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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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(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. 24-10393
	)	
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 24-10393, as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Clear Creek Guard Station.

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 an addition of certain lands to the Caribou National Forest in A Proclamation signed by President Woodrow Wilson on December 9, 1920. This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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 shown on the claim is January 15, 1907.

6. The priority date for this reserved water right claim should be December 9, 1920, which corresponds to the date of the Proclamation adding certain lands to Caribou National Forest. See Exhibit 2.

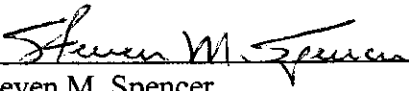
7. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 24-10393 attached hereto as Exhibit 1, submitted in the SRBA:

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 an

addition of certain lands to the Caribou National Forest on December 9, 1920, in A Proclamation signed by President Woodrow Wilson. It is now part of the Caribou-Targhee National Forests.

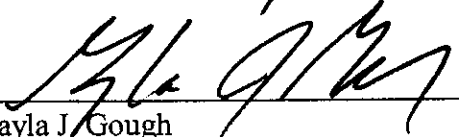
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date should be: December 9, 1920.


Steven M. Spencer

SUBSCRIBED and SWORN to before me this 2ND day of May, 2003




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

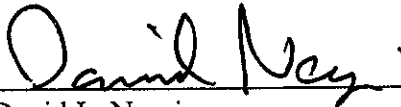
CERTIFICATE OF MAILING

I certify that on May 2, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer - 24-10393 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: 24-10393

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: CLEAR CREEK

Quantity: .02 CFS

Priority Date: 01-15-1907

Point of Diversion: T10S R45E S26

SWNW Within Caribou County

Purpose and

Period of Use: Purpose of Use
~~Domestic~~
Administrative

Period of Use Quantity
01-01 TO 12-31 .02 CFS

Place of Use: ~~Domestic~~
Administrative
T10S R45E S26

Within Caribou County

SWNW

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 040517040105 60134 00
Clear Creek Guard Station

EXHIBIT 1

1583 Dec. 9, 1900

CARIBOU NATIONAL FOREST
IDAHO AND WYOMING
(FOURTH PROCLAMATION).

By the President of the United States of America

A Proclamation.

WHEREAS, it appears that certain of the lands, within the State of Idaho, described in the Act of Congress approved June fifth, nineteen hundred and twenty (41 Stat., 1056), which have been found under the terms of said act to be chiefly valuable for the production of timber or for the protection of stream flow, should be added to the Caribou National Forest;

NOW, THEREFORE, I, WOODROW WILSON, President of the United States of America by virtue of the power in me vested by the aforesaid Act of June fifth, nineteen hundred and twenty, entitled "An Act To authorize the addition of certain lands to the Caribou National Forest," do proclaim that the Caribou National Forest is hereby enlarged to include the areas indicated as additions on the diagram hereto annexed and forming a part hereof.

The withdrawal made by this proclamation shall, as to all lands embraced in any valid application or entry pending at the date of the approval of the aforesaid Act, or reservation for any public purpose, be subject to, and shall not interfere with or defeat legal rights under such application or entry, nor prevent the use for such public purpose of lands so reserved, so long as such claims are legally maintained or such reservation remains in force.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE in the District of Columbia this 9th day of December in the year of our Lord one thousand nine hundred and twenty,
[SEAL.] and of the Independence of the United States the one hundred and forty-fifth.

WOODROW WILSON

By the President
NORMAN H. DAVIS
Acting Secretary of State.

