Sho-Ban water bank water, rentals pursuant to the IWRB Water Bank, and natural flow acquisitions herein provided.
 4. Idaho Code § 42-1763B will be reenacted to authorize the rental of up to 427,000 acre-feet (AF) of water annually for flow augmentation for the term of the agreement. Reauthorization shall also provide for the rental of water from storage or natural flow sources from the Snake River and its tributaries at or above Lewiston.
 5. If necessary to implement the flow augmentation program of this section III, the BOR will negotiate a lease with Idaho Power pursuant to Idaho Code § 42-108A to rent uncontracted and powerhead space in the Boise Project, Arrowrock Division, for power production. In the event powerhead water is released pursuant to this section, it shall be the last of the last space to refill.
 6. The United States may also acquire on a permanent basis or rent up to 60,000 acre-feet of consumptive natural flow water rights diverted and consumed below Milner and above Swan Falls from the mainstem of the Snake River. The United States may rent said rights for flow augmentation through the IWRB Water Bank pursuant to the Board's water bank rules and I.C. Sec. 42-1763B as amended (to include up to 60,000 acre-feet of consumptive natural flow acquisition and to allow its use pursuant to this section). The 60,000 acre-feet may be rented through the water bank as long as the total rentals in III.C.4, III.C.5 and this III.C.6 do not exceed 487,000 acre-feet.
 7. Powerhead water in BOR storage facilities may be used only to increase the reliability of 427,000 acre-feet for flow augmentation and is subject to the following limitations:
 - a. After utilization by the United States of all water described in sections III.C.4 through 6, above, if the total amount of water released for flow augmentation is less than the 427,000 acre-feet, the Palisades Reservoir powerhead water may be utilized by the United States to attain 427,000 acre-feet for flow augmentation;
 - b. Use of powerhead shall not at any time interfere with the currently established minimum conservation pools or hereinafter established minimum conservation pools;
 - c. Powerhead space used for flow augmentation shall be the last space to refill after all other space in reservoirs in that water district, including other space used to provide flow augmentation, in the basin has filled;
 - d. Use of water from powerhead space shall be in compliance with state law;
 - e. Use of powerhead space shall not interfere at any time with the operating levels required for diversions of water by spaceholders in the reservoir pool, with the ability of spaceholders to refill and use active storage of the reservoir, or with the diversion of natural flow.
 8. Rental charges for stored water.

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- a. A uniform rate will apply to all stored water released for flow augmentation:
 - i. \$14 per acre-foot through 2012,
 - ii. \$17 per acre-foot from 2013-2017,
 - iii. \$20 per acre-foot from 2018-2022,
 - iv. \$23 per acre-foot from 2023-2030.
- b. The above rates are comprehensive. They include administrative fees and all other charges.
- c. The administrative fee on BOR storage will equal the administrative fee applicable to other rentals within the basin in question.
9. All water released from BOR projects in the irrigation season after April 10 shall be treated as releases for flow augmentation except for releases (1) for delivery to or use by spaceholders, contract holders, or rentals from the water bank for purposes other than flow augmentation; (2) pursuant to established water rights; (3) in accordance with existing project operation criteria or other subsequent project operation criteria agreed to by the spaceholders and contract holders within the water district in which the reservoirs are located, the State of Idaho, and BOR; or (4) pursuant to duly adopted flood control rule curves.
10. Regulation of the delivery of rental water shall be the responsibility of the IDWR and appointed state watermasters. The timing of the release of water shall be determined by a process involving the State, the spaceholders, contract holders, and the United States.
- D. Water District 01 Rental Pool. The State of Idaho, BOR, and the spaceholder contractors in Water District 01 agree, to consider changes to rental pool procedures in Water District 01 as part of the flow augmentation program outlined in section III.C above. The State and the spaceholder contractors acknowledge that BOR, in negotiating a final agreement, will require that any rental pool provide BOR with an acceptable opportunity, as determined by it, to rent water for flow augmentation.
- E. The United States shall make its Upper Snake basin uncontracted space available to irrigation delivery entities, if the United States or irrigation delivery entities obtain the rights to an equivalent amount of replacement water from subbasins within the Upper Snake to be used for flow augmentation. Details regarding the exchanges anticipated in this section will be defined in the final settlement agreement.
- F. Reclamation will make available for irrigation, subject to the triggers and conditions in this section III.F, 30,000 acre-feet of water from the Boise Project, Payette Division. This water will be from sources exclusive of the 95,000 acre-feet of storage currently used for flow augmentation.
 1. Triggers. Water under this section will be made available only under the following water year conditions, based on the April 1 forecast used by Reclamation of April through July runoff for the Payette River at Horseshoe Bend and the Boise River at Lucky Peak. For the Payette basin, this provision will be triggered when the April 1 forecast at Horseshoe Bend is less than 700,000 acre-feet. For the Boise basin, this provision will be triggered when the April 1 forecast at Lucky Peak is less than 570,000 acre-feet.
 2. Conditions of use.
 - a. The maximum volume of water to be provided by Reclamation under this provision in any given water year will be 30,000 acre-feet.

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- b. Water may be used directly by Payette River water users and through exchange by Boise River water users within irrigation entities signatory to this agreement. The Boise exchange will be effected by Reclamation making water available to Boise River water users from the Boise Project in lieu of releasing that water for flow augmentation. An equivalent amount of water from the Payette storage identified above would then be released for flow augmentation.
- c. When the Payette trigger is met, Reclamation will consign 30,000 acre-feet of Payette Division water to the Water District 65 Rental Pool, for one-year rental by irrigation water users in the Payette basin. The price for Payette rentals will be 50% of the price applicable to flow augmentation rentals or the price applicable to irrigation rentals in the basin, whichever is greater.
- d. When the Boise trigger is met, Reclamation will consign 30,000 acre-feet of Arrowrock Division water to the Water District 63 Rental Pool, for one-year rental by irrigation water users in the Boise basin. Reclamation will then deliver a like amount of water from the Payette Division for flow augmentation, over and above the volume otherwise available from Reclamation-held storage. The price for Boise basin rentals will be the price applicable to flow augmentation rentals or the price applicable to irrigation rentals in the basin, whichever is greater.
- e. When both triggers are met, Reclamation will consign a total of 30,000 acre-feet to be divided between Water Districts 63 and 65. Water Districts 63 and 65 will meet within 30 days of the publication of the April 1 forecasts at Lucky Peak and Horseshoe Bend, and determine how much water will be made available in each basin, with the understanding that irrigation entities in Water District 65 have the first right to rent the water consigned, up to the full amount consigned. As divided, the water rentals will be subject to the exchange conditions and prices applicable to that basin, as defined in sections c and d above. The water users will negotiate a process for implementation of this provision.
- f. Once water is consigned to a rental pool, water users will have until July 15 to rent the water. Water not rented by July 15 will return to Reclamation.
- G. The United States will mitigate local impacts identified by the State of Idaho that may result from the rental of water for flow augmentation. The scope and amount of mitigation will be negotiated. Mitigation shall be based on the following understandings:
 - 1. Powerhead: In setting rates for power and energy provided by BOR for project purposes entitled to the use of reserved power, BOR will insure that reserved power rates are neither increased nor decreased as a result of the leasing and release of water from powerhead space under the terms and conditions set forth in this agreement.
 - 2. 60,000 acre-feet: The federal legislation drafted to authorize the agreement will include a provision to authorize and seek appropriations for a one-time payment of \$2 million to the local governments in which the water rights accruing up to 60,000 acre-feet are currently used to mitigate for the change in use of the acquired water.
- H. The minimum evacuation reservoir levels for flood control shall not be altered for reasons other than flood control purposes.
- I. The Milner Agreement shall be renewed for the term of this agreement. The parties agree, however, to modify the flow limitation contained in the agreement to the extent practical to facilitate the water rental program, while still protecting the interests of the parties.

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- J. To the maximum extent practicable, the United States shall be responsible for managing water acquired or rented pursuant to this agreement to meet needs of all species covered by this agreement. To the maximum extent practicable, all water acquired or rented by the United States under this agreement shall be delivered and managed: (1) in a manner that will not result in the violation of any permit, applicable water quality rule and regulation or other requirements of the Clean Water Act; (2) in a manner that will not cause jeopardy to other species in the State of Idaho; and (3) in a manner that will not result in significant adverse impacts to recreational uses of the waters of the Snake River and its tributaries within the State of Idaho. During the development of the Biological Assessment by BOR, the parties, to ensure that all water acquired or rented by the United States under this agreement does not result in the type of impacts listed above, will address the concerns that can be identified and analyzed and will develop a mutually acceptable process to address the type of impacts listed above that arise after implementation of the agreement. The State agrees that it will not require any restriction, modification, or condition on the diversion, storage, use, discharge of water, or land use to remedy or address violations of water quality standards or other Clean Water Act requirements to the extent the use of water acquired or rented by the United States pursuant to this agreement causes the violations.
- K. The term of this component of the agreement shall be for a period of thirty (30) years with opportunity for renewal upon mutual agreement.
- L. The proposed federal action for consultation will describe the agreement, including the minimum instream flows, the water rental program, and BOR operations as of the date of the agreement and during the term of the agreement, subject to the general principle contained in the agreement. In the event that the BOR fails to describe the proposed federal action consistent with this component, or it fails to issue a Biological Assessment based upon the proposed federal action which concludes that the action is not likely to jeopardize the continued existence of any listed species addressed by this consultation nor will it result in destruction or adverse modification of the critical habitat of the species, this component of this agreement shall be terminated upon written notice by the State or private parties to this component of the agreement.
- M. Consistent with the Snake River Flow Component general principle (section III.A), the Services will evaluate this component as a proposed federal action under section 7 of the Endangered Species Act. 16 U.S.C. § 1536. In the event that the Services fail to issue no jeopardy biological opinions and provide incidental take coverages as described in section III.A, or if the Services require terms or conditions inconsistent with or not contained in this Upper Snake component of the agreement, this component of the agreement shall be terminated upon written notice by the State or private parties to this agreement.
- N. Reinitiation of Consultation
 - 1. If the United States is unable to rent flow augmentation water under the terms of this agreement because of a change to state law, regulations or water bank rules, or because of an arbitrary or capricious decision by the Director of IDWR or IDEQ, the United States may reinitiate consultation on this component of the agreement. If the United States reinitiates consultation, this component of the agreement may be terminated, including any necessary statutory components, at the option of the State of Idaho or the private parties to this component of the agreement.
 - 2. Reinitiation of consultation on any NOAA Fisheries or FWS FCRPS biological

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opinions (hereinafter "FCRPS BiOps"), or on the biological opinions on other components of this agreement shall not automatically trigger reinitiation of consultation on the Upper Snake BOR biological opinion. Rather, consultation on the Upper Snake BOR biological opinion may be reinitiated only a) if the State or the water users fail to comply with the terms and conditions of this agreement or the United States is unable to rent flow augmentation water under the terms of the agreement because of a change to state law, regulations, or water bank rules; b) to reduce the obligations of the parties in the event the measures in the agreement are determined to no longer be necessary for any reason, including, but not limited to, the delisting of the species; or c) pursuant to 50 C.F.R. § 402.16.

3. The federal agencies which are parties to this agreement may only seek additional Endangered Species Act flow measures from the Snake River basin above the Hells Canyon Complex for the benefit of anadromous fish if: a) a jeopardy biological opinion is issued on the Upper Snake River BOR projects after utilization of all of the measures in this agreement; b) the relevant actions set forth in all other biological opinions intended to benefit Snake River basin listed species have been implemented; c) substantially all water made available under the terms and conditions of this agreement has been rented; and d) all other discretionary measures, including reinitiation of consultation on other relevant BiOps, that provide the reasonable potential for achieving necessary reductions in the mortality of the Snake River listed species have been or are being implemented, to the maximum extent practicable. In issuing any future biological opinions on Upper Snake River BOR projects, the federal agencies shall provide all parties to this agreement an opportunity to comment on the draft biological opinion. The provisions concerning reinitiation of consultation for the Upper Snake BOR projects shall remain effective so long as this component is effective.
4. Nothing in this agreement shall be used or construed to determine or interpret in any manner what obligations, if any, the federal agencies charged with operating the FCRPS may have under the 2000 FCRPS BiOps, or other biological opinions addressing FCRPS operations or the Endangered Species Act or its implementing regulations as applied to the FCRPS, provided that no additional flows shall be required from the upper Snake above the Hells Canyon Complex except as provided for in this agreement.
- O. Subject to section IV.G of this agreement, if any party fails to implement any provision of this component, this component may be terminated at the option of any other party to this component of the agreement. By entering into this agreement, neither the State of Idaho nor the private parties to this component concede that the flows identified under section III.C benefit the listed species; that BOR operations require ESA consultations; that BOR operations are subject to modification to meet ESA requirements or concerns; or that the diversion, storage, or use of water in the State of Idaho is subject to modification to meet ESA requirements or concerns.

IV. General conditions applicable to the entire agreement and to all parties. Unless otherwise specified, each of the following general conditions applies jointly and severally to each component of this agreement.

