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DEPARTMENT OF
WATER RESOURCES

UNITED STATES OF AMERICA

BRUCE D. BERNARD
DAVID L. NEGRI
U.S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
999 18th Street, Suite 370
Denver, Colorado 80202
303 844-1361

Attorneys for the United States of America

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

IN RE THE GENERAL ADJUDICATION)	
OF RIGHTS TO THE USE OF WATER)	
FROM THE COEUR D'ALENE-)	Federal Reserved Water Right 91-07624
SPOKANE RIVER WATER SYSTEM)	
)	St. Joe Wild and Scenic River
CASE NO. 49576)	
)	STIPULATION AND JOINT MOTION
)	FOR ORDER APPROVING
)	STIPULATION
)	

STIPULATION

The United States of America ("United States"), objectors the State of Idaho ("State"), Northwest Property Owners Alliance, the individual members of which are listed on Attachment 1 hereto, Benewah County Board of County Commissioners, Potlatch Forest Holdings, Inc., Potlatch Land & Lumber, LLC, Potlatch TRS Idaho, LLC, Alpine Meadows Water and Sewer District, North Kootenai Water & Sewer District (a/k/a North Kootenai Water District), Hauser Lake Water Association, Inc., Coeur d'Alene Lakeshore Property Owners Association, the

individual members of which are listed on Attachment 2 hereto, Jamestown Forestlands, LLC, Cherry Tree Timber, LLC, Jackson Timberland Opportunities-Tristar, LLC, Carmona Tristar, LLC, Hancock Timberland X, Inc. and associated Hancock entities, Boston Timber Opportunities, LLC, Golden Pond Timberlands, Inc., Hancock Timberland XI, Inc., John Hancock Life Insurance Company (U.S.A.), John Hancock Life Insurance Company – Account 72 (U.S.A.), SFG HCK Timber Partnership, L.P., System Global Timberlands, LLC (which Hancock entities are parties to this subcase based on the Court’s Order granting their motion to participate), and respondents North Idaho Water Rights Alliance, the individual members of which are listed on Attachment 3, and Hagadone Hospitality Co. (the State and these other objectors, the Hancock entities, together with respondents referred to as “Objectors;” the United States and Objectors referred to as the “parties”), who constitute all the parties to this subcase, by and through their respective undersigned counsel, hereby stipulate and agree as follows:

1. Stipulation to Entry of Partial Decree. The United States and Objectors stipulate to entry of the partial decree for the United States’ federal reserved water right for the St. Joe Wild and Scenic River attached hereto and incorporated herein as Attachment 4 (the “Partial Decree”), all parties to bear their own costs and fees. The Partial Decree confirms the United States’ federal reserved water right for the St. Joe River pursuant to the Wild and Scenic Rivers Act, as recognized by the Idaho Supreme Court in *Potlatch v. United States*, 134 912, 12 P.3d 1256 (2000), and sets forth the quantities and terms of the water right. The Partial Decree quantifies the federal reserved water right based on identified flows, subject to subordinations to certain existing and future rights and uses, and the preclusion of out-of-basin diversions above the ending point of the federal reserved water right for the St. Joe River, which is identified in the

Partial Decree and depicted on Attachment 5 hereto. Attachment 5 also delineates the drainage basin of the St. Joe Wild and Scenic River upstream from the ending point of the St. Joe Wild and Scenic River ("St. Joe Wild and Scenic River Basin"), and the boundary of the area designated as the St. Joe Wild and Scenic River ("St. Joe Wild and Scenic River Boundary"). The parties request the Coeur d'Alene – Spokane River Basin Adjudication Court ("CSRBA Court" or "Court") to approve, by granting the Joint Motion for Order Approving Stipulation and Entry of Partial Decree and entering the attached proposed Order, the existence and quantification of this St. Joe Wild and Scenic River federal reserved water right as agreed to by the parties and set forth in the Partial Decree. The parties further stipulate to entry of a final decree incorporating the Partial Decree.

2. Administration of Water Rights.

a. Quantification Site for St. Joe Wild and Scenic River Water Right. The quantification site for administration of the St. Joe Wild and Scenic River water right is the St. Joe River immediately above its confluence with the North Fork of the St. Joe River, located in Lots 5 & 6 (NW1/4NW1/4), Sec. 14, T45N, R5E, Boise Meridian; Latitude N 47° 15' 03", Longitude W 115° 47' 51" (NAD 83) ("Quantification Site"). At present, there is no measuring device in place at the Quantification Site. Prior to seeking enforcement of the St. Joe Wild and Scenic River water right through the curtailment of diversions upstream from the ending point of the St. Joe Wild and Scenic River, the United States will install and maintain a stream gage at the Quantification Site acceptable to the Idaho Department of Water Resources ("IDWR"). Objectors and IDWR will be granted access to real time and other stream flow data as necessary for administration of the St. Joe Wild and Scenic River water right. The requirement that the

United States install a stream gage prior to seeking enforcement of its St. Joe Wild and Scenic River water right does not apply to paragraph 3.c. of the Partial Decree which precludes any diversion of water out of the watershed of the St. Joe Wild and Scenic River Basin upstream from the ending point of the St. Joe Wild and Scenic River. The United States shall be entitled to seek enforcement of this limitation on out-of-basin diversions upon entry of the Partial Decree.

b. Creation of Water District. The parties agree that at present, the limited number of water rights in the St. Joe Wild and Scenic River Basin does not justify the creation of a water district for purposes of administration. If in the future the United States or any of the Objectors believes that creation of a water district in the St. Joe Wild and Scenic River Basin is warranted, such party shall be entitled to file a petition with the CSRBA Court for an order of interim administration (or, in the event the final CSRBA decree has been entered, file a petition with IDWR for administration) of the St. Joe Wild and Scenic River Basin and the other parties shall not oppose such petition.

