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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. 75-11095
	)	
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 75-11095, as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Stormy Peak 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 Salmon River Forest Reserve by 'A Proclamation' signed November 5, 1906 by Theodore Roosevelt. This is substantiated in historical documents and maps maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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 Presidential Proclamation establishing the Salmon River Forest Reserve.

5. The priority date, November 5, 1906, for this reserved water right claim corresponds to the date of the Presidential Proclamation. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 75-11095 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

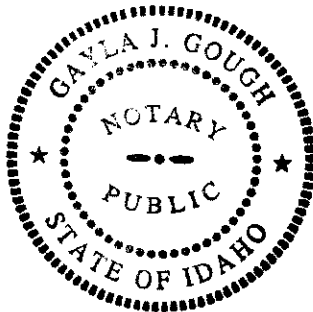
Presidential Proclamation November 5, 1906 as the Salmon River Forest Reserve. It is now part of the Salmon and Challis National Forests.

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: November 5, 1906

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

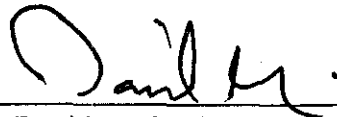
CERTIFICATE OF MAILING

I certify that on May 2, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 75-11095 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: 75-11095

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

Source: ~~STORMY PEAK LOOKOUT~~ SPRING Tributary: SINKS

Quantity: .01 CFS

Priority Date: 11-05-1906

Point of Diversion: T23N R19E S03 NESW Within Lemhi County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	Domestic	06-01 TO 10-31	.01 CFS
	<u>Administrative</u>		

Place of Use:	Domestic	Within Lemhi County
	<u>Administrative</u>	
	T23N R19E S03	SENW

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0413 17060203 24 0011

Stormy Peak Lookout

EXHIBIT 1

SALMON RIVER FOREST RESERVE
IDAHO

By the President of the United States of America

A Proclamation

WHEREAS, the public lands in the State of Idaho, which are hereinafter indicated, are in part covered with timber, and it appears that the public good would be promoted by setting apart said lands as a public reservation;

And 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";

Now, therefore, I, THEODORE ROOSEVELT, President of the United States of America, by virtue of the power in me vested by section twenty-four of the aforesaid act of Congress, do proclaim that there are hereby reserved from entry or settlement and set apart as a Public Reservation, for the use and benefit of the people, all the tracts of land, in the State of Idaho, shown as the Salmon River Forest Reserve on the diagram forming a part hereof.

This proclamation will not take effect upon any lands withdrawn or reserved, at this date, from settlement, entry, or other appropriation, for any purpose other than forest uses, or which may be covered by any prior valid claim, so long as the withdrawal, reservation, or claim exists.

Warning is hereby given to all persons not to make settlement 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 5th day of November,
in the year of our Lord one thousand nine hundred and
six, and of the Independence of the United States the
one hundred and thirty-first.

[SEAL.]

THEODORE ROOSEVELT

By the President:

ROBERT BACON

Acting Secretary of State.

SALMON RIVER FOREST RESERVE IDAHO

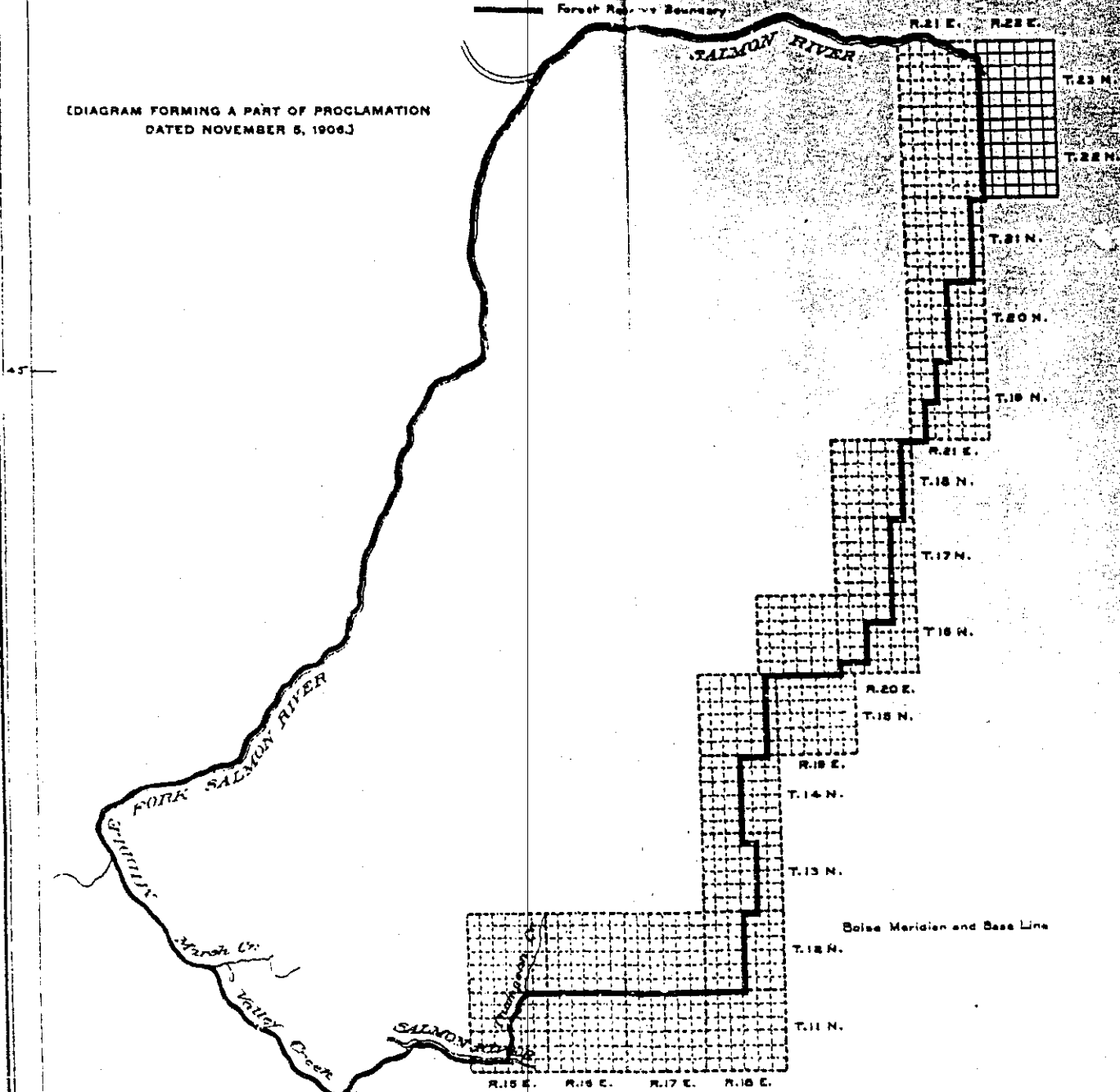
FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

