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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. 29-12485
	)	
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 27 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 29-12485, before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Summit 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 as the Bear River Forest Reserve on May 28, 1906, in A Proclamation signed by President Theodore Roosevelt. This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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, May 28, 1906, for this reserved water right claim corresponds to the date of the Proclamation creating the Bear River Forest Reserve. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of federal reserved right claim 29-12485 attached hereto as Exhibit 1, submitted in the SRBA:

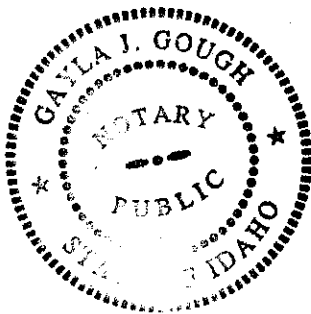
a. The land at the legal descriptions shown as the point of diversion and place of use is federally reserved National Forest System land. It was first reserved as the Bear River Forest Reserve on May 28, 1906, in A Proclamation signed by President Theodore Roosevelt. It is now part of the Caribou-Targhee 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: May 28, 1906.

Steven M. Spencer
Steven M. Spencer

SUBSCRIBED and SWORN to before me this 2nd day of April, 2004



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

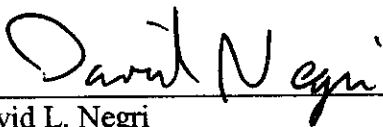
CERTIFICATE OF MAILING

I certify that on April 2, 2004, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer 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

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

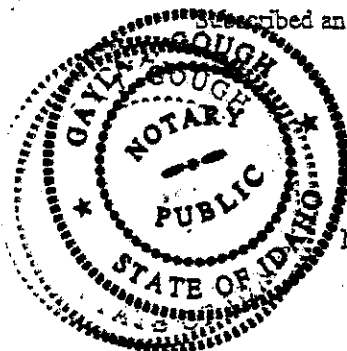
CIVIL CASE NUMBER: 39576

Ident. Number: 29-12485

RESERVED UNDER FEDERAL LAW

1. Name of Claimant: UNITED STATES OF AMERICA on behalf of the U.S.D.A. Forest Service
Address: 550 W. Fort Street MSC033
Boise ID 83724
2. Date of Priority: 05/28/1906
3. Source of water: SPRING Tributary: MILL CREEK
4. Location Meridian BOISE
Description of Diversion Works: Headbox From: Spring
Location of Point of Diversion
T: 12 S R 36 E S: 28 NWSW
Location of Place of Use
T: 12 S R 36 E S: 28 SWNW
5. Quantity claimed: Period: 6/01 -- 9/30 Quantity: 0.04 CFS For: Administrative
6. Total Consumptive Use Claimed for Present and Future Use is:
0.04 CFS
7. Present and future uses to which the water is or will be used:
Administrative
8. Remarks:
State Basin: 29
National Forest: Caribou
Forest Service Record ID: 4 5 17040208 19 0095
Summit Guard Station

I verify that to the best of my knowledge the statements contained in this document are true and correct.



Subscribed and sworn to before me on:

Residing at:

My Commission Expires:

Steven M. Spencer
STEVEN M. SPENCER
Consumptive Water Use Specialist
JUNE 18 2003
[Signature]
Notary Public
KUNA IDAHO
11-17-2004

May 28, 1906.

By THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Bear River Forest Reserve, Idaho and Utah.
Preamble.
Vol. 20, p. 1103.

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";

And whereas, the public lands, in the States of Idaho and Utah, 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;

Forest reserve, Idaho and Utah.

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 States of Idaho and Utah, shown as the Bear River Forest Reserve on the diagram forming a part hereof;

Lands excepted.

Excepting from the force and effect of this proclamation all lands which may have been, prior to the date hereof, embraced in any legal entry or covered by any lawful filing 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: *Provided*, that this exception 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.

Reserved from settlement.
Vol. 33, p. 2307.

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

Whereas, a portion of the land shown as the Bear River Forest Reserve on the diagram forming a part hereof was reserved by proclamation of May twenty-ninth, nineteen hundred and three, and designated as "The Logan Forest Reserve":

Bear River Forest Reserve established in place of the Logan Forest Reserve.

And whereas, it appears desirable that the several tracts hereby reserved should be known by one name, the title, "The Logan Forest Reserve" is hereby abolished, and the reservation established by this proclamation shall be known as the Bear River Forest Reserve.

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 28th day of May, in the year of our Lord one thousand nine hundred and six, and of the Independence of the United States the one hundred and thirtieth.

THEODORE ROOSEVELT

By the President:

ELIHU ROOT

Secretary of State.

