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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. 83-10177
	)	
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 83-10177, as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Black 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 the Coeur d'Alene Forest Reserve by 'A Proclamation' signed November 6, 1906, by Theodore Roosevelt, President of the United States. This is substantiated in historical documents and maps maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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 copy of the above referenced Presidential Proclamation establishing the Coeur d'Alene Forest Reserve.

5. The priority date, November 6, 1906, for this reserved water right claim corresponds to the date of the Proclamation establishing the Coeur d'Alene Forest Reserve. *See* Exhibit 2.

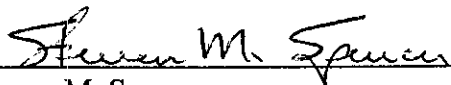
6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 83-10177 attached hereto as Exhibit 1, submitted in the SRBA:

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 'A

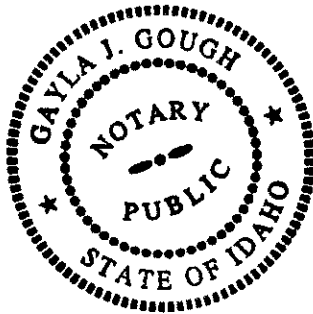
Proclamation' signed November 6, 1906, by Theodore Roosevelt, President of the United States, as the Coeur d'Alene Forest Reserve. It is now part of the Clearwater National Forest.

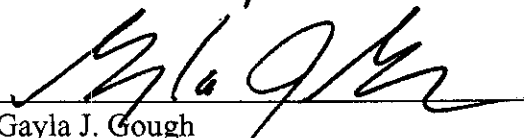
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date is: November 6, 1906.


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

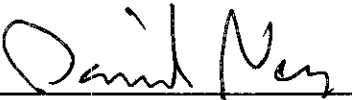
CERTIFICATE OF MAILING

I certify that on April 21, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 83-10177 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: 83-10177

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: GRASSHOPPER CREEK

Quantity: .02 CFS

Priority Date: 11-06-1906

Point of Diversion: T41N R07E S23 SWSW Within Clearwater County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	Domestic	06-01 TO 10-31	.02 CFS
	<u>Administrative</u>		

Place of Use:	Domestic	Within Clearwater County
	<u>Administrative</u>	
	T41N R07E S23	SWSW

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0105 17060307 00 A004
Black Mountain Lookout

1100 1906

CŒUR D'ALÈNE FOREST RESERVE
IDAHO

By the President of the United States of America

A Proclamation

WHEREAS, the public lands in the State of Idaho, 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 State of Idaho, shown as the Cœur d'Alène Forest Reserve on the diagram forming a part hereof.

This proclamation will not take effect upon any lands withdrawn or reserved, at this date, from settlement, entry, or other appropriation, for any purpose other than forest uses, or which may be covered by any prior valid claim, so long as the withdrawal, reservation, or claim exists.

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 6th day of November, in the year of our Lord one thousand nine hundred and six, and of the Independence of the United States the one hundred and thirty-first.

[SEAL.]

THEODORE ROOSEVELT

By the President:

ROBERT BACON

Acting Secretary of State.

