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Department of Water Resources

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. 77-10797
	)	
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 77-10797, as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Hershey Point 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 June 30, 1932 when they were added to the Idaho National Forest by an Act of the 72d Congress, Public No. 230. This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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 30, 1932, for this reserved water right claim corresponds to the date of the Act of Congress including certain lands to the Idaho National Forest. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 77-10797 attached hereto as Exhibit 1, submitted in the SRBA:

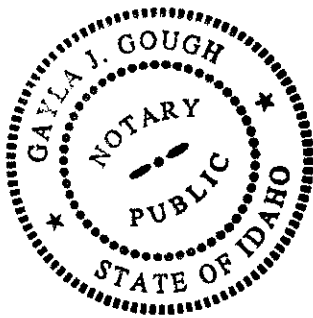
a. The land at the legal descriptions shown as the point of diversion and place of use is federally reserved National Forest System land. It was first reserved by an Act of Congress as an inclusion to the Idaho National Forest on June 30, 1932. It is now part of the Payette National Forest.

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 30, 1932.

Steven M. Spencer
Steven M. Spencer

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



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

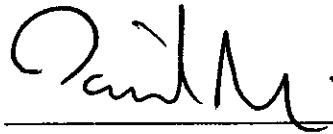
CERTIFICATE OF MAILING

I certify that on May 2, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 77-10797 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: 77-10797

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

Source: ~~HERSHEY POINT~~ SPRING Tributary: SINKS

Quantity: .02 CFS

Priority Date: 06-30-1932

Point of Diversion: T23N R03E S29 NWNW Within Idaho County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	~~Domestic~~	06-01 TO 09-30	.02 CFS
	<u>Administrative</u>		

Place of Use: ~~Domestic~~ Within Idaho County
Administrative
T23N R03E ~~S29~~ S20 ~~NWNW~~ SWSW

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0412 17060209 34 0303
Hershey Point Lookout

IDAHO

474

72d CONGRESS. SESS. I. CHS. 332-334. JUNE 30, 1932.

[CHAPTER 332.]

AN ACT

To add certain lands to the Idaho National Forest, Idaho.

June 30, 1932.
[S. 374.]
[Public No. 230.]

Idaho National Forest,
Idaho.
Lands added to.

Description.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the following-described areas be, and the same are hereby, included in and made a part of the Idaho National Forest, subject to all prior adverse rights, and that said lands shall hereafter be subject to all laws affecting national forests: All township 23 north, ranges 2 and 3 east, and that part of the west half of township 24 north, range 4 east, which is not already included in the Nez Perce National Forest; all Boise meridian.

Approved, June 30, 1932.

[CHAPTER 333.]

[illegible]