- A. Implementation and enforcement – There will be enactment of necessary laws by federal,

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- state, and tribal governments to effectuate and implement the settlement agreement including legislation consistent with provisions of the agreement to provide the necessary ESA and CWA protection for the State and the private parties to this agreement.
- B. Mitigation of impacts caused by the management of water by the Federal agencies pursuant to this agreement on local and private interests (sideboards to be negotiated).
- C. ESA and CWA Assurances – (1) The water provided under this settlement shall fully satisfy any ESA requirements for the diversion and use of water, as specifically provided in each of the components of this agreement. Compliance with this agreement satisfies all CWA obligations for flows for the benefit of such species for the term of this agreement. No party shall use, during the term of this agreement, the CWA or any other theory to seek additional flows for the benefit of such species based on reduced water quality resulting directly from flow modifications or reductions in the quantity of water available in the Snake River Basin above the Hells Canyon Complex and in the Salmon and Clearwater basins in Idaho.³ (2) The Services shall evaluate each component of this agreement as separate proposed federal actions under the Endangered Species Act, 16 U.S.C. § 1536. Term-of-the-agreement (thirty (30) years) Biological Opinions will be issued on each component of this agreement. The specific provisions relating to these Biological Opinions are contained in the respective sections of this agreement. These Biological Opinions shall be separate from the FCRPS Biological Opinion. In the event that the Services fail to issue no jeopardy biological opinions or if the Services require terms or conditions inconsistent with or not contained in the component of the agreement which corresponds to the biological opinion, that component of the agreement shall be void upon written notice by the State or private parties to this agreement. If the State or private parties do not concur with the biological assessment prepared for the consultation on a particular component, that component of the agreement shall be terminated upon written notice by the State or private parties.
- D. Waivers and releases.
1. Except as otherwise provided in the Settlement Agreement, the United States, on behalf of the Nez Perce Tribe, and the Nez Perce Tribe waive and release (1) all claims for water rights within the Snake River Basin in Idaho; (2) injuries to such water rights; and (3) injuries to the Tribe's treaty rights to the extent that such injuries result or resulted from flow modifications or reductions in the quantity of water available in the Snake River Basin in Idaho that accrued at any time up to and including the effective date of the Settlement Agreement, and any continuation thereafter of any such claims, against the State of Idaho, any agency or political subdivision thereof, or any person, entity, corporation, municipal corporation, or quasi-municipal corporation. The Tribe agrees that it will not assert any claim, under any treaty theory, based on reduced water quality resulting directly from flow modifications or reductions in the quantity of water available in the Snake River Basin in Idaho, against any party to the agreement. No water rights claims the Tribe has asserted or may in the future assert outside of the Snake River Basin in Idaho shall require water to be supplied from the Snake River

³ Nothing in this agreement is intended to affect in any way the development, approval, modification, implementation, or enforcement of Clean Water Act Total Maximum Daily Load (TMDL) requirements for Brownlee Reservoir.

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- Basin in Idaho to satisfy such claims. Allottee language will be developed by the parties for inclusion in the decree to reflect the concept that the allottees' water comes from the overall tribal right.
2. "Water rights" means rights under state and federal law to divert, pump, impound, use or reuse, including for instream use, or permit others to divert, pump, impound, use or reuse, including for instream use, water. This includes all water right claims filed by or on behalf of the Nez Perce Tribe in the Snake River Basin Adjudication. "Injuries to water rights" means the loss, deprivation, or diminution of water rights.
 3. The Nez Perce Tribe hereby waives and releases the United States from: (1) all claims for water rights within the Snake River Basin in Idaho, injuries to such water rights, or breach of trust claims for failure to protect, acquire, or develop such water rights that accrued at any time up to and including the effective date of the Settlement Agreement; (2) all claims for injuries to the Tribe's treaty fishing rights to the extent that such injuries result or resulted from reductions in the quantity of water available in the Snake River Basin in Idaho; (3) all breach of trust claims for failure to protect Nez Perce "springs or fountains" treaty rights reserved in Article 8 of the 1863 Treaty with the Nez Perce; and (4) all breach of trust claims arising out of or resulting from the adoption of this Settlement Agreement. Provided, however, that waivers described in this section shall not be effective until all Federal funds described in the term sheet are appropriated and paid to the Nez Perce Tribe.
 4. Nothing in this agreement shall waive the Tribe's right to pursue claims against the United States relating to non-water-related injuries resulting from the construction of the Dworshak Project. Nothing in this agreement shall be interpreted to prevent the Nez Perce Tribe or the United States as trustee for the Tribe from purchasing or otherwise acquiring water rights in the future to the same extent as any other entity in accordance with Idaho state law. Nothing in this agreement shall be interpreted to impair the treaty fishing, hunting, pasturing, or gathering rights of the Nez Perce Tribe except to the extent expressly provided in this agreement. The Nez Perce Tribe shall retain all rights not specifically satisfied, waived, or released in this agreement.
 5. The waiver and releases by the federal government and the Nez Perce Tribe shall take effect and be permanent once the agreement is effective and enforceable pursuant to section IV.L. Waivers, once effective, will survive any subsequent termination of any component(s) of the agreement.
- E. This agreement, the decree, and the order approving this agreement may not be modified in any manner except as herein provided or with the joint written consent of the duly authorized representatives of the parties and the consent of the court approving this agreement, which court shall have the sole jurisdiction to modify its decree. The parties further recognize that the law dealing with federal reserved Indian water rights is a subject of ongoing litigation and agree that subsequent changes, developments, or interpretations in such law shall not change the enforceability of this agreement as written in the decree relating to such rights. Nothing in this agreement shall otherwise be construed or interpreted to restrict, enlarge, or otherwise determine the subject matter jurisdiction of any state, tribal or federal court.
- F. If any party believes that another party has failed to perform or implement a provision of this agreement, the party will inform the other party, and the parties will meet to seek to resolve the dispute. If the dispute cannot be resolved, one or more parties may request that the SRBA

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- court (or any successor court) appoint a mediator, provided that the mediation will not be binding and will not be prejudicial to any jurisdictional issues raised by the dispute.
- G. A breach of one component of this agreement shall not constitute a breach of any other component of the agreement.
 - H. Nothing in this agreement shall be so construed or interpreted: (1) to establish any standard to be used for the quantification of federal reserved water rights or any other Indian water claims of any other Indian Tribes in any judicial or administrative proceeding or (2) to limit in any way the rights of the parties or any person to litigate any issue or question not resolved by this agreement. This agreement has been reached in the process of good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding and nothing in this agreement shall be read as an admission or determination by the parties that any of the actions anticipated by this agreement are necessarily required under the Endangered Species Act.
 - I. Implementation of this Agreement by the federal or state agencies is subject to the requirements of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1519, similar requirements of state law, and the availability of appropriated funds. Nothing in this Agreement is intended or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury or the State General Fund. The Parties acknowledge that the federal or state agencies shall not be required under this Agreement to expend any appropriated funds unless and until an authorized official of the relevant agency affirmatively acts to commit to such expenditures in writing.
 - J. No member of or delegate to Congress shall be entitled to any share or part of this Agreement or to any benefit that may arise from it.
 - K. The parties will jointly move the Idaho Supreme Court to remand the pending appeal in Case Nos. 26042 and 26128 for entry of an order consistent with the final settlement agreement.
 - L. The agreement shall be effective when all of the following have occurred prior to March 31, 2005 (this list is not intended to determine the proper sequencing of these actions):
 - 1. Execution of the necessary component documents which will make up the agreement;
 - 2. Congressional approval of agreement and authorization of all federal expenditures required under agreement;
 - 3. State legislature approval of agreement and enactment of all required state legislation;
 - 4. Nez Perce Tribe approval of agreement;
 - 5. SRBA Court entry of judgment and decree incorporating agreement;
 - 6. Issuance of the Biological Opinions anticipated by the upper Snake component of this agreement.

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Appendix I

This appendix to Section II of the term sheet describes an implementation plan to assign instream flows and reserve opportunities for future use in the Tribal Priority Streams in the Salmon and Clearwater Basins by March 31, 2005. All instream flow water rights established pursuant to the Agreement and this Appendix I will be junior to all existing water rights and subordinate to all future domestic, commercial, municipal, and industrial (DCMI) water rights.

The Tribal Priority Streams are listed in the attached Lists "A" and "B." Some of the streams on these lists are included in the Wild and Scenic Settlement Agreement between the State of Idaho and the U.S. Forest Service. Because this implementation plan is intended to be consistent with the Wild and Scenic federal reserved water rights, where Wild and Scenic stream reaches are involved, the plan adopts the future development subordinations in the Wild and Scenic reserved water right decrees.

The Tribal Priority Streams have been divided into "A" and "B" List groups based on the level of existing use. The "B" List streams include those streams where instream flows and other non-flow-related actions will be developed by the parties, in conjunction with local stakeholders and communities. The "A" List Tribal Priority Streams will have instream flows and future non-DCMI use levels assigned based on land classification except in those cases specifically set forth below where the parties have agreed to address certain special resource value areas, or areas of special concern relative to local uses. Land classification will be established based upon the predominant land ownership and where appropriate, federal land classification, existing in particular stream's basins.

For the "A" List Tribal Priority Streams, instream flows would be determined based on categories assigned using ownership of the lands within the basin. The ownership classification in a given basin would be recognized as falling into one of four categories: 1) State and private, 2) federal non-wilderness, 3) wilderness/Wild and Scenic, and 4) special areas as set forth below.

For each of these four categories, instream flows will be set by month based on estimated hydrology of unimpaired flows, and a reservation for future non-DCMI use equal to a percentage of the minimum monthly median flow value from the estimated hydrology.⁴ To prevent dewatering streams by future non-DCMI use, future non-DCMI use would be curtailed at a floor equivalent to the unimpaired monthly 80% exceedence flow. Consequently, the flow values for the four categories will be as follows:

1. For State and private basins, instream flows would be decreed for each month of the year at the 50% exceedence level of the estimated unimpaired flow, subordinated to a future non-DCMI use in the amount of 25% of the lowest median monthly unimpaired flow value.

⁴ The algorithms proposed here for establishing instream flows, future allocations, and the floor flow are based on exceedence values. The individual instream flows will be decreed as quantities in cubic feet per second (cfs) as will the future allocation for non-DCMI uses and floor flows. The administrative provisions for these instream flows will, however, recognize they are being established based upon estimated flow. The provisions of the final decrees will provide a mechanism for changes to these decreed amounts based upon actual flows if such data become available.

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2. For federal, non-wilderness basins, instream flows would be decreed for each month of the year at the 40% exceedence level of the estimated unimpaired flow, subordinated to a future non-DCMI use in the amount of 10% of the lowest median monthly unimpaired flow value.
3. For federal wilderness and Wild and Scenic basins, instream flows would be decreed for each month of the year at the 30% exceedence level of the estimated unimpaired flow, subordinated to a future non-DCMI use in the amount of 5% of the lowest median monthly unimpaired flow value.
4. The Special Areas include watersheds that hold special values including high value habitat for fish resources, other special values, and areas where future development opportunities would be preserved. The instream flows and reservations for future non-DCMI use for the special areas differ from the land-based formula described above.

Special Areas include:

Lower Salmon River below Long Tom Bar to the mouth: Instream flows for the lower Salmon River downstream of the Wild and Scenic Reach would be consistent with the application filed for the lower Salmon River below Hammer Creek. The State application for the instream flow in the Lower Salmon addresses the reach from the mouth to Hammer Creek. The instream flows reach in the current application will be extended to include the reach of the Salmon below the Little Salmon. The instream flows in the reach between the Little Salmon and the Wild and Scenic River will be based on the downstream reach and adjusted for the inflow from the Little Salmon River. The State instream flow will be made consistent with the Wild and Scenic instream flow for the main Salmon River.

South Fork Salmon River and tributaries contained within the Tribal Priority Stream List: Instream flows would be decreed for each month of the year at the 40% exceedence level of the estimated unimpaired hydrology, subordinated to a future non-DCMI use in the amount of 5% of the lowest median monthly unimpaired flow value.

Upper Salmon: The upper Salmon basin includes a number of tributaries that meet the criteria of "B" List streams. Instream flows established for the tributaries or the mainstem Salmon will be in accord with Wild and Scenic River instream flows and future allocations, subject to the Order Approving Stipulation and Dismissing Objections in Consolidated Subcase Nos: 63-25239, 75-13316, and 75-13606, issued by Judge Daniel C. Hurlbutt, Jr., Presiding Judge, Snake River Basin Adjudication, on June 16, 1998.

Lolo Creek: Instream flows will be decreed for each month of the year at the 40% exceedence level of the estimated unimpaired hydrology, subordinated to a future non-DCMI use in the amount of 10% of the lowest median monthly unimpaired flow value.

Bedrock Creek: Instream flows will be decreed for each month of the year at the 40% exceedence level of the estimated unimpaired hydrology, subordinated to a future non-DCMI use in the amount of 10% of the lowest median monthly unimpaired flow value.

Upper North Fork Clearwater River, Breakfast Creek: Instream flows would be decreed for each month of the year at the 40% exceedence level of the estimated unimpaired hydrology, subordinated to a future

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non-DCMI use in the amount of 10% of the lowest median monthly unimpaired flow value.

Future Uses for "A" List streams.

The future use allocations will provide water for non-DCMI uses. The parties will study the overlap of existing uses and future use to determine if additional criteria will assist the parties in allocating future use. The goal is to avoid reducing streamflows to a level where the unimpaired 80% exceedence value is the flow that the normally occurs in the stream due to the combination of existing and future use.