3. Administration of Subordination Provisions of Partial Decree. The St. Joe Wild and Scenic River Water Right to be confirmed by the Partial Decree will be subordinated to certain uses of water on private and State lands within the St. Joe Wild and Scenic River Basin that have points of diversion or impoundment and places of use within the St. Joe Wild and Scenic River Basin. Administration of those subordination provisions set forth in paragraph 10.b. of the Partial Decree shall be as follows:

a. Identification of Water Rights That Enjoy Benefit of Subordination Provisions of Partial Decree. Upon the filing of an application for permit or water right claim for a use to which the St. Joe Wild and Scenic River federal reserved water right is subordinated

pursuant to paragraph 10.b. of the Partial Decree, such applicant may request IDWR and/or the CSRBA Court to include a term in the permit, license or water right decree providing that the right so recognized enjoys the benefit of the identified subordination provision. Any such applicant shall serve the United States with any such application for permit or water right claim by mailing such filing to undersigned counsel for the United States within three days of filing with IDWR and/or the CSRBA Court.

b. Subordination to *de minimis* domestic water rights. With respect to applications for permit or water rights claims for small domestic uses, IDWR and/or the CSRBA Court shall determine whether the permit, license or water right decree is entitled to the benefit of the subordination protection of paragraph 10.b.(3) of the Partial Decree based upon the definition in that paragraph, including the definition of “subdivision” set forth in Shoshone County Subdivision Ordinance No. 139, Section 10-2-2, adopted December 22, 2009, as it exists on the effective date of this Stipulation, October 31, 2015, and which is attached hereto and incorporated herein as Attachment 6. Any amendments or changes to the definition of “subdivision” in the Shoshone County Subdivision Ordinance or Code shall have no effect on the definition of “subdivision” for purposes of paragraph 10.b.(3) of the Partial Decree or on the purposes or uses, or the diversion rates and volume limitations, encompassed by the subordination to *de minimis* domestic water rights described in that paragraph.

c. Accounting for Future Mining Use Subordination. With respect to any permit, license or water right decree that comes within the future mining use subordination (paragraph 10.b.(5) of the Partial Decree), the parties will request IDWR and/or the CSRBA Court to identify the diversion rate decreed, permitted or licensed and to be deducted from the

total combined diversion of 5.0 cfs to which the future mining use subordination applies. IDWR will keep track of the portion of the 5.0 cfs subordination that has been utilized and of the portion of that subordination amount that remains to be utilized, and will maintain that information in a publicly available database. IDWR and/or the CSRBA Court will not include mining use subordination terms or remarks pursuant to paragraph 10.b.(5) of the Partial Decree in permits, licenses and/or water right decrees in a cumulative amount exceeding 5.0 cfs.

4. United States' Agreement Not to Object to Applications for Small Hydropower Uses. The United States stipulates that it shall not object to applications for permits to appropriate water filed by the owners of private lands in the St. Joe Wild and Scenic River Basin, and all successors thereto, for use of water for non-consumptive, run-of-the-river hydropower purposes for small facilities to serve residences on those identified lands. For the purposes of this provision, "non-consumptive, run-of-the-river" hydropower use means the use of water for hydropower generation, provided: (i) the use does not involve diversion, control or use of water from the St. Joe River or any of its tributaries within the St. Joe Wild and Scenic River Boundary as depicted on Attachment 5 hereto; (ii) all water diverted, controlled or used by the hydropower facility returns to the same water source from which it is diverted or controlled; (iii) the rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the stream at the point of diversion; (iv) no more than one diversion may be made from the same water source unless all water is returned to the source upstream from the next downstream diversion; (v) the use does not involve storage; (vi) the use does not cause a depletion or change in timing of the flow (other than incidental seepage) as determined by the point(s) of return; and (vii) the capacity of the facility is no more than 10 kilowatts, and the capacity of all such facilities

totals no more than 100 kilowatts. As more fully addressed by paragraph 6 below, the United States' agreement not to object to any such applications for permits to appropriate water shall not be construed or interpreted to limit or affect the authority of the United States to regulate the occupancy and use of federal lands.

5. Parties' Rights to Object to Claims and Protest Permit Applications.

a. Adjudication Claims. This Stipulation does not affect the right of any party to object to any claims in the CSRBA or in any other adjudication, including claims for water uses that come within the subordination provisions of paragraph 10.b. of the Partial Decree, and to object on any and all grounds, other than on the basis that a claim for a water use that comes within one of the subordination provisions of paragraph 10.b. of the Partial Decree should be denied or conditioned to protect the flow of the St. Joe Wild and Scenic River water right.

b. Permit Applications. This Stipulation does not affect the right of any party to protest any application for permit to appropriate water filed with IDWR other than claims for small hydropower uses as described in paragraph 4, above. The United States expressly reserves the right to protest any application for permit filed by Objectors or their successors, or any non-party owner of private lands in the St. Joe Wild and Scenic River Basin or their successors (other than claims for small hydropower uses as described in paragraph 4, above), including applications for water uses that come within the subordination provisions of paragraph 10.b. of the Partial Decree, and to protest on any and all grounds, other than on the basis that an application for permit for a water use that comes within one of the subordination provisions of paragraph 10.b. of the Partial Decree should be denied or conditioned to protect the flow of the

St. Joe Wild and Scenic River water right.

6. Stipulation Does Not Affect Statutory or Regulatory Authority. The parties agree that nothing in this Stipulation or the Partial Decree shall be construed or interpreted:

- a. to establish any standard to be used for the quantification of federal reserved water rights;
- b. to limit or affect the authority of the United States provided by statute or regulation, including management of national forests under all applicable laws, including but not limited to the Organic Administration Act of 1897; or
- c. as authorization for any party, individual or entity to occupy or conduct activities on National Forest System lands.

Objectors acknowledge and agree that the United States' agreement not to object to applications for permits to appropriate water for small hydropower uses set forth in paragraph 4 above, and the subordination provisions concerning certain uses of water set forth in the Partial Decree, address use of water only and do not limit or affect the authority of the United States to regulate the occupancy and use of National Forest System lands and to require compliance with Forest Service regulations set forth at 36 C.F.R. §§ 251.50, et seq., as well as other laws and regulations, prior to conducting any activity on, across, over or under National Forest System lands.

7. Request for Approval of Stipulation and Entry of Partial Decree. The parties agree to submit this Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decree to the CSRBA Court in full satisfaction of Claim No. 91-07624, and all objections and responses thereto. The parties agree to provide notice of the Stipulation and Motion through

the CSRBA Docket Sheet and by personal notice to Objectors, and to jointly present affidavits and such other evidence as may be required by the Court of the approval of the Stipulation and Partial Decree.

