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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. 23-11169
	)	
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 23-11169, as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Calamity 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 Caribou Forest Reserve on January 15, 1907, 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 This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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.

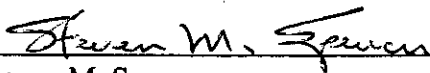
5. The priority date, January 15, 1907, for this reserved water right claim corresponds to the date of the Proclamation creating the Caribou Forest Reserve. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 23-11169 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 Caribou Forest Reserve on January 15, 1907, in A Proclamation signed by President Theodore Roosevelt. It is now part of the Caribou-Targhee National Forests.

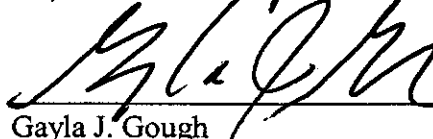
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date is: January 15, 1907.


Steven M. Spencer

SUBSCRIBED and SWORN to before me this 16TH day of April, 2003




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

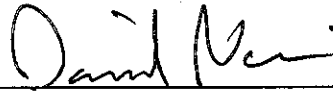
CERTIFICATE OF MAILING

I certify that on April 21, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 23-11169 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: 23-11169

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

Source: GROUNDWATER

Quantity: .02 CFS

Priority Date: 01-15-1907

Point of Diversion: T01S R45E S17 NESW Within Bonneville County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	~~Domestic~~	01-01 TO 12-31	.02 CFS
	<u>Administrative</u>		

Place of Use:	~~Domestic~~	Within Bonneville County
	<u>Administrative</u>	
	T01S R45E S17	NESW

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0415 17040104 37 0170
CALAMITY GUARD STATION

IDAHO

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

January 15, 1907.

A PROCLAMATION

WHEREAS, the public lands in the States of Idaho and Wyoming, 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 States of Idaho and Wyoming, shown as the Caribou Forest Reserve on the diagram forming a part hereof:

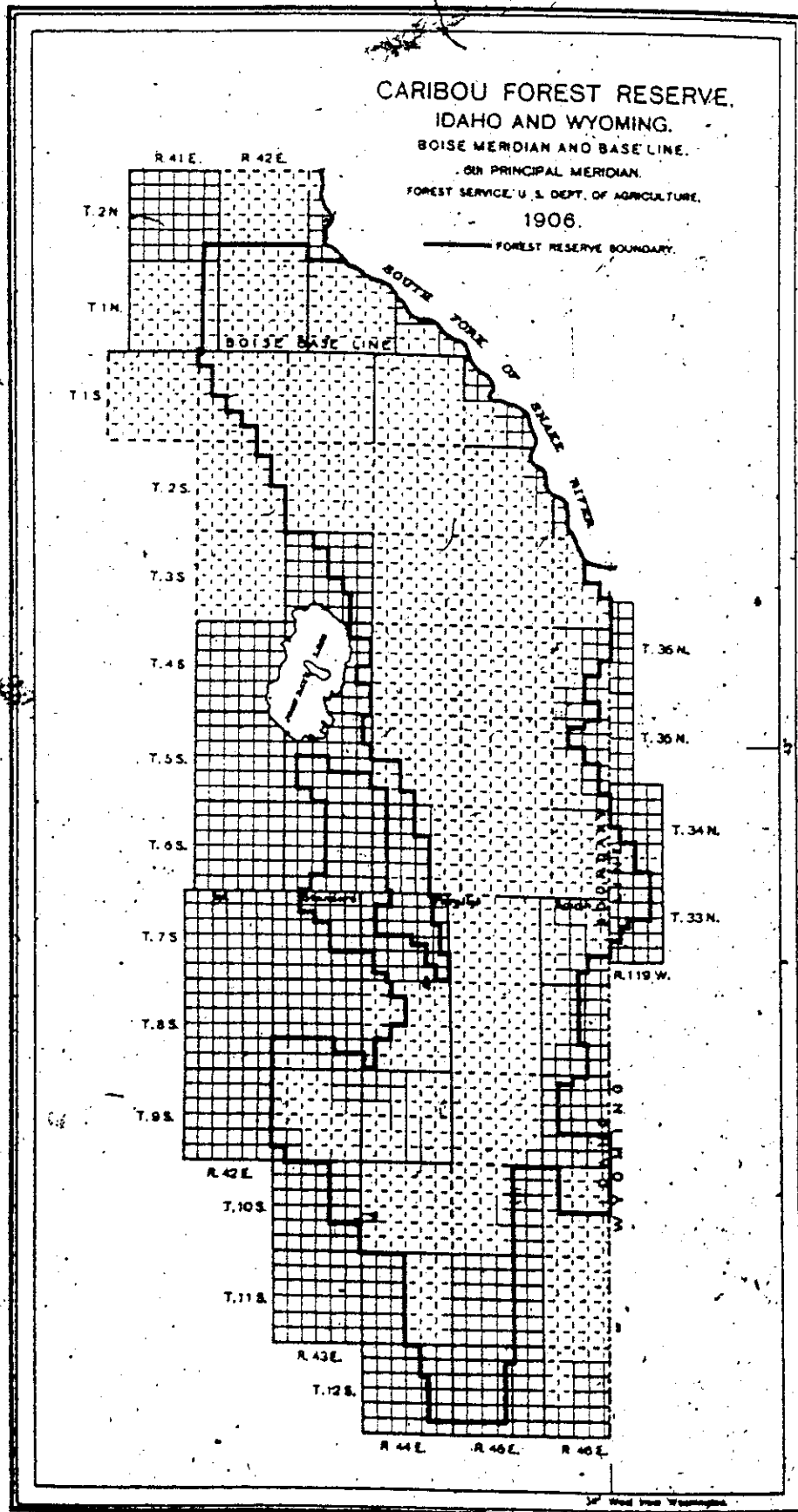
Excepting from the force and effect of this proclamation all lands which are at this date embraced in any legal entry or covered by any lawful filing or selection duly of record in the proper United States Land Office, or upon which any valid settlement has been made pursuant to law, and the statutory period within which to make entry or filing of record has not expired; and also excepting all lands which at this date are embraced within any withdrawal or reservation for any use or purpose to which this reservation for forest uses is inconsistent: Provided, that these exceptions 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, or unless the reservation or withdrawal to which this reservation is inconsistent continues in force; not excepting from the force and effect of this proclamation, however, any land within the boundary herein described, which has been withdrawn to protect the coal therein but this proclamation does not vacate any such coal land withdrawal; and provided that these exceptions shall not apply to any land embraced in any selection, entry or filing, which has been allowed or permitted to remain of record subject to the creation of a permanent reservation.