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List A. Non-Developed Streams

Stream Name	Tributary to	BIA Basin Number(s)	Quantification Location(s)
Captain John Creek	Snake River	1107	1107
Clearwater River	Snake River	143, 150, 152, 155, 156, 160, 165, 167, 168, 181, 182, 196, 223, 229, 248, 260, 276, 277	182, 165
Pine Creek	Clearwater River	129	129
Bedrock Creek	Clearwater River	131	131
North Fork Clearwater	Clearwater River	42, 51, 59, 71, 73, 83, 96, 113, 118, 130, 146, 39, 31, 30, 10, 34, 35, 37, 56, 61, 66, 91, 99, 95, 70	34, 39, 146
Elk Creek	North Fork Clearwater River	75, 27	75
Skull Creek	North Fork Clearwater River	41, 22	41
Collins Creek	Skull Creek	14	14
Breakfast Creek	North Fork Clearwater River	25, 28	25
Fourth of July Creek	North Fork Clearwater River	102	102
Lake Creek	North Fork Clearwater River	40, 46	40
Little N.F. Clearwater	North Fork Clearwater River	2, 12, 17, 24	24
Canyon Creek	Little N.F. Clearwater River	4, 6	4
Foehl Creek	Little N.F. Clearwater River	9	9
Isabella Creek	North Fork Clearwater River	23	23
Weitas Creek	North Fork Clearwater River	125, 128, 140, 141, 157, 163	125, 157
Kelly Creek	North Fork Clearwater River	60, 78, 81, 87, 89	81
Cayuse Creek	Kelly Creek	94, 101, 109, 119	94
Toboggan Creek	Cayuse Creek	105	105
Vanderbilt Gulch Creek	North Fork Clearwater River	20	20
Orofino Creek	Clearwater River	144, 149, 158, 172	172
Lolo Creek	Clearwater River	186, 210, 247, 256	210
Yakus Creek	Lolo Creek	267	267
Eldorado Creek	Lolo Creek	216	216
Musselshell Creek	Lolo Creek	190	190
Yoosa Creek ¹	Lolo Creek	186	9186
Sixmile Creek	Clearwater River	244, 253	253
Effie Creek	Sixmile Creek	254	254
Fivemile Creek	Clearwater River	231	231
Unnamed Stream	Clearwater River	243	243
South Fork Clearwater	Clearwater River	306, 326, 327, 340, 357,	306, 411

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Stream Name	Tributary to	BIA Basin Number(s)	Quantification Location(s)
		363, 399, 403, 405, 409, 410, 411, 413, 416, 423	
Threemile Creek	South Fork Clearwater River	338	338
Mill Creek	South Fork Clearwater River	417	417
Meadow Creek	South Fork Clearwater River	373	373
Johns Creek	South Fork Clearwater River	419, 440	419
Cougar Creek	South Fork Clearwater River	396	396
Peasley Creek	South Fork Clearwater River	385	385
Silver Creek	South Fork Clearwater River	379	379
Tenmile Creek	South Fork Clearwater River	425	425
Newsome Creek	South Fork Clearwater River	358	358
Crooked River	South Fork Clearwater River	420	420
Red River	South Fork Clearwater River	418, 421, 422, 430	422
S. Fork Red River	Red River	444	444
American River	South Fork Clearwater River	364, 389	389
Sally Ann Creek ¹	South Fork Clearwater River	340	340
Middle Fork Clearwater	Clearwater River	287, 290, 308	290
Maggie Creek	Middle Fork Clearwater River	278	278
Clear Creek	Middle Fork Clearwater River	311, 318	311
S. Fork Clear Creek	Clear Creek	344	344
Selway River	Middle Fork Clearwater River	288, 303, 309, 310, 312, 313, 317, 329, 335, 349, 352, 365, 371, 374, 404, 406, 424, 431, 435, 447, 463, 469, 481	309, 404
Gedney Creek	Selway River	289, 300, 320	320
O'Hara Creek	Selway River	325, 346	325, 346
Hamby Fork of O'Hara Creek	O'Hara Creek	345	345
Meadow Creek	Selway River	347, 368, 391, 393, 398, 401, 415	347
Buck Lake Creek	Meadow Creek	366	366
Three Prong Creek	Meadow Creek	414	414
Mink Creek	Selway River	322	322
Marten Creek	Selway River	321	321
Moose Creek	Selway River	292	292
E. Fork Moose Cr.	Moose Creek	251, 258	258
N. Fork Moose Cr.	Moose Creek	239, 255, 272	272
West Moose Cr.	North Fork Moose Creek	227	227
Rhoda Creek	Selway River	259, 270	270

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Stream Name	Tributary to	BIA Basin Number(s)	Quantification Location(s)
Wounded Doe Cr.	Rhoda Creek	250	250
Pettibone Creek	Selway River	291	291
Bear Creek	Selway River	299, 304, 341	341
Cub Creek	Bear Creek	343, 351, 355	351
Goat Creek	Selway River	370	370
Running Creek	Selway River	386, 383	386
White Cap Creek	Selway River	367, 388, 390	388
Indian Creek	Selway River	412	412
Deep Creek	Selway River	433	433
Wilkerson Creek	Selway River	460	460
Lochsa River	Middle Fork Clearwater River	151, 161, 162, 178, 179, 183, 192, 232, 242, 252, 266, 268, 274, 284, 296	296
Pete King Creek	Lochsa River	273	273
Old Man Creek	Lochsa River	261	261
Fish Creek	Lochsa River	201, 219	201
Hungry Creek	Fish Creek	198	198
Boulder Creek	Lochsa River	237	237
Warm Springs Creek	Lochsa River	187, 209	187
Fishing Creek (Squaw Creek)	Lochsa River	135	135
Legendary Bear Creek (Papoose Creek)	Lochsa River	133	133
Walton Creek	Lochsa River	174	174
Crooked Fork	Lochsa River	84, 122, 139	139
Brushy Fork	Crooked Fork	107, 124	124
Spruce Creek	Brushy Creek	126	126
White Sand Creek	Lochsa River	154, 188, 189, 193, 203	154
Big Sand Creek	White Sand Creek	206, 222, 236	206
Big Flat Creek	White Sand Creek	208	208

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Stream Name	Tributary to	BIA Basin Number(s)	Quantification Location(s)
Salmon River	Snake River	323, 330, 331, 353, 354, 356, 369, 380, 384, 397, 432, 441, 445, 454, 458, 467, 474, 475, 486, 488, 489, 490, 494, 499, 505, 508, 511, 512, 515, 517, 520, 521, 522, 524, 525, 527, 530, 532, 535, 538, 541, 544, 545, 546, 549, 550, 551, 553, 558, 564, 570, 574, 575, 578, 580, 582, 587, 592, 604, 629, 664, 705, 717, 747, 786, 788, 831, 851, 853, 876, 916, 924, 928, 989, 1006, 1009, 1013, 1014, 1015, 1016, 1017, 1019, 1027, 1024, 1034, 1047, 1050, 1062, 1065, 1073, 1074	397, 525, 578, 664, 853, 1015
Pine Creek	Salmon River	586	586
Rice Creek	Salmon River	387	387
Rock Creek	Salmon River	372	372
Wind River	Salmon River	471, 519	519
White Bird Creek	Salmon River	408, 407, 427	407
Skookumchuck Creek	Salmon River	437	437
Slate Creek	Salmon River	442, 453, 456, 457	453
Little Slate Creek	Slate Creek	466, 478, 492	466
Sheep Creek	Salmon River	464	464
Billy Creek ¹	Snake River	91105	91105
French Creek	Salmon River	556, 624	556
South Fork Salmon River	Salmon River	583, 613, 659, 666, 695, 714, 740, 744, 752, 770, 771, 806, 823, 896, 1081, 1082	583, 752
Blackmare Creek	South Fork Salmon River	813	813
Porphyry Creek	South Fork Salmon River	610	610
Secesh River	South Fork Salmon River	588, 649, 652, 686	588, 686
Lake Creek	Secesh River	9588	9588
Lick Creek	Secesh River	700	700
E. Fork S. Fork Salmon	South Fork Salmon River	742, 745, 753, 756, 759, 761, 778	745
Profile Creek	E. Fork S. Fork Salmon River	723	723
Johnson Creek	E. Fork S. Fork Salmon River	765, 780, 808, 833, 883	765
Burntlog Creek	Johnson Creek	835	835

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Stream Name	Tributary to	BIA Basin Number(s)	Quantification Location(s)
Quartz Creek	E. Fork S. Fork Salmon River	720	720
Sugar Creek	E. Fork S. Fork Salmon River	757	757
Tamarack Creek	E. Fork S. Fork Salmon River	736	736
Buckhorn Creek	South Fork Salmon River	766, 783	766
Fitzum Creek	South Fork Salmon River	734	734
Warm Lake Creek	South Fork Salmon River	861	861
Bargamin Creek	Salmon River	426	426
Chamberlain Creek	Salmon River	539, 540, 543, 567, 571	540
W. Fork Chamberlain	Chamberlain Creek	526	526
Horse Creek	Salmon River	498, 495, 531, 554	554
Middle Fork Salmon River	Salmon River	631, 607, 612, 658, 711, 739, 762, 777, 794, 814, 818, 820, 839, 847, 864, 884, 894, 917, 932, 958	607, 814
Big Creek	Middle Fork Salmon River	641, 650, 651, 655, 670, 676, 681, 687, 697	655, 697
Rush Creek	Big Creek	706, 709, 713, 725	706
Monumental Creek	Big Creek	671, 701, 750	671
Smith Creek	Big Creek	639	639
Logan Creek	Big Creek	675	675
Brush Creek	Middle Fork Salmon River	751	751
Camas Creek	Middle Fork Salmon River	781, 782, 792, 815, 822, 830, 844, 848, 868	782
Silver Creek	Camas Creek	773	773
Loon Creek	Middle Fork Salmon River	824, 880, 889, 897, 901, 930, 943, 950	824
Marble Creek	Middle Fork Salmon River	758, 789, 805	805
Dynamite Creek	Marble Creek	791	791
Indian Creek	Middle Fork Salmon River	795	795
Pistol Creek	Middle Fork Salmon River	855, 858	855
Rapid River	Middle Fork Salmon River	874, 900, 920	874
Sheep Creek	Middle Fork Salmon River	775	775
Sulphur Creek	Middle Fork Salmon River	918	918
Marsh Creek	Middle Fork Salmon River	971, 981, 986	971
Bear Valley Creek	Middle Fork Salmon River	967, 987	967
Elk Creek	Bear Valley Creek	949, 963, 972	972
Panther Creek	Salmon River	593, 600, 621, 628, 645, 682, 690, 715, 718, 726, 735	600, 735
Lightning Creek	Yankee Fork	964	964
Eightmile Creek	Yankee Fork	962	962
Redfish Lake Creek	Salmon River	1036, 1040	1036
Yellow Belly Lake Cr.	Alturas Lake Creek	1066	1066

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¹ Stream is located within basin number.

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List B. Developed Streams/Watersheds.

Stream Name	Tributary to	BIA Basin Number(s)	Quantification Location(s)	Tributary Quantification Location(s)
Lapwai Creek and tributaries	Clearwater River	195, 197, 207, 213	195	177, 220, 225, 214, 264, 265, 238
Potlatch River and tributaries	Clearwater River	15, 43, 54, 90, 106, 108, 112, 138, 159	159	110
Cottonwood Creek	Clearwater River	170	170	N/A
Jacks Creek	Clearwater River	171	171	N/A
Big Canyon Creek and tributaries	Clearwater River	175, 185, 226, 230	175	234, 235, 180, 241, 245
Whiskey Creek	Orofino Creek	134	134	N/A
Jim Ford Creek	Clearwater River	184, 217	184	N/A
Tom Taha Creek	Clearwater River	257	257	N/A
Lawyer Creek and tributaries	Clearwater River	275, 280, 285, 298, 301	275	283, 293, 294, 302
Cottonwood Creek and tributaries	South Fork Clearwater River	307, 315, 334, 336	307	295
Rabbit Creek	South Fork Clearwater River	332	332	N/A
Big Elk Creek	American River	382	382	N/A
Little Salmon River and tributaries	Salmon River	548, 561, 581, 637, 643, 656, 693, 710, 1079, 1080	548, 693	605, 620, 638
Sheep Creek	South Fork Salmon River	719	719	N/A
Hat Creek	Salmon River	796, 802, 826	826	N/A
East Fork Salmon River and tributaries	Salmon River	1018, 1028, 1032, 1033, 1041, 1046, 1052, 1063, 1068	1018, 1052	1060, 1042, 1053
North Fork Salmon River and tributaries	Salmon River	448, 491, 506, 516, 533	533	N/A
Lemhi River and tributaries	Salmon River	640, 646, 673, 698, 729, 737, 755, 767, 776, 797, 800, 804, 846, 829	640, 800	801
Pahsimeroi River and tributaries	Salmon River	873, 908, 915, 929, 947, 956, 991, 1011, 1031	873	N/A

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Stream Name	Tributary to	BIA Basin Number(s)	Quantification Location(s)	Tributary Quantification Location(s)
Yankee Fork	Salmon River	942, 977, 982, 992, 998, 1001	1001	N/A
Alturas Lake Creek	Salmon River	1067, 1078	1078	N/A
Valley Creek and tributaries	Salmon River	1004, 1008	1008	1021, (streams in 1004 and 1008)

Appendix III

Reclamation Project Reservoirs Above Hells Canyon Dam
Water Assigned for Flow Augmentation

Reservoir	Acre-Feet
Payette	
Cascade	69,600 ¹
Deadwood	25,400 ¹
Subtotal	95,000
Upper Snake	
American Falls	8,951 ²
Jackson	3,923 ²
Palisades	10,022 ²
Subtotal	22,896
Grand Total (non-powerhead)	117,896
Powerhead	
Anderson Ranch powerhead	41,000
Palisades powerhead	157,000
Powerhead Total	198,000

¹Reassigned for flow augmentation.

²Reacquired for flow augmentation.

Attachment 3 to Consent Decree
In re SRBA Case No. 39576

I. CLAIMS FOR DISMISSAL

Pursuant to Consent Decree, Paragraph 2, this Attachment provides a list of the claim numbers to be dismissed pursuant to the Agreement. The Attachment is divided into the following 3 parts:

- Attachment 3A: All Instream Flow Claim Numbers filed by both the Nez Perce Tribe and the United States as trustee for the benefit of the Nez Perce Tribe, Consolidated Subcase No. 03-10022
- Attachment 3B: Claims to Springs and Fountains filed by the United States as trustee for the benefit of the Nez Perce Tribe on private and state-owned lands, Consolidated Subcase No. 67-13701
- Attachment 3C: All Claims to Springs and Fountains filed by the Nez Perce Tribe, Consolidated Subcase No. 67-13701

II. CLERICAL ISSUES REGARDING CLAIM NUMBERS

In addition to the lists of claim numbers to be dismissed outlined above, the following Sections outline certain clerical issues for the court which may require attention in order to assure final claim number lists are correct.

