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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. 77-11535
	)	
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 77-11535, as amended and before the Court in the SRBA.

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 This is substantiated in historical documents and maps maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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

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

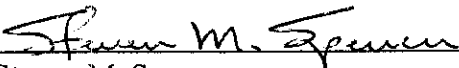
6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 77-11535 attached hereto as Exhibit 1, submitted in the SRBA:

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

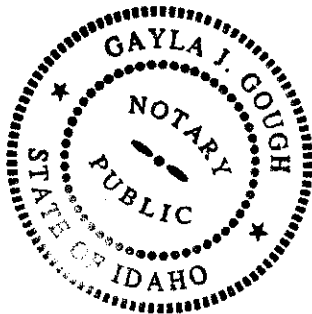
Presidential Proclamation November 5, 1906 as the Salmon River Forest Reserve. It is now part of the Salmon-Challis National Forest.

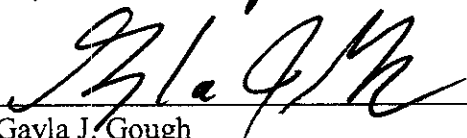
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date is: November 5, 1906


Steven M. Spencer

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

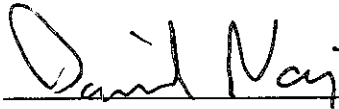
CERTIFICATE OF MAILING

I certify that on April 21, 2003, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 77-11535 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

A handwritten signature in dark ink, appearing to read "David Negri", is written over a horizontal line.

David L. Negri

NOTICE OF AMENDED CLAIM
RESERVED UNDER FEDERAL LAW

Right Number: 77-11535

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

Source: INDIAN SPRING Tributary: ~~INDIAN CREEK~~ SINKS

Quantity: .02 CFS

Priority Date: 11-05-1906

Point of Diversion: T15N R13E S02 NWNE Within Custer County

Purpose and Period of Use:	Purpose of Use	Period of Use	Quantity
	~~Domestic GUARD STATION~~	05-01 TO 10-31	.02 CFS
	<u>Administrative</u>		

Place of Use:	~~Domestic~~	Within Custer County
	<u>Administrative</u>	
	T15N R13E S02	NWNE

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

Explanatory Material: Basis of Claim - Reserved

FOREST SERVICE RECORD ID = 0406 17060205 66 0003
Indian Spring Guard Station

EXHIBIT 1

SALMON RIVER 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 Salmon River 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 the
one hundred and thirty-first.

[SEAL.]

THEODORE ROOSEVELT

By the President:

ROBERT BACON

Acting Secretary of State.

