



U.S. Department of Justice

Environment and Natural Resources Division

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David A. Jarvis
Labat-Anderson, Inc.
999 Eighteenth Street
Suite 945, North Tower
Denver, Colorado 80202

JAN - 3 2003

Telephone (303) 312-7370
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Department of Water Resources

December 30, 2002

via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Subcase No. 43-11113

Dear Ms. Delaney:

Enclosed for filing is the following original document in the above mentioned subcase:

1. **STANDARD FORM 4 MOTION TO FILE: AMENDED NOTICE OF CLAIM.**

Thank you for your time and attention in this matter.

Sincerely,

David A. Jarvis
Paralegal

Enclosure

RECEIVED

JAN - 3 2003

Department of Water Resources

BRUCE D. BERNARD
Trial Attorney, General Litigation Section
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, Colorado 80202
(303) 312-7319

Counsel for the United States of America

IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE: SRBA	)	Subcase No. 43-11113
	)	City of Rocks National Reserve
	)	
	)	
	)	STANDARD FORM 4
CASE NO. 39576	)	
	)	MOTION TO FILE:
	)	AMENDED NOTICE OF CLAIM
	)	
	)	

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

Claimant United States of America, on behalf of the United States Department of the Interior, National Park Service ("United States"), by and through its undersigned attorney, and pursuant to SRBA Administrative Order 1, Rules of Procedure, and I.R.C.P. 55(c), respectfully moves the Court to enter an Order granting permission to file an Amended Notice of Claim in this subcase, and as grounds therefor, states:

1. The United States must amend its Notice of Claim to the use of water in the SRBA because:

The purpose of use for this claim is for administrative purposes on the City of Rocks National Reserve. In order to accurately describe the purpose of use, this water right claim should be amended to describe the purpose of use as "administrative including domestic." In addition, the quantities claimed are for future, as well as current, administrative needs of the reserve and the quantities claimed, while still de minimus, should be amended to a diversion rate of 0.04 cfs and a diversion volume of 13,000 gallons per day to cover those future and current needs.

2. This motion and the amended notice are timely.

3. Counsel for the United States of America, on behalf of the United States Department of the Interior, National Park Service, in this matter is identified below and has read SRBA Administrative Order 1, Rules of Procedure (amended October 16, 1997).

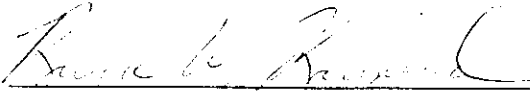
Bruce D. Bernard
Trial Attorney, General Litigation Section
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, Colorado 80202
(303) 312-7319

4. The Amended Notice of Claim is attached to this Motion.

WHEREFORE, for good cause shown, the United States respectfully requests this Court to enter an Order granting leave to file the Amended Notice of Claim herein. The United States does not believe a hearing on this motion is necessary.

Dated this 30th day of December, 2002.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Bruce D. Bernard", is written over a horizontal line.

BRUCE D. BERNARD

Trial Attorney, General Litigation Section
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, Colorado 80202
(303) 312-7319

Attorney for the United States of America, on
behalf of the United States Department of the
Interior, National Park Service

VERIFICATION

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Department of Water Resources

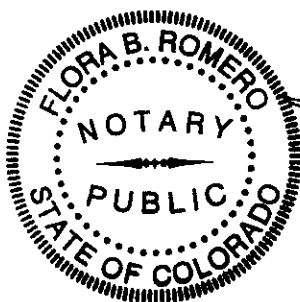
State of Colorado)
County of Larimer)

William R. Hansen, being first duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this Amended Notice of Claim, as defined by I.C. §§ 42-1401(1) and (6), and that I have read this Amended Notice of Claim, know its contents, and believe that the statements are true to the best of my knowledge.

William R. Hansen

SWORN TO AND SUBSCRIBED BEFORE ME, in my presence, this 27th day of December, 2002, a Notary Public, Larimer County, State of Colorado.