A. Duplicate "Springs or Fountains" Claim Numbers

The Parties' review of the Notice of Federal Claims for the "springs or fountains" claims revealed fifteen duplicate claim numbers. In other words, there were fifteen instances where IDWR assigned the same claim number to two separate springs claims. As a result, each of the duplicate claim numbers listed below has two separate springs associated with that number. The duplicate claim numbers are:

69-11478	79-13828	84-11276
78-11243	79-13832	84-11703
79-13755	79-13833	85-13956
79-13826	79-13835	85-14093
79-13827	82-12051	85-14094

With four exceptions, all of the claims with duplicate claim numbers will be dismissed pursuant to the Consent Decree. For these four exceptions, one of the duplicates will be dismissed and one decreed:

- For 78-11243, the claim associated with "Barton Spring," located at Township 24N, Range 1W, Section 32, NW¼ NW¼ will be retained, but the claim number

will be changed to 79-14113 to reflect the correct IDWR basin location (see Clerical Corrections Section below). A draft partial decree for claim number 79-14113 is attached. For the claim 78-11243 associated with the unnamed spring located at Township 24N, Range 1W, Section 36, NE¼ NE¼ NW¼, the claim will be dismissed under the proposed settlement

- For 79-13828, the claim associated with the unnamed spring located at Township 24N, Range 1E, Section 20, SE¼ SE¼ NW¼ will be retained and a draft partial decree for that claim is attached. For the claim 79-13828 associated with the spring located at Township 29N, Range 2W, Section 34, NW¼ SW¼, the claim will be dismissed under the proposed settlement.
- For claim number 79-13755, the claim associated with the unnamed spring located at Township 27N, Range 1W, Section 20, SE¼ NW¼ will be retained and a draft partial decree for that claim is attached. For the claim 79-13755 associated with the unnamed spring located at Township 26N, Range 2E, Section 4, NW¼ SW¼, the claim will be dismissed under the proposed settlement.
- For claim number 82-12051, the claim associated with the unnamed spring located at Township 31N, Range 6E, Section 23, SE¼ SE¼ will be retained and a draft partial decree for that claim is attached. For the claim 82-12051 associated with the unnamed spring located at Township 27N, Range 7E, Section 22, NW¼ SE¼ NW¼, the claim will be dismissed under the proposed settlement.

B. Clerical Corrections

The following clerical errors require correction:

- Claim 69-11467: Change claim number to 67-14523 to reflect correct IDWR basin location.
- Claim 77-13293: Change claim number to 82-12216 to reflect correct IDWR basin location.
- Claim 78-11243: Change claim number to 79-14113 to reflect correct IDWR basin location. Note that the Notice of Federal Claims for the Springs or Fountains claims identified two springs as claim number 78-11243. For clarification, this is the claim to "Barton Spring" located in the NW¼ NW¼ of Section 32, T24N, R1W, Boise Meridian.
- Claim 79-12822: Change claim number to 78-12230 to reflect correct IDWR basin location.
- Claim 79-12824: Change claim number to 78-12231 to reflect correct IDWR basin location.
- Claim 82-11231: Change claim number to 81-11928 to reflect correct IDWR basin location.
- Claim 82-11430: Change claim number to 79-14114 to reflect correct IDWR basin location.
- Claim 69-10914: Change location to SE¼, NW¼ within the same Section to reflect more accurate location information obtained since 1998.
- Claim 78-11503: Change location to SW¼, NE¼ within the same Section to reflect more accurate location information obtained since 1998.

- Claim 79-13820: Change location to NW¼, NE¼, SE¼ within the same Section to reflect more accurate location information obtained since 1998.
- Claim 79-12608: Change source from "Peter Ready Spring" to "Unnamed Spring" to avoid duplication in spring names.
- Claim 79-12791: Change source from "Line Bluff Spring" to "Unnamed Spring" to avoid duplication in spring names.

C. Clarification Regarding 41 Previously Withdrawn Claims

On April 28, 1998, the United States and the Nez Perce Tribe filed a *Joint Motion to File Amended Notice of Claim*. The Joint Motion sought to withdraw 41 claims – 20 Nez Perce Tribe claim numbers, the 20 corresponding Bureau of Indian Affairs claim numbers, and one Nez Perce Tribe claim number for which there was no corresponding Bureau of Indian Affairs claim number. On June 30, 1998, the SRBA Court issued the *Order Granting Joint Motion to File Amended Notice of Claim*, which granted the Joint Motion's request to withdraw the 41 claim numbers. Despite the fact that the SRBA Court granted the Joint Motion to withdraw the 41 claim numbers via the June 1998 Order, the 41 claim numbers have not been officially dismissed. Therefore, those claim numbers are also included in Attachment 3A, the list of all instream flow claim numbers to be dismissed. To avoid any confusion, the 41 claim numbers are also listed below:

NPT CLAIM NUMBERS WITHDRAWN	BIA CLAIM NUMBERS WITHDRAWN
84-10925	84-10905
85-12303	85-12219
85-12307	85-12223
84-10937	84-10917
81-10926	81-10769
81-10968	81-10811
75-13457	75-13365
75-13464	75-13372
77-12354	77-12081
77-12431	77-12158
74-14567	74-14514
73-11739	73-11708
74-14572	74-14519
73-11746	73-11715
72-16148	72-16066
72-16151	72-16069
72-16153	72-16071
67-13383	67-13354
65-20749	65-20726
65-20758	65-20735
03-10097	N/A

Attachment 3A to Consent Decree
In re SRBA Case No. 39576; Consolidated Subcase No. 03-10022
Nez Perce Instream Flow Claims

03-10022	03-10068	65-20752	67-13389	71-10670
03-10023	03-10069	65-20753	67-13390	71-10671
03-10024	03-10070	65-20754	67-13391	71-10672
03-10025	03-10071	65-20755	67-13392	71-10673
03-10026	03-10072	65-20756	67-13393	71-10674
03-10027	03-10073	65-20757	67-13394	71-10675
03-10028	03-10074	65-20758	67-13395	71-10676
03-10029	03-10075	65-20759	67-13396	71-10677
03-10030	03-10076	67-13351	67-13397	71-10678
03-10031	03-10077	67-13352	67-13398	71-10679
03-10032	03-10078	67-13353	67-13399	71-10680
03-10033	03-10079	67-13354	67-13400	71-10681
03-10034	03-10097	67-13355	67-13401	71-10682
03-10035	65-20717	67-13356	67-13402	71-10683
03-10036	65-20718	67-13357	67-13403	71-10684
03-10037	65-20719	67-13358	67-13404	71-10685
03-10038	65-20720	67-13359	67-13405	71-10686
03-10039	65-20721	67-13360	67-13406	71-10687
03-10040	65-20722	67-13361	67-13407	71-10688
03-10041	65-20723	67-13362	69-10761	71-10689
03-10042	65-20724	67-13363	69-10762	71-10690
03-10043	65-20725	67-13364	69-10763	71-10691
03-10044	65-20726	67-13365	69-10765	71-10692
03-10045	65-20727	67-13366	69-10766	71-10693
03-10046	65-20728	67-13367	69-10769	71-10695
03-10047	65-20729	67-13368	69-10771	71-10696
03-10048	65-20730	67-13369	69-10772	71-10698
03-10049	65-20731	67-13370	69-10773	71-10699
03-10050	65-20732	67-13371	69-10775	71-10700
03-10052	65-20733	67-13372	69-10776	71-10701
03-10053	65-20734	67-13373	69-10777	71-10702
03-10054	65-20735	67-13374	69-10779	71-10703
03-10055	65-20736	67-13375	69-10780	71-10704
03-10056	65-20740	67-13376	69-10781	71-10705
03-10057	65-20741	67-13377	69-10782	71-10706
03-10058	65-20742	67-13378	69-10783	71-10707
03-10059	65-20743	67-13380	69-10784	71-10708
03-10060	65-20744	67-13381	69-10785	71-10709
03-10061	65-20745	67-13382	69-10786	71-10710
03-10062	65-20746	67-13383	69-10787	71-10711
03-10063	65-20747	67-13384	69-10788	71-10712
03-10064	65-20748	67-13385	69-10789	71-10713
03-10065	65-20749	67-13386	69-10790	71-10714
03-10066	65-20750	67-13387	71-10667	71-10715
03-10067	65-20751	67-13388	71-10668	71-10716

~~Attachment 3A to Consent Decree~~
In re SRBA Case No. 39576; Consolidated Subcase No. 03-10022
Nez Perce Instream Flow Claims

71-10717	72-16069	72-16118	72-16163	73-11717
71-10718	72-16070	72-16119	72-16164	73-11718
71-10719	72-16071	72-16120	72-16165	73-11719
71-10720	72-16072	72-16121	72-16166	73-11720
71-10721	72-16073	72-16122	72-16167	73-11721
72-16029	72-16074	72-16123	72-16168	73-11722
72-16030	72-16075	72-16124	72-16169	73-11723
72-16031	72-16076	72-16125	72-16170	73-11724
72-16032	72-16077	72-16126	72-16171	73-11725
72-16033	72-16078	72-16127	72-16172	73-11726
72-16034	72-16079	72-16128	72-16173	73-11727
72-16035	72-16080	72-16129	72-16174	73-11729
72-16036	72-16081	72-16130	72-16175	73-11730
72-16037	72-16082	72-16131	72-16176	73-11731
72-16038	72-16083	72-16132	72-16177	73-11732
72-16039	72-16084	72-16133	72-16178	73-11733
72-16040	72-16085	72-16134	72-16179	73-11734
72-16041	72-16086	72-16135	72-16180	73-11735
72-16042	72-16087	72-16136	72-16181	73-11736
72-16043	72-16088	72-16137	72-16182	73-11737
72-16044	72-16089	72-16138	72-16183	73-11738
72-16045	72-16090	72-16139	72-16184	73-11739
72-16046	72-16091	72-16140	72-16185	73-11740
72-16047	72-16092	72-16141	72-16186	73-11741
72-16048	72-16093	72-16142	72-16187	73-11742
72-16049	72-16094	72-16143	72-16188	73-11744
72-16050	72-16095	72-16144	73-11698	73-11745
72-16051	72-16096	72-16145	73-11699	73-11746
72-16052	72-16097	72-16146	73-11700	73-11747
72-16053	72-16098	72-16147	73-11701	73-11748
72-16054	72-16099	72-16148	73-11702	73-11749
72-16055	72-16100	72-16149	73-11703	73-11750
72-16056	72-16101	72-16150	73-11704	73-11751
72-16057	72-16102	72-16151	73-11705	73-11752
72-16058	72-16103	72-16152	73-11706	73-11753
72-16059	72-16104	72-16153	73-11707	73-11754
72-16060	72-16105	72-16154	73-11708	73-11755
72-16061	72-16106	72-16155	73-11709	73-11756
72-16062	72-16111	72-16156	73-11710	73-11757
72-16063	72-16112	72-16157	73-11711	73-11758
72-16064	72-16113	72-16158	73-11712	74-14468
72-16065	72-16114	72-16159	73-11713	74-14469
72-16066	72-16115	72-16160	73-11714	74-14470
72-16067	72-16116	72-16161	73-11715	74-14471
72-16068	72-16117	72-16162	73-11716	74-14472

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In re SRBA Case No. 39576; Consolidated Subcase No. 03-10022
Nez Perce Instream Flow Claims

74-14473	74-14518	74-14564	75-13354	75-13399
74-14474	74-14519	74-14565	75-13355	75-13400
74-14475	74-14521	74-14566	75-13356	75-13401
74-14476	74-14522	74-14567	75-13357	75-13402
74-14477	74-14523	74-14568	75-13358	75-13403
74-14478	74-14524	74-14569	75-13359	75-13404
74-14479	74-14525	74-14570	75-13360	75-13405
74-14480	74-14526	74-14571	75-13361	75-13406
74-14481	74-14527	74-14572	75-13362	75-13407
74-14482	74-14528	75-13318	75-13363	75-13408
74-14483	74-14529	75-13319	75-13364	75-13410
74-14484	74-14530	75-13320	75-13365	75-13411
74-14485	74-14531	75-13321	75-13366	75-13412
74-14486	74-14532	75-13322	75-13367	75-13413
74-14487	74-14533	75-13323	75-13368	75-13414
74-14488	74-14534	75-13324	75-13369	75-13415
74-14489	74-14535	75-13325	75-13370	75-13416
74-14490	74-14536	75-13326	75-13371	75-13417
74-14491	74-14537	75-13327	75-13372	75-13418
74-14492	74-14538	75-13328	75-13373	75-13419
74-14493	74-14539	75-13329	75-13374	75-13420
74-14494	74-14540	75-13330	75-13375	75-13421
74-14495	74-14541	75-13331	75-13376	75-13422
74-14496	74-14542	75-13332	75-13377	75-13423
74-14497	74-14543	75-13333	75-13378	75-13424
74-14498	74-14544	75-13334	75-13379	75-13425
74-14499	74-14545	75-13335	75-13380	75-13426
74-14500	74-14546	75-13336	75-13381	75-13427
74-14501	74-14547	75-13337	75-13382	75-13428
74-14502	74-14548	75-13338	75-13383	75-13429
74-14503	74-14549	75-13339	75-13384	75-13430
74-14504	74-14550	75-13340	75-13385	75-13431
74-14505	74-14551	75-13341	75-13386	75-13432
74-14506	74-14552	75-13342	75-13387	75-13433
74-14507	74-14553	75-13343	75-13388	75-13434
74-14508	74-14554	75-13344	75-13389	75-13435
74-14509	74-14555	75-13345	75-13390	75-13436
74-14510	74-14556	75-13346	75-13391	75-13437
74-14511	74-14557	75-13347	75-13392	75-13438
74-14512	74-14558	75-13348	75-13393	75-13439
74-14513	74-14559	75-13349	75-13394	75-13440
74-14514	74-14560	75-13350	75-13395	75-13441
74-14515	74-14561	75-13351	75-13396	75-13442
74-14516	74-14562	75-13352	75-13397	75-13443
74-14517	74-14563	75-13353	75-13398	75-13444