8. Defense of Stipulation. The parties agree to jointly support and defend the Joint Motion for Order Approving the Stipulation and for Entry of Partial Decree against any and all objections or other challenges that may arise in any phase of the CSRBA, including any appeals. If the CSRBA Court fails to approve the Stipulation and to enter the Partial Decree exactly as set forth herein, the Stipulation is voidable by any party, provided that any party electing to void the Stipulation shall notify the other parties and the CSRBA Court in writing of that election within 30 days of the order of the Court not approving the Stipulation and/or Partial Decree. Failure to provide such notification in the manner provided shall result in forfeiture of such right to void the Stipulation. If the Stipulation is voided, the parties shall retain all existing claims, objections and responses as though no Stipulation ever existed.

9. Stipulation Not to be Used Against Parties. The United States and Objectors agree and request the CSRBA Court to confirm by granting the Joint Motion for Order Approving Stipulation and entering the attached proposed Order, that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving legal disputes, including impending litigation, by compromise and settlement and that nothing in this Stipulation, the Partial Decree, any affidavits or other evidence or pleading submitted for the approval of the Stipulation and/or the Partial Decree, or any offers or compromises made in the course of negotiating this Stipulation, shall be construed as admissions against interest or tendered or used as evidence to support or oppose any party's claims or objections in the CSRBA

or in any other adjudication involving claims for the same or similar purposes, including the quantities of water claimed, or in any other manner by any party in the CSRBA in any future proceedings in the CSRBA, in any appellate proceedings concerning the CSRBA, or in any other proceeding, other than those seeking approval of the Order Approving Stipulation and Entry of Partial Decree, for interpretation, enforcement or administration of this Stipulation or the Partial Decree for the St. Joe Wild and Scenic River water right, or for a purpose contemplated by Idaho Rule of Evidence 408.

10. Stipulation and Partial Decree Binding. This Stipulation shall bind and inure to the benefit of the respective successors of the parties. Upon entry of the Partial Decree, the Partial Decree shall be binding on all persons.

11. Mutual Covenants of Authority. The parties represent and acknowledge that each of the undersigned is authorized to execute this Stipulation and Joint Motion on behalf of the party they represent.

12. Non-Severability. The provisions of this Stipulation are not severable. If any provision of this Stipulation is found to be unlawful and of no effect, then the parties hereto shall resume negotiations to revise such unlawful provision.

13. Effective Date. The effective date of this Stipulation shall be October 31, 2015.

JOINT MOTION FOR ORDER APPROVING STIPULATION

AND ENTRY OF PARTIAL DECREE

The parties request the CSRBA Court to: (1) approve the foregoing Stipulation; (2) approve and enter the Partial Decree for the St. Joe Wild and Scenic River, claim number 91-07624; and (3) order that, pursuant to Idaho Rule of Evidence 408, nothing in the Stipulation, the

Partial Decree, any affidavits or other evidence or pleading submitted for the approval of the Stipulation, or any offers or compromises made in the course of negotiating the Stipulation, shall be construed as admissions against interest or tendered or used as evidence to support or oppose any claims or objections in the CSRBA or in any other adjudication involving claims for the same or similar purposes, including the quantities of water claimed, or in any other manner by any party in the CSRBA in any future proceedings in the CSRBA, in any appellate proceedings concerning the CSRBA, or in any other proceeding, other than those for interpretation, enforcement or administration of the Stipulation or the Partial Decree, or for a purpose contemplated by Idaho Rule of Evidence 408. The order sought by this Joint Motion, which is attached hereto, is fully in accordance with Idaho Rule of Evidence 408, as well as the policy underlying that rule and the policy of the CSRBA Court directed at furthering the strong public policy favoring out-of-court settlement of disputes over litigation.

Wherefore, the United States and Objectors respectfully request that this Court grant this Joint Motion in all respects by entering the attached proposed order.

The United States and Objectors request expedited consideration of this Joint Motion.

The parties have executed this Stipulation and Joint Motion on the date following their respective signatures.

LIST OF ATTACHMENTS

Attachment 1	Listing of individual members of Northwest Property Owners Alliance
Attachment 2	Listing of individual members of Coeur d'Alene Lakeshore Property Owners Association
Attachment 3	Listing of individual members of North Idaho Water Rights Alliance
Attachment 4	Partial Decree for St. Joe Wild and Scenic River
Attachment 5	Map depicting beginning and ending point of St. Joe Wild and Scenic River, drainage basin of St. Joe Wild and Scenic River upstream from ending point, and boundary of area designated as the St. Joe Wild and Scenic River
Attachment 6	Shoshone County Subdivision Ordinance No. 139, Section 10-2-2, adopted December 22, 2009

FOR THE UNITED STATES:

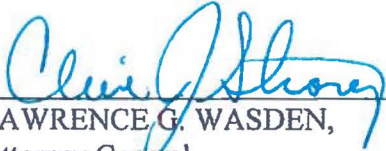


Date: 02/25/2016

BRUCE D. BERNARD
U.S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
999 18th Street, Suite 370
Denver, Colorado 80202
303 844-1361
bruce.bernard@usdoj.gov

DAVID L. NEGRI
U.S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
550 W. Fort St. MSC033
Boise, ID 83724
208 331-5943
david.negri@usdoj.gov

FOR THE STATE OF IDAHO, including THE IDAHO WATER RESOURCES BOARD:

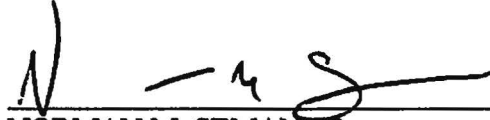


LAWRENCE G. WASDEN,
Attorney General

CLIVE J. STRONG,
Deputy Attorney General
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449
208 334-4126

Date: 11/13/15

FOR NORTHWEST PROPERTY OWNERS ALLIANCE, the individual members of which are listed on Attachment 1:

A handwritten signature in black ink, appearing to read 'N - 4 S', is written over a horizontal line.