Flora B. Romero
NOTARY PUBLIC
STATE OF COLORADO

My Commission Expires:

Flora B. Romero, Notary Public
State of Colorado
My Commission Expires 7/31/2006

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 27th day of December, 2002, I served a true and correct copy of the foregoing **Standard Form 4 - Motion to File Amended Notice of Claim** by depositing a copy thereof in the U.S. Mail, postage prepaid, or by Federal Express, as indicated upon the following:

By FedEx Mail:

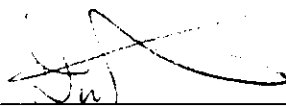
DISTRICT COURT
253 Third Ave., North
Twin Falls, ID 83301
208-736-2121

By First-Class Mail:

State of Idaho
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

U.S. Department of Justice
Environment & Natural Resources
550 West Fort Street, MSC 033
Boise, ID 83724

A handwritten signature in black ink, appearing to be "J. M.", is written over a horizontal line.

JAN - 3 2003

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE ~~State~~ Department of Water Resources
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number: 43-11113

Date received: _____

Receipt No: _____

AMENDED
NOTICE OF CLAIM TO A WATER RIGHT
RESERVED UNDER FEDERAL LAW

1. Name of Claimant: United States of America,
on behalf of the United States Department of the Interior,
National Park Service

Address: National Park Service
Water Rights Branch
1201 Oak Ridge Drive, Suite # 250
Fort Collins, CO 80525
(303) 225-3500

2. Date of Priority: **November 5, 1906**

3. Source of Water: **Ground water**

4. a. Location of Point of Diversion:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Tract</u>	<u>Gov't Lot</u>	<u>County Meridian</u>
T15S	R23E	26	NW1/4 NE1/4 SE1/4		Cassia Boise

- b. Description of Place of Use:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Tract</u>	<u>Gov't Lot</u>	<u>County Meridian</u>
T15S	R23E	26	NW1/4 NE1/4 SE1/4		Cassia Boise

- c. Description of Diversion Works: **Currently -- hand operated pump, 200 feet deep, five inch diameter bore hole; well and pump will be improved in the future as necessary to serve the administrative needs of the reserve.**

5. Total Quantity Claimed:

<u>Cubic feet per second</u>	<u>Gallons per day</u>	<u>Elevation (ft) or Well Depth</u>
0.04	13,000	200 (currently)

6. Total Consumptive Use Claimed for Present and Future Use is:

AMENDED NOTICE OF CLAIM 43-11113
CITY OF ROCKS NATIONAL RESERVE

<u>Cubic feet per second</u>	<u>Gallons per day</u>	<u>Elevation (ft) or Well Depth</u>
0.04	13,000	200 (currently)

7. Present and Future Uses to Which the Water is or Will Be Used: **Administrative including domestic**

Season of Use: **January 1 through December 31**

8. Attach the legal description of the reservation, and maps showing for each consumptive use the existing and proposed place of use and existing points of diversion.

Attached

9. Remarks: (include a list of document(s) creating the federal reservation and/or negotiated agreement). Land and water was reserved pursuant to:

Presidential Proclamation, November 5, 1906 (34 Stat. 3247)

The Arizona-Idaho Conservation Act of 1988 (Public Law 100-696, 102 Stat. 4571)

10. Describe any other water rights used at the same place and for the same purposes as described above: **None**

11. Counties within boundaries of reservation: **Cassia**

REFERENCE INFORMATION:

National Park Service Unit: **City of Rocks National Reserve**

IDWR Administrative Basin Number: **43**

Notice is hereby given that the United States Department of Justice will represent the United States on behalf of the Department of the Interior, National Park Service, in this matter.

All notices required by law should be mailed to counsel at the address below:

Bruce D. Bernard
U.S. Department of Justice
Environment and Natural Resources Division
999 18th Street, Suite 945
Denver, Colorado 80202

