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Department of Water Resources

Name of Party Filing Document:

UNITED STATES OF AMERICA

Attorney's Names and Addresses:

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Environment and Natural Resources Division
General Litigation Section
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Boise, ID 83724
(208) 331-5943

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. 79-13958
	)	
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 79-13958, as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Pittsburg Administrative Horse Pasture, part of Red Rock Administrative Site.

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 on March 2, 1907, in A Proclamation signed by President Theodore Roosevelt further changing the boundaries of the Weiser Forest Reserve. This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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, March 2, 1907, for this reserved water right claim corresponds to the date of the Proclamation further changing the boundaries of the Weiser Forest Reserve. *See* Exhibit 2.

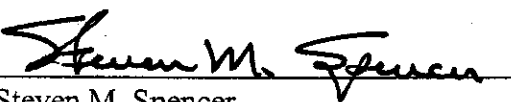
6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 79-13958 attached hereto as Exhibit 1, submitted in the SRBA:

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 on March 2, 1907 in A Proclamation signed by President Theodore Roosevelt further changing the

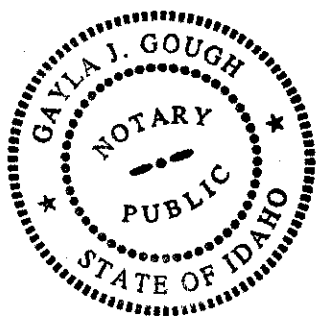
boundaries of the Weiser Forest Reserve. It is now part of the Hells Canyon National Recreation Area.

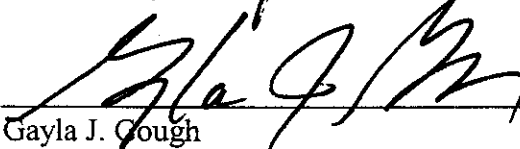
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date is: March 2, 1907.


Steven M. Spencer

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




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 – 79-13958 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: 79-13958

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: SINKS

Quantity: .02 CFS

Priority Date: 03-02-1907

Point of Diversion: T27N R01W S20

SWNE

Within Idaho County

Purpose and
Period of Use: Purpose of Use
~~Stockwater~~
Administrative

Period of Use Quantity
11-01 TO 05-31 .02 CFS

Place of Use: ~~Stockwater~~
Administrative
T27N R01W S20

Within Idaho County

SWNE

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0117 17060101 01 9915
Red Rock Administrative Site

March 2, 1907

WEISER FOREST RESERVE

IDAHO

(THIRD PROCLAMATION)

By the President of the United States of America

A Proclamation

WHEREAS, the Weiser Forest Reserve, in the State of Idaho, was established by proclamation dated May twenty-fifth, nineteen hundred and five, and was subsequently enlarged by proclamation dated May tenth, nineteen hundred and six;

And whereas, it appears that the public good would be promoted by further adding to the said forest reserve certain lands, in the State of Idaho, which are in part covered with timber, and by excluding therefrom certain lands;

Now, therefore, I, THEODORE ROOSEVELT, President of the United States of America, by virtue of the power in me vested by the Act of Congress, approved June fourth, eighteen hundred and ninety-seven, entitled, "An Act Making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes," do proclaim that the boundaries of the aforesaid Weiser Forest Reserve are hereby further changed, and that they are now as shown on the diagram forming a part hereof;

Excepting from the force and effect of this proclamation all lands which are at this date embraced in any legal entry or covered by any lawful filing or selection 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; and also excepting all lands which at this date are embraced within any withdrawal or reservation for any use or purpose to which this reservation for forest uses is inconsistent: Provided, that these exceptions 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 settlement was made, or unless the reservation or withdrawal to which this reservation is inconsistent continues in force; not excepting from the force and effect of this proclamation, however, any land within the boundary herein described, which has been withdrawn to protect the coal therein but this proclamation does not vacate any such coal land withdrawal; and provided that these exceptions shall not apply to any land embraced in any selection, entry or filing, which has been allowed or permitted to remain of record subject to the creation of a permanent reservation.

The lands which are not embraced in any other withdrawal, reservation, or appropriation and which are hereby excluded from the reserve and restored to the public domain shall be open to settlement from the date hereof, but shall not be subject to entry, filing, or selection until ninety days' notice by such publication as the Secretary of the Interior may prescribe.

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

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 2d day of March in the year of our Lord one thousand nine hundred and seven, and of the Independence of the United States the one hundred and thirty-first.