Date: 11-13-15

NORMAN M. SEMANKO
Moffatt, Thomas, Barrett, Rock & Fields, Chartered
101 S. Capitol Blvd., 10th Floor
P.O. Box 829
Boise, Idaho 83701-0829
208 345-2000

FOR BENEWAH COUNTY, BOARD OF COUNTY COMMISSIONERS:



NANCY A. WOLFF
MARIAH R. DUNHAM
Morris & Wolff, P.A.
722 Main Avenue
St. Maries, Idaho 83861
208 245-2523

Date:

13 November, 2015

FOR POTLATCH FOREST HOLDINGS, INC., POTLATCH LAND & LUMBER, LLC,
POTLATCH TRS IDAHO, LLC:



CHRISTOPHER H. MEYER
MICHAEL P. LAWRENCE
Givens Pursley LLP
601 W. Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
208 388-1200

Date: 11/13/15

FOR ALPINE MEADOWS WATER AND SEWER DISTRICT:



Date: 11/13/15

CHRISTOPHER H. MEYER
MICHAEL P. LAWRENCE
Givens Pursley LLP
601 W. Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
208 388-1200

FOR NORTH KOOTENAI WATER & SEWER DISTRICT (a/k/a North Kootenai Water District):



Date: 11/13/15

CHRISTOPHER H. MEYER
MICHAEL P. LAWRENCE
Givens Pursley LLP
601 W. Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
208 388-1200

FOR HAUSER LAKE WATER ASSOCIATION, INC.:



CHRISTOPHER H. MEYER

MICHAEL P. LAWRENCE

Givens Pursley LLP

601 W. Bannock Street

P.O. Box 2720

Boise, Idaho 83701-2720

208 388-1200

Date: 11/13/15

FOR COEUR D'ALENE LAKESHORE PROPERTY OWNERS ASSOCIATION, the
individual members of which are listed on Attachment 2:



NORMAN M. SEMANKO

Date: 11-13-15

Moffatt, Thomas, Barrett, Rock & Fields, Chartered
101 S. Capitol Blvd., 10th Floor
P.O. Box 829
Boise, Idaho 83701-0829
208 345-2000

FOR JAMESTOWN FORESTLANDS, LLC, CHERRY TREE TIMBER, LLC, JACKSON
TIMBERLAND OPPORTUNITIES-TRISTAR, LLC, AND CARMONA TRISTAR, LLC



MICHAEL A. EALY
Ramsden, Marfice, Ealy & Harris, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, Idaho 83816-1336
208 664-5818

Date: 11-16-2015

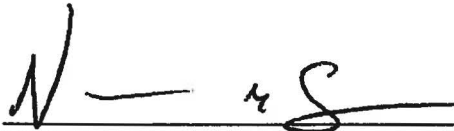
FOR HANCOCK TIMBERLAND X, INC., BOSTON TIMBER OPPORTUNITIES, LLC,
GOLDEN POND TIMBERLANDS, INC., HANCOCK TIMBERLAND XI, INC., JOHN
HANCOCK LIFE INSURANCE COMPANY (U.S.A.), ., JOHN HANCOCK LIFE
INSURANCE COMPANY – ACCOUNT 72 (U.S.A.), SFG HCK TIMBER PARTNERSHIP,
L.P., SYSTEM GLOBAL TIMBERLANDS, LLC



CHRIS M. BROMLEY
McHugh Bromley, PLLC
380 S. 4th Street, Suite 103
Boise, Idaho 83702
208 287-0991

Date: 11/20/15

FOR NORTH IDAHO WATER RIGHTS ALLIANCE, the individual members of which are listed on Attachment 3:

A handwritten signature in black ink, appearing to read 'N - 4 S', written over a horizontal line.

Date: 11-13-15

NORMAN M. SEMANKO

Moffatt, Thomas, Barrett, Rock & Fields, Chartered

101 S. Capitol Blvd., 10th Floor

P.O. Box 829

Boise, Idaho 83701-0829

208 345-2000

FOR HAGADONE HOSPITALITY CO.

A handwritten signature in black ink, appearing to read 'N. Semanko', is written over a horizontal line.

Date: 11-13-15

NORMAN M. SEMANKO
Moffatt, Thomas, Barrett, Rock & Fields, Chartered
101 S. Capitol Blvd., 10th Floor
P.O. Box 829
Boise, Idaho 83701-0829
208 345-2000

CERTIFICATE OF SERVICE

I certify that on February 25, 2016, I served true and correct copies of the foregoing STIPULATION AND JOINT MOTION FOR ORDER APPROVING STIPULATION as follows:

Original via FedEx:

Clerk of the District Court
Coeur d'Alene-Spokane River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303
Phone: 208-736-3011

Copies via First Class U.S. Mail, pre-paid:

CHIEF NATURAL RESOURCES DIV
OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 83720
BOISE, ID 83720-0010

CHRIS M. BROMLEY
380 S. 4TH STREET, STE 103
BOISE, ID 83702

CHRISTOPHER H. MEYER
JEFFREY C. FEREDAY
P.O. BOX 2720
BOISE, ID 83701-2720

NANCY A. WOLFF
MARIAH R. DUNHAM
722 MAIN AVE.
ST. MARIES, ID 83861

MICHAEL EALY
P.O. BOX 1336
COEUR D'ALENE, ID 83816-1336

NORMAN M. SEMANKO
P.O. BOX 829
BOISE, ID 83701-0829

US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

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



Bruce D. Bernard
U. S. Department of Justice

ATTACHMENT 1

LIST OF INDIVIDUALS WHO ARE A PART OF THE
NORTHWEST PROPERTY OWNERS ALLIANCE

Addington, Steve
Alldredge, Linda
Andersen, R. Earl
Andersen, Audrey
Anderson, Carl W
Anderson, Dianne
Anderson, Naomi
Anderson, Perry
BackusDennis
Black Bear Water Assn (Robert Nettleton)
Blalack, Arliss
Blalack, Carl
Blue Wolf. Community Club Marilyn Tanner, President
Boothe, John
Briggs, Gale
Briggs, Janet
Browning, Carol Felt
Burger, Terry
Cabeza, Miguel
Caroll, Norman
Carroll, Vicki
Chatfield-Dietrich, Annika
Cochrane, Carl
Coleman, Kevin
Conner, Bill L
Cooper, Cindy
Corkill, David 'Brad' & Mary
Day, Julie
Day, Rick & Holly
Day, Tim
Dohrman, Jean
Donahoe, Larry
Donohoe, Bonnie (Eleanor Y)
Donohoe, Darby G
Donohoe, Russel
Doose, Bonnie
Dredge, Susan E
Dunn, Rickey
Dunnigan, Thomas F
Ecklund, Ernest & Myra
Ellis, Robert
Farber, Florence

