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Name of Party Filing Document:

UNITED STATES OF AMERICA

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Counsel 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 SRBA	)	Subcase No. 78-10567
	)	
Case Number: 39576	)	AFFIDAVIT OF STEVEN M. SPENCER
_____	)	

State of: IDAHO
County of: ADA

STEVEN M. SPENCER, being first duly sworn upon oath, deposes and says:

1. I am currently employed by the United States Department of Agriculture, Forest Service ("Forest Service"), as the consumptive water use specialist at the Boise Adjudication

Team. I have been employed by the Forest Service for 26 years.

2. As part of my assigned duties and responsibilities, I oversee water right claims submitted by the Forest Service in the Snake River Basin Adjudication ("SRBA"). Attached as Exhibit 1 is a true and correct copy of claim number 78-10567, as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Granite Lookout.

4. I have reviewed Forest Service historical records describing the reservation of early forest reserves, which later became known as National Forests. Based upon my review, the lands upon which the reserved water right claim is located, including both the legal locations of the point of diversion and place of use as described in Exhibit 1, were first reserved as the Payette Forest Reserve on June 3, 1905, in A Proclamation signed by President Theodore Roosevelt. This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho. Attached as Exhibit 2 is a copy of the above referenced Proclamation.

5. The priority date, June 3, 1905, for this reserved water right claim corresponds to the date of the Proclamation creating the Payette Forest Reserve. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 78-10567 attached hereto as Exhibit 1, submitted in the SRBA:

a. The land at the legal descriptions shown as the point of diversion and place of use is federally reserved National Forest System land. It was first reserved as the Payette Forest Reserve on June 3, 1905, in A Proclamation signed by President Theodore Roosevelt. It is now part of the Payette National Forest.

b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date is: June 3, 1905.

Steven M. Spencer

Steven M. Spencer

SUBSCRIBED and SWORN to before me this 28TH day of April, 2003

GAYLA J. GOUGH NOTARY PUBLIC STATE OF IDAHO

Gayla J. Gough
NOTARY PUBLIC FOR: Idaho
Residing at: Kuna, Idaho
My Commission Expires: 11/17/2004

CERTIFICATE OF MAILING

I certify that on May 2, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 78-10567 to the following by First Class United States Mail, prepaid:

Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720

David L. Negri

NOTICE OF AMENDED CLAIM
RESERVED UNDER FEDERAL LAW

Right Number: 78-10567

Name and Address: UNITED STATES OF AMERICA ACTING THROUGH THE
USDA FOREST SERVICE
550 W FORT ST MSC 033
BOISE, ID 83724

Source: SPRING Tributary: GOOSE CREEK

Quantity: .02 CFS

Priority Date: 06-03-1905

Point of Diversion: T20N R02E S10 NWNW Within Adams County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	~~Domestic GRANITE LOOKOUT~~ Administrative	06-01 TO 09-30	.02 CFS

Place of Use: ~~Domestic~~ Administrative Within Adams County
T20N R02E S10 NWNW

Other Provisions Necessary for Definition / Administration of this Water Right:

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0412 17060210 37 0320
Granite Lookout

EXHIBIT 1

IDAHO

87

By the President of the United States of America.

June 3, 1905.

A PROCLAMATION.

WHEREAS, it is provided by section twenty-four of the Act of Congress, approved March third, eighteen hundred and ninety-one, entitled, "An act to repeal timber-culture laws, and for other purposes", "That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof";

The Payette Forest Reserve, Idaho. Preamble. Vol. 26, p. 1103.

And whereas, the public lands in the State of Idaho, within the limits hereinafter described, are in part covered with timber, and it appears that the public good would be promoted by setting apart and reserving said lands as a public reservation;

Now, therefore, I, Theodore Roosevelt, President of the United States, by virtue of the power in me vested by section twenty-four of

Forest reserve, Idaho.

the aforesaid Act of Congress, do hereby make known and proclaim that there are hereby reserved from entry or settlement and set apart as a Public Reservation all those certain tracts, pieces or parcels of land lying and being situate in the State of Idaho, and within the boundaries particularly described as follows:

Description.

