

RECEIVED

MAY - 5 2003

Department of Water Resources

Name of Party Filing Document:

UNITED STATES OF AMERICA

Attorney's Names and Addresses:

THOMAS L. SANSONETTI
United States Department of Justice
Assistant Attorney General
Environment and Natural Resources Division

DAVID L. NEGRI
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 W. Fort St. MSC033
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. 72-10970
	)	
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 72-10970 as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Holman Creek 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 April 10, 1928, by an Act of the Seventieth Congress (An Act to add certain lands to the Challis National Forest, Idaho. Public No. 253). This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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 Act of Congress adding certain lands to the Challis National Forest.

5. The priority date on the claim is November 5, 1906.

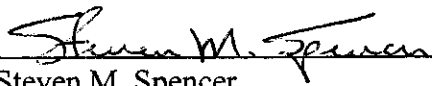
6. The priority date for this reserved water right claim should be April 10, 1928, the date of the Act of Congress to add certain lands to the Challis National Forest. *See* Exhibit 2.

7. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved water right claim 72-10970 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 April 10, 1928, by an Act of Congress to add certain land to the Challis National Forest. It is now part of the Salmon-Challis National Forest.

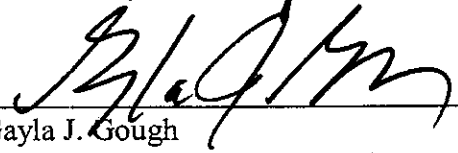
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date should be: April 10, 1928.


Steven M. Spencer

SUBSCRIBED and SWORN to before me this 1st day of May, 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 – 72-10970 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: 72-10970

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

Source: HOLMAN CREEK Tributary: SALMON RIVER

Quantity: .30 CFS

Priority Date: ~~04-10-1928~~ 11-05-1906

Point of Diversion: T11N R16E S25 Lot 9 NWSW ~~SWSW~~ Within Custer County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	~~Irrigation~~	01-01 TO 12-31	.30 CFS
	<u>Administrative</u>		

Place of Use:	~~Irrigation~~	Within Custer County		
	<u>Administrative</u>			
	T11N R16E S25	<u>Lot 7 NWSE</u>	<u>Lot 8 NESW</u>	<u>Lot 7 SWSE</u> <u>Lot 6 SESE</u>

~~15 ACRES, ALSO IN NEWSW & SWSE.~~

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

FOREST SERVICE RECORD ID = 041417060201560059 00
Holman Creek Administrative Site

Explanatory Material: Basis of Claim - Reserved

EXHIBIT 1

to the Idaho National Forest

April 10, 1928

IDAHO

CHAP. 340.—An Act To provide for addition of certain land to the Challis National Forest.

April 10, 1928.

[H. R. 6056.]

[Public No. 253.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-described lands are hereby added to the Challis National Forest, Idaho, subject to any valid existing claim or entry, and made subject to all laws made applicable to national forests:

Challis National Forest
est. 1908
Land added to

Description.

All unreserved lands lying south of Salmon River in townships 10 and 11 north, range 16 east, Boise meridian.

Township 10 north, range 17 east, Boise meridian: Sections 1, 2, 3, 4, 5, 6, 10, 11, 12, 15, and 22; west half section 23; sections 26, 27, and 34; west half section 35.

Township 10 north, range 18 east, Boise meridian: South half section 4; sections 5, 6, 7, 8, 9, and 10; west half section 15; sections 16, 17, 18, 20, and 21.

Township 9 north, range 17 east, Boise meridian: Sections 3, 17, 20; south half section 23; sections 24, 25, and 26; east half section 27; sections 29, 32, 33, 34, 35, and 36.

Township 9 north, range 18 east, Boise meridian: Sections 17 to 36, inclusive.

Township 9 north, range 19 east, Boise meridian: Sections 21, and 28 to 33, inclusive.

Township 8 north, range 17 east, Boise meridian: Sections 4, 5, 8, and 9.

Township 8 north, range 18 east, Boise meridian: Sections 1 to 5, inclusive.

Township 8 north, range 19 east, Boise meridian: Section 6.

Approved, April 10, 1928.

2008

EXHIBIT 2-PAGE 3