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75-13445	75-13490	77-11977	77-12022	77-12067
75-13446	75-13491	77-11978	77-12023	77-12068
75-13447	75-13492	77-11979	77-12024	77-12069
75-13448	75-13493	77-11980	77-12025	77-12070
75-13449	75-13494	77-11981	77-12026	77-12071
75-13450	75-13495	77-11982	77-12027	77-12072
75-13451	75-13496	77-11983	77-12028	77-12073
75-13452	75-13497	77-11984	77-12029	77-12074
75-13453	75-13498	77-11985	77-12030	77-12075
75-13454	75-13499	77-11986	77-12031	77-12076
75-13455	75-13500	77-11987	77-12032	77-12077
75-13456	77-11943	77-11988	77-12033	77-12078
75-13457	77-11944	77-11989	77-12034	77-12079
75-13458	77-11945	77-11990	77-12035	77-12080
75-13459	77-11946	77-11991	77-12036	77-12081
75-13460	77-11947	77-11992	77-12037	77-12082
75-13461	77-11948	77-11993	77-12038	77-12083
75-13462	77-11949	77-11994	77-12039	77-12084
75-13463	77-11950	77-11995	77-12040	77-12085
75-13464	77-11951	77-11996	77-12041	77-12086
75-13465	77-11952	77-11997	77-12042	77-12087
75-13466	77-11953	77-11998	77-12043	77-12088
75-13467	77-11954	77-11999	77-12044	77-12089
75-13468	77-11955	77-12000	77-12045	77-12090
75-13469	77-11956	77-12001	77-12046	77-12091
75-13470	77-11957	77-12002	77-12047	77-12092
75-13471	77-11958	77-12003	77-12048	77-12093
75-13472	77-11959	77-12004	77-12049	77-12094
75-13473	77-11960	77-12005	77-12050	77-12095
75-13474	77-11961	77-12006	77-12051	77-12096
75-13475	77-11962	77-12007	77-12052	77-12097
75-13476	77-11963	77-12008	77-12053	77-12098
75-13477	77-11964	77-12009	77-12054	77-12099
75-13478	77-11965	77-12010	77-12055	77-12100
75-13479	77-11966	77-12011	77-12056	77-12101
75-13480	77-11967	77-12012	77-12057	77-12102
75-13481	77-11968	77-12013	77-12058	77-12103
75-13482	77-11969	77-12014	77-12059	77-12104
75-13483	77-11970	77-12015	77-12060	77-12105
75-13484	77-11971	77-12016	77-12061	77-12106
75-13485	77-11972	77-12017	77-12062	77-12107
75-13486	77-11973	77-12018	77-12063	77-12108
75-13487	77-11974	77-12019	77-12064	77-12109
75-13488	77-11975	77-12020	77-12065	77-12110
75-13489	77-11976	77-12021	77-12066	77-12111

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77-12112	77-12157	77-12202	77-12248	77-12293
77-12113	77-12158	77-12203	77-12249	77-12294
77-12114	77-12159	77-12204	77-12250	77-12295
77-12115	77-12160	77-12205	77-12251	77-12296
77-12116	77-12161	77-12206	77-12252	77-12297
77-12117	77-12162	77-12207	77-12253	77-12298
77-12118	77-12163	77-12208	77-12254	77-12299
77-12119	77-12164	77-12209	77-12255	77-12300
77-12120	77-12165	77-12210	77-12256	77-12301
77-12121	77-12166	77-12211	77-12257	77-12302
77-12122	77-12167	77-12212	77-12258	77-12303
77-12123	77-12168	77-12213	77-12259	77-12304
77-12124	77-12169	77-12214	77-12260	77-12305
77-12125	77-12170	77-12216	77-12261	77-12306
77-12126	77-12171	77-12217	77-12262	77-12307
77-12127	77-12172	77-12218	77-12263	77-12308
77-12128	77-12173	77-12219	77-12264	77-12309
77-12129	77-12174	77-12220	77-12265	77-12310
77-12130	77-12175	77-12221	77-12266	77-12311
77-12131	77-12176	77-12222	77-12267	77-12312
77-12132	77-12177	77-12223	77-12268	77-12313
77-12133	77-12178	77-12224	77-12269	77-12314
77-12134	77-12179	77-12225	77-12270	77-12315
77-12135	77-12180	77-12226	77-12271	77-12316
77-12136	77-12181	77-12227	77-12272	77-12317
77-12137	77-12182	77-12228	77-12273	77-12318
77-12138	77-12183	77-12229	77-12274	77-12319
77-12139	77-12184	77-12230	77-12275	77-12320
77-12140	77-12185	77-12231	77-12276	77-12321
77-12141	77-12186	77-12232	77-12277	77-12322
77-12142	77-12187	77-12233	77-12278	77-12323
77-12143	77-12188	77-12234	77-12279	77-12324
77-12144	77-12189	77-12235	77-12280	77-12325
77-12145	77-12190	77-12236	77-12281	77-12326
77-12146	77-12191	77-12237	77-12282	77-12327
77-12147	77-12192	77-12238	77-12283	77-12328
77-12148	77-12193	77-12239	77-12284	77-12329
77-12149	77-12194	77-12240	77-12285	77-12330
77-12150	77-12195	77-12241	77-12286	77-12331
77-12151	77-12196	77-12242	77-12287	77-12332
77-12152	77-12197	77-12243	77-12288	77-12333
77-12153	77-12198	77-12244	77-12289	77-12334
77-12154	77-12199	77-12245	77-12290	77-12335
77-12155	77-12200	77-12246	77-12291	77-12336
77-12156	77-12201	77-12247	77-12292	77-12337

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77-12338	77-12383	77-12428	77-12473	78-11131
77-12339	77-12384	77-12429	77-12474	78-11132
77-12340	77-12385	77-12430	77-12475	78-11133
77-12341	77-12386	77-12431	77-12476	78-11134
77-12342	77-12387	77-12432	77-12477	78-11135
77-12343	77-12388	77-12433	77-12478	78-11136
77-12344	77-12389	77-12434	77-12479	78-11137
77-12345	77-12390	77-12435	77-12480	78-11138
77-12346	77-12391	77-12436	77-12481	78-11139
77-12347	77-12392	77-12437	77-12482	78-11140
77-12348	77-12393	77-12438	77-12483	78-11141
77-12349	77-12394	77-12439	77-12484	78-11142
77-12350	77-12395	77-12440	77-12485	78-11143
77-12351	77-12396	77-12441	77-12486	78-11144
77-12352	77-12397	77-12442	77-12487	78-11145
77-12353	77-12398	77-12443	78-11100	78-11146
77-12354	77-12399	77-12444	78-11101	78-11147
77-12355	77-12400	77-12445	78-11102	78-11148
77-12356	77-12401	77-12446	78-11103	78-11149
77-12357	77-12402	77-12447	78-11104	78-11150
77-12358	77-12403	77-12448	78-11105	79-11897
77-12359	77-12404	77-12449	78-11106	79-11898
77-12360	77-12405	77-12450	78-11107	79-11899
77-12361	77-12406	77-12451	78-11108	79-11900
77-12362	77-12407	77-12452	78-11109	79-11901
77-12363	77-12408	77-12453	78-11110	79-11902
77-12364	77-12409	77-12454	78-11111	79-11903
77-12365	77-12410	77-12455	78-11112	79-11904
77-12366	77-12411	77-12456	78-11113	79-11905
77-12367	77-12412	77-12457	78-11114	79-11906
77-12368	77-12413	77-12458	78-11115	79-11907
77-12369	77-12414	77-12459	78-11116	79-11908
77-12370	77-12415	77-12460	78-11117	79-11909
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77-12374	77-12419	77-12464	78-11121	79-11913
77-12375	77-12420	77-12465	78-11122	79-11914
77-12376	77-12421	77-12466	78-11123	79-11915
77-12377	77-12422	77-12467	78-11124	79-11916
77-12378	77-12423	77-12468	78-11126	79-11917
77-12379	77-12424	77-12469	78-11127	79-11918
77-12380	77-12425	77-12470	78-11128	79-11919
77-12381	77-12426	77-12471	78-11129	79-11920
77-12382	77-12427	77-12472	78-11130	79-11921

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79-11922	79-12040	81-10712	81-10757	81-10802
79-11923	79-12041	81-10713	81-10758	81-10803
79-11924	79-12042	81-10714	81-10759	81-10804
79-11925	79-12043	81-10715	81-10760	81-10805
79-11926	79-12044	81-10716	81-10761	81-10806
79-11927	79-12045	81-10717	81-10762	81-10807
79-11928	79-12046	81-10718	81-10763	81-10808
79-11929	79-12047	81-10719	81-10764	81-10809
79-11930	79-12048	81-10720	81-10765	81-10810
79-11931	79-12049	81-10721	81-10766	81-10811
79-11932	79-12050	81-10722	81-10767	81-10812
79-11933	79-12051	81-10723	81-10768	81-10813
79-11934	79-12052	81-10724	81-10769	81-10814
79-11935	79-12053	81-10725	81-10770	81-10815
79-11936	79-12054	81-10726	81-10771	81-10816
79-11937	79-12055	81-10727	81-10772	81-10817
79-11938	79-12056	81-10728	81-10773	81-10818
79-11939	79-12057	81-10729	81-10774	81-10819
79-11940	79-12058	81-10730	81-10775	81-10820
79-11941	79-12059	81-10731	81-10776	81-10821
79-11942	79-12060	81-10732	81-10777	81-10822
79-11943	79-12061	81-10733	81-10778	81-10823
79-11944	79-12062	81-10734	81-10779	81-10824
79-11945	79-12063	81-10735	81-10780	81-10825
79-11949	79-12064	81-10736	81-10781	81-10826
79-11953	79-12065	81-10737	81-10782	81-10827
79-11955	79-12066	81-10738	81-10783	81-10828
79-11959	79-12067	81-10739	81-10784	81-10829
79-11961	79-12068	81-10740	81-10785	81-10830
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79-11964	79-12070	81-10742	81-10787	81-10832
79-12026	79-12071	81-10743	81-10788	81-10833
79-12027	79-12072	81-10744	81-10789	81-10834
79-12028	79-12073	81-10745	81-10790	81-10835
79-12029	79-12074	81-10746	81-10791	81-10836
79-12030	79-12075	81-10747	81-10792	81-10837
79-12031	79-12076	81-10748	81-10793	81-10838
79-12032	79-12077	81-10749	81-10794	81-10839
79-12033	79-12078	81-10750	81-10795	81-10840
79-12034	79-12079	81-10751	81-10796	81-10841
79-12035	79-12080	81-10752	81-10797	81-10842
79-12036	79-12081	81-10753	81-10798	81-10843
79-12037	81-10709	81-10754	81-10799	81-10844
79-12038	81-10710	81-10755	81-10800	81-10845
79-12039	81-10711	81-10756	81-10801	81-10846

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81-10847	81-10893	81-10938	81-10983	82-11024
81-10848	81-10894	81-10939	81-10984	82-11025
81-10849	81-10895	81-10940	81-10985	82-11026
81-10850	81-10896	81-10941	81-10986	82-11027
81-10851	81-10897	81-10942	81-10987	82-11028
81-10852	81-10898	81-10943	81-10988	82-11029
81-10853	81-10899	81-10944	81-10989	82-11030
81-10854	81-10900	81-10945	81-10990	82-11031
81-10855	81-10901	81-10946	81-10991	82-11032
81-10856	81-10902	81-10947	81-10992	82-11033
81-10857	81-10903	81-10948	81-10993	82-11034
81-10858	81-10904	81-10949	81-10994	82-11035
81-10859	81-10905	81-10950	81-10995	82-11036
81-10860	81-10906	81-10951	81-10996	82-11037
81-10861	81-10907	81-10952	81-10997	82-11038
81-10862	81-10908	81-10953	81-10998	82-11039
81-10863	81-10909	81-10954	81-10999	82-11040
81-10864	81-10910	81-10955	81-11000	82-11041
81-10866	81-10911	81-10956	81-11001	82-11042
81-10867	81-10912	81-10957	81-11002	82-11043
81-10868	81-10913	81-10958	81-11003	82-11044
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81-10870	81-10915	81-10960	81-11005	82-11046
81-10871	81-10916	81-10961	81-11006	82-11047
81-10872	81-10917	81-10962	81-11007	82-11048
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81-10874	81-10919	81-10964	81-11009	82-11050
81-10875	81-10920	81-10965	81-11010	82-11053
81-10876	81-10921	81-10966	81-11011	82-11054
81-10877	81-10922	81-10967	81-11012	82-11055
81-10878	81-10923	81-10968	81-11013	82-11056
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81-10883	81-10928	81-10973	81-11018	82-11061
81-10884	81-10929	81-10974	81-11019	82-11062
81-10885	81-10930	81-10975	81-11020	82-11063
81-10886	81-10931	81-10976	81-11021	82-11064
81-10887	81-10932	81-10977	81-11051	82-11065
81-10888	81-10933	81-10978	82-11019	82-11066
81-10889	81-10934	81-10979	82-11020	82-11067
81-10890	81-10935	81-10980	82-11021	82-11068
81-10891	81-10936	81-10981	82-11022	82-11069
81-10892	81-10937	81-10982	82-11023	82-11070

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82-11071	83-11064	83-11109	83-11155	83-11200
82-11072	83-11065	83-11110	83-11156	83-11201
82-11073	83-11066	83-11111	83-11157	83-11202
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82-11075	83-11068	83-11113	83-11159	83-11204
82-11076	83-11069	83-11114	83-11160	83-11205
82-11077	83-11070	83-11115	83-11161	83-11206
82-11078	83-11071	83-11116	83-11162	83-11207
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83-11044	83-11089	83-11134	83-11180	83-11225
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83-11055	83-11100	83-11146	83-11191	83-11236
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83-11057	83-11102	83-11148	83-11193	83-11238
83-11058	83-11103	83-11149	83-11194	83-11239
83-11059	83-11104	83-11150	83-11195	83-11240
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83-11061	83-11106	83-11152	83-11197	83-11242
83-11062	83-11107	83-11153	83-11198	83-11243
83-11063	83-11108	83-11154	83-11199	83-11244