Beginning at the north-west corner of Township twenty-three (23) North, Range four (4) East, Boise Base and Meridian, Idaho; thence southerly to the south-east corner of Township twenty-three (23) North, Range three (3) East; thence westerly to the north-west corner of Township twenty-two (22) North, Range two (2) East; thence southerly along the range line, allowing for the proper offset on the Fifth (5th) Standard Parallel North, to the south-west corner of Section nineteen (19), Township twenty (20) North, Range two (2) East; thence easterly to the north-east corner of Section twenty-nine (29), said township; thence southerly to the south-west corner of Section sixteen (16), Township nineteen (19), North, Range two (2) East; thence easterly to the south-east corner of said section; thence southerly to the south-west corner of Section thirty-four (34), said township; thence easterly to the south-east corner of Section thirty-one (31), Township nineteen (19) North, Range three (3) East; thence northerly to the north-east corner of said section; thence easterly to the south-east corner of Section twenty-nine (29), said township; thence northerly to the north-west corner of Section four (4), said township; thence easterly to the south-east corner of Section thirty-four (34), Township twenty (20) North, Range three (3) East; thence northerly to the north-west corner of Section twenty-three (23), said township; thence easterly to the north-east corner of Section twenty-four (24), said township; thence southerly to the south-east corner of Section twelve (12), Township nineteen (19) North, Range three (3) East; thence westerly to the south-west corner of said section; thence southerly to the south-west corner of Section twenty-five (25), said township, thence easterly to the south-east corner of said section; thence southerly to the south-west corner of Township nineteen (19) North, Range four (4) East; thence easterly to the south-east corner of Section thirty-one (31), said township; thence southerly to the south-west corner of Section five (5), Township eighteen (18) North, Range four (4) East; thence easterly to the north-east corner of Section nine (9), said township; thence southerly to the south-east corner of Section sixteen (16), said township; thence westerly to the north-west corner of Section twenty-one (21), said township; thence southerly to the south-east corner of Section thirty-two (32), said township; thence westerly along the Fourth (4th) Standard Parallel North, to the north-west corner of the north-east quarter of Section five (5), Township seventeen (17) North, Range four (4) East; thence southerly to the south-west corner of the south-east quarter of Section eight (8), said township; thence easterly to the north-east corner of Section sixteen (16), said township; thence southerly to the south-west corner of Section fifteen (15), said township; thence easterly to the north-east corner of Section twenty-two (22), said township; thence southerly to the south-east corner of said section; thence westerly to the north-west corner of Section twenty-eight (28), said township; thence southerly to the south-west corner of said section; thence easterly to the north-east corner of Section thirty-six (36), said township; thence southerly to the south-east corner of said township; thence westerly to the north-west corner of Section one (1), Township sixteen (16) North, Range four (4) East; thence southerly to the south-west corner of said section; thence easterly to the north-east corner of Section twelve (12), said township; thence southerly to the south-east corner of said township; thence westerly to the north-west corner of Section one (1),

EXHIBIT 2-PAGE 2

Payette Forest Reserve — Continued.

Township fifteen (15) North, Range four (4) East; thence southerly to the south-east corner of Section fourteen (14), said township; thence westerly to the north-west corner of Section twenty-two (22), said township; thence southerly to the south-east corner of Section thirty-three (33), said township; thence westerly to the north-west corner of Section five (5), Township fourteen (14) North, Range four (4) East; thence southerly to the south-west corner of said section; thence easterly to the south-east corner of said section; thence southerly to the south-west corner of Section nine (9), said township; thence easterly to the south-east corner of said section; thence southerly to the south-west corner of Section fifteen (15), said township; thence westerly to the north-west corner of Section twenty-one (21), said township; thence southerly to the south-west corner of said section; thence easterly to the south-east corner of Section twenty-three (23), said township; thence northerly to the south-west corner of Section twelve; said township; thence easterly to the south-east corner of said section; thence northerly to the north-west corner of Township fourteen (14) North, Range five (5) East; thence easterly to the north-east corner of Section five (5), said township; thence southerly to the south-west corner of Section nine (9), said township; thence easterly to the north-west corner of Section fifteen (15), said township; thence southerly to the south-west corner of said section; thence westerly to the north-west corner of Section twenty (20), said township; thence southerly to the south-west corner of Section thirty-two (32), said township; thence easterly along the Third (3rd) Standard Parallel North to the south-east corner of Section thirty-three (33), Township fourteen (14) North, Range seven (7) East; thence northerly along the section lines, allowing for the proper offset on the Fourth (4th) Standard Parallel North, to the north-east corner of Section four (4), Township eighteen (18) North, Range seven (7) East; thence westerly to the south-west corner of Township nineteen (19) North, Range seven (7) East; thence northerly to the north-east corner of Township nineteen (19) North, Range six (6) East; thence westerly to the south-west corner of Section thirty-four (34), Township twenty (20) North, Range six (6) East; thence northerly along the section lines to the point of intersection with the Fifth (5th) Standard Parallel North; thence easterly along said parallel to its intersection with the Middle Fork of the Salmon River; thence in a general north-easterly direction along the middle of the channel of said Middle Fork of the Salmon River to its confluence with said river; thence in a general north-westerly direction along the middle of the channel of said river to its intersection with the range line between Ranges six (6) and seven (7) East; thence southerly to the south-east corner of Township twenty-four (24) North, Range six (6) East; thence westerly to the north-west corner of Township twenty-three (23) North, Range four (4) East, the place of beginning; such of the above-named corners as have not been established by the official surveys being intended to be located at the points where such corners would fall in projecting the surveys in the directions indicated without allowing for any irregularities which may occur in actually extending the surveys;