SALMON RIVER FOREST RESERVE IDAHO

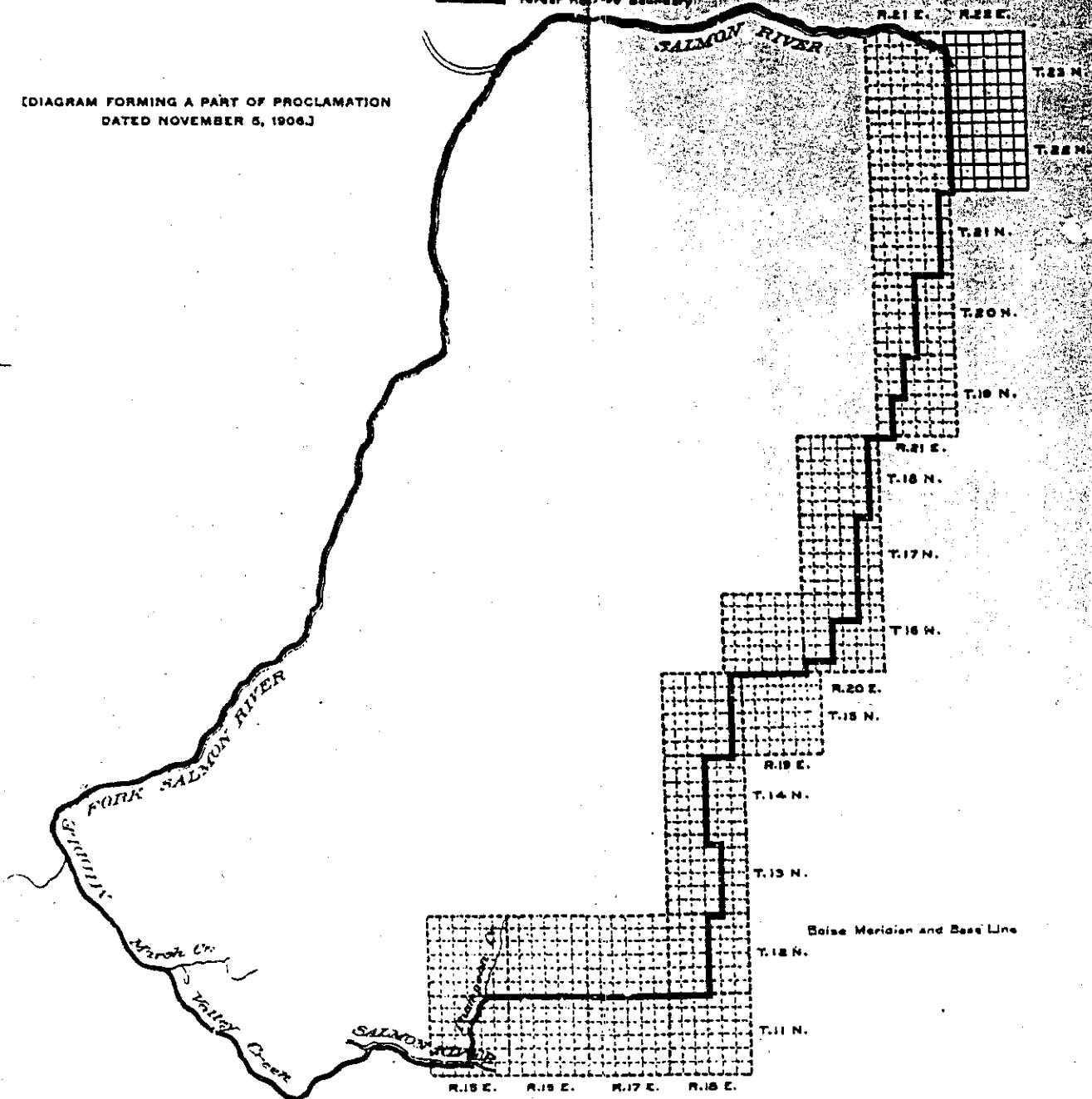
FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

1906

Compiled from G. O. plates

Forest Reserve Boundary

[DIAGRAM FORMING A PART OF PROCLAMATION
DATED NOVEMBER 5, 1906.]



37° 30' Longitude West from Washington

UNSURVEYED TOWNSHIP 15 NORTH RANGE 13 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 1/4 SW 1/4 SE 1/4	NE 1/4 SW 1/4 SE 1/4	NE 1/4 SW 1/4 SE 1/4	NE 1/4 SW 1/4 SE 1/4	NE 1/4 SW 1/4 SE 1/4	NE 1/4 SW 1/4 SE 1/4							
16						All			Act of Cong	7/3/1890			Title to State to vest on approval of Survey, Subj to prior rights
36						All							
						MSB: 14N 7E							
										11/14/1902			MD; Rest GLO 0 11/17/1904
						MSB: 14N 8E							
										11/17/1904			MD
28													
33						MS 1886	59.998	ME Pat	42144	5/16/1905			MC 571
						10N 13E		Proc Wd1 Salmon River Forest Res		11/5/1906			Chg to Salmon River NF Act 3/4/1907; Name Chg EO 840 6/26/1908
						8N 15E		EO Name Chg Salmon River NF Proc					
								11/5/1906 to Challis NF	840	6/26/1908			
16						All							
36						All: 57N 3W	1280.00	IL Base	12	9/19/1919			
16						All							
36						All			Act of Cong	1/25/1927			Extends Act 7/3/1890 to Min lands, Subj to prior rights
1													
2						9N 16E		Prop Wd1 USFS Adm S	1 05384	8/31/1954			Indian Springs; Wdn PLD 1376, 12/20/1956
1						9N 16E							
2								PLD Wd1 USFS Adm S	1376	12/20/1956			1 05384; Indian Springs; 21 ER 10403; See Ltr 7/24/1974
4						All							
5						All							
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