EXHIBIT 2 - PAGE 1

CŒUR D'ALÈNE FOREST RESERVE IDAHO

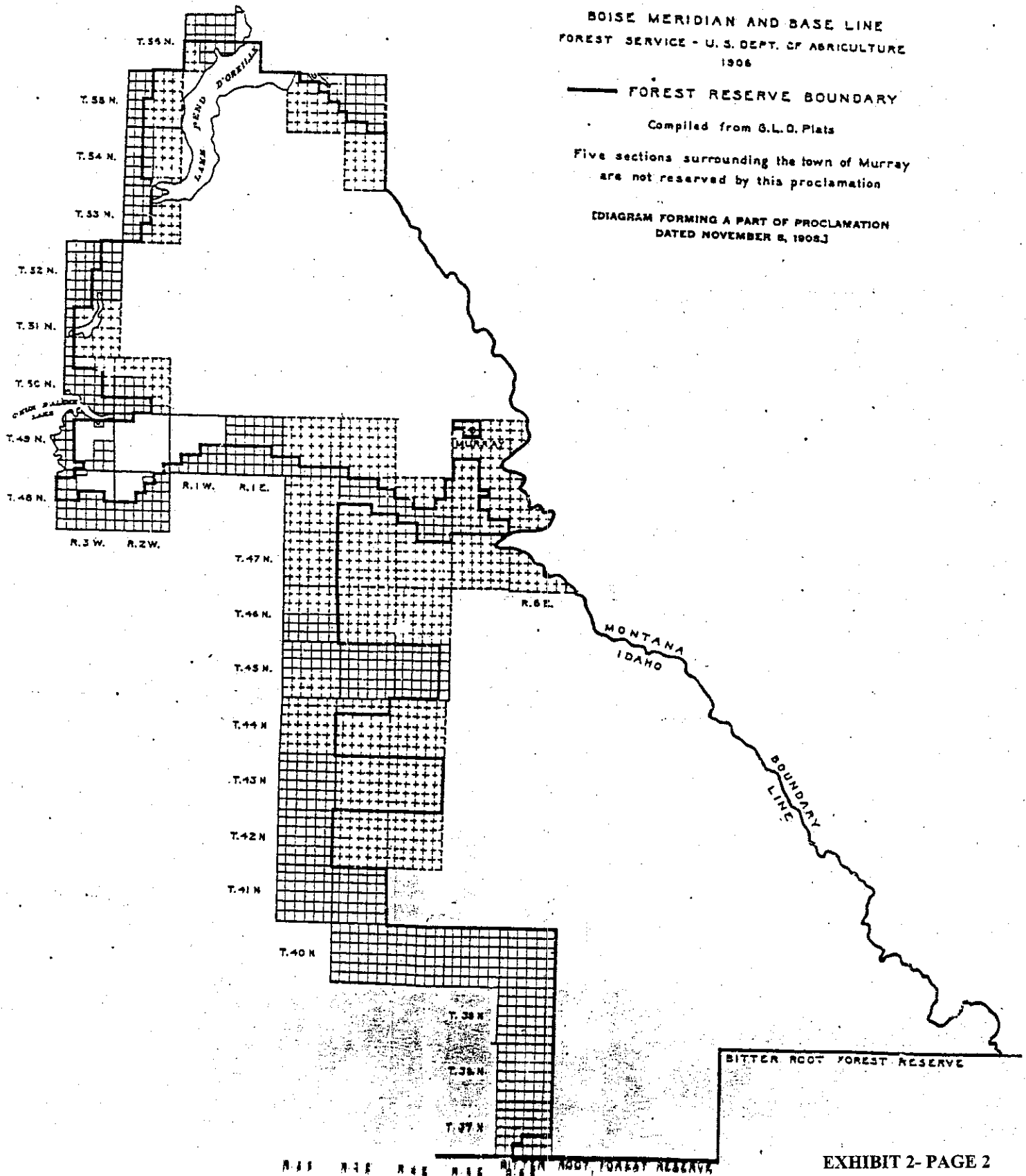
BOISE MERIDIAN AND BASE LINE
FOREST SERVICE - U. S. DEPT. OF AGRICULTURE
1906

— FOREST RESERVE BOUNDARY

Compiled from G.L.O. Plats

Five sections surrounding the town of Murray
are not reserved by this proclamation

[DIAGRAM FORMING A PART OF PROCLAMATION
DATED NOVEMBER 6, 1908.]



TOWNSHIP 41 NORTH RANGE 7 EAST OF THE BOISE MERIDIAN. IDAHO

SECTION	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 OTHER: PUBLIC PURPOSES, AND INDIAN TREATIES, REFER TO INDEX OF MISCELLANEOUS DOCUMENTS
							OTHER DESCRIPTION									
	NE 1/4	NW 1/4	SW 1/4	SE 1/4	LOTS											
16							All									
36							All									
							37N 7E									
							37N 6E									
							28N 10E									
							M&B; 41N 1W									
16							All									
36							All; 11N 1W	1280.00								
16							All									
36							All									
30																
31							See links									
31	X	X			2, 3, 4, 5, 6, 7		41N 6E									
31	X	X					37N 1E									
							39N 6E									
6							M&B; 41N 6E									
31							36N 9E									
31							39N 10E									
							See links; 42N 6E									
23							See links; 42N 6E									