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83-11245	85-12189	85-12234	85-12292	85-12337
83-11246	85-12190	85-12235	85-12293	85-12338
83-11247	85-12191	85-12236	85-12294	85-12339
83-11248	85-12192	85-12237	85-12295	85-12340
83-11249	85-12193	85-12238	85-12296	85-12341
83-11938	85-12194	85-12239	85-12297	85-12342
84-10904	85-12195	85-12240	85-12298	86-10863
84-10905	85-12196	85-12241	85-12299	86-10864
84-10906	85-12197	85-12242	85-12300	86-10865
84-10907	85-12198	85-12243	85-12301	86-10866
84-10908	85-12199	85-12244	85-12302	86-10867
84-10909	85-12200	85-12245	85-12303	86-10868
84-10910	85-12201	85-12246	85-12304	86-10869
84-10911	85-12202	85-12247	85-12305	86-10870
84-10912	85-12203	85-12248	85-12306	86-10871
84-10913	85-12204	85-12249	85-12307	86-10872
84-10914	85-12205	85-12250	85-12308	86-10873
84-10915	85-12206	85-12251	85-12309	86-10874
84-10916	85-12207	85-12252	85-12310	86-10875
84-10917	85-12208	85-12253	85-12311	86-10876
84-10918	85-12209	85-12254	85-12312	86-10877
84-10919	85-12210	85-12255	85-12313	86-10878
84-10920	85-12211	85-12259	85-12314	86-10879
84-10921	85-12212	85-12262	85-12315	86-10880
84-10922	85-12213	85-12269	85-12316	86-10881
84-10924	85-12214	85-12272	85-12317	86-10882
84-10925	85-12215	85-12273	85-12318	86-10883
84-10926	85-12216	85-12274	85-12319	86-10884
84-10927	85-12217	85-12275	85-12320	86-10885
84-10928	85-12218	85-12276	85-12321	86-10886
84-10929	85-12219	85-12277	85-12322	86-10887
84-10930	85-12220	85-12278	85-12323	86-10888
84-10931	85-12221	85-12279	85-12324	86-10889
84-10932	85-12222	85-12280	85-12325	86-10890
84-10933	85-12223	85-12281	85-12326	86-10892
84-10934	85-12224	85-12282	85-12327	86-10893
84-10935	85-12225	85-12283	85-12328	86-10894
84-10936	85-12226	85-12284	85-12329	86-10895
84-10937	85-12227	85-12285	85-12330	86-10896
84-10938	85-12228	85-12286	85-12331	86-10897
84-10939	85-12229	85-12287	85-12332	86-10898
84-10940	85-12230	85-12288	85-12333	86-10899
84-10941	85-12231	85-12289	85-12334	86-10900
84-10942	85-12232	85-12290	85-12335	86-10901
85-12188	85-12233	85-12291	85-12336	86-10902

Attachment 3A to Consent Decree
In re SRBA Case No. 39576; Consolidated Subcase No. 03-10022
Nez Perce Instream Flow Claims

86-10903
86-10904
86-10905
86-10906
86-10907
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86-10909
86-10910
86-10911
86-10912
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86-10918
86-10919

Attachment 3B to Consent Decree

In re SRBA Case No. 39576; Consolidated Subcase No. 67-13701

US' Claims to Spring and Fountains as trustee for the benefit of the Nez Perce Tribe

69-10824	78-11243	78-12065	79-12285	79-12334	79-12397
69-10872	78-11245	79-12225	79-12288	79-12335	79-12399
69-10877	78-11246	79-12226	79-12289	79-12336	79-12400
69-10878	78-11255	79-12227	79-12290	79-12337	79-12401
69-10884	78-11256	79-12228	79-12291	79-12338	79-12402
69-10885	78-11258	79-12229	79-12292	79-12339	79-12403
69-10887	78-11259	79-12230	79-12293	79-12340	79-12404
69-10895	78-11308	79-12231	79-12294	79-12341	79-12405
69-10935	78-11322	79-12232	79-12295	79-12343	79-12407
69-10971	78-11331	79-12233	79-12296	79-12344	79-12410
69-10972	78-11334	79-12235	79-12297	79-12345	79-12417
69-10973	78-11335	79-12236	79-12298	79-12346	79-12418
69-10974	78-11338	79-12237	79-12299	79-12347	79-12419
69-10975	78-11339	79-12238	79-12300	79-12348	79-12421
69-10976	78-11345	79-12239	79-12301	79-12349	79-12422
69-10977	78-11346	79-12240	79-12302	79-12351	79-12424
69-11471	78-11347	79-12241	79-12303	79-12352	79-12425
69-11474	78-11348	79-12242	79-12305	79-12359	79-12426
77-13333	78-11350	79-12243	79-12306	79-12360	79-12427
77-13334	78-11388	79-12245	79-12307	79-12361	79-12430
77-13361	78-11389	79-12246	79-12308	79-12362	79-12431
77-13364	78-11401	79-12249	79-12309	79-12363	79-12432
77-13371	78-11404	79-12250	79-12310	79-12364	79-12433
77-13387	78-11412	79-12251	79-12311	79-12365	79-12434
77-13389	78-11414	79-12252	79-12312	79-12366	79-12435
77-13391	78-11418	79-12253	79-12313	79-12367	79-12438
77-13392	78-11428	79-12254	79-12314	79-12368	79-12439
77-13395	78-11434	79-12255	79-12315	79-12369	79-12440
77-13403	78-11435	79-12256	79-12316	79-12370	79-12441
77-13406	78-11482	79-12257	79-12317	79-12374	79-12443
77-13410	78-11483	79-12258	79-12318	79-12375	79-12444
77-13439	78-11487	79-12259	79-12319	79-12376	79-12445
77-13440	78-11490	79-12260	79-12320	79-12377	79-12447
77-13441	78-11496	79-12263	79-12321	79-12378	79-12448
77-13956	78-11504	79-12266	79-12322	79-12379	79-12449
77-13959	78-11521	79-12270	79-12323	79-12380	79-12452
77-13960	78-11531	79-12271	79-12325	79-12381	79-12453
77-13985	78-12033	79-12272	79-12326	79-12385	79-12455
77-14001	78-12034	79-12275	79-12327	79-12386	79-12457
77-14018	78-12035	79-12276	79-12328	79-12390	79-12458
77-14019	78-12038	79-12277	79-12329	79-12392	79-12459
77-14020	78-12039	79-12279	79-12330	79-12393	79-12460
77-14021	78-12042	79-12281	79-12331	79-12394	79-12461
77-14033	78-12046	79-12282	79-12332	79-12395	79-12462
78-11240	78-12052	79-12283	79-12333	79-12396	79-12463

Attachment 3B to Consent Decree

In re SRBA Case No. 39576; Consolidated Subcase No. 67-13701

US' Claims to Spring and Fountains as trustee for the benefit of the Nez Perce Tribe

79-12464	79-12514	79-12580	79-12790	79-13812	81-11488
79-12466	79-12515	79-12581	79-12792	79-13814	81-11489
79-12467	79-12519	79-12585	79-12795	79-13818	81-11490
79-12468	79-12520	79-12587	79-12799	79-13819	81-11492
79-12469	79-12521	79-12589	79-12800	79-13826	81-11493
79-12470	79-12522	79-12590	79-12804	79-13827	81-11494
79-12471	79-12523	79-12591	79-12805	79-13832	81-11495
79-12472	79-12525	79-12592	79-12806	79-13833	81-11496
79-12473	79-12526	79-12594	79-12808	79-13835	81-11497
79-12475	79-12529	79-12595	79-12823	79-2234	81-11498
79-12478	79-12531	79-12596	79-12825	81-11417	81-11501
79-12479	79-12532	79-12600	79-12844	81-11418	81-11502
79-12480	79-12533	79-12603	79-12846	81-11419	81-11503
79-12481	79-12534	79-12618	79-12851	81-11420	81-11506
79-12482	79-12535	79-12619	79-12852	81-11422	81-11508
79-12483	79-12536	79-12626	79-12853	81-11423	81-11510
79-12484	79-12537	79-12627	79-13696	81-11424	81-11511
79-12485	79-12538	79-12631	79-13697	81-11425	81-11513
79-12486	79-12539	79-12632	79-13698	81-11426	81-11514
79-12487	79-12540	79-12637	79-13699	81-11427	81-11515
79-12488	79-12541	79-12638	79-13700	81-11428	81-11516
79-12489	79-12542	79-12660	79-13701	81-11429	81-11517
79-12490	79-12543	79-12661	79-13702	81-11430	81-11518
79-12491	79-12544	79-12668	79-13703	81-11432	81-11519
79-12492	79-12545	79-12674	79-13704	81-11436	81-11520
79-12494	79-12546	79-12678	79-13705	81-11437	81-11521
79-12495	79-12550	79-12679	79-13706	81-11439	81-11528
79-12496	79-12551	79-12700	79-13707	81-11441	81-11529
79-12497	79-12552	79-12702	79-13735	81-11442	81-11532
79-12498	79-12553	79-12703	79-13739	81-11443	81-11533
79-12499	79-12554	79-12704	79-13740	81-11468	81-11534
79-12500	79-12555	79-12706	79-13744	81-11469	81-11538
79-12501	79-12557	79-12713	79-13780	81-11470	81-11547
79-12502	79-12559	79-12720	79-13782	81-11471	81-11548
79-12503	79-12564	79-12721	79-13798	81-11473	81-11549
79-12504	79-12565	79-12726	79-13799	81-11474	81-11550
79-12505	79-12566	79-12732	79-13800	81-11475	81-11565
79-12506	79-12567	79-12741	79-13801	81-11477	81-11856
79-12507	79-12571	79-12742	79-13802	81-11481	81-11857
79-12508	79-12572	79-12748	79-13803	81-11482	81-11858
79-12509	79-12573	79-12754	79-13804	81-11483	81-11859
79-12510	79-12574	79-12755	79-13805	81-11484	81-11860
79-12511	79-12576	79-12759	79-13808	81-11485	81-11866
79-12512	79-12577	79-12788	79-13809	81-11486	81-11867
79-12513	79-12579	79-12789	79-13811	81-11487	82-11234

Attachment 3B to Consent Decree

In re SRBA Case No. 39576; Consolidated Subcase No. 67-13701

US' Claims to Spring and Fountains as trustee for the benefit of the Nez Perce Tribe

82-11235	82-11295	82-12049	84-11071	84-11142	84-11259
82-11236	82-11296	82-12050	84-11072	84-11143	84-11267
82-11238	82-11297	83-11636	84-11073	84-11144	84-11268
82-11240	82-11302	83-11637	84-11074	84-11146	84-11271
82-11241	82-11303	83-11650	84-11075	84-11147	84-11274
82-11243	82-11304	83-11651	84-11080	84-11148	84-11275
82-11244	82-11305	83-11652	84-11081	84-11149	84-11276
82-11245	82-11306	83-11653	84-11091	84-11150	84-11276
82-11246	82-11307	83-11654	84-11092	84-11151	84-11279
82-11247	82-11308	83-11655	84-11093	84-11152	84-11282
82-11248	82-11309	83-11656	84-11094	84-11153	84-11285
82-11249	82-11310	83-11658	84-11095	84-11154	84-11288
82-11252	82-11311	83-11665	84-11096	84-11155	84-11292
82-11253	82-11312	83-11672	84-11098	84-11156	84-11306
82-11255	82-11313	83-11673	84-11099	84-11157	84-11307
82-11257	82-11314	83-11674	84-11100	84-11158	84-11308
82-11258	82-11318	83-11675	84-11101	84-11159	84-11309
82-11260	82-11319	83-11678	84-11102	84-11160	84-11314
82-11261	82-11320	83-11681	84-11103	84-11162	84-11336
82-11262	82-11321	83-11682	84-11106	84-11164	84-11337
82-11263	82-11333	83-11683	84-11107	84-11178	84-11339
82-11264	82-11338	83-11684	84-11108	84-11179	84-11341
82-11265	82-11340	83-11685	84-11109	84-11193	84-11342
82-11266	82-11342	83-11686	84-11110	84-11194	84-11343
82-11267	82-11343	83-11691	84-11111	84-11195	84-11344
82-11268	82-11344	83-11692	84-11112	84-11196	84-11345
82-11272	82-11345	83-11693	84-11113	84-11197	84-11346
82-11273	82-11346	83-11694	84-11114	84-11198	84-11347
82-11274	82-11347	83-11695	84-11115	84-11199	84-11348
82-11275	82-11349	83-11696	84-11116	84-11200	84-11349
82-11276	82-11350	83-11697	84-11117	84-11201	84-11350
82-11279	82-11377	83-11698	84-11118	84-11205	84-11351
82-11281	82-11378	83-11923	84-11126	84-11206	84-11352
82-11282	82-11379	84-11053	84-11127	84-11207	84-11353
82-11283	82-11391	84-11056	84-11128	84-11208	84-11359
82-11284	82-11393	84-11057	84-11130	84-11246	84-11360
82-11285	82-11394	84-11059	84-11131	84-11247	84-11361
82-11286	82-11395	84-11060	84-11132	84-11249	84-11376
82-11287	82-11416	84-11061	84-11133	84-11252	84-11377
82-11288	82-11417	84-11062	84-11136	84-11253	84-11378
82-11289	82-11420	84-11064	84-11137	84-11254	84-11379
82-11290	82-11421	84-11066	84-11138	84-11255	84-11380
82-11291	82-12037	84-11067	84-11139	84-11256	84-11381
82-11292	82-12047	84-11068	84-11140	84-11257	84-11385
82-11293	82-12048	84-11069	84-11141	84-11258	84-11386

Attachment 3B to Consent Decree

In re SRBA Case No. 39576; Consolidated Subcase No. 67-13701

US' Claims to Spring and Fountains as trustee for the benefit of the Nez Perce Tribe