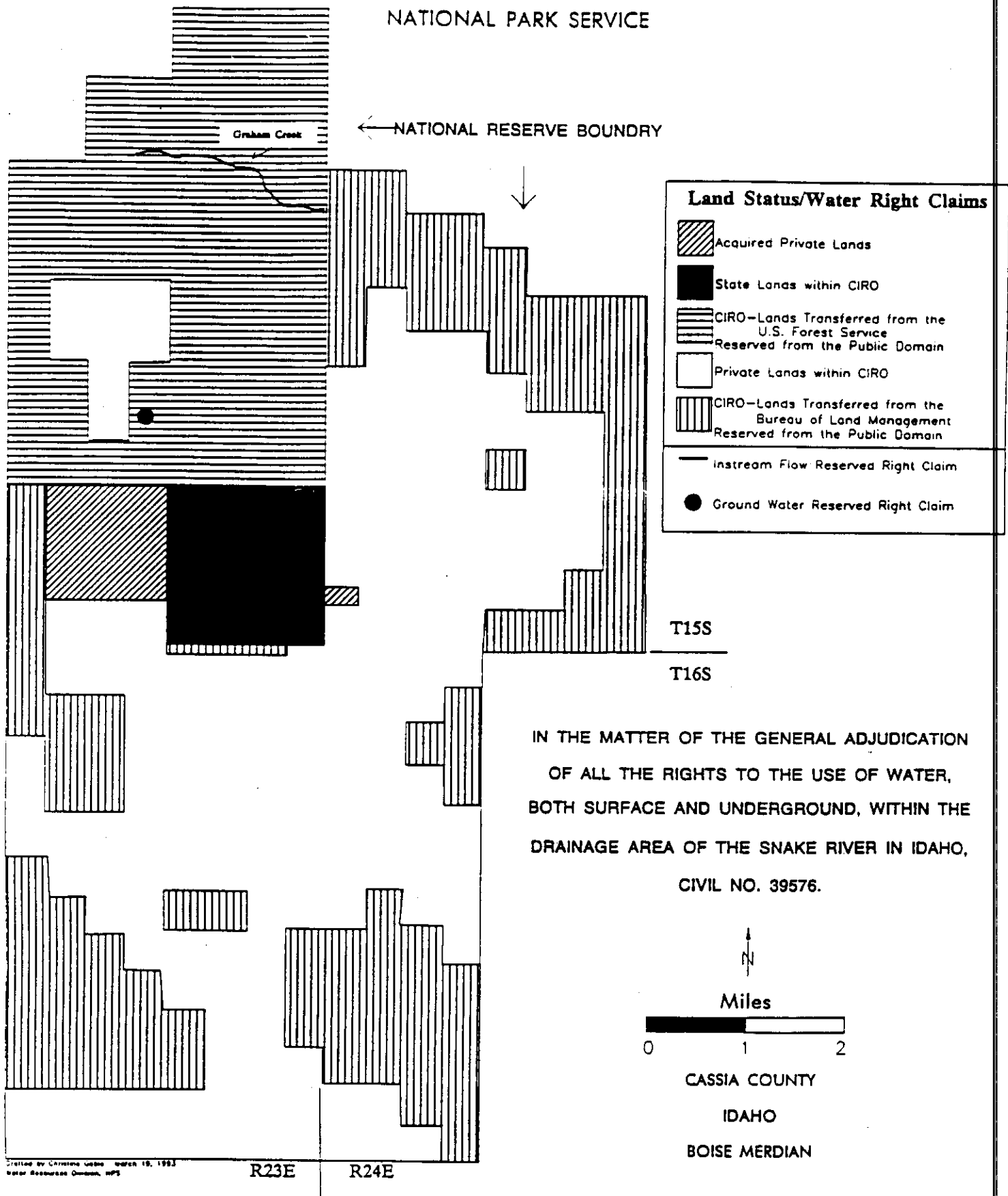
This Amended Notice of Claim is attached to the United States' Motion to File Amended Notice of Claim. The signed verification attached to the Motion constitutes the required signature of the authorized agent representing the United States.

CITY OF ROCKS NATIONAL RESERVE

(CIRO)

UNITED STATES DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE



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preparation and implementation of the comprehensive, long-range plan required pursuant to section 103 of this title.

(b) **REPRESENTATION:**—There shall be 7 members of the Committee, who shall be appointed by the Secretary. Members of the Committee shall be appointed for terms of three years, except that of the members first appointed 2 shall be appointed for terms of 1 year and 3 shall be appointed for terms of 2 years. The Secretary shall appoint one member from nominations supplied by the Governor of the State of Arizona, and one member from nominations supplied by the Supervisors of Cochise County, Arizona. The other members shall be persons with recognized backgrounds in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the primary purposes for which the conservation area was created.

