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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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Environment and Natural Resources Division
General Litigation Section
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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. 75-13801
	)	
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 75-13801, as amended and before the Court in the SRBA.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Hughes Creek Ranger 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 Lemhi Forest Reserve in 'A Proclamation' signed by President Theodore Roosevelt on November 5, 1906. This is substantiated in historical documents and maps maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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.

5. The priority date, November 5, 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 75-13801 attached hereto as Exhibit 1, submitted in the SRBA:

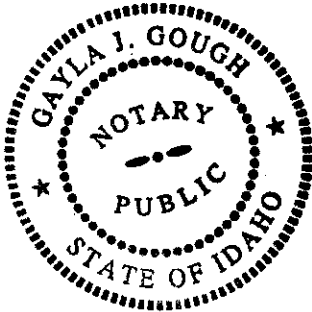
a. The land at the legal descriptions shown as the point of diversion and place of use is federally reserved National Forest System land. It was first reserved by Presidential Proclamation as the Lemhi Forest Reserve on November 5, 1906. It is now part of the Salmon-Challis National Forest.

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 5, 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

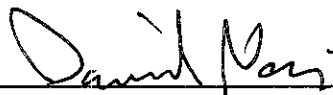
CERTIFICATE OF MAILING

I certify that on April 21, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 75-13801 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: 75-13801

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

Source: HUGHES CREEK RANGER STATION SPRING. Tributary: SALMON RIVER,
NORTH FORK

Quantity: .01 CFS

Priority Date: 11-05-1906

Point of Diversion: T25N R21E S22 NESW Within Lemhi County

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

Place of Use:	Domestic	Within Lemhi County
	<u>Administrative</u>	
	T25N R21E S22	NENW

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0413 17060203 21 0004
Hughes Creek Ranger Station

*First Proclamation
Superseded by Proclamation June 28-1908
and Executive Order June 26-1908*

LEMHI 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 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 Lemhi 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 5th day of November
in the year of our Lord one thousand nine hundred and
six, and of the Independence of the United States one
one hundred and thirty-first.

[SEAL.]

THEODORE ROOSEVELT

By the President:

ROBERT BACON

Acting Secretary of State.

T. 27 N.

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T. 8 N.

T. 7 N.

T. 6 N.

T. 5 N.

LEMHI FOREST RESERVE IDAHO

FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE
1906

Compiled from G.L.O. plats

— Forest Reserve Boundary

Boise Meridian and Base Line

EDICHOHILL FORMING A PART OF PROCLAMATION
DATED NOVEMBER 8, 1906.]

MONTANA
IDAHO
BOUNDARY
LINE

LEMHI INDIAN RESERVATION

UNSURVEYED TOWNSHIP 25 NORTH RANGE 21 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	OTHER DESCRIPTION						
	NE 1/4	NW 1/4	SW 1/4	SE 1/4							
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											
32						80.00	TC	L 513	4/29/1890		Canc 12/8/1896
16					All						
36					All						
14					MS 1134	4.879	ME Pat	Act of Cong	7/3/1890		Title to State to vest on approval of Survey, Subj to prior rights
4					MS 1120	477.756	ME Pat	26978	5/16/1896		MC 427
13								27168	6/18/1896		MC 425
14											
15					MS 1133	116.531	ME Pat	27169	6/18/1896		MC 426
29					MS 1309	20.661	ME Pat	32390	4/18/1900		MC 482; Located by protraction from 25N 20E
8											
16											
17											
21					MS 1480	176.099	ME Pat	34309	8/2/1901		MC 501
21											
22					MS 1498	57.933	ME Pat	35008	2/4/1902		MC 502
32					MS 1617	20.661	ME Pat	35959	10/17/1902		MC 517
					SM 27E		Proc Wd1 Lemhi Forest Res		11/5/1906		Chg to Lemhi NF Act 3/4/1907; Trfd ED 841 6/26/1908
9					MEB		SD Wd1 USFS Adm S		1/21/1908		Hughes Creek Agr Sta; Protraction locates land in Secs 16 & 21
					17N 20E		EO Trf Lemhi NF Proc 11/5/1906				
							to Salmon NF	841	6/26/1908		
					MEB	51.00	HE	H 06436	6/9/1910		Rel 9/23/1912
					MEB	22.97	HE	H 010693	1/17/1912		Rel 4/19/1913
1					HES 54	84.88	HE Pat	288307	8/19/1912		H 06518
					MEB	51.00	HE	H 012041	9/23/1912		Rel 6/19/1916
21					HES 61 Trs A, B	74.14	HE Pat	332406	5/10/1913		H 06540
21											
28					HES 55	37.56	HE Pat	336068	5/22/1913		H 06615
10											
11											
14											
15					HES 58	82.79	HE Pat	358554	10/8/1913		H 06541
14											
15					HES 69	73.23	HE Pat	398936	4/17/1914		H 08813
15											
22					HES 95	157.66	HE Pat	417265	6/24/1914		H 06683, H 09132
					MEB	29.59	HE	H 017046	3/11/1915		Rel 4/21/1919
33					HES 93	89.61	HE Pat	522236	3/30/1916		H 05833; Part Recon 11/22/1977
33					HES 92	14.95	HE Pat	522237	3/30/1916		H 05875; Part Recon 11/22/1977
28											
29					HES 89 Trs A, B	79.00	HE Pat	522238	3/30/1916		H 08838
28											
33					HES 285	86.80	HE Pat	597273	8/14/1917		H 06492
					MEB	51.48	HE	H 022571	9/14/1917		Rel 8/12/1918
16					All						
36					All; 7S 42E	1280.00	IL Base	16	3/27/1918		
19					HES 277	29.67	HE Pat	645192	8/21/1918		H 010692
1											
2											
11											