Figueroa, Jeremie
Francis, Troy
Fritz
Frutchey, Frank
Funk, Jeff
Gilbreth, Terry
Graves, Phillip
Grunzweig, Robert & Julie
Hall, Warren
Hancock, Betty
Harpole, Barbara
Harrison, William B & Gretchen R
Hasz, Connie L
Hasz, Fred & Marcy
Hasz, William K
Herboldt, Dale
Higbee, Michael D.
Holm, Sheila M.
Jacquemin, Helen
Jacquemin, Wendy
Johnson, Gary
Jordan, Kathy
Jordan, Lance M
Jordan, Wesley & Linda
Kahn, Kathryn
Kahn, Ralph
Klein, Beverly & Floyd
KleinKhecht, Keith
KleinKhecht, Nancy
Kraack, John R
Kropf, Mark P
Kuhnline, Mike & Tina
LaBolle, Daren
LaBolle, Daren & Janet
Layton, Barney
Layton, Dwayne
Layton, Rosie
Lehtola, Larry
Levine, Jaida
Levine, Phillip
Liss, Kim
Liss, Steven M
Littlejohn, Alan
Littlejohn, Linda
Lozano, Patricia
Lucas, Serena

Lucas, Tom
Luchini, Doug
Maddux, Bruce & Carol
Maehler, Michael R
Mainsey, Kaye A
Marsan, John M
Marsan, Shirley
Matthews, Stephen
Mc Caw, Donald & Christine
Mc Daniel, David & Kathy
McFaddin, John & Agnes
Mc Inturff, Douglas & Darcy
Mendive, Ron
Mitchell, Gary
Mitchell, Patricia
Morden, Joyce
Mortensen, Roy
Moyer, Derald
Murray, Paul
Murray, Paul
Neirinckx, John
Neirinckx II, John
Noel-Wessel, Darla
Owen, Vicki Hendrick & Sam
Powell, Jodi
Powell, Robert
Prueher, Cheryl
Radford, Ben
Rasor Family Property Revocable Trust
Redman, Jordon
Remmick, Daniel G
Renner, Glennie & Elizabeth
Renner, Johanna
Renner, Kevin & Tiffany
Renner, Patricia & Kenneth
Rider, Linda
Rider, Robert
Rodgers, Jed
Rodgers, Susan
Rush, Joseph
Ryssman, Linda & Dwayne
Sanders, Gordon
Segsworth, Paul
Shannon, Tim
Sherfey, Don H
Sheridan, David

Sheridan, Margaret
Sichlinger, Alfred
Simonsen, Kevin & Shannon
Skidmore, Eric & Susan
Smith, Sharon & Fred
Stewart, Marsha J
Stock, Joyce D & Charles R
Strom, Neil & Nancy
Sutton, Donald
Sutton, Gina
Takashina, Hisaya & Dorothy
Tanner, Russel & Marilyn
Thomson, Steve
Timken, Peggy
Tyler, Jeff
Vawter, Les
Wall, Terry L
Warren, Gene L & Wesley L
Webb, Gene
Weeks, Gary
Weingar, David & Janet
White, William
White, Robert & Norma
Wilson, Randy
Woempner, Carla
Woempner, Verland
Wood, Ron
Zaken, Ken & Aileen

ATTACHMENT 2

LIST OF INDIVIDUALS WHO ARE A PART OF THE
COEUR D'ALENE LAKESHORE PROPERTY OWNERS

Harmon Property Owners Association
James and Molly Dolliver
Bruce Cyr
Gianotti Trust DTD 1991
Sutherland Family Revocable Trust
Greg Delavan
Stanley J. Harrison
David and Jill Christiansen
Thomas M. Patrick Revocable Trust
Jakar Ventris, LLC
Clyde H. Sheppard
Richard J. Clemson

ATTACHMENT 3

LIST OF INDIVIDUALS WHO ARE A PART OF THE
NORTH IDAHO WATER RIGHTS ALLIANCE

Doug & Kristi Payne
Pam Secord for Oceanwood Oasis Trust
Robin & Leslee Stanley
Robert & Dianna Bostrom
Bernard & Dawn Weber
Ken & Yvonne Devries
Tom & Eileen DuHamel
James & Victoria Furth
J. Rachael Johnson
John & Michelle McMahon
Thomas & Mary Carver
Edward & Candace Anderson
Robert & Patty Anderson
Ralph & Martha Banderob
Roderick & Beth Halvorson
Ronald & Sherlene Mendive
William & Gretchen Harrison
William & Nancy McAnich
John & Agnes McFaddin
Joel & Cindy Newson
Jeff & Dede Shippy
Larry & Susan Sotin
Leland & Danielle Boldt
Pinehurst Water District
Shoshone County Sportsmen's Association
Richard L. Powell
Lois Tuel
Don & Martha Vail
Vic & Rita Brodie
Fernwood Water & Sewer District
Andrew & Heather Scott
Patrick & Annette Petrie
Robert & Gail Short
Harry Grubham
Edmond & Janet Farrel
Shoshone County Public Works
Kellogg School District
Paul & Colleen Smith
Elizabeth Roberts
Marvin & MaryAnne Wheeler
Lance & J. Michele McDaniel
East Shoshone County Water District

Martha Green
Gary & Patricia Mitchell
Mullan School District #392
Jack & Eleanor Buell
Norman McCall
Dick & Carole Harwood
Crows Nest Water Association
Nona Bruns
Weber Farms
Carol Clark
Rick & Holly Day
Jean Dohrman
John & Shirley Ferris
Roy & Linda Michael
Patrice Hartel
Dean & Glenda Gentry
Terry & Wilma Murray

ATTACHMENT 4

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

IN RE THE GENERAL ADJUDICATION)	PARTIAL DECREE FOR
OF RIGHTS TO THE USE OF WATER)	
FROM THE COEUR D'ALENE-)	Federal Reserved Water Right 91-
SPOKANE RIVER WATER SYSTEM)	07624
CASE NO. 49576)	St. Joe Wild and Scenic River

1. Name and address of owner:

UNITED STATES OF AMERICA, on behalf of the U.S.D.A. Forest Service
550 W. Fort Street MSC033
Boise, Idaho 83724

2. Source of water:

St. Joe River Tributary to Coeur d'Alene Lake

3. Quantity of right:

a. Stream flows at the St. Joe River above North Fork of the St. Joe River quantification site:

(1) When the stream flow at the St. Joe River above North Fork quantification site, as identified in Section 3.a. (3) below ("St. Joe above North Fork quantification site"), is less than 6,220 cfs, the United States is entitled to the following flows:

