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Department of Water Resources

Name of Party Filing Document:

UNITED STATES OF AMERICA

Attorney's Names and Addresses:

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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. 37-19880
	)	
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 37-19880, as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Russian John 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 on November 6, 1906 in A Proclamation signed by President Theodore Roosevelt to enlarge to the Sawtooth Forest Reserve. This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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, November 6, 1906, for this reserved water right claim corresponds to the date of the Proclamation to enlarge the Sawtooth Forest Reserve. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 37-19880 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 an enlargement to the Sawtooth Forest Reserve on November 6, 1906, in A Proclamation signed by

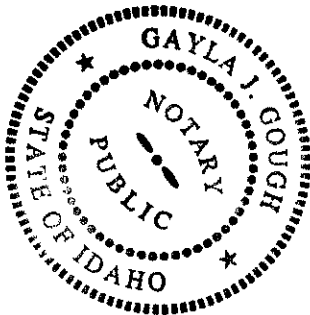
President Theodore Roosevelt. It is now in the Sawtooth National Recreation Area on the Sawtooth National Forest.

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
Steven M. Spencer

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



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

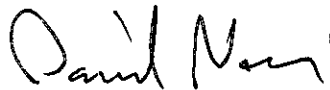
CERTIFICATE OF MAILING

I certify that on April 21, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 37-19880 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: 37-19880

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: 11-06-1906

Point of Diversion: T06N R16E S32 SWSW Within Blaine 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 Blaine County
	<u>Administrative</u>	
	T06N R16E S32	SWSW

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE NO 041417040219250061
Russian John Guard Station

Nov. 6, 1906

SAWTOOTH FOREST RESERVE.

IDAHO.

(SECOND PROCLAMATION.)

By the President of the United States of America.

A Proclamation.

WHEREAS, the Sawtooth Forest Reserve, in the State of Idaho, was established by proclamation dated May twenty-ninth, nineteen hundred and five;

And whereas, it appears that the public good would be promoted by adding to the said forest reserve certain lands, within the State of Idaho, which are in part covered with timber;

And whereas, it is provided by the Act of Congress, approved June fourth, eighteen hundred and ninety-seven, entitled, "An Act Making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes," that "The President is hereby authorized at any time to modify any Executive order that has been or may hereafter be made establishing any forest reserve, and by such modification may reduce the area or change the boundary lines of such reserve, or may vacate altogether any order creating such reserve";

Now, therefore, I, THEODORE ROOSEVELT, President of the United States of America, by virtue of the power in me vested by the said act of Congress, do proclaim that the aforesaid Sawtooth Forest Reserve is hereby enlarged to include the said additional lands, and that the boundaries of the reserve are now as shown 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.

