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Department of Water Resources

Name of Party Filing Document:

UNITED STATES OF AMERICA

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
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. 83-10221
	)	
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 83-10221, as amended and before the Court in the SRBA.

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 This is substantiated in historical documents and maps maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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

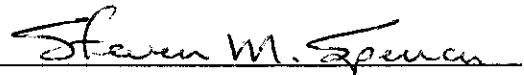
5. The priority date, November 6, 1906, for this reserved water right claim corresponds to the date of the Proclamation. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 83-10221 attached hereto as Exhibit 1, submitted in the SRBA:

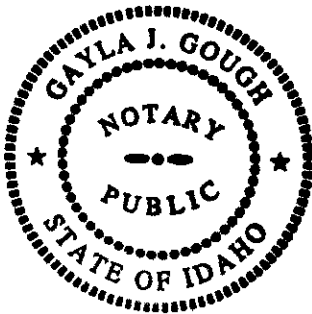
a. The land at the legal descriptions shown as the point of diversion and place of use is federally reserved National Forest System land. It was first reserved by 'A Proclamation' signed November 6, 1906, by Theodore Roosevelt, President of the United States, as the Coeur d'Alene Forest Reserve. It is now part of the Clearwater National Forest.

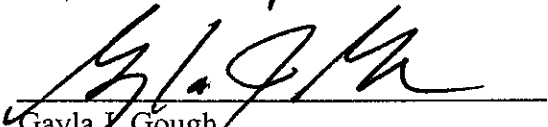
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

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 _____, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 83-10221 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: 83-10221

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: 11-06-1906

Point of Diversion: T37N R08E S15 ~~NWSE~~ NENW 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
Administrative
T37N R08E S15 ~~NWSE~~ NENW

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0105 17060307 10 A005
Weitas Guard Station

NOV 5 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 herein-
after 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 Con-
gress, 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 under-
growth, 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.