Period of Use	Discharge (cfs)	Period of Use	Discharge (cfs)
January 1-15	811	July 1-15	1240
January 16-31	755	July 16-31	667
February 1-15	763	August 1-15	431
February 16-28(29)	976	August 16-31	333
March 1-15	1050	September 1-15	281
March 16-31	1460	September 16-30	270
April 1-15	2550	October 1-15	281
April 16-30	3980	October 16-31	337
May 1-15	4930	November 1-15	503
May 16-31	5750	November 16-30	682
June 1-15	4350	December 1-15	763
June 16-30	2480	December 16-31	726

- (2) When the stream flow at the St. Joe above North Fork quantification site is greater than or equal to 6,220 cfs (as adjusted by upstream junior depletions), the United States is entitled to all flows up to 20,300 cfs.
- (3) The quantification site for the flows identified above at the St. Joe above North Fork quantification site is the St. Joe River immediately above its confluence with the North Fork of the St. Joe River, located in Lots 5 & 6 (NW1/4NW1/4), Sec. 14, T45N, R5E, Boise Meridian; Latitude N 47° 15' 03", Longitude W 115° 47' 51" (NAD 83).
- b. This water right does not prohibit the appropriation, diversion and use of water within the St. Joe River basin upstream from the ending point, as identified in element 5.b below ("St. Joe Wild and Scenic River Basin") when the stream flow at the St. Joe above North Fork quantification site exceeds the flow amount in Section 3.a.(1) and is less than 6,220 cfs, or when the stream flow at the St. Joe above North Fork quantification site exceeds 20,300 cfs.
- c. This water right precludes any diversion of water out of the watershed of the St. Joe River Wild and Scenic River Basin.
4. **Priority date:**
- November 10, 1978
5. **Point of diversion:**
- There is no diversion associated with this instream flow water right. The legal description of the beginning and ending points of the instream flow water right are as follows:
- a. Location of beginning point:
- Origin of St. Joe River at St. Joe Lake:
- Lot 3 (NE 1/4NW1/4), Sec. 4, T42N, R11E, Boise Meridian.
Latitude N 47° 01' 7", Longitude W 115° 04' 58" (NAD 83).
- b. Location of ending point:
- Confluence of the St. Joe River with the North Fork of the St. Joe River:
- Lots 5 & 6 (NW1/4NW1/4), Sec. 14, T45N, R5E, Boise Meridian.
Latitude N 47° 15' 3", Longitude W 115° 47' 51" (NAD 83).

6. Purpose of use:

To fulfill the purposes of the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the National Parks and Recreation Act, Pub. L. 95-625m, 92 Stat. 3467, Nov. 10, 1978 (codified at 16 U.S.C. § 1274(a)(23)).

7. Period of use:

January 1 - December 31

8. Place of use:

This instream flow water right is used throughout the designated St. Joe Wild and Scenic River from the beginning point to the ending point as identified above.

9. Annual volume of consumptive use:

This instream flow water right is non-consumptive (other than evaporation and evapotranspiration that may take place within the designated segment).

10. Other provisions necessary for definition or administration of this water right:

a. This is a federal reserved water right established pursuant to the Wild and Scenic Rivers Act, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, et seq.), and the National Parks and Recreation Act, Pub. L. 95-625m 92 Stat. 3467, Nov. 10, 1978 (codified as amended at 16 U.S.C. § 1274(a)(23)).

b. This Partial Decree is subject to the October 31, 2015 Stipulation between the United States, objectors State of Idaho ("State"), Northwest Property Owners Alliance, Benewah County Board of Commissioners, Potlatch Forest Holdings, Inc., Potlatch Land & Lumber, LLC, Potlatch TRS Idaho, LLC, Alpine Meadows Water and Sewer District, North Kootenai Water and Sewer District (aka North Kootenai Water District), Hauser Lake Water Association, Inc., Coeur d'Alene Lakeshore Property Owners Association, Jamestown Forestlands, LLC, Cherry Tree Timber, LLC, Jackson Timberland Opportunities-Tristar, LLC, Carmona Tristar, LLC, Hancock Timberland X, Inc. and associated Hancock entities, Boston Timber Opportunities, LLC, Golden Pond Timberlands, Inc., Hancock Timberland XI, Inc., John Hancock Life Insurance Company (U.S.A.), John Hancock Life Insurance Company – Account 72 (U.S.A.), SFG HCK Timber Partnership, L.P., System Global Timberlands, LLC, and respondents North Idaho Water Rights Alliance, and Hagadone Hospitality Co. ("2015 Stipulation"). Pursuant to the terms of the Stipulation, this water right is subordinated to the following water rights and uses that are junior to this federal reserved water right

and that have points of diversion or impoundment and places of use within the St. Joe Wild and Scenic River Basin:

- (1) All water right claims filed in the Coeur d'Alene-Spokane River Basin Adjudication ("CSRBA") as of the effective date of the 2015 Stipulation, to the extent ultimately decreed in the CSRBA.
- (2) All applications for permit and permits with proof of beneficial use due after November 12, 2008, on file with IDWR as of the effective date of the 2015 Stipulation, to the extent such applications for permit or permits are ultimately licensed; and all water right licenses with proof of beneficial use due after November 12, 2008 on file with IDWR as of the effective date of the 2015 Stipulation.
- (3) All "*de minimis* domestic rights," which for the purposes of this Partial Decree shall be defined to mean (a) the use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half acre of land, if the total use is not in excess of thirteen-thousand (13,000) gallons per day, or (b) any other uses, if the total does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. This subordination to *de minimis* domestic water rights does not apply to domestic purposes or domestic uses for subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in (b) above. This subordination to *de minimis* domestic purposes or domestic uses does not apply to multiple water rights for domestic uses or domestic purposes that satisfy a single combined water use or purpose that would not itself come within the definitions above. For purposes of this Partial Decree "subdivision" is defined as set forth in Shoshone County Subdivision Ordinance No. 139, Section 10-2-2, adopted December 22, 2009, which is attached to the 2015 Stipulation, and which is incorporated herein by reference.
- (4) All "*de minimis* stock water rights," which for the purposes of this Partial Decree shall be defined to mean the use of water solely for livestock or wildlife where the total diversion is not in excess of thirteen-thousand (13,000) gallons per day. This *de minimis* stock water use subordination is further limited and defined so that the subordination shall not and does not apply to multiple water rights for stock water uses which satisfy a single combined water use that would not itself come within the above definition of stock water use.
- (5) Water appropriated or to be appropriated for mining purposes on private lands, up to a total combined diversion of 5.0 cfs, provided that the rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the stream at the point of diversion. This subordination provision

does not include storage, other than incidental storage, which is defined as storage of not more than a 24 hour water supply for mining use.