Caribou Forest Reserve, Idaho and Wyo.

Forest Reserve, Idaho and Wyoming.

Lands excepted.

Coal lands.



3268

PROCLAMATIONS, 1907.

Reserved from
settlement.

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 15th day of January, in the year of our Lord one thousand nine hundred and seven,

[SEAL] and of the Independence of the United States the one hundred and thirty-first.

By the President:

ELIHU ROOT

Secretary of State.

THEODORE ROOSEVELT

TOWNSHIP 1 SOUTH RANGE 45 EAST OF THE BOISE MERIDIAN, IDAHO

1 of 1

SUBDIVISION										ACRES	KIND OF ENTRY -OR- PURPOSE OF ORDER	SERIAL FILE -OR- ORDER NUMBER	DATE OF ACTION	DATE POSTED	REMARKS - E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED
SECTION															
OTHER DESCRIPTION															
FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS WITHDRAWN FOR CLASSIFICATION, MINERALS, WATER, AND/OR OTHER PUBLIC PURPOSES, REFER TO INDEX OF MISCELLANEOUS DOCUMENTS															
NE 1/4	NW 1/4	SW 1/4	SE 1/4	LOTS											
16					All					56	Act of Cong	7/3/1890			Title to State to vest on approval of Survey, Subj to prior rights; Part Recon USFS
36					All										
6				10, 11						305.98	DLE	BL 2951	10/16/1900		Canc 10/14/1904
7	X X X			2						80.00	DLE	BL 07144	11/22/1901		Canc 7/15/1902
35					2S 45E					66.30	HE	BL 8769	7/15/1902		Canc 7/21/1902
7		X X		2						160.90	HE	BL 8901	10/2/1902		Canc 11/17/1902
26	X X X			5						160.00	HE	BL 8956	11/17/1902		Canc 4/30/1903
26	X X X				5N 32E										Wdn SO 11/4/1904
		ENTIRE TOWNSHIP									Proj		6/11/1903		Canc 12/13/1910
8				7, 8						75.70	HE	BL 02419	10/14/1903		Excepting any tracts the title to which has passed out of the US; Partially Rev
					2N 43E										SO 6/9/1908; Rev SO 4/23/1909
		ENTIRE TOWNSHIP													Enlight Proc 3/2/1907; Chg to Yellowstone NF Act 3/4/1907
					HEB; 3N 46E										Part Acq 5/28/1956
35					2S 45E					80.00	CE Pat	1508	6/30/1906		
7		X X													Part Acq 3/4/1947
8				2, 3						124.10	CE Pat	1503	10/29/1906		Wdn Proc 1/15/1907
					1N 41E										Chg to Caribou NF Act 3/4/1907
		ENTIRE TOWNSHIP			HEB; 2N 41E										
					HEB; 2S 46E										Chg to Yellowstone NF Act 3/4/1907; Name Chg EO 871 7/1/1908
22				6						142.40	HE Pat	5120	9/27/1907		Acq 5/8/1950
23				1, 3						160.00	HE Pat	5121	9/27/1907		Acq 3/11/1955
25				4											
16				8											
17															
20										169.00	HE Pat	5181	9/27/1907		Acq 3/7/1949
21		X X													
23															
25															
26															
36				2, 3, 4, 6	See Rinks							1 1715	4/22/1908		Subdiv Und; Other Tps 2S 45E, 2S 46E; Canc 4/2/1932
6					1N 44E								6/9/1908		
					16N 42E										
												871	7/1/1908		Name Chg Proc 1053 6/28/1910
6				7, 12											
7				1						89.10	HE Pat	11269	9/3/1908		Part Acq 8/9/1946; Part Acq 8/18/1949
8				1											
34	X									150.00	HE Pat	23001	10/19/1908		Part Acq 5/28/1956
35		X X X													
8				6, 9						147.40	CE Pat	31653	12/1/1908		Acq 5/14/1946
17				1, 4, 5									12/9/1908		Partially Rest SO 12/4/1909; Wdn EO 7/2/1910
		ENTIRE TOWNSHIP			1S 39E								4/23/1909		Rest SO 4/28/1909
		ENTIRE TOWNSHIP			1N 43E								4/28/1909		Open to Entry
		ENTIRE TOWNSHIP			1N 43E										
16				1, 2, 3						165.70	HE Pat	81479	9/28/1909		BL 0280; Acq 5/14/1946
21				1, 2											
5		X X X X X X X													
					All										Continued on page 2