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DEPARTMENT OF
WATER RESOURCES

Name of Party Filing Document:

UNITED STATES OF AMERICA

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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. 77-10795
	)	
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 – 77-10795

Team. I have been employed by the Forest Service for 30 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 77-10795, before the Court in the SRBA.

3. I have reviewed Exhibit 1, as filed by the Forest Service for Bernard 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 added to the Idaho and Payette National Forests in A Proclamation signed by President Woodrow Wilson on December 27, 1919. This consummated the Act of Congress, dated October 29, 1919, Public No. 69, which set apart and reserved certain lands in central Idaho as national forest lands. This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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 for this reserved water right claim, December 27, 1919, corresponds to the date of the Proclamation adding lands to the Idaho and Payette National Forests. *See* Exhibit 2.

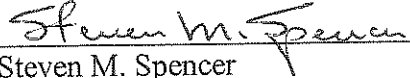
6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 77-10795 attached hereto as Exhibit 1, submitted in the SRBA:

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 added to the Idaho and Payette National Forests as lands reserved in central Idaho in a Proclamation signed by President

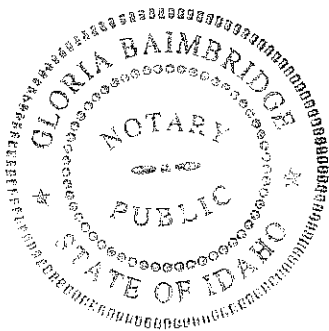
Woodrow Wilson on December 27, 1919. It is now part of the Salmon-Challis National Forest.

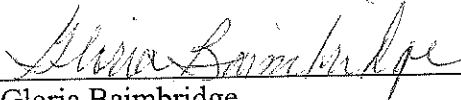
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date is: December 27, 1919.


Steven M. Spencer

SUBSCRIBED and SWORN to before me this 13 day of February 2007.




Gloria Baimbridge
NOTARY PUBLIC FOR: Idaho
Residing at: Boise, Idaho
My Commission Expires: 10/17/2008

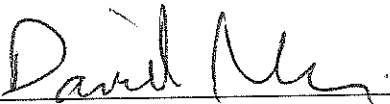
CERTIFICATE OF MAILING

I certify that on February 14, 2007, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 77-10795 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

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: 77-10795

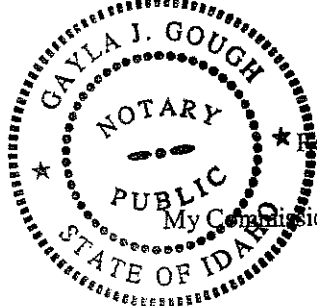
RESERVED UNDER FEDERAL LAW

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: 12/27/1919
3. Source of water: BERNARD CREEK
Tributary: SALMON RIVER, MIDDLE FORK
4. Location Meridian BOISE
Description of Diversion Works: Ditch or Canal
From: Stream
Location of Point of Diversion
T: 19 N R 14 E S: 22 SWNW
Location of Place of Use
T: 19 N R 14 E S: 22 SENW L 3
5. Quantity claimed: Period Quantity For
4 / 01 - 9 / 30 0.03 CFS Administrative
6. Total Consumptive Use Claimed for Present and Future Use is:
0.03 CFS
7. Present and future uses to which the water is or will be used:
Administrative
8. Remarks:
State Basin: 77
National Forest: Salmon
Forest Service Record ID: 4 13 17060206 39 0 0004
BERNARD GUARD STATION.

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

Subscribed and sworn to before me on:



Aug 24 2005
[Signature]
Notary Republic
KUNA, IDAHO
11-20-2010

Residing at:

My Commission Expires:

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States to be affixed.

Done by the President, through Newton D. Baker, Secretary of War, in the District of Columbia, this 24th day of December
[SEAL.] the year of our Lord 1919 and of the Independence of the United States the One Hundred and Forty Fourth.

WOODROW WILSON

By the President:

ROBERT LANSING,
Secretary of State.
NEWTON D. BAKER
Secretary of War.

December 27, 1919.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION.

Idaho and Payette
National Forests,
Idaho.
Preamble.
Ante, p. 324.

WHEREAS, An Act of Congress, dated October 29, 1919, Public No. 69, set apart and reserved certain lands in central Idaho as national forest lands, subject to the approval of the Secretary of the Interior and to all valid existing claims, and included said lands within specified National Forests; and

WHEREAS, on December 23, 1919, the Secretary of the Interior approved such reservation of said lands; and

WHEREAS, It is desirable in the public interest to publish the consummation of said Act in order that due judicial notice thereof may be taken by all courts of law, and for other purposes;

Area extended.

NOW, THEREFORE, I, WOODROW WILSON, President of the United States of America, do proclaim that the inclusion of the said lands in National Forests pursuant to said Act became effective as of December 23, 1919, and that the said lands are those indicated as additions to the Idaho and Payette National Forests, respectively, on the diagram hereto attached and forming a part hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the District of Columbia this 27th day of December, in the year of our Lord one thousand nine hundred and nine-
[SEAL.] teen, and of the Independence of the United States the one hundred and forty-fourth.

WOODROW WILSON

By the President:

ROBERT LANSING,
Secretary of State.

January 16, 1920.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION.

Boone National For-
est, N. C.
Preamble.
Vol. 36, p. 961.

WHEREAS, certain lands within the State of North Carolina have been or may hereafter be acquired by the United States under authority of the Act of Congress approved March first, nineteen hundred and eleven (36 Stat., 961), entitled "An Act To enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers" and