(6) Use of water to carry out forest practices and for forest dust abatement, up to a total annual volume of two-tenths (0.2) acre-feet per square-mile (640 acres) on state and private forest land within the St. Joe Wild and Scenic River Basin, provided that the rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the stream at the point of diversion. "Forest practices" includes (a) the harvesting of forest tree species; (b) road construction associated with harvesting of forest tree species; (c) reforestation; (d) use of chemicals or fertilizers for the purpose of growing or managing forest tree species; (e) the management of slashings resulting from harvest, management or improvement of forest tree species; or (f) the prompt salvage of dead or dying timber or timber that is threatened by insects, disease, windthrow, fire or extremes of weather. "Forest land" means state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term "forest land" includes state and private land from which forest tree species have been removed but have not yet been restocked, but it does not include land affirmatively converted to uses other than the growing of forest tree species.

- c. This water right does not prohibit the use of water by the owners of private lands in the St. Joe Wild and Scenic River Basin, and all successors thereto, for "non-consumptive, run-of-the-river" hydropower purposes as defined in paragraph 4 of the 2015 Stipulation.
- d. The provisions of the 2015 Stipulation are incorporated herein by reference.
- e. These additional provisions contained in element 10 do not fall within the other elements listed above and are necessary to: (1) define the unique characteristics of these federal reserved water rights; and (2) describe the rights and uses to which these federal reserved water rights are subordinated in order to provide for proper administration of these water rights and other existing and future water rights.

IT IS SO ORDERED.

DATED this _____ day of _____, 20__.

ERIC J. WILDMAN
Presiding Judge
Coeur d'Alene-Spokane River Basin Adjudication

ATTACHMENT 5

**St. Joe Wild and Scenic River
(Attachment 5)**

Legend:

- St. Joe Wild and Scenic River beginning point
- St. Joe Wild and Scenic River ending point
- Streams
- St. Joe Wild and Scenic River Basin
- St. Joe Wild and Scenic River Boundary

Scale: 0 to 20 Miles

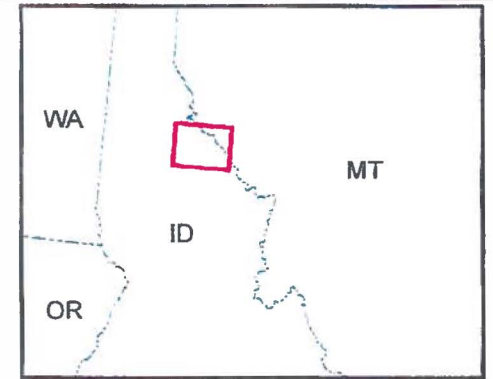
Inset Map: Shows the location of the St. Joe Wild and Scenic River in Idaho, relative to Washington (WA), Oregon (OR), and Montana (MT).

Map Labels:

- Avery
- NF Saint Joe River
- Quartz Creek
- Gold Creek
- Sisters Creek
- Mosquito Creek
- Red Ives Creek
- Saint Joe River

Grid Labels:

- T46NR04 E, T46NR05 E, T46NR06 E, T46NR07 E, T46NR08 E
- T45NR04 E, T45NR05 E, T45NR06 E, T45NR07 E, T45NR08 E, T45NR09 E
- T44NR04 E, T44NR05 E, T44NR06 E, T44NR07 E, T44NR08 E, T44NR09 E, T44NR10 E
- T43NR07 E, T43NR08 E, T43NR09 E, T43NR10 E, T43NR11 E
- T42NR07 E, T42NR08 E, T42NR09 E, T42NR10 E, T42NR11 E
- T41NR04 E, T41NR09 E, T41NR10 E, T41NR11 E



ATTACHMENT 6

ORDINANCE NO. 139

**AN ORDINANCE ESTABLISHING THE SHOSHONE COUNTY
SUBDIVISION REGULATIONS IN THE UNINCORPORATED
AREAS OF SHOSHONE COUNTY, STATE OF IDAHO**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF SHOSHONE
COUNTY, STATE OF IDAHO, AS FOLLOWS:

CHAPTER 1

GENERAL PROVISIONS

SECTION:

- 10-1-1: Title
- 10-1-2: Authority
- 10-1-3: Purposes
- 10-1-4: Applicability and Exemptions
- 10-1-5: Bunker Hill Superfund Site Overlay District and
Operable Unit Three Institutional Controls Program
- 10-1-6: Floodway Provisions
- 10-1-7: Jurisdiction
- 10-1-8: Interpretation
- 10-1-9: Severability
- 10-1-10: Repeal
- 10-1-11: Effective Date

10-1-1: **TITLE:** These regulations shall be known and cited as the *SHOSHONE COUNTY SUBDIVISION REGULATIONS*, hereinafter referred to as "these regulations".

10-1-2: **AUTHORITY:** These regulations are authorized by title 31, chapter 7; title 50, chapter 13, title 67, chapter 65 of the Idaho Code; and article 12, section 2 of the Idaho Constitution, as amended or subsequently codified.

10-1-3: **PURPOSES:** The purposes of these regulations are to promote the public comfort, welfare, and safety and to provide for:

- A. The harmonious development of the region.
- B. The coordination of streets and roads within the subdivision with other existing or planned roads or with the state or regional plan.
- C. Adequate open spaces for travel, light, air and recreation.
- D. The conservation of or provision of adequate transportation, water, drainage, and sanitary facilities.

CHAPTER 2

DEFINITIONS

SECTION:

10-2-1: Interpretation of Terms And Words

10-2-2: General Definitions

10-2-1: **INTERPRETATION OF TERMS AND WORDS:** For purposes of these regulations, certain terms or words used herein shall be interpreted as follows:

- A. The present tense includes the past or future tense, the singular includes the plural, and the plural includes the singular.
- B. The words "shall" and "must" are mandatory requirements; "may" is a discretionary requirement; and the word "should" is a preferred requirement.
- C. The masculine shall include the feminine.

10-2-2: **GENERAL DEFINITIONS:**

ADMINISTRATOR: An official having knowledge in the principles and practices of subdividing who is appointed by the board to administer this title or his designee.

