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DEPARTMENT OF
WATER RESOURCES

Names of Party Serving Document:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

RONALD J. TENPAS
Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division

DAVID L. NEGRI
United States Department of Justice
Environment and Natural Resources Division
Natural Resources Section
550 West Fort Street, MSC 033
Boise, Idaho 83724
(208) 334-1936
(202) 305-0435

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. 63-32577
	)	
Case Number: 39576	)	AFFIDAVIT OF STEVEN M. SPENCER
_____	)	

State of: IDAHO
County of: GEM

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 a water use specialist. I have been employed by the Forest Service

Affidavit of Steven M. Spencer – 63-32577

for 31 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 63-32577, in the SRBA.

3. I have reviewed Exhibit 1, for Cottonwood 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 Sawtooth Forest Reserve on May 29, 1905, in 'A Proclamation' signed by President Theodore Roosevelt. This is substantiated in historical documents maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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, May 29, 1905, for this reserved water right claim corresponds to the date of the Proclamation creating the Sawtooth Forest Reserve. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 63-32577 in the SRBA, attached hereto as Exhibit 1:

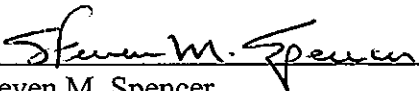
a. The land at the legal descriptions shown as the point of diversion and place of use is federally reserved National Forest System land. It was first reserved as the Sawtooth Forest Reserve on May 29, 1905, in 'A Proclamation' signed by President Theodore Roosevelt. It is now part of the Boise National 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,

Affidavit of Steven M. Spencer – 63-32577

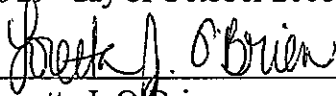
ID 83724.

c. The priority date is: May 29, 1905.


Steven M. Spencer

SUBSCRIBED and SWORN to before me this 29th day of October 2008

Loretta J. O'Brien
Notary Public
State of Idaho


Loretta J. O'Brien
NOTARY PUBLIC FOR: Idaho
Residing at: Emmett, Gem County, Idaho
My Commission Expires: 10/01/2013

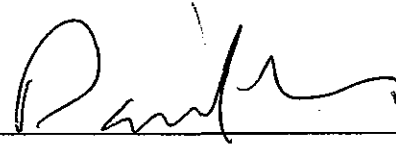
CERTIFICATE OF MAILING

I certify that on October 31, 2008, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 63-32577 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 black ink, appearing to read "David L. Negri", is written over a horizontal line.

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: 63-32577

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: 05/29/1905
3. Source of water: RANGER CREEK Tributary: COTTONWOOD CREEK
4. Location Meridian BOISE
Description of Diversion Works: Combo From: Stream
Location of Point of Diversion
T: 04 N R: 05 E S: 35 SWSW
Location of Place of Use
T: 04 N R: 05 E S: 35 NESW ac: 0
5. Quantity claimed: Period Quantity For
1/ 01 -- 12/ 31 0.10 CFS Administrative
6. Total Consumptive Use Claimed for Present and Future Use is:
0.10 CFS
7. Present and future uses to which the water is or will be used:
Administrative
8. Remarks:
State Basin: 63
National Forest: Boise
Forest Service Record ID: 4 2 17050112 36
Cottonwood 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
DEC 12 2006

Subscribed and sworn to before me on:

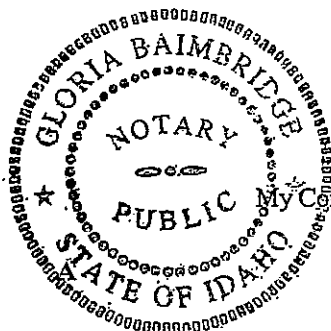
Gloria Baimeridge
Notary Republic

Residing at:

Boise, Idaho

My Commission Expires:

OCT 17 2008



Name.

The reservation hereby established shall be known as The Weiser Forest Reserve.

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 25th day of May, in the year of our Lord one thousand nine hundred and five, and of [SEAL.] the Independence of the United States the one hundred and twenty-ninth.

THEODORE ROOSEVELT

By the President:

FRANCIS B LOOMIS

*Acting Secretary of State.*May 29, 1905.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

The Sawtooth
Forest Reserve,
Idaho.
Preamble.
Vol. 26, p. 1103.
Part, p. 3260.

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";

And whereas, the public lands in the State of Idaho, within the limits hereinafter described, are in part covered with timber, and it appears that the public good would be promoted by setting apart and reserving said lands as a public reservation;

Forest reserve,
Idaho.

