

RECEIVED

JUN 15 2005

Department of Water Resources

Name of Party Filing Document:

UNITED STATES OF AMERICA

Attorney's Names and Addresses:

KELLY A. JOHNSON
United States Department of Justice
Acting 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; facsimile (208) 387-0842
ISB#6697

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. 83-11939
	)	
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

Affidavit of Steven M. Spencer – 83-11939

1

SCANNED

JUN 15 2005

Team. I have been employed by the Forest Service for 28 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 83-11939.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Kelly Forks Work Center.

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 This is substantiated in historical documents and maps maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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.

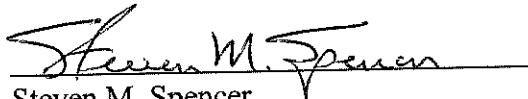
5. The priority date, November 6, 1906, for this reserved water right claim corresponds to the date of the Proclamation. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 83-11939 attached hereto as Exhibit 1, submitted in the SRBA:

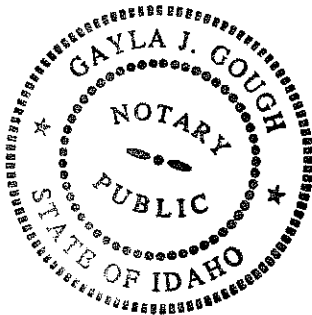
a. The land at the legal descriptions shown as the point of diversion and place of use is federally reserved National Forest System land. It was first reserved November 6, 1906, in A Proclamation signed by President Theodore Roosevelt. It is now part of the Clearwater National Forest.

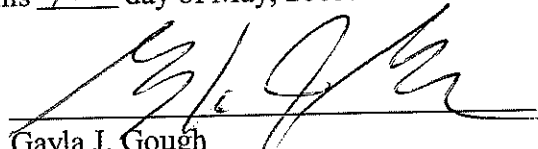
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date is: November 6, 1906.


Steven M. Spencer

SUBSCRIBED and SWORN to before me this 13TH day of May, 2005.




Gayla J. Gough
NOTARY PUBLIC FOR: Idaho
Residing at: Kuna, Idaho
My Commission Expires: 11/20/2010

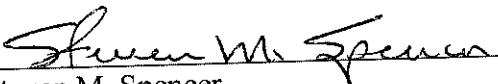
CERTIFICATE OF MAILING

I certify that on June 14, 2005, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 83-11939 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


Steven M. Spencer

Affidavit of Steven M. Spencer – 83-11939

SCANNED
JUN 15 2005

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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: 83-11939

RECEIVED
AUG 13 2004

DEPARTMENT OF
WATER RESOURCES

RESERVED UNDER FEDERAL LAW

1. Name of Claimant: UNITED STATES OF AMERICA on behalf of the U.S.D.A. Forest Service
Address: 550 W. Fort Street MSC033

Boise

ID 83724

2. Date of Priority: 11/06/1906

Tributary: Sinks

3. Source of water: Spring

4. Location Meridian BOISE

From: Spring

Description of Diversion Works: Headbox

Location of Point of Diversion

T: 39 N R 09 E S: 13 SENE

Location of Place of Use

T: 39 N R 09 E S: 13 SESE

ac: 0

T: 39

N R 10

E S: 18

SWSW

ac: 0

5. Quantity claimed:

Period

1/ 01 - 12/ 31

Quantity

0.08 CFS

For

Administrative

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

0.08 CFS

7. Present and future uses to which the water is or will be used:

Administrative

8. Remarks:

State Basin: 83

National Forest: Clearwater

Forest Service Record ID: 1 5 17060307 15 A006

Kelly Forks Work Center

I verify to the best of my knowledge the statements contained in this document are true and correct.

Steven M. Spencer
STEVEN M. SPENCER
Consumptive Use Water Specialist

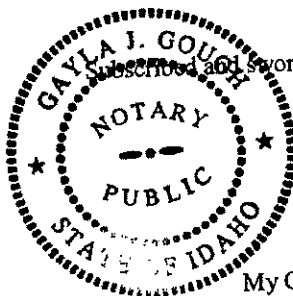
August 13, 2004
[Signature]
Notary Republic

Residing at:

KUNA, IDAHO

My Commission Expires:

11-17-2004



SCANNED

83-11939

Page: 1

JUN 15 2005

EXHIBIT 1

tion, 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.