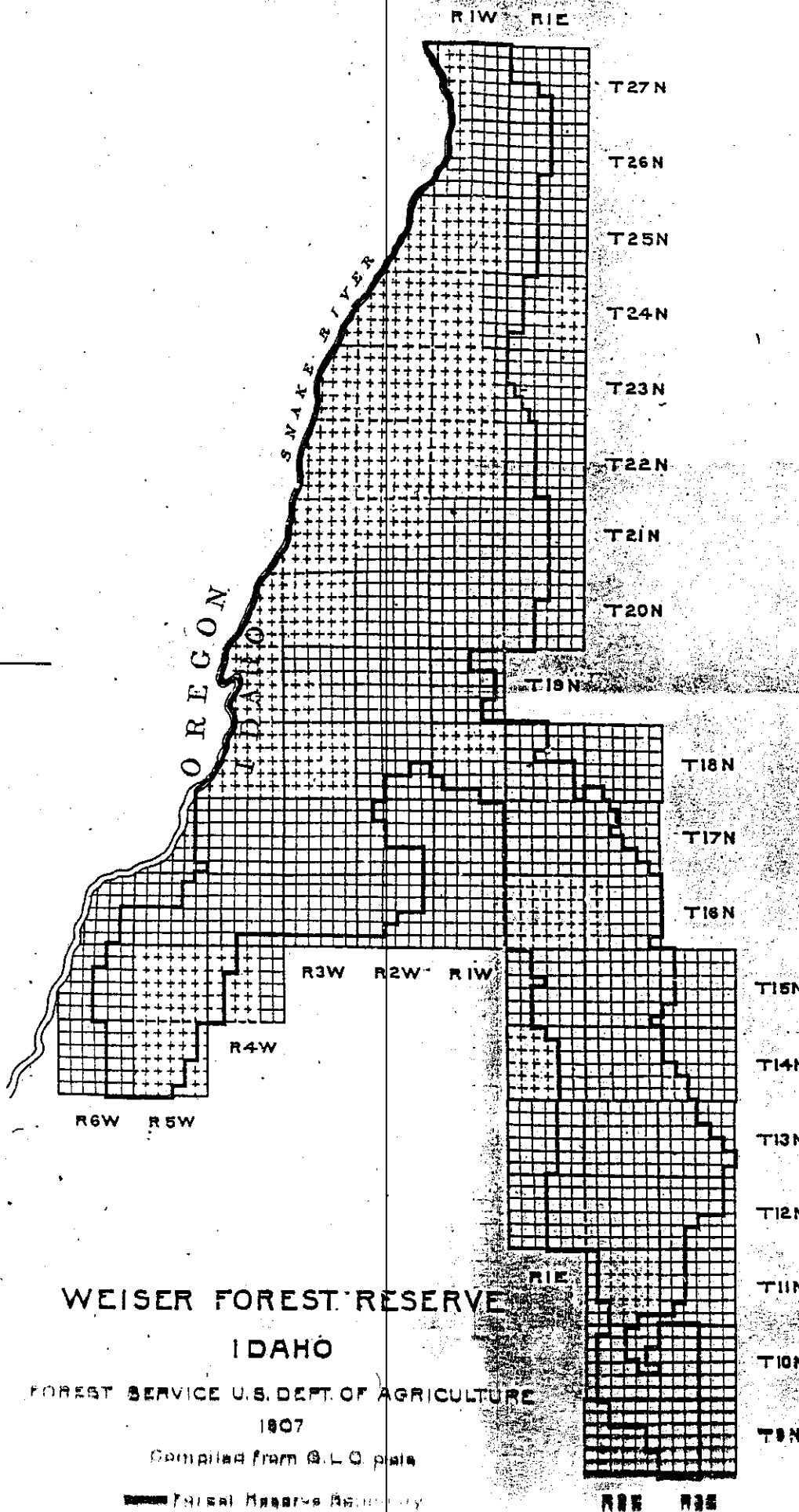
[SEAL.]

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.



WEISER FOREST RESERVE

IDAHO

FOREST SERVICE U.S. DEPT. OF AGRICULTURE

1907

Compiled from G. L. C. plan

Forest Reserve Boundary

SHOWING PART OF PUBLIC LANDS
DATE MADE 1907

By the U.S. Forest Service

TOWNSHIP 27 NORTH RANGE 1 WEST 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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