Now, therefore, I, Theodore Roosevelt, President of the United States, by virtue of the power in me vested by section twenty-four of the aforesaid Act of Congress, do hereby make known and proclaim that there are hereby reserved from entry or settlement and set apart as a Public Reservation all those certain tracts, pieces or parcels of land lying and being situate in the State of Idaho, and within the boundaries particularly described as follows:

Description.

Beginning at the north-west corner of Section three (3), Township thirteen (13) North, Range five (5) East, Boise Base and Meridian, Idaho; thence easterly to the north-east corner of Section four (4), Township thirteen (13) North, Range eight (8) East; thence southerly to the south-west corner of Section fifteen (15), Township twelve (12) North, Range eight (8) East; thence easterly to the north-east corner of Section twenty-four (24), Township twelve (12) North, Range nine (9) East; thence southerly to the south-west corner of Section thirty (30), Township twelve (12) North, Range ten (10) East; thence easterly to the north-east corner of Section thirty-six (36), said township; thence southerly to the south-west corner of Township twelve (12) North, Range eleven (11) East; thence easterly to the north-east corner of Section five (5), Township eleven (11) North, Range eleven (11) East; thence southerly to the south-west corner of Section twenty-one (21), said township; thence easterly to the north-east corner of Section twenty-nine (29), Township eleven (11) North, Range twelve (12) East; thence southerly to the south-west corner of Section sixteen (16), Township ten (10) North, Range twelve (12) East; thence easterly to the north-east corner of Section

Sawtooth Forest
Reserve—Continued.

twenty-one (21), said township; thence southerly to the south-west corner of Section twenty-two (22), said township; thence easterly to the north-east corner of Section twenty-five (25), said township; thence southerly to the south-west corner of Section thirty (30), Township ten (10) North, Range thirteen (13) East; thence easterly to the north-east corner of Section thirty-three (33), said township; thence southerly to the south-west corner of Section thirty-four (34), said township; thence easterly to the north-east corner of Section three (3), Township nine (9) North, Range thirteen (13) East; thence southerly to the south-west corner of Section twenty-six (26), said township; thence easterly to the north-east corner of Section thirty-five (35), said township; thence southerly to the south-west corner of Section one (1), Township eight (8) North, Range thirteen (13) East; thence easterly to the north-east corner of Section twelve (12), said township; thence southerly to the south-west corner of Section nineteen (19), Township eight (8) North, Range fourteen (14) East; thence easterly to the north-east corner of Section thirty (30), said township; thence southerly to the south-west corner of Section thirty-two (32), said township; thence easterly to the north-east corner of Section five (5), Township seven (7) North, Range fourteen (14) East; thence southerly to the south-east corner of Section twenty-nine (29), said township; thence westerly to the north-west corner of Section thirty-one (31), said township; thence southerly to the south-east corner of Township seven (7) North, Range thirteen (13) East; thence westerly to the north-west corner of Section one (1), Township six (6) North, Range thirteen (13) East; thence southerly to the south-east corner of Section eleven (11), said township; thence westerly to the north-west corner of Section fourteen (14), said township; thence southerly to the south-west corner of Section twenty-three (23), said township; thence easterly to the north-east corner of Section thirty (30), Township six (6) North, Range fourteen (14) East; thence southerly to the south-west corner of Section twenty-nine (29), said township; thence easterly to the north-east corner of Section thirty-three (33), Township six (6) North, Range fifteen (15) East; thence southerly, allowing for the proper offset on the First (1st) Standard Parallel North, to the south-west corner of Section fifteen (15), Township four (4) North, Range fifteen (15) East; thence easterly to the north-east corner of Section twenty-two (22), said township; thence southerly to the south-east corner of Section thirty-four (34), said township; thence westerly to the north-west corner of Township three (3) North, Range fifteen (15) East; thence southerly to the south-east corner of Section one (1), Township three (3) North, Range fourteen (14) East; thence westerly to the north-west corner of Section nine (9), said township; thence southerly to the south-east corner of Section thirty-two (32), said township; thence westerly to the south-west corner of Section thirty-five (35), Township three (3) North, Range ten (10) East; thence northerly to the north-west corner of the south-west quarter of Section eleven (11), said township; thence easterly to the south-east corner of the north-east quarter of Section seven (7), Township three (3) North, Range eleven (11) East; thence northerly to the north-west corner of Section eight (8), said township; thence easterly to the south-east corner of Section four (4), said township; thence northerly to the north-east corner of said section; thence westerly to the north-west corner of Section five (5), said township; thence southerly to the south-west corner of the north-west quarter of said section; thence westerly to the south-west corner of the north-west quarter of Section one (1), Township three (3) North, Range ten (10) East; thence northerly to the north-east corner of Section two (2), said township; thence westerly to the south-west