LAND ACQUISITION

SEC. 105. The Secretary may acquire lands or interests in lands within the boundaries of the conservation area by exchange, purchase, or donation, except that any lands or interests therein owned by the State or local government may be acquired by donation or exchange only. Any purchase or exchange of lands to be added to the conservation area shall require the consent of the owner of those lands or rights.

16 USC 460xx-4.

REPORT TO CONGRESS

SEC. 106. No later than five years after the enactment of this title, and every ten years thereafter, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, on the implementation of this title. Such report shall include a detailed statement on the condition of the resources within the conservation area and of the progress of the Bureau of Land Management in achieving the purposes of this title.

16 USC 460xx-5.

AUTHORIZATION

SEC. 107. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

16 USC 460xx-6.

TITLE II—CITY OF ROCKS NATIONAL RESERVE

ESTABLISHMENT OF CITY OF ROCKS NATIONAL RESERVE

SEC. 201. (a) There is hereby established the City of Rocks National Reserve (hereinafter referred to as the "reserve"), in order to preserve and protect the significant historical and cultural resources; to manage recreational use; to protect and maintain scenic quality; and to interpret the nationally significant values of the reserve.

Planning
Preservation
16 USC 460yy.

(b) The reserve shall include approximately fourteen thousand three hundred and twenty acres as depicted on the map entitled "Boundary Map, City of Rocks National Reserve, Idaho" numbered P30-80,005 and dated October 1987. The map shall be on file in the offices of the National Park Service, Department of the Interior and the Offices of the Governor, State of Idaho.

(c) Within six months after the enactment of this title, the Secretary of the Interior (hereinafter in this title referred to as the

Public
information.

State and local
governments.
16 USC 460yy-1.

Grants.

"Secretary" shall file a legal description of the reserve designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (b). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and the offices of the Governor of the State of Idaho.

PLAN AND MANAGEMENT OF RESERVE

SEC. 202. (a) To achieve the purpose of this title, the Secretary, acting through the National Park Service, in cooperation with appropriate State and Federal agencies, local units of government and local residents shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

- (1) public use and development;
- (2) historic and natural preservation; and
- (3) private use subject to appropriate local ordinances designed to protect the historic rural setting.

(b) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives and to the Governor of the State of Idaho.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted ordinances or established regulations which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary shall, pursuant to cooperative agreement—

- (1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;
- (2) provide technical assistance to such State or units of local government in the management, protection, and interpretation of the reserve; and
- (3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government to carry out the purposes of this title.

(d)(1) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this title by donation, purchase with donated funds, or appropriated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the reserve to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(2) Lands and waters, and interests therein, within the boundaries of the reserve which were administered by the Forest Service,

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United States Department of Agriculture or the Bureau of Land Management, Department of the Interior prior to the date of enactment of this title are hereby transferred to the administrative jurisdiction of the Secretary to be administered by the National Park Service in accordance with this title.

(3) Lands and interest therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this title.

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this title, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a one hundred and eighty-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such one hundred and eighty-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this title.

(f) Congress finds that there are unique circumstances with respect to the water and water related resources within the Reserve designated by this title. The Congress recognizes that the management of this area may be transferred to the State of Idaho, that the State has committed to providing the water necessary to fulfill the purposes of this title, and that there is little or no water or water-related resources that require the protection of a Federal reserved water right. Nothing in this title, nor any action taken pursuant thereto, shall constitute either an express or implied reservation of water or water right for any purpose: *Provided*, That the United States shall retain that reserved water right which is associated with the initial establishment and withdrawal of the national forest lands which will be transferred to the Reserve under this title.

Water.

(g) Subject to valid existing rights, Federal lands and interests therein, within the reserve, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

(h) There is hereby authorized to be appropriated not to exceed \$2,000,000 to carry out the provisions of this title.

Appropriation
authorization.

