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Department of Water Resources

Name of Party Filing Document:

UNITED STATES OF AMERICA

Attorneys' 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. 81-10446
	)	
Case Number: 39576	)	AFFIDAVIT OF HARTMUT PAULAT
_____	)	

State of: IDAHO
County of: IDAHO

Hartmut Paulat, 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 a Maintenance Worker on the Lochsa Ranger District of the Clearwater National Forest. I have been employed by the Forest Service for 25 years.

2. As part of my assigned duties and responsibilities as the Maintenance Worker for the Lochsa Ranger District, I am familiar with use at Bear Mountain Lookout.

3. I have reviewed the reserved water right claim, as amended and attached as Exhibit 1, submitted by the Forest Service for Bear Mountain Lookout (Claim).

4. The Claim was prepared by Forest Service personnel as part of their normal duties. I verified the legal locations as set forth and described in Exhibit 1 and have personal knowledge that the location of the point of diversion and point of use and source of the water supply are true and correct as described in Exhibit 1.

5. The Claim is situated wholly within National Forest System lands. It is currently utilized by the Forest Service at Bear Mountain Lookout to manage National Forest System lands.

6. The Claim is necessary for the administration of the National Forest pursuant to the Organic Administration Act of 1897, 16 U.S.C. § 475 *et seq.*, for the purposes of securing favorable conditions of water flow and to furnish a continuous supply of timber.

7. The United States filed this Claim for use in association with Bear Mountain Lookout, an administrative fire lookout site located in a remote area of the Clearwater National Forest. The lookout is a 60 foot tall tower with other capital improvements such as a storage shed and vault toilet. Personnel utilize water at this site for administrative purposes. The lookout is used every year and is necessary for fire detection, suppression and management activities. Bear Mountain Lookout is essential to the overall management and administration of

Forest Service resource programs on this part of the Clearwater National Forest to protect forest resources from fire and other depredations, thereby ensuring continuing viability the resources that directly contribute to maintaining and improving watershed conditions and productive timber stands.

8. Based upon personal experience and knowledge, discussions with Forest Service personnel and review of relevant Forest Service records, including but not limited to, on-site inspection records, water has been historically, and is presently utilized at Bear Mountain Lookout in quantities up to and including 0.02 c.f.s. during the period of July 1 through November 30, as described in Exhibit 1.

9. Based upon the forgoing, I have personal knowledge of the following elements of the reserved water right claim:

a. The name and address of the claimant is:

UNITED STATES OF AMERICA acting on behalf of the U.S.D.A. Forest
Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

b. The source of water is:

spring

c. The location is:

1) point of diversion:

B.M., T. 36 N, R. 12 E, S. 26 NESW

2) place of use:

B.M., T. 36 N, R. 12 E, S. 26 NWSE

d. The quantity of water is:

0.02 c.f.s.

- e. The period of use is:

July 1 through November 30

- f. The purpose of use is:

Administrative purposes at Bear Mountain Lookout.

Dated this 21 day of March, 2003.

Hartmut Paulat
Hartmut Paulat

SUBSCRIBED and SWORN to before me this 21 day of March, 2003.

Maule Johnson

NOTARY PUBLIC FOR: Idaho

Residing at: Kamiden

My Commission Expires: 8-5-03

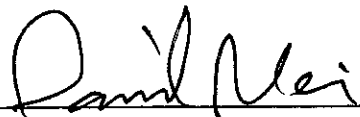
CERTIFICATE OF MAILING

I certify that on March 28, 2003, I mailed a true and correct copy of the foregoing Affidavit of Hartmut Paulat 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: 81-10446

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: SINKS

Quantity: .02 CFS

Priority Date: 02-22-1897

Point of Diversion: T36N R12E S26 ~~NWSE~~ NESW Within Idaho County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	~~Domestic~~	07-01 TO 11-30	.02 CFS
	<u>Administrative</u>		

Place of Use:	~~Domestic~~	Within Idaho County
	<u>Administrative</u>	
	T36N R12E S26	NWSE

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0105 17060303 25 A001
Bear Mountain Lookout

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Department of Water Resources

Name of Party Filing Document:

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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
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General Litigation Section
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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. 81-10446
	)	
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 81-10446 as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Bear Mountain 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 a Public Reservation by Presidential Proclamation No. 23 signed February 22, 1897, by Grover Cleveland. 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 certified copy of the above referenced Presidential Proclamation No. 23 establishing the Public Reservation.

5. The priority date, February 22, 1897, for this reserved water right claim corresponds to the date of Presidential Proclamation No. 23. *See* Exhibit 2.

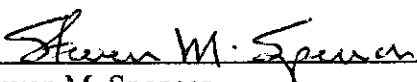
6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 81-10446 attached hereto as Exhibit 1, submitted in the SRBA:

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

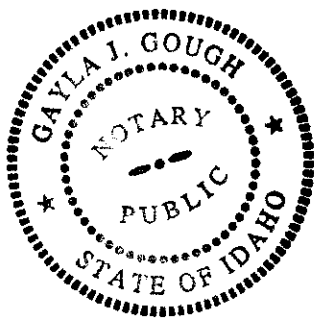
Presidential Proclamation No. 23 February 22, 1897 as a Public Reservation. It is now part of the Clearwater National Forest.