84-11387	84-12086	85-13407	85-13810	85-13884	85-14006
84-11388	85-12262	85-13408	85-13811	85-13885	85-14007
84-11389	85-13030	85-13410	85-13812	85-13886	85-14008
84-11390	85-13060	85-13411	85-13813	85-13887	85-14009
84-11391	85-13236	85-13412	85-13814	85-13888	85-14010
84-11392	85-13237	85-13413	85-13815	85-13889	85-14011
84-11393	85-13238	85-13507	85-13816	85-13890	85-14012
84-11394	85-13239	85-13508	85-13817	85-13891	85-14013
84-11395	85-13240	85-13509	85-13818	85-13892	85-14014
84-11431	85-13241	85-13510	85-13819	85-13893	85-14018
84-11442	85-13242	85-13511	85-13820	85-13894	85-14019
84-11443	85-13245	85-13512	85-13821	85-13905	85-14020
84-11444	85-13247	85-13513	85-13822	85-13909	85-14021
84-11445	85-13248	85-13514	85-13823	85-13927	85-14022
84-11446	85-13249	85-13515	85-13824	85-13928	85-14023
84-11447	85-13250	85-13517	85-13825	85-13933	85-14024
84-11448	85-13251	85-13518	85-13826	85-13948	85-14029
84-11449	85-13252	85-13519	85-13827	85-13951	85-14030
84-11450	85-13253	85-13520	85-13828	85-13953	85-14031
84-11451	85-13254	85-13521	85-13829	85-13955	85-14032
84-11469	85-13255	85-13522	85-13830	85-13956	85-14033
84-11470	85-13257	85-13523	85-13831	85-13956	85-14036
84-11471	85-13262	85-13524	85-13832	85-13958	85-14038
84-11472	85-13264	85-13526	85-13833	85-13959	85-14043
84-11473	85-13265	85-13528	85-13835	85-13961	85-14044
84-11474	85-13266	85-13529	85-13836	85-13963	85-14045
84-11475	85-13272	85-13530	85-13837	85-13977	85-14046
84-11476	85-13383	85-13531	85-13838	85-13978	85-14047
84-11477	85-13384	85-13532	85-13839	85-13979	85-14054
84-12069	85-13385	85-13535	85-13840	85-13980	85-14055
84-12070	85-13386	85-13541	85-13841	85-13985	85-14056
84-12071	85-13387	85-13542	85-13842	85-13986	85-14057
84-12072	85-13388	85-13543	85-13843	85-13987	85-14058
84-12073	85-13389	85-13738	85-13844	85-13988	85-14059
84-12074	85-13390	85-13739	85-13845	85-13989	85-14060
84-12075	85-13391	85-13771	85-13846	85-13990	85-14061
84-12076	85-13392	85-13800	85-13847	85-13993	85-14062
84-12078	85-13395	85-13801	85-13848	85-13995	85-14063
84-12079	85-13396	85-13802	85-13849	85-13998	85-14065
84-12080	85-13401	85-13803	85-13850	85-13999	85-14066
84-12081	85-13402	85-13804	85-13851	85-14000	85-14068
84-12082	85-13403	85-13805	85-13852	85-14002	85-14070
84-12083	85-13404	85-13806	85-13853	85-14003	85-14072
84-12084	85-13405	85-13807	85-13856	85-14004	85-14073
84-12085	85-13406	85-13808	85-13857	85-14005	85-14074

In re SRBA Case No. 39576; Consolidated Subcase No. 67-13701
US' Claims to Spring and Fountains as trustee for the benefit of the Nez Perce Tribe

85-14076	85-15282	86-11098	86-11151	86-11239	86-11372
85-14078	85-15283	86-11099	86-11152	86-11243	86-11373
85-14079	85-15285	86-11100	86-11153	86-11244	86-11380
85-14081	85-15286	86-11101	86-11154	86-11245	86-11796
85-14082	85-15287	86-11102	86-11155	86-11246	86-11797
85-14084	85-15288	86-11103	86-11156	86-11247	86-11798
85-14085	86-11048	86-11104	86-11157	86-11248	86-11799
85-14086	86-11050	86-11105	86-11158	86-11249	86-11800
85-14087	86-11053	86-11106	86-11159	86-11250	86-11801
85-14088	86-11054	86-11107	86-11161	86-11251	86-11802
85-14089	86-11055	86-11108	86-11162	86-11252	86-11803
85-14090	86-11056	86-11109	86-11163	86-11253	86-11804
85-14091	86-11057	86-11110	86-11164	86-11254	86-11805
85-14092	86-11058	86-11113	86-11165	86-11256	86-11806
85-14093	86-11059	86-11114	86-11167	86-11257	86-11807
85-14093	86-11060	86-11115	86-11168	86-11260	86-11808
85-14094	86-11061	86-11116	86-11169	86-11261	86-11809
85-14094	86-11062	86-11117	86-11170	86-11262	86-11810
85-14098	86-11063	86-11118	86-11171	86-11291	86-11811
85-14099	86-11064	86-11119	86-11172	86-11292	86-11812
85-14103	86-11065	86-11121	86-11173	86-11295	86-11813
85-14104	86-11066	86-11122	86-11174	86-11296	86-11814
85-14109	86-11067	86-11127	86-11176	86-11298	86-11815
85-14110	86-11068	86-11128	86-11177	86-11300	86-11816
85-14111	86-11069	86-11129	86-11178	86-11301	86-11817
85-14113	86-11070	86-11130	86-11179	86-11302	86-11818
85-14114	86-11075	86-11131	86-11181	86-11328	86-11819
85-14116	86-11076	86-11132	86-11183	86-11329	86-11820
85-14117	86-11078	86-11133	86-11184	86-11331	86-11821
85-14118	86-11080	86-11135	86-11185	86-11332	86-11822
85-14119	86-11081	86-11136	86-11186	86-11335	86-11823
85-15268	86-11082	86-11137	86-11187	86-11336	86-11825
85-15269	86-11083	86-11138	86-11189	86-11338	86-11826
85-15270	86-11084	86-11139	86-11191	86-11339	
85-15271	86-11085	86-11140	86-11193	86-11340	
85-15272	86-11087	86-11141	86-11194	86-11341	
85-15273	86-11088	86-11142	86-11195	86-11344	
85-15274	86-11089	86-11143	86-11196	86-11345	
85-15275	86-11090	86-11144	86-11197	86-11346	
85-15276	86-11091	86-11145	86-11198	86-11347	
85-15277	86-11092	86-11146	86-11203	86-11365	
85-15278	86-11094	86-11147	86-11204	86-11368	
85-15279	86-11095	86-11148	86-11205	86-11369	
85-15280	86-11096	86-11149	86-11206	86-11370	
85-15281	86-11097	86-11150	86-11207	86-11371	

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67-13701	69-11479	77-13633	77-13726	77-14077	77-14122
69-11112	69-11480	77-13634	77-13727	77-14078	77-14123
69-11115	69-11481	77-13635	77-13769	77-14079	77-14124
69-11123	69-11482	77-13636	77-13774	77-14080	77-14125
69-11126	69-11483	77-13637	77-14036	77-14081	77-14126
69-11156	69-11484	77-13638	77-14037	77-14082	77-14127
69-11162	69-11485	77-13639	77-14038	77-14083	77-14128
69-11163	69-11486	77-13640	77-14039	77-14084	78-11601
69-11168	69-11487	77-13642	77-14040	77-14085	78-11603
69-11169	69-11488	77-13644	77-14041	77-14086	78-11604
69-11175	69-11489	77-13646	77-14042	77-14087	78-11606
69-11176	77-13578	77-13649	77-14043	77-14088	78-11607
69-11178	77-13586	77-13650	77-14044	77-14089	78-11609
69-11183	77-13587	77-13651	77-14045	77-14090	78-11610
69-11184	77-13591	77-13652	77-14046	77-14091	78-11614
69-11185	77-13599	77-13653	77-14047	77-14092	78-11616
69-11186	77-13600	77-13654	77-14048	77-14093	78-11617
69-11189	77-13601	77-13655	77-14049	77-14094	78-11619
69-11190	77-13602	77-13656	77-14050	77-14095	78-11620
69-11191	77-13603	77-13657	77-14051	77-14096	78-11634
69-11192	77-13604	77-13658	77-14052	77-14097	78-11635
69-11199	77-13605	77-13661	77-14053	77-14098	78-11636
69-11202	77-13606	77-13662	77-14054	77-14099	78-11639
69-11203	77-13607	77-13663	77-14055	77-14100	78-11643
69-11204	77-13608	77-13664	77-14056	77-14101	78-11644
69-11205	77-13609	77-13667	77-14057	77-14102	78-11647
69-11206	77-13610	77-13668	77-14058	77-14103	78-11648
69-11208	77-13611	77-13669	77-14059	77-14104	78-11655
69-11220	77-13612	77-13670	77-14060	77-14105	78-11656
69-11223	77-13613	77-13671	77-14061	77-14106	78-11657
69-11225	77-13614	77-13672	77-14062	77-14107	78-11658
69-11226	77-13616	77-13673	77-14063	77-14108	78-11659
69-11236	77-13617	77-13674	77-14064	77-14109	78-11660
69-11252	77-13618	77-13675	77-14065	77-14110	78-11661
69-11257	77-13619	77-13676	77-14066	77-14111	78-11663
69-11258	77-13620	77-13677	77-14067	77-14112	78-11664
69-11260	77-13623	77-13680	77-14068	77-14113	78-11669
69-11262	77-13625	77-13681	77-14069	77-14114	78-11675
69-11263	77-13626	77-13688	77-14070	77-14115	78-11683
69-11264	77-13627	77-13691	77-14071	77-14116	78-11684
69-11265	77-13628	77-13695	77-14072	77-14117	78-11685
69-11266	77-13629	77-13707	77-14073	77-14118	78-11686
69-11267	77-13630	77-13711	77-14074	77-14119	78-11687
69-11268	77-13631	77-13724	77-14075	77-14120	78-11692
69-11478	77-13632	77-13725	77-14076	77-14121	78-11695

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78-11696	78-11856	78-12079	79-12932	79-12991	79-13043
78-11698	78-11857	78-12080	79-12933	79-12992	79-13044
78-11699	78-11858	78-12081	79-12934	79-12993	79-13045
78-11700	78-11861	78-12082	79-12935	79-12994	79-13046
78-11701	78-11862	78-12083	79-12936	79-12995	79-13047
78-11706	78-11863	78-12084	79-12937	79-12996	79-13048
78-11707	78-11864	78-12085	79-12938	79-12997	79-13049
78-11708	78-11865	78-12086	79-12939	79-12998	79-13050
78-11709	78-11866	78-12087	79-12940	79-12999	79-13051
78-11711	78-11867	78-12088	79-12941	79-13000	79-13052
78-11720	78-11868	78-12089	79-12942	79-13001	79-13053
78-11730	78-11870	78-12090	79-12943	79-13002	79-13057
78-11734	78-11871	78-12091	79-12945	79-13003	79-13058
78-11742	78-11872	78-12092	79-12946	79-13004	79-13059
78-11746	78-11873	78-12093	79-12949	79-13005	79-13060
78-11749	78-11874	78-12094	79-12953	79-13006	79-13061
78-11750	78-11875	78-12095	79-12954	79-13007	79-13062
78-11762	78-11878	78-12096	79-12955	79-13008	79-13063
78-11763	78-11880	78-12097	79-12958	79-13009	79-13064
78-11765	78-11881	78-12098	79-12959	79-13010	79-13068
78-11767	78-11882	78-12099	79-12960	79-13011	79-13069
78-11768	78-11883	78-12100	79-12962	79-13012	79-13073
78-11773	78-11884	78-12101	79-12964	79-13013	79-13075
78-11775	78-11885	78-12102	79-12965	79-13014	79-13076
78-11776	78-11886	79-12908	79-12966	79-13015	79-13077
78-11777	78-11887	79-12909	79-12968	79-13016	79-13078
78-11778	78-11889	79-12910	79-12971	79-13017	79-13079
78-11779	78-11891	79-12911	79-12972	79-13018	79-13080
78-11780	78-11892	79-12912	79-12973	79-13019	79-13082
78-11781	78-11901	79-12913	79-12974	79-13020	79-13083
78-11782	78-11902	79-12914	79-12975	79-13021	79-13084
78-11783	78-11911	79-12915	79-12976	79-13022	79-13085
78-11789	78-11958	79-12916	79-12977	79-13023	79-13086
78-11795	78-11960	79-12917	79-12978	79-13024	79-13087
78-11796	78-12068	79-12918	79-12979	79-13026	79-13088
78-11833	78-12069	79-12919	79-12980	79-13027	79-13090
78-11834	78-12070	79-12920	79-12981	79-13028	79-13093
78-11842	78-12071	79-12921	79-12982	79-13029	79-13100
78-11843	78-12072	79-12922	79-12983	79-13030	79-13101
78-11844	78-12073	79-12923	79-12984	79-13031	79-13102
78-11848	78-12074	79-12924	79-12985	79-13032	79-13104
78-11849	78-12075	79-12925	79-12986	79-13034	79-13105
78-11850	78-12076	79-12926	79-12988	79-13035	79-13108
78-11851	78-12077	79-12928	79-12989	79-13038	79-13109
78-11852	78-12078	79-12929	79-12990	79-13042	79-13110

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79-13113	79-13169	79-13220	79-13277	79-13348	79-13442
79-13114	79-13170	79-13221	79-13278	79-13349	79-13455
79-13115	79-13171	79-13222	79-13279	79-13351	79-13456
79-13116	79-13172	79-13223	79-13281	79-13354	79-13457
79-13117	79-13173	79-13224	79-13283	79-13357	79-13459
79-13118	79-13174	79-13225	79-13286	79-13361	79-13470
79-13121	79-13175	79-13226	79-13288	79-13362	79-13471
79-13122	79-13176	79-13227	79-13289	79-13365	79-13472
79-13123	79-13177	79-13228	79-13290	79-13366	79-13473
79-13124	79-13178	79-13229	79-13291	79-13367	79-13474
79-13126	79-13179	79-13230	79-13292	79-13368	79-13475
79-13127	79-13180	79-13231	79-13293	79-13369	79-13476
79-13128	79-13181	79-13232	79-13295	79-13379	79-13478
79-13130	79-13182	79-13233	79-13298	79-13380	79-13482
79-13131	79-13183	79-13234	79-13299	79-13381	79-13483
79-13132	79-13184	79-13235	79-13300	79-13383	79-13487
79-13135	79-13185	79-13236	79-13301	79-13384	79-13488
79-13136	79-13186	79-13237	79-13302	79-13385	79-13489
79-13138	79-13187	79-13238	79-13306	79-13386	79-13491
79-13140	79-13188	79-13240	79-13309	79-13387	79-13495
79-13141	79-13189	79-13241	79-13310	79-13388	79-13505
79-13142	79-13190	79-13242	79-13311	79-13389	79-13506
79-13143	79-13191	79-13243	79-13312	79-13390	79-13507
79-13144	79-13192	79-13244	79-13314	79-13391	79-13508
79-13145	79-13193	79-13247	79-13315	79-13396	79-13509
79-13146	79-13194	79-13248	79-13316	79-13403	79-13510
79-13147	79-13195	79-13249	79-13318	79-13404	79-13511
79-13149	79-13196	79-13250	79-13319	79-13405	79-13515
79-13150	79-13197	79-13251	79-13320	79-13409	79-13516
79-13151	79-13198	79-13252	79-13321	79-13415	79-13518
79-13152	79-13202	79-13254	79-13323	79-13416	79-13527
79-13153	79-13203	79-13255	79-13324	79-13417	79-13529
79-13154	79-13204	79-13256	79-13325	79-13418	79-13534
79-13155	79-13205	79-13257	79-13327	79-13419	79-13535
79-13156	79-13206	79-13259	79-13330	79-13420	79-13536
79-13158	79-13208	79-13260	79-13331	79-13422	79-13548
79-13159	79-13209	79-13262	79-13332	79-13423	79-13555
79-13161	79-13211	79-13263	79-13333	79-13424	79-13580
79-13162	79-13212	79-13264	79-13334	79-13425	79-13582
79-13163	79-13214	79-13268	79-13335	79-13431	79-13824
79-13164	79-13215	79-13270	79-13340	79-13435	79-13825
79-13165	79-13216	79-13272	79-13341	79-13436	79-13826
79-13166	79-13217	79-13273	79-13343	79-13437	79-13827
79-13167	79-13218	79-13274	79-13344	79-13438	79-13828
79-13168	79-13219	79-13275	79-13347	79-13440	79-13829