TITLE III—HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

16 USC 431 note.

ESTABLISHMENT OF HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

Sec. 301. (a) In order to preserve for the benefit and enjoyment of present and future generations the outstanding paleontological sites known as the Hagerman Valley fossil sites, to provide a center for continuing paleontological research, and to provide for the display and interpretation of the scientific specimens uncovered at such sites, there is hereby established the Hagerman Fossil Beds

Nov 5, 1905

By the President of the United States of America

A Proclamation

WHEREAS, the public lands in the States of Idaho and Utah, 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 States of Idaho and Utah, shown as the Raft 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:

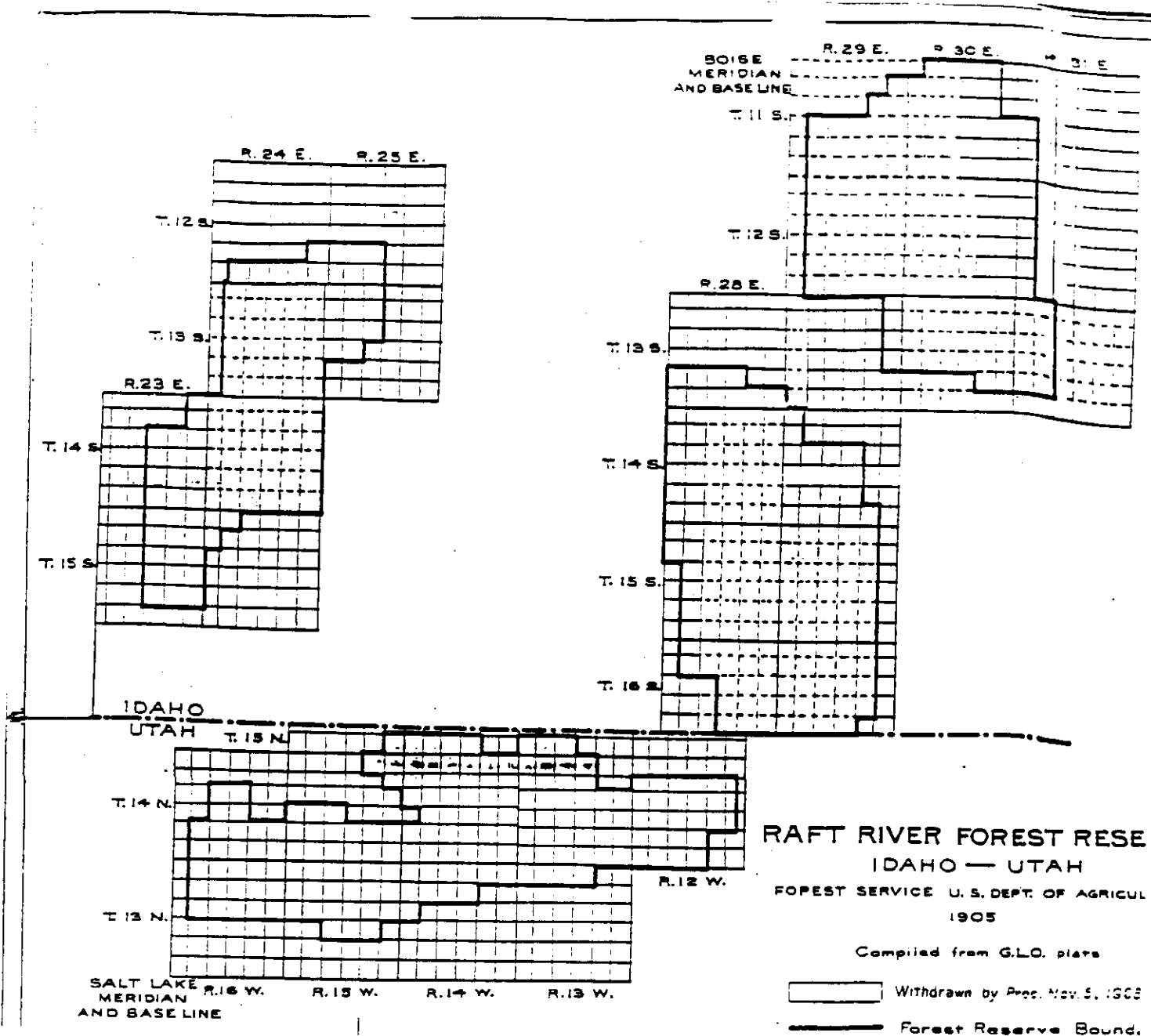
ROBERT BACON

Acting Secretary of State

Area Idaho 293,044 Acres

Utah 117,203 -

Total 410,247 -



RAFT RIVER FOREST RESE
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Compiled from G.L.O. plats