Lands excepted.

Excepting from the force and effect of this proclamation all lands which may have been, prior to the date hereof, embraced in any legal entry or covered by any lawful filing duly of record in the proper United States Land Office, or upon which any valid settlement has been made pursuant to law, and the statutory period within which to make entry or filing of record has not expired: Provided, that this exception shall not continue to apply to any particular tract of land unless the entryman, settler or claimant continues to comply with the law under which the entry, filing or selection was made.

Reserved from settlement.

Name.

Warning is hereby expressly given to all persons not to make settlement upon the lands reserved by this proclamation.

The reservation hereby established shall be known as The Payette Forest Reserve.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 3d day of June, in the year of our Lord one thousand nine hundred and five, and of the [SEAL.] Independence of the United States the one hundred and twenty-ninth.

T. ROOSEVELT

By the President:

FRANCIS B LOOMIS
Acting Secretary of State.

TOWNSHIP 20 NORTH RANGE 2 EAST OF THE BOISE MERIDIAN, IDAHO

SECTION	SUBDIVISION						ACRES	KIND OF ENTRY —OR— PURPOSE OF ORDER	SERIAL FILE —OR— ORDER NUMBER	DATE OF ACTION	DATE POSTED	—REMARKS— E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED
	NE ¼	NW ¼	SW ¼	SE ¼	LOTS	OTHER DESCRIPTION						
	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS WITHDRAWN FOR CLASSIFICATION, MINERALS, WATER, AND/OR OTHER PUBLIC PURPOSES, AND INDIAN TREATIES, REFER TO INDEX OF MISCELLANEOUS DOCUMENTS						
26							160.00	TC	L 831	11/12/1868		Canc 12/21/1891
34			X X X X				160.00	HE	9 2322	6/5/1889		Canc 3/1/1890
16						All						
36						All		SG	Act of Cong	7/3/1890		Title to State to vest on approval of Survey. Subj to prior rights
31			X X				174.29	HE Pat	1378	10/13/1898		
12					X	19N 2E	40.00	HE	B 4899	10/16/1900		Canc 6/24/1904
2				X X X		19N 2E	120.00	HE	B 5015	1/25/1901		Canc 10/18/1901
8			X X X X				160.00	HE	B 5057	3/1/1901		Canc 4/2/1904
32	X X	X X					160.00	HE	B 5058	3/1/1901		Canc 4/4/1904
22	X X	Y X					160.00	HE	B 5059	3/1/1901		Canc 4/2/1904
28			X X									
20		X			X		160.00	HE	B 5229	5/20/1901		Canc 11/2/1903
28			X X									
30					X X		160.00	HE	B 5232	5/28/1901		Canc 3/9/1903
30	X X X X						160.00	HE	B 5288	6/21/1901		Canc 8/16/1902
19			X X		X		157.15	HE	B 6319	3/19/1903		Canc 6/2/1905
10		X					40.00	CE Pat	2069	2/1/1904		
30			X X				154.08	HE Pat	1871	3/1/1904		
15					X							
30	X X X						160.00	CE Pat	2204	6/10/1904		
32					X X X	19N 2E	120.00	CE Pat	2421	7/2/1904		
28			X X		X X		160.00	CE Pat	2437	7/2/1904		
18						20N 2E	75.20	CE Pat	2470	7/26/1904		
34					X X X X		160.00	HE Pat	2017	8/16/1904		
31			X X				154.63	HE Pat	2018	8/16/1904		
29	X X	X X					160.00	CE Pat	2588	8/23/1904		
19	X			X X								
20		X					160.00	CE Pat	2638	9/9/1904		
18			X									
19		X					154.86	CE Pat	2887	12/1/1904		
29			X X									
30	X			X			160.00	CE Pat	2888	12/1/1904		
18		X				20N 2E	113.36	CE Pat	2892	12/1/1904		Recon 9/19/1980
19	X X X		X				160.00	CE Pat	2894	12/1/1904		
20				X			40.00	CE Pat	2934	12/29/1904		
22	X			X			80.00	CE Pat	2985	12/29/1904		
						20N E	79.81	CE Pat	2995	12/29/1904		
						20N E	76.80	CE Pat	2996	12/29/1904		
							160.00	CE Pat	3032	12/29/1904		
		X X	X X				160.00	CE Pa	3044	12/29/1904		
							40.00	CE Pat	3047	12/29/1904		
20	X	X X					160.00	CE Pat	2994	3/18/1905		
						20N E	111.28	CE Pat	3053	4/1/1905		Recon 9/19/1980
						5N 1E	40.00	SE Pat	3144	4/17/1905		