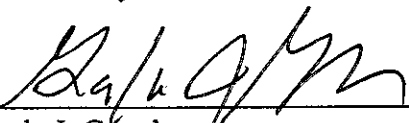
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date is: February 22, 1897


Steven M. Spencer

SUBSCRIBED and SWORN to before me this 25th day of March, 2003




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

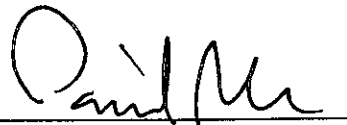
CERTIFICATE OF MAILING

I certify that on March 28, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 81-10446 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

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David L. Negri

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	T36N R12E S26	NWSE

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0105 17060303 25 A001
Bear Mountain Lookout

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Idaho State Office
1387 S. Vinnell Way
Boise, Idaho 83709

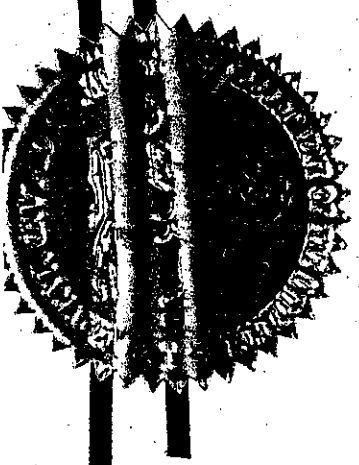
March 21, 2003

Date

TO WHOM IT MAY CONCERN:

I HEREBY CERTIFY that the attached reproduction(s) is a copy of documents on file in this office.

IN TESTIMONY WHEREOF I have hereunto subscribed my name and caused the seal of this office to be affixed on the above day and year.


Pex J. Roundy
Contact Representative

No warranty is made by the Bureau of
Land Management for the use of the data
for purposes not intended by BLM.

EXHIBIT 2 - PAGE 1

ID 1270-1
(May 2001)

IDAHO

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

February 22, 1897.

A PROCLAMATION.

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

Preamble.
Vol. 26, p. 1103.

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 Montana, within the limits hereinafter described, are in part covered with timber, and it appears that the public good would be promoted by setting apart and reserving said lands as a public reservation;

Forest reservation.
Idaho and Montana.

Now, therefore, I, Grover Cleveland, President of the United States, by virtue of the power in me vested by section twenty-four of the afore-said Act of Congress, do hereby make known and proclaim that there is hereby reserved from entry or settlement and set apart as a Public Reservation all those certain tracts, pieces or parcels of land lying and being situate in the States of Idaho and Montana, and within the boundaries particularly described as follows, to-wit:

Boundaries.

Beginning at the north-east corner of Township thirty-six (36) North, Range five (5) East, Boise Meridian, Idaho; thence southerly along the surveyed and unsurveyed range line between Ranges five (5) and six (6) East, to the point of intersection with the Salmon River; thence in an easterly direction along the middle of the channel of said river to the point of intersection for the unsurveyed range line between Ranges eighteen (18) and nineteen (19) East; thence northerly along said unsurveyed range line to the point of intersection with the boundary line between the States of Idaho and Montana; thence in an easterly direction along said State boundary line to the point for the unsurveyed range line between Ranges nineteen (19) and twenty (20) West, Principal Meridian, Montana; thence northerly along said range line to the Base Line; thence westerly along said base line to the south-east corner of Township one (1) North, Range twenty (20) West; thence northerly along the range line to the north-east corner of said township; thence westerly along the surveyed and unsurveyed township line between Townships one (1) and two (2) North, to the point for the south-east corner of Township two (2) North, Range twenty-two (22) West; thence northerly along the unsurveyed range line between Ranges twenty-one (21) and twenty-two (22) West, allowing for the proper offsets on the First (1st) and Second (2nd) Standard Parallels North, to the point for the north-east corner of Township ten (10) North, Range twenty-two (22) West; thence westerly along the unsurveyed township line between Townships ten (10) and eleven (11) North, to the point of intersection with the boundary line between the States of Montana and Idaho; thence along said State boundary line to the point for the unsurveyed township line between Townships thirty-eight (38) and thirty-nine (39) North, Idaho; thence westerly along said township line to the point for the north-west corner of Township thirty-eight (38) North, Range ten (10) East; thence southerly along the unsurveyed range line between Ranges nine (9) and ten (10) East, to the point for the south-west corner of Township thirty-seven (37) North, Range ten (10) East; thence westerly along the unsurveyed Seventh (7th) Standard Parallel North, to the north-east corner of Township thirty-six (36) North, Range five (5) East, the place of beginning.

Prior valid entries
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; and all mining claims duly located and held according to the laws of the United States and rules and regulations not in conflict therewith;

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, settlement or location was made.

Reserved from set-
tlement.

Warning is hereby expressly given to all persons not to enter or make settlement upon the tract of land reserved by this proclamation.

PROCLAMATIONS. Nos. 23, 24.

901

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 22d day of February, in the year of our Lord one thousand, eight hundred and ninety-seven, and of the Independence of the United States the one hundred and twenty-first.

GROVER CLEVELAND

By the President:

RICHARD OLNEY

Secretary of State.