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79-13830	79-13875	79-13920	81-11638	81-11725	82-11501
79-13831	79-13876	79-13921	81-11640	81-11726	82-11503
79-13832	79-13877	79-13922	81-11644	81-11727	82-11504
79-13833	79-13878	79-13923	81-11645	81-11728	82-11506
79-13834	79-13879	79-13924	81-11647	81-11736	82-11507
79-13835	79-13880	79-13925	81-11649	81-11737	82-11508
79-13836	79-13881	79-13926	81-11650	81-11739	82-11509
79-13837	79-13882	79-13927	81-11651	81-11740	82-11510
79-13838	79-13883	79-13928	81-11672	81-11741	82-11511
79-13839	79-13884	79-13929	81-11676	81-11742	82-11512
79-13840	79-13885	79-13930	81-11677	81-11746	82-11513
79-13841	79-13886	79-13931	81-11678	81-11755	82-11514
79-13842	79-13887	79-13932	81-11679	81-11756	82-11518
79-13843	79-13888	79-13933	81-11681	81-11757	82-11519
79-13844	79-13889	79-13934	81-11682	81-11758	82-11520
79-13845	79-13890	79-13935	81-11683	81-11773	82-11521
79-13846	79-13891	79-13936	81-11685	81-11868	82-11522
79-13847	79-13892	79-13937	81-11689	81-11869	82-11525
79-13848	79-13893	79-13938	81-11690	81-11870	82-11527
79-13849	79-13894	79-13939	81-11691	81-11871	82-11528
79-13850	79-13895	79-13940	81-11692	81-11872	82-11529
79-13851	79-13896	79-13941	81-11693	81-11873	82-11530
79-13852	79-13897	79-13942	81-11694	81-11874	82-11531
79-13853	79-13898	79-13943	81-11695	81-11875	82-11532
79-13854	79-13899	79-13944	81-11696	81-11876	82-11533
79-13855	79-13900	79-13945	81-11697	81-11877	82-11534
79-13856	79-13901	79-13946	81-11698	81-11878	82-11535
79-13857	79-13902	79-13947	81-11700	81-11879	82-11536
79-13858	79-13903	79-13948	81-11701	81-11880	82-11537
79-13859	79-13904	79-13949	81-11702	82-11477	82-11538
79-13860	79-13905	79-13950	81-11703	82-11480	82-11539
79-13861	79-13906	79-13951	81-11704	82-11481	82-11541
79-13862	79-13907	81-11619	81-11705	82-11482	82-11542
79-13863	79-13908	81-11625	81-11706	82-11484	82-11543
79-13864	79-13909	81-11626	81-11709	82-11486	82-11548
79-13865	79-13910	81-11627	81-11710	82-11487	82-11549
79-13866	79-13911	81-11628	81-11711	82-11489	82-11550
79-13867	79-13912	81-11630	81-11714	82-11490	82-11551
79-13868	79-13913	81-11631	81-11716	82-11491	82-11552
79-13869	79-13914	81-11632	81-11718	82-11492	82-11553
79-13870	79-13915	81-11633	81-11719	82-11493	82-11554
79-13871	79-13916	81-11634	81-11721	82-11494	82-11555
79-13872	79-13917	81-11635	81-11722	82-11495	82-11556
79-13873	79-13918	81-11636	81-11723	82-11498	82-11557
79-13874	79-13919	81-11637	81-11724	82-11499	82-11558

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82-11559	82-11683	82-12091	84-11495	84-11567	84-11684
82-11560	82-11696	82-12092	84-11496	84-11568	84-11685
82-11564	82-11697	82-12093	84-11498	84-11569	84-11686
82-11565	82-11698	82-12094	84-11499	84-11570	84-11694
82-11566	82-11699	83-11801	84-11500	84-11571	84-11695
82-11567	82-11701	83-11802	84-11501	84-11573	84-11698
82-11574	82-11702	83-11815	84-11502	84-11574	84-11701
82-11577	82-12053	83-11816	84-11507	84-11575	84-11702
82-11579	82-12054	83-11817	84-11508	84-11576	84-11703
82-11582	82-12055	83-11818	84-11518	84-11577	84-11703
82-11584	82-12056	83-11819	84-11519	84-11578	84-11706
82-11586	82-12057	83-11820	84-11520	84-11579	84-11709
82-11588	82-12058	83-11821	84-11521	84-11580	84-11712
82-11589	82-12059	83-11823	84-11522	84-11581	84-11715
82-11590	82-12060	83-11830	84-11523	84-11582	84-11719
82-11591	82-12061	83-11837	84-11525	84-11583	84-11726
82-11592	82-12062	83-11838	84-11526	84-11584	84-11733
82-11593	82-12063	83-11839	84-11527	84-11585	84-11734
82-11595	82-12064	83-11840	84-11528	84-11586	84-11735
82-11596	82-12065	83-11843	84-11529	84-11587	84-11736
82-11623	82-12066	83-11846	84-11530	84-11589	84-11741
82-11624	82-12067	83-11847	84-11533	84-11591	84-11763
82-11625	82-12068	83-11848	84-11534	84-11605	84-11764
82-11628	82-12069	83-11849	84-11535	84-11606	84-11766
82-11630	82-12070	83-11850	84-11536	84-11620	84-11768
82-11631	82-12071	83-11851	84-11537	84-11621	84-11769
82-11634	82-12072	83-11856	84-11538	84-11622	84-11770
82-11635	82-12073	83-11857	84-11539	84-11623	84-11771
82-11637	82-12074	83-11858	84-11540	84-11624	84-11772
82-11639	82-12075	83-11859	84-11541	84-11625	84-11773
82-11640	82-12076	83-11860	84-11542	84-11626	84-11774
82-11641	82-12077	83-11861	84-11543	84-11627	84-11775
82-11645	82-12078	83-11862	84-11544	84-11628	84-11776
82-11646	82-12079	83-11863	84-11545	84-11632	84-11777
82-11660	82-12080	83-11924	84-11553	84-11633	84-11778
82-11661	82-12081	84-11480	84-11554	84-11634	84-11779
82-11662	82-12082	84-11483	84-11555	84-11635	84-11780
82-11663	82-12083	84-11484	84-11557	84-11673	84-11786
82-11664	82-12084	84-11486	84-11558	84-11674	84-11787
82-11665	82-12085	84-11487	84-11559	84-11676	84-11788
82-11666	82-12086	84-11488	84-11560	84-11679	84-11803
82-11667	82-12087	84-11489	84-11563	84-11680	84-11804
82-11675	82-12088	84-11491	84-11564	84-11681	84-11805
82-11676	82-12089	84-11493	84-11565	84-11682	84-11806
82-11681	82-12090	84-11494	84-11566	84-11683	84-11807

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84-11808	84-12100	85-14476	85-14876	85-14923	85-15071
84-11812	84-12101	85-14477	85-14877	85-14924	85-15073
84-11813	84-12102	85-14478	85-14878	85-14927	85-15074
84-11814	84-12103	85-14479	85-14879	85-14928	85-15075
84-11815	84-12104	85-14481	85-14881	85-14955	85-15076
84-11816	85-14131	85-14482	85-14882	85-14956	85-15077
84-11817	85-14307	85-14483	85-14883	85-14957	85-15078
84-11818	85-14308	85-14484	85-14884	85-14958	85-15079
84-11819	85-14309	85-14578	85-14885	85-14959	85-15080
84-11820	85-14310	85-14579	85-14886	85-14960	85-15081
84-11821	85-14311	85-14580	85-14887	85-14961	85-15082
84-11822	85-14312	85-14581	85-14888	85-14962	85-15083
84-11858	85-14313	85-14582	85-14889	85-14963	85-15084
84-11869	85-14316	85-14583	85-14890	85-14964	85-15085
84-11870	85-14318	85-14584	85-14891	85-14965	85-15089
84-11871	85-14319	85-14585	85-14892	85-14974	85-15090
84-11872	85-14320	85-14586	85-14893	85-14976	85-15091
84-11873	85-14321	85-14587	85-14894	85-14998	85-15092
84-11874	85-14322	85-14588	85-14895	85-14999	85-15093
84-11875	85-14323	85-14589	85-14896	85-15001	85-15094
84-11876	85-14324	85-14590	85-14897	85-15004	85-15095
84-11877	85-14325	85-14591	85-14898	85-15019	85-15100
84-11878	85-14326	85-14592	85-14899	85-15022	85-15101
84-11896	85-14328	85-14593	85-14900	85-15024	85-15102
84-11897	85-14333	85-14594	85-14901	85-15026	85-15103
84-11898	85-14335	85-14595	85-14902	85-15027	85-15104
84-11899	85-14336	85-14597	85-14903	85-15028	85-15107
84-11900	85-14337	85-14599	85-14904	85-15029	85-15109
84-11901	85-14343	85-14600	85-14906	85-15030	85-15114
84-11902	85-14454	85-14601	85-14907	85-15032	85-15115
84-11903	85-14455	85-14602	85-14908	85-15034	85-15116
84-11904	85-14456	85-14603	85-14909	85-15048	85-15117
84-12087	85-14457	85-14606	85-14910	85-15049	85-15118
84-12088	85-14458	85-14612	85-14911	85-15050	85-15125
84-12089	85-14459	85-14613	85-14912	85-15051	85-15126
84-12090	85-14460	85-14614	85-14913	85-15056	85-15127
84-12091	85-14461	85-14808	85-14914	85-15057	85-15128
84-12092	85-14462	85-14809	85-14915	85-15058	85-15129
84-12093	85-14463	85-14810	85-14916	85-15059	85-15130
84-12094	85-14466	85-14842	85-14917	85-15060	85-15131
84-12095	85-14467	85-14871	85-14918	85-15061	85-15132
84-12096	85-14472	85-14872	85-14919	85-15064	85-15133
84-12097	85-14473	85-14873	85-14920	85-15066	85-15134
84-12098	85-14474	85-14874	85-14921	85-15069	85-15136
84-12099	85-14475	85-14875	85-14922	85-15070	85-15137

~~Attachment 3C to Consent Decree~~
In re SRBA Case No. 39576; Consolidated Subcase No. 67-13701
Nez Perce Tribe's Claims to Spring and Fountains

85-15139	85-15298	86-11451	86-11505	86-11558	86-11707
85-15141	85-15299	86-11452	86-11506	86-11559	86-11708
85-15143	85-15300	86-11453	86-11507	86-11564	86-11726
85-15144	85-15301	86-11455	86-11508	86-11565	86-11729
85-15145	85-15302	86-11456	86-11509	86-11566	86-11730
85-15147	85-15303	86-11457	86-11510	86-11567	86-11731
85-15149	85-15304	86-11458	86-11511	86-11568	86-11732
85-15150	85-15305	86-11459	86-11512	86-11600	86-11733
85-15152	85-15306	86-11460	86-11513	86-11604	86-11734
85-15153	85-15307	86-11461	86-11514	86-11605	86-11741
85-15155	85-15308	86-11462	86-11515	86-11606	86-11827
85-15156	85-15309	86-11463	86-11516	86-11607	86-11828
85-15157	86-11409	86-11464	86-11517	86-11608	86-11829
85-15158	86-11411	86-11465	86-11518	86-11609	86-11830
85-15159	86-11412	86-11466	86-11519	86-11610	86-11831
85-15160	86-11414	86-11467	86-11520	86-11611	86-11832
85-15161	86-11415	86-11468	86-11522	86-11612	86-11833
85-15162	86-11416	86-11469	86-11523	86-11613	86-11834
85-15163	86-11417	86-11470	86-11524	86-11614	86-11835
85-15164	86-11418	86-11471	86-11525	86-11615	86-11836
85-15165	86-11419	86-11474	86-11526	86-11617	86-11837
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85-15170	86-11423	86-11478	86-11531	86-11623	86-11841
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85-15175	86-11425	86-11480	86-11533	86-11653	86-11843
85-15180	86-11426	86-11482	86-11534	86-11656	86-11844
85-15181	86-11427	86-11483	86-11535	86-11657	86-11845
85-15182	86-11428	86-11488	86-11537	86-11659	86-11846
85-15184	86-11429	86-11489	86-11538	86-11661	86-11847
85-15185	86-11430	86-11490	86-11539	86-11662	86-11848
85-15187	86-11431	86-11491	86-11540	86-11663	86-11849
85-15188	86-11436	86-11492	86-11542	86-11689	86-11850
85-15189	86-11437	86-11493	86-11544	86-11690	86-11851
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85-15289	86-11441	86-11496	86-11546	86-11693	86-11853
85-15290	86-11442	86-11497	86-11547	86-11696	86-11854
85-15291	86-11443	86-11498	86-11548	86-11697	86-11855
85-15292	86-11444	86-11499	86-11550	86-11699	86-11856
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85-15294	86-11446	86-11501	86-11554	86-11701	
85-15295	86-11448	86-11502	86-11555	86-11702	
85-15296	86-11449	86-11503	86-11556	86-11705	
85-15297	86-11450	86-11504	86-11557	86-11706	