No warranty is made by the Bureau of Land Management for the use of the data for purposes not intended by BLM

TOWNSHIP 20 NORTH RANGE 2 EAST OF THE BOISE MERIDIAN, IDAHO

SECTION	SUBDIVISION						ACRES	KIND OF ENTRY —OR— PURPOSE OF ORDER	SERIAL FILE —OR— ORDER NUMBER	DATE OF ACTION	DATE POSTED	—REMARKS— E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED
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	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS WITHDRAWN FOR CLASSIFICATION, MINERALS, WATER, AND/OR OTHER PUBLIC PURPOSES, AND INDIAN TREATIES, REFER TO INDEX OF MISCELLANEOUS DOCUMENTS						
30				X X								
31	X X						160.00	HE Pat	2149	5/26/1905		
						M&B; 23N 4E		Proc Wdl Payette Forest Res		6/3/1905		Chg to Payette NF Act 3/4/1907; Name Chg EO 855 6/26/1908
30			X			20N 1E	114.00	HE Pat	2309	3/28/1906		
19					6	20N 1E	37.04	HE Pat	2451	1/13/1908		
29				X X			80.00	CE Pat	3897	1/27/1908		
21	X X						80.00	CE Pat	4083	6/25/1908		Canc; See Cur Pat 55915 4/14/1909
						16N 4E		EO Name Chg Payette NF Proc				
								6/3/1905 to Idaho NF	855	6/26/1908		Trfd to Payette NF PLO 218 3/18/1944
25	X					See Rmks	40.00	RR15 Pat	17800	10/5/1908		Other Tps 38N 5E, 37N 6E, 41N 3W, 16N 6W, 65 13E, 75 13E
12												
13						M&B; 22N 7E		SD Wdl USFS Adm S		10/26/1908		Goose Lake S
31	X X						80.00	Cur CE Pat	55915	4/14/1909		B 01573
20			X X X X				160.00	CE Pat	121104	3/24/1910		
16		X	X X X X	X								
36						All; 2N 40E	880.00	IL Base	20	12/27/1919		
16	X X X X X X	X		X X X		9S 42E	400.00	IL Base	21	12/27/1919		
16						All						
36						All		SD	Act of Cong	1/25/1927		Extends Act 7/3/1890 to Min lands. Subj to prior rights
						M&B; 13N 5W		PLO Trf Idaho NF EO 855				
								6/26/1908 to Payette NF	218	3/18/1944		9 FR 3653
1			X			16N 1E		Prop Wdl USFS Adm S	1 05280	7/16/1953		Goose Lake S; Wdn PLO 1374 12/20/1956
3						S½S½SW¼SW¼						
10						N½N½NW¼NW¼; 15N 1E		Prop Wdl USFS Adm S	1 05280	7/16/1953		Granite Mountain S; Wdn PLO 1374 12/20/1956
12			X									
14				X		16N 1E		Prop Wdl USFS Rec Area	1 05280	7/16/1953		Goose Lake Area; Wdn PLO 1374 12/20/1956
3						S½S½SW¼SW¼						
9						N½N½NW¼NW¼; 15N 1E		PLO Wdl USFS Adm S	1374	12/20/1956		1 05280; Granite Mountain S; 21 FR 10400
			X			15N 1E		PLO Wdl USFS Adm S	1374	12/20/1956		1 05280; Goose Lake S; 21 FR 10400
13			X									
14				X		15N 1E		PLO Wdl USFS Rec Area	1374	12/20/1956		1 05280, Goose Lake Area; 21 FR 10400
2						All						
4						All						
6						All						
5						All						
7						All						
8						All						
9						All						
1						All						
2						All						
3						All						
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Boise Mer

T. 20 N.

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Prop.

No warranty is made by the Bureau of Land Management for the use of the data for purposes not intended by BLM.