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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. 83-11940           |
|                    | ) |                                |
| 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 – 83-11940

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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 83-11940.

3. I have reviewed Exhibit 1, as amended by the Forest Service for Weitas Administrative Site.

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 This is substantiated in historical documents and maps maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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

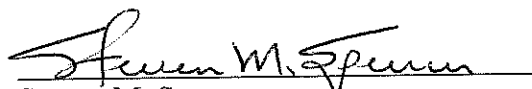
5. The priority date, November 6, 1906, for this reserved water right claim corresponds to the date of the Proclamation. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 83-11940 attached hereto as Exhibit 1, submitted in the SRBA:

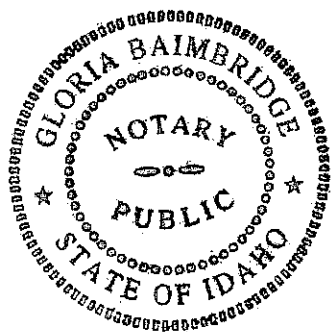
a. The land at the legal descriptions shown as the point of diversion and place of use is federally reserved National Forest System land. It was first reserved November 6, 1906, in A Proclamation signed by President Theodore Roosevelt. It is now part of the Clearwater National Forest.

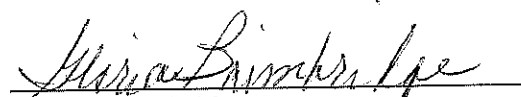
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

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

  
Steven M. Spencer

SUBSCRIBED and SWORN to before me this 23 day of May, 2005.



  
Gloria Baimbridge  
NOTARY PUBLIC FOR: Idaho  
Residing at: Boise, Idaho  
My Commission Expires: 10/07/2008

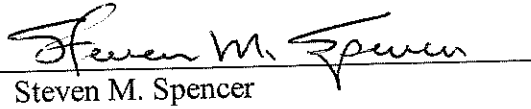
## CERTIFICATE OF MAILING

I certify that on June 14, 2005, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 83-11940 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

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DEPARTMENT OF  
WATER RESOURCES

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: 83-11940

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
3. Source of water: STATION CREEK Tributary: WEITAS CREEK
4. Location Meridian BOISE  
Description of Diversion Works: Headgate  
Location of Point of Diversion  
T: 37 N R 08 E S: 15 SENW  
Location of Place of Use  
T: 37 N R 08 E S: 15 NENW
5. Quantity claimed: Period 6/01 -- 10/31 Quantity 0.25 CFS For Administrative
6. Total Consumptive Use Claimed for Present and Future Use is:  
0.25 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: 1517060307100A001  
Weitas Administrative Site.

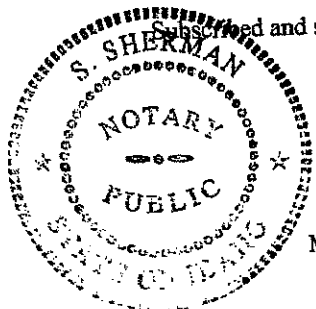
I verify to the best of my knowledge the statements contained in this document are true and correct.

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

18 August 04  
S. Spencer  
Notary Republic

Residing at: Boise, ID

My Commission Expires: 11-14-04



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.*

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JUN 15 2005

EXHIBIT 2 - PAGE 1

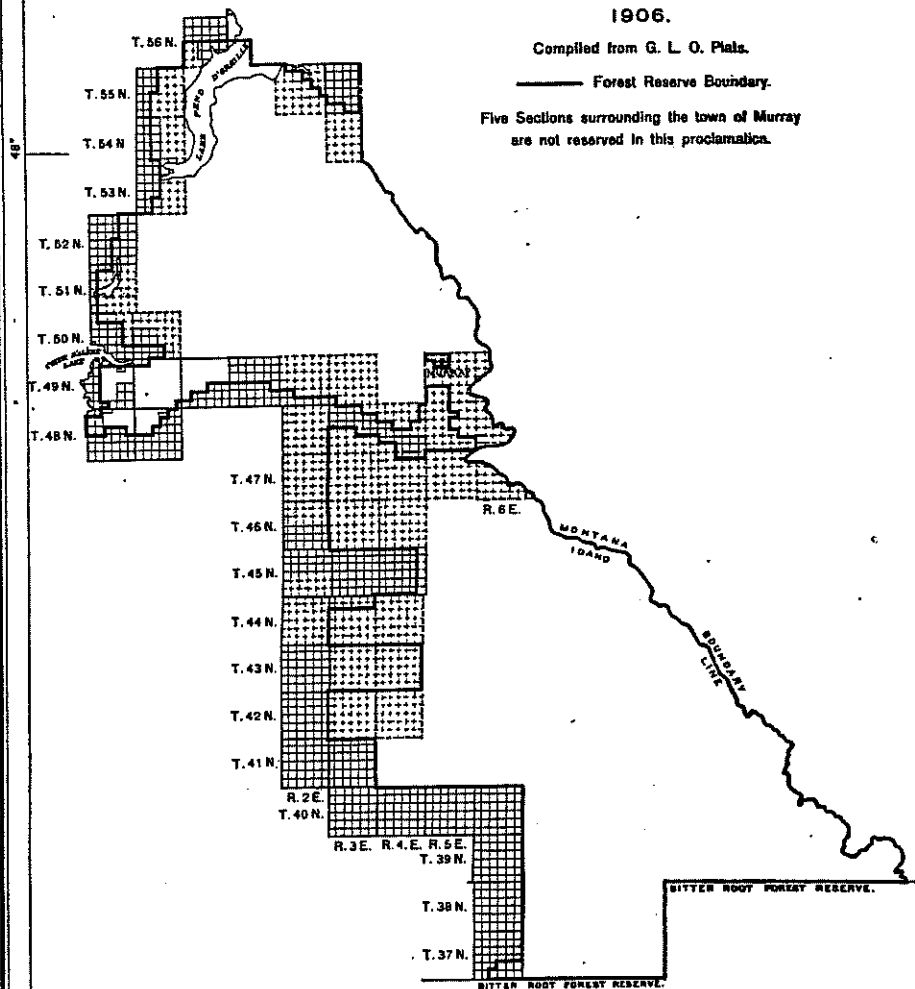
# CŒUR D'ALÉNE FOREST RESERVE, IDAHO.

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