Reserved from
settlement.

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
[SEAL.] of the Independence of the United States the one hundred and thirty-first.

THEODORE ROOSEVELT

By the President:

ROBERT BACON

Acting Secretary of State.

November 6, 1906.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Cœur d'Alène
Forest Reserve,
Idaho.
Preamble.

WHEREAS, the public lands in the State of Idaho, 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;

Vol. 26, p. 1103.

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;"

Forest reserve,
Idaho.

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.

Lands excepted.

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.

Reserved from
settlement.

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
[SEAL.] of the Independence of the United States the one hundred and thirty-first.

THEODORE ROOSEVELT

By the President:

ROBERT BACON

Acting Secretary of State.

SCANNED

JUN 15 2005

EXHIBIT 2 - PAGE 1

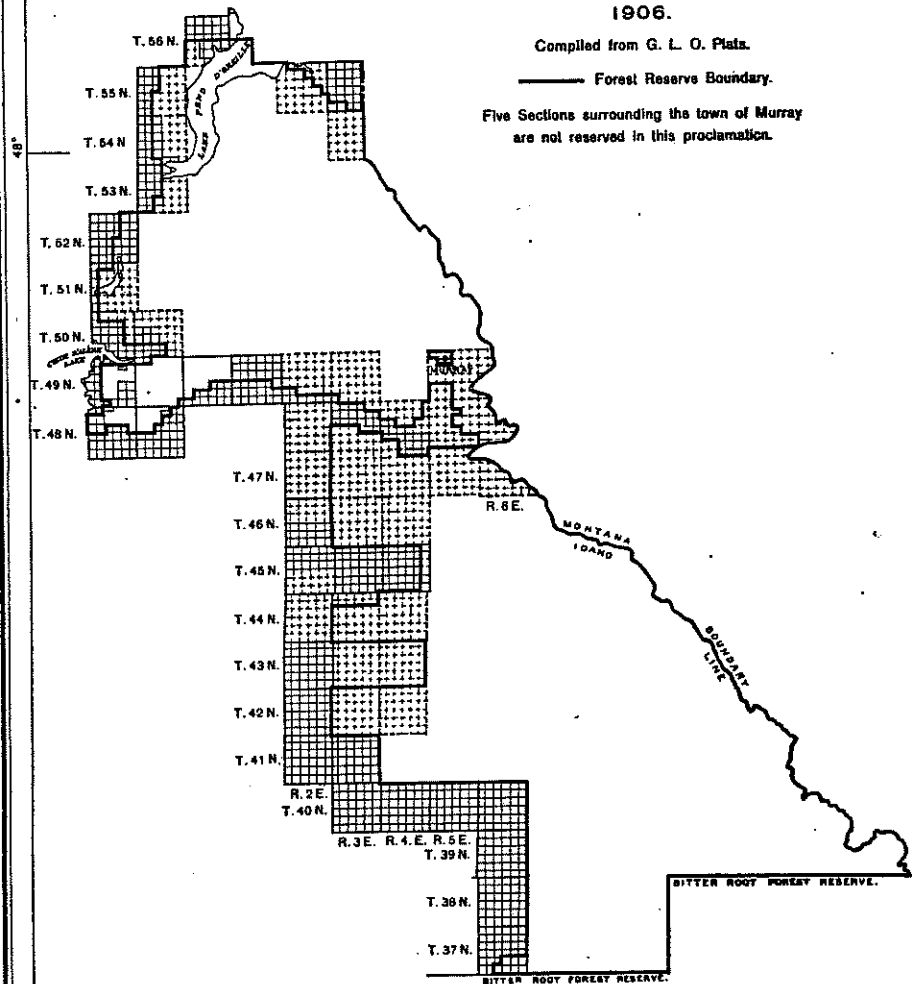
CŒUR D'ALÉNE FOREST RESERVE,
IDAHO.

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

Compiled from G. L. O. Plats.

— Forest Reserve Boundary.

Five Sections surrounding the town of Murray
are not reserved in this proclamation.



[DIAGRAM FORMING A PART OF PROCLAMATION
DATED NOVEMBER 6, 1906.]

39° West from Washington.

SCANNED

JUN 15 2005

EXHIBIT 2 - PAGE 2