1806

Compiled from G. D. plots

Forest Reserve Boundary

DIAGRAM FORMING A PART OF PROCLAMATION
DATED NOVEMBER 5, 1906



37° 00' Longitude West from Washington

UNSURVEYED TOWNSHIP 23 NORTH RANGE 19 EAST OF THE BOISE MERIDIAN, IDAHO

SECTION											SUBDIVISION		REMARKS -	
NE 1/4	NW 1/4	SW 1/4	SE 1/4	LOTS	OTHER DESCRIPTION	ACRES	KIND OF ENTRY	PURPOSE OF ORDER	SERIAL FILE	DATE OF ACTION	DATE POSTED	E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED		
NE 1/4	NW 1/4	SW 1/4	SE 1/4	LOTS	OTHER DESCRIPTION	ACRES <td>KIND OF ENTRY</td> <td>PURPOSE OF ORDER</td> <td>SERIAL FILE</td> <td>DATE OF ACTION<td>DATE POSTED<td>E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED</td></td></td>	KIND OF ENTRY	PURPOSE OF ORDER	SERIAL FILE	DATE OF ACTION <td>DATE POSTED<td>E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED</td></td>	DATE POSTED <td>E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED</td>	E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED		
16					All		35		Act of Govt	7/1/1890		Title to State to land on original of Section 36, to action filed.		
36					All		100 1/2		Proc. Nat. Salmon River Forest Res.	11/5/1906		Cg to Salmon River Res. Act 3/4/1907; same Cg to All 6/26/1908		
					170 1/2				60 Nat. Cg Salmon River Res. Proc.	11/5/1906				
									11/5/1906 to Salmon Res.					
									50 Nat. USFS Res. S	7/6/1906		Located by protection from Nat. 172; Pine Creek Sta. Partially Res. 50 7/14/1914		
									50 Nat. USFS Res. S 50 7/16/1908	7/14/1914				
									50 10/6/1908					
6									50 10/6/1908			H 01386		
7									50 10/6/1908	7/28/1916		H 01078		
6									50 10/6/1908	5/4/1917		H 01078		
6									50 10/6/1908	1/22/1918		H 01078		
7									50 10/6/1908	2/3/1921		H 01436, H 01082		
8									50 10/6/1908			Every legal land within any portion of which when Sur. will lie within 1/8 mile of either bank of Salmon River, River to 27 1/2 ft. Excepting dry tracks the title to which has passed out of the US		
									50 10/6/1908	9/29/1922				
									50 10/6/1908	9/29/1922				
16									50 10/6/1908	1/24/1927		Exempted Act 7/7/1890 to Nat. Land, Sur. to prior rights		
36									50 10/6/1908	7/24/1929		Exempted, Unpatented, Unpatented, Exempted: Over to 228 1/2, when Act 1954 12/12/1957		
36									50 10/6/1908	1/24/1929		Exempted, Unpatented, Unpatented, Exempted: Over to 228 1/2, when Act 1954 12/12/1957		
3									50 10/6/1908	1/24/1929		Act completed 7/7/1906: All of surface right by USFS, including 1 00481-4-2 Sec 31		
									50 10/6/1908	1/24/1929		Act completed 7/7/1906: All of surface right by USFS, including 1 00481-4-2 Sec 31		
									50 10/6/1908	1/24/1929		Act completed 7/7/1906: All of surface right by USFS, including 1 00481-4-2 Sec 31		
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									50 10/6/1908	1/24/1929		Act completed 7/7/1906: All of surface right by USFS, including 1		