AGENCY: Any city or political subdivision of the State, including but not limited to counties; school districts, highway districts, and any agency of State or Federal government, and any city or political subdivision of another State or federal government.

ALiquot Part: An exact division of a section.
Example: N.W. ¼, S.W. ¼, S.E. ¼, section 36.

APPLICANT: Any individual firm, association, partnership, corporation, private individuals, trust, or other legal entity creating or proposing a subdivision for himself or another.

BLOCK: A parcel or tract of land entirely surrounded by public streets or areas, watercourses and culverts, railroad rights of way, unsubdivided lands, or a combination thereof.

BOARD: The Shoshone County Board of Commissioners.

BONUS LOTS: Additional building lots earned within a Conservation Design Subdivision pursuant to these regulations.

Collector:	A major thoroughfare or street primarily for traffic exchange between local streets and arterials carrying traffic volume and loads.
Cul-De-Sac:	A local street of fairly short length with a turnaround at one end, and the other end connecting to either a local or collector street.
Dead-End Street:	A street temporarily providing access to properties and having only one outlet for traffic, and intended to be continued in the future.
Local:	A street mainly providing access to individual properties, often called a "minor street".
Loop:	A local street which starts and ends on the same collector or arterial street, generally used for access to properties.
Marginal Access:	A local or collector street usually parallel and adjacent to an arterial or major collector street, which provides access to abutting properties and safer control of traffic access to arterials or collectors. Required for properties adjoining major state or federal highways. Also known as "frontage street" or "road".
SUBDIVISION:	The result of an act of dividing land into two (2) or more contiguous lots, tracts, or parcels, in accordance with this ordinance.
SUBDIVISION, MINOR:	A division of land, so as to create nine (9) or fewer contiguous platted lots, tracts or parcels wherein all of said lots, tracts or parcels shall meet the minimum lot size requirements of the applicable zone or the minimum of two (2) acres whichever is greater, and which shall be pursuant to and meet all requirements of these regulations.
SURETY:	A person who engages under a contract of suretyship to answer for the debt, default, or miscarriage of another.
SURVEYOR:	Any person who is licensed in the state as a public land surveyor to provide professional surveying.
SWALES:	A low area used for the detention or retention of water, and where applicable provide stormwater treatment.
TECHNICAL REVIEW COMMITTEE:	A technical review and advisory committee selected by and serving at the pleasure of the Administrator consisting of agencies and experts with relevant input to a given application. The technical review committee may include, but is not limited to, representation of engineers, technicians, fire departments, law enforcement, school districts,

IN RE THE GENERAL ADJUDICATION)	
OF RIGHTS TO THE USE OF WATER)	
FROM THE COEUR D'ALENE-)	Federal Reserved Water Right 91-07624
SPOKANE RIVER WATER SYSTEM)	
)	St. Joe Wild and Scenic River
CASE NO. 49576)	
)	[PROPOSED] ORDER APPROVING
)	STIPULATION AND ENTRY OF
)	PARTIAL DECREE
)	
)	

PAGE 1

granting their motion to participate), and respondents North Idaho Water Rights Alliance, the individual members of which are listed on Attachment 3, and Hagadone Hospitality Co. (the United States, these objectors and respondents referred to as the “parties”), through their respective counsel, having presented a Stipulation and Joint Motion for Order Approving Stipulation and Entry of Partial Decree, with the effective date of October 31, 2015 (“Stipulation”); due notice of the requested approval of the Stipulation and the proposed entry of the Partial Decree having been given pursuant to the Idaho Rules of Civil Procedure and the CSRBA Administrative Order 1; the Court having reviewed the Stipulation, the proposed Partial Decree and supporting affidavits and having heard the parties concerning these matters;

THE CSRBA DISTRICT COURT NOW FINDS AS FOLLOWS:

The parties have satisfied the requirements of Chapter 14, Title 42, Idaho Code, including Section 42-1411A, the Idaho Rules of Civil Procedure and CSRBA Administrative Order 1. The Stipulation is a fair and equitable settlement of the United States’ claim in the CSRBA for the St. Joe Wild and Scenic River. The Stipulation does not adversely affect the interests of persons not party to the Stipulation and good cause has been shown for granting the Joint Motion for Order Approving Stipulation and Entry of Partial Decree.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. All terms of the Stipulation and the Partial Decree for the United States’ Wild and Scenic Rivers Act federal reserved water right claim number 91-07624 for the St. Joe River, attached as Attachment 4 to the Stipulation (the “Partial Decree”), are hereby ratified, confirmed and approved.

2. Pursuant to Idaho Rule of Evidence 408, nothing in the Stipulation, the Partial Decree, any affidavits or other evidence or pleading submitted or relied upon for approval of the Stipulation, or any offers or compromises made in the course of negotiating the Stipulation, shall be construed as admissions against interest or tendered or used as evidence to support or oppose any claims or objections in the CSRBA or in any other adjudication involving claims for the same or similar purposes, including the quantities of water claimed, or in any other manner by any party in the CSRBA in any future proceedings in the CSRBA, in any appellate proceedings concerning the CSRBA, or in any other proceeding, other than those for interpretation, enforcement or administration of the Stipulation or the Partial Decree, or for a purpose contemplated by Idaho Rule of Evidence 408. This Order Approving Stipulation and Entry of Partial Decree is fully in accordance with Idaho Rule of Evidence 408, as well as the policy underlying that rule and the policy of the CSRBA Court directed at furthering the strong public policy favoring out-of-court settlement of disputes over litigation.

3. The water right adjudicated by the Partial Decree is in full satisfaction of the United States' claim in the CSRBA for the federally designated St. Joe Wild and Scenic River, and all objections and responses thereto.

IT IS SO ORDERED.

DATED this _____ day of _____, 2016.

ERIC J. WILDMAN
Presiding Judge
Coeur d'Alene-Spokane River Basin Adjudication

CERTIFICATE OF MAILING

I hereby certify that on this _____ day of _____, 2016, I served a true and correct copy of the foregoing **ORDER APPROVING STIPULATION AND ENTRY OF PARTIAL DECREE**, by depositing a copy thereof in the U.S. mail, postage prepaid to the following:

All parties indicated on the CSRBA Court's Certificate of Mailing for Subcase 91-07624, St. Joe Wild and Scenic River claim.

Deputy Clerk