CŒUR D'ALÈNE FOREST RESERVE IDAHO

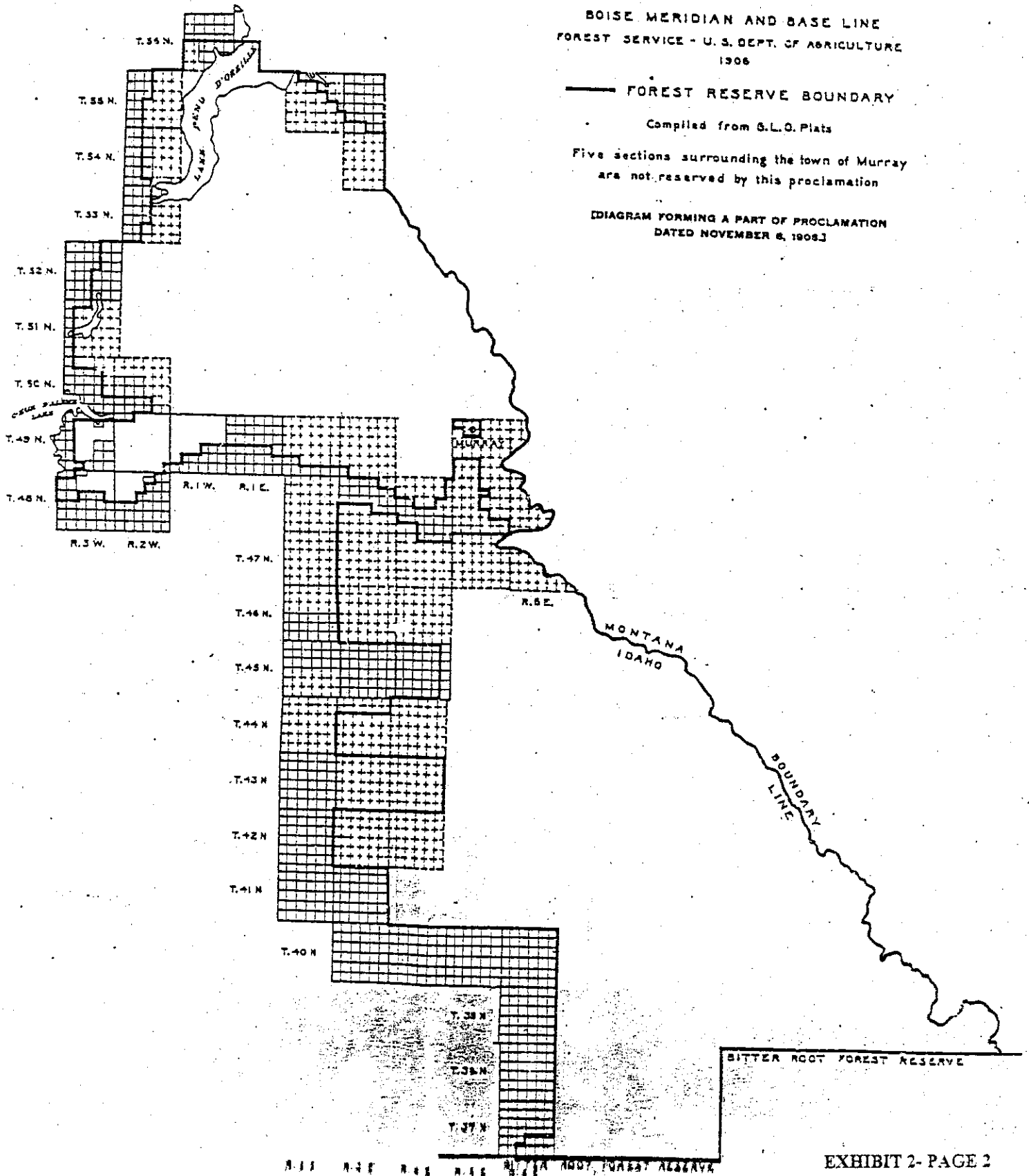
BOISE MERIDIAN AND BASE LINE
FOREST SERVICE - U. S. DEPT. OF AGRICULTURE
1906

— FOREST RESERVE BOUNDARY

Compiled from S.L.O. Plats

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

DIAGRAM FORMING A PART OF PROCLAMATION
DATED NOVEMBER 8, 1908



TOWNSHIP 37 NORTH RANGE 8 EAST OF THE BOISE MERIDIAN, IDAHO

SECTION	SUBDIVISION					LOTS	OTHER DESCRIPTION	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
	MEMORANDUM												
	NE 1/4	NW 1/4	SW 1/4	SE 1/4	ENTIRE TOWNSHIP								
16							All						Partially Act 10/9/1959
36							All		SG	Act of Cong	7/3/1890		Title to State to vest on approval of Survey, Subj to prior rights
							37N 7E		BLD 0 Temp Wd1 Snoshone Forest				
									Res		3/21/1905		Wdn Proc 11/6/1906
1	X	X	X	X	X	1, 2							
5			X	X	X	X							
9	X	X	X	X	X								
11			X										
15													
19	X	X	X	X	X	2, 3, 4							
27													
33				X	X								
35	X						40N 6E	2120.98	R115 Pat	45	5/2/1906		Partially Recon C 013030 1/8/1929, C 013244 12/17/1930, C 013644 1/2/1934
4	X	X	X	X	X								
8	X	X											
10					X								
12	X	X	X	X	X								
18	X	X	X	X	X	1, 2, 3, 4							
26	X				X								
30	X	X	X	X	X	1, 2, 3, 4							
34	X	X	X	X	X		38N 5E	2679.72	R115 Pat	47	6/8/1906		Partially Recon C 013030 1/8/1929, C 013244 12/17/1930, C 013644 1/2/1934
							37N 6E		Proc Wd1 Coeur d'Alene Forest				
									Res		11/6/1906		Chg to Coeur d'Alene NF Act 3/4/1907, Name Chg EO Bu2 6/26/1908
							28N 10E		EO Name Chg Coeur d'Alene NF	Bu2	6/26/1908		
									Proc 11/6/1906 to Clearwater NF				
16							All						
36							All		SG	Act of Cong	1/25/1927		Extends Act 7/3/1890 to Min lands, Subj to prior rights
1	X	X	X	X	X	1, 2							
11			X										
12	X	X	X	X	X								
26	X				X								
27													
33					X								
34	X	X	X	X	X								
35	X						37N 9E, 38N 9E	1920.57	FX WD to US	C 013030	1/8/1929		See QCD to US 1/7/1937
4				X	X								
9	X	X											
18	X	X	X	X	X	4							
19	X	X	X	X	X	2, 3, 4							
30	X	X	X	X	X	1, 2, 3, 4	37N 7E	1521.44	FX WD to US	C 013244	12/17/1930		See QCD to US 1/7/1937
4	X	X	X	X	X								
5			X	X	X								
8	X	X											
9		X	X	X	X								
10					X								
15		X											
18	X	X	X	X	X	1, 2, 3		1358.69	FX Deed to US	C 013644	1/2/1934		See FX Deed to US 3/1/1937