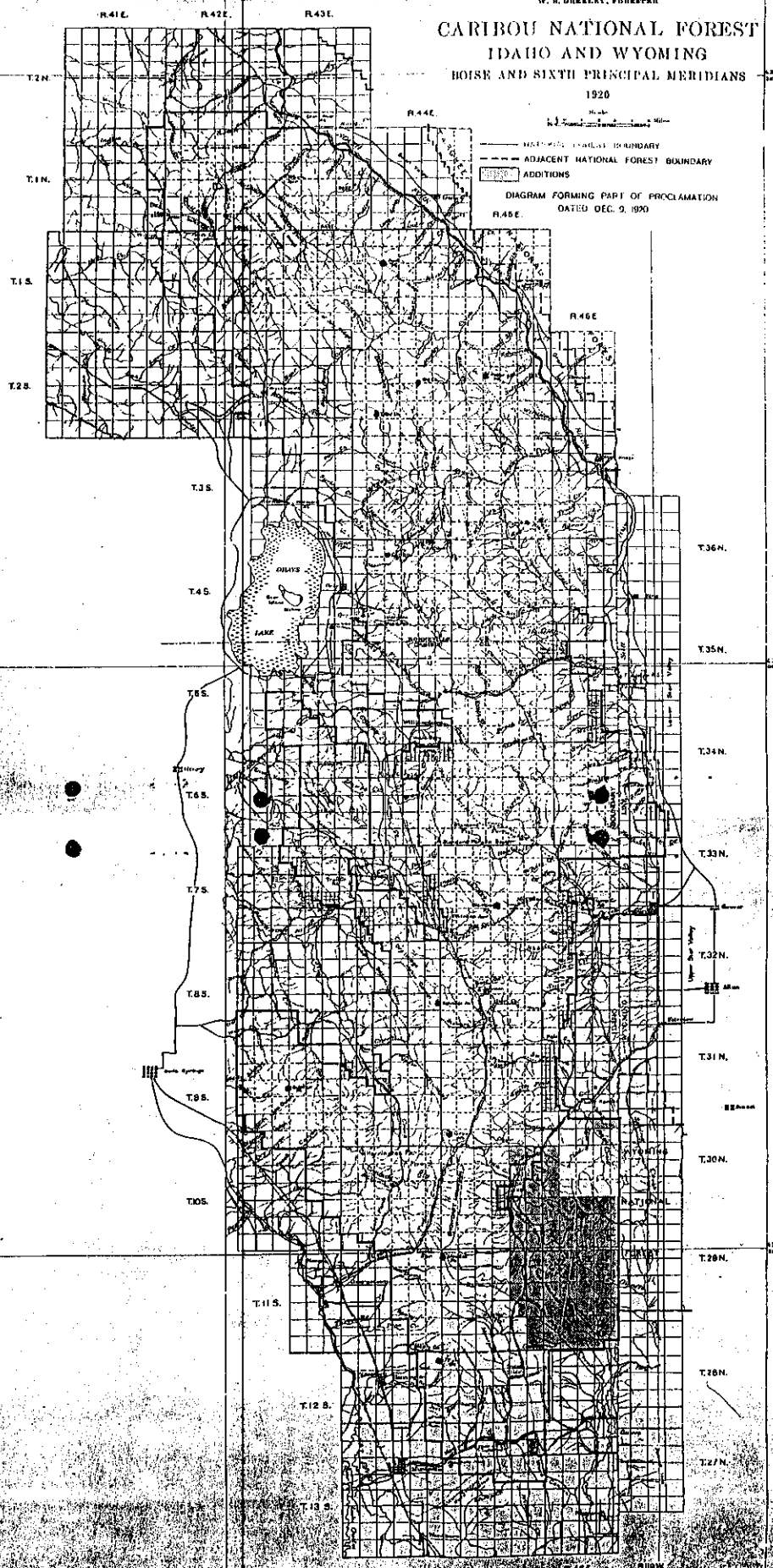
U. S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
W. H. DRESELKY, FORESTER

CARIBOU NATIONAL FOREST IDAHO AND WYOMING HOISE AND SIXTH PRINCIPAL MERIDIANS 1920

Scale
0 1 2 3 4 5 Miles

— ORIGINAL FOREST BOUNDARY
- - - ADJACENT NATIONAL FOREST BOUNDARY
[Hatched Box] ADDITIONS

DIAGRAM FORMING PART OF PROCLAMATION
DATED DEC. 9, 1920
R. 45 E.



TOWNSHIP 10 SOUTH RANGE 45 EAST OF THE BOISE MERIDIAN, IDAHO

SECTION	SUBDIVISION					ACRES	KIND OF ENTRY PURPOSE OF ORDER	SERIAL FILE ORDER NUMBER	DATE OF ACTION	DATE POSTED	REMARKS - E. & DATE CLOSED, TERMINATED, REFLECTED OR RESCINDED
	NE 1/4	NW 1/4	SW 1/4	SE 1/4	LOTS						
16						160.00	NE	BL 01046	10/31/1920		Cave 11/20/1921
17							Pro. Engr. Carlow M. Proc.				
18								193	12/9/1920		
19							EO Act. Pro. Act 2 EO 7/2/1910		1/28/1921		C1 New Pro
20							NE Act	861916	1/10/1922		BL 003146, BL 003578
21							NE Act	894823	2/1/1923		BL 007685
22							NE Act	35	2/19/1923		
23							NE Act	944855	3/2/1924		BL 010683
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