SAWTOOTH FOREST RESERVE IDAHO

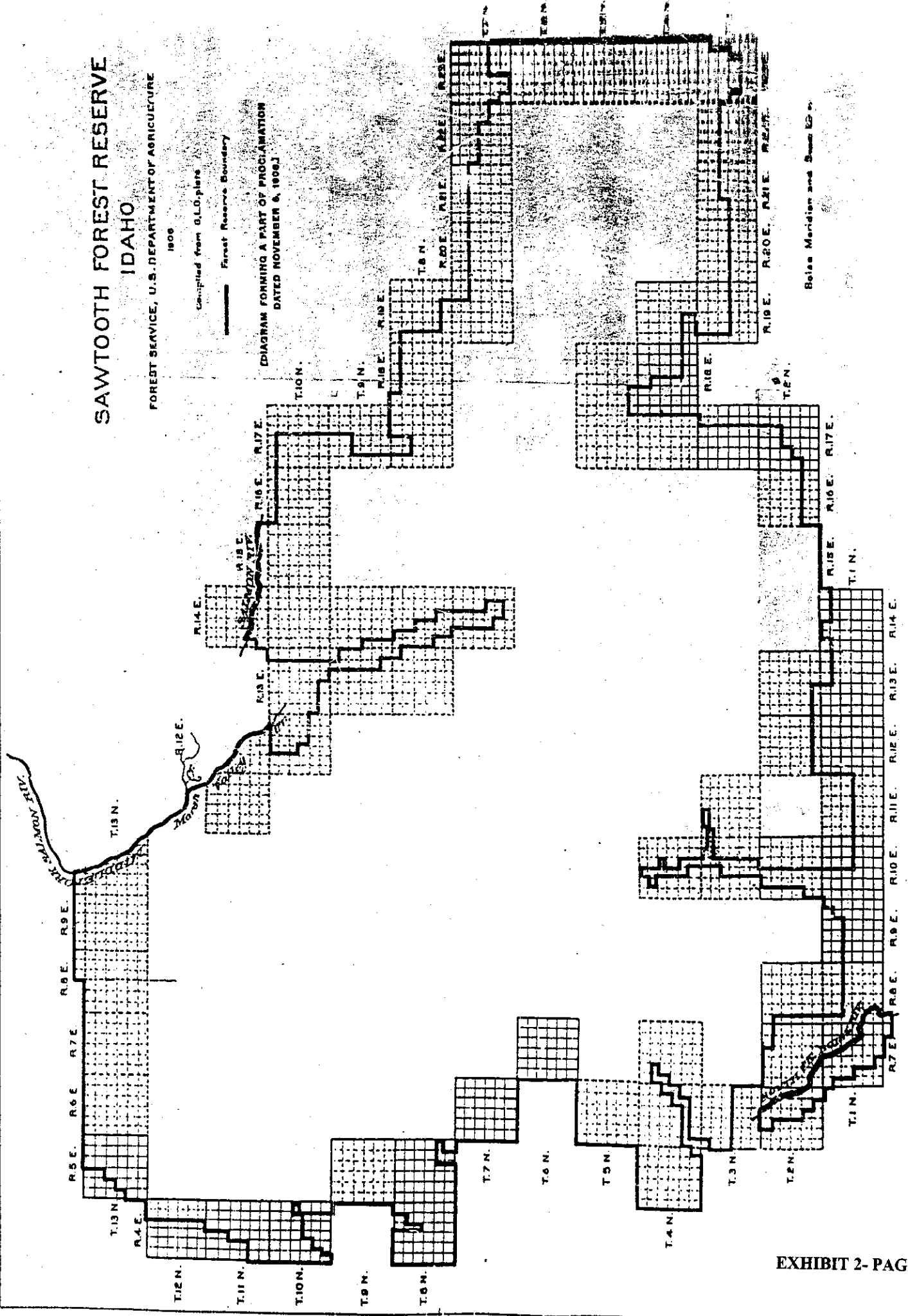
FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

1906

Compiled from G.L.O. plat

Forest Reserve Boundary

DIAGRAM FORMING A PART OF PROCLAMATION
DATED NOVEMBER 6, 1906



Boise Meridian and Sixth E. 6

UNSURVEYED TOWNSHIP 6 NORTH RANGE 16 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
	NE 1/4		NW 1/4		SW 1/4		SE 1/4		LOTS	OTHER DESCRIPTION						
	NE	NW	SW	SE	N	W	S	E								
FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS WITHDRAWN FOR CLASSIFICATION, MINERALS, WATER, AND/OR OTHER PUBLIC PURPOSES, AND INDIAN TREATIES, REFER TO INDEX OF MISCELLANEOUS DOCUMENTS																
30																
31																
32											Subdiv Und; 4N 17E					Rel 8/8/1974
23																
26									53			10.17	HE Pat	12081		MC 100; Index 303
16											All					
36											All					Title to State to vest on approval of Survey, Subj to prior rights
7																
18									MS 590			17.94	HE Pat	16757		MC 214
23									61			8.21	HE Pat	17395		Excluding Lot 53; MC 241; Index 318
6									MS 645		7N 16E	16.11	HE Pat	18844		MC 250
23									MS 927			17.434	HE Pat	20610		MC 343
26																
23									MS 962			13.36	HE Pat	22733		Excluding Lot 53; MC 373
26																
23																
26									MS 963			15.58	HE Pat	22734		MC 374
26									MS 964			20.20	HE Pat	22785		MC 375
26									MS 929			18.24	HE Pat	26009		Excluding MS 928 & Lot 53; MC 345
23																
26									MS 928			14.66	HE Pat	26146		MC 344
											14N 8E					Chg to Sawtooth NF Act 3/4/1907
16	X	X	X	X	X	X	X	X	X	X						
36	X	X	X	X	X	X	X	X	X	X	75 42E	1120.00	IL Base	16		
16	X	X	X	X	X	X	X	X	X	X	75 42E	80.00	IL Base	17		
36										X	11N 14W	80.00	IL Base	30		
16											All					
36											All					Extends Act 7/3/1890 to Min lands, Subj to prior rights
22																
23																
26																
27									MS 3200			185.727	HE Pat	1046924		Excluding MS 962, 963, 25; BL 045095
26									MS 3207			40.704	HE Pat	1046925		BL 045096
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19											All					Continued on page 2