Sawtooth Forest
Reserve—Contin-
ued.

corner of Section thirty-five (35), Township four (4) North, Range ten (10) East; thence northerly to the north-east corner of Section twenty-seven (27), said township; thence westerly to the south-west corner of Section twenty-two (22), said township; thence northerly to the north-west corner of said section; thence easterly to the south-east corner of Section fifteen (15), said township; thence northerly to the north-east corner of said section; thence westerly to the south-west corner of Section ten (10), said township; thence northerly to the north-east corner of Section four (4), said township; thence westerly to the north-west corner of said section; thence southerly to the south-east corner of Section five (5), said township; thence westerly to the north-west corner of Section eight (8), said township; thence southerly to the south-west corner of said section; thence easterly to the north-east corner of Section seventeen (17), said township; thence southerly to the south-west corner of Section twenty-eight (28), said township; thence easterly to the north-east corner of Section thirty-three (33), said township; thence southerly to the south-east corner of Section nine (9), Township three (3) North, Range ten (10) East; thence westerly to the north-west corner of Section sixteen (16), said township; thence southerly to the south-east corner of Section thirty-two (32), said township; thence westerly to the south-west corner of Township three (3) North, Range seven (7) East; thence northerly to the north-east corner of Section twenty-four (24), Township three (3) North, Range six (6) East; thence westerly to the south-west corner of Section eighteen (18), said township; thence northerly to the north-west corner of Section seven (7), said township; thence easterly to the south-east corner of Section six (6), said township; thence northerly to the north-west corner of Section thirty-two (32), Township four (4) North, Range six (6) East; thence easterly to the south-east corner of Section twenty-six (26), said township; thence northerly to the north-west corner of Section twenty-five (25), said township; thence easterly to the south-east corner of Section twenty-four (24), said township; thence northerly to the north-west corner of Section nineteen (19), Township four (4) North, Range seven (7) East; thence easterly to the south-east corner of Section eighteen (18), said township; thence northerly to the north-west corner of Section seventeen (17), said township; thence easterly to the south-east corner of Section eight (8), said township; thence northerly to the north-east corner of said section; thence westerly to the north-west corner of Section seven (7), said township; thence southerly to the south-east corner of Section twelve (12), Township four (4) North, Range six (6) East; thence westerly to the north-west corner of Section thirteen (13), said township; thence southerly to the south-east corner of Section fourteen (14), said township; thence westerly to the north-west corner of Section twenty-three (23), said township; thence southerly to the south-east corner of Section twenty-two (22), said township; thence westerly to the north-west corner of Section thirty (30), said township; thence southerly to the south-east corner of Section twenty-five (25), Township four (4) North, Range five (5) East; thence westerly to the north-west corner of Section thirty-six (36), said township; thence southerly to the south-east corner of Section thirty-five (35), said township; thence westerly to the south-west corner of said township; thence northerly to the north-west corner of said township; thence easterly to the south-east corner of Township five (5) North, Range five (5) East; thence northerly to the north-west corner of Township five (5) North, Range six (6) East; thence easterly to the south-east corner of Township six (6) North, Range six (6) East; thence northerly to the north-east corner of said township; thence westerly to the south-west corner of Township seven (7) North, Range six (6) East; thence northerly to the south-east corner

of Township eight (8) North, Range five (5) East; thence westerly to the south-west corner of Section thirty-six (36), said township; thence northerly to the north-west corner of said section; thence easterly to the north-east corner of said section; thence northerly to the north-east corner of Section twenty-five (25), said township; thence westerly to the north-west corner of the north-east quarter of Section twenty-seven (27), said township; thence southerly to the south-east corner of the south-west quarter of Section thirty-four (34), said township; thence westerly to the south-west corner of Township eight (8) North, Range four (4) East; thence northerly to the north-west corner of said township; thence easterly to the north-east corner of Section four (4), said township; thence southerly to the south-west corner of Section fifteen (15), said township; thence easterly to the south-east corner of said section; thence northerly to the north-west corner of the south-west quarter of Section eleven (11), said township; thence easterly to the south-east corner of the north-east quarter of said section; thence northerly to the north-west corner of Section one (1), said township; thence easterly to the south-east corner of Township nine (9) North, Range four (4) East; thence northerly to the north-east corner of said township; thence westerly to the south-west corner of Section thirty-six (36), Township ten (10) North, Range four (4) East; thence northerly to the south-west corner of Section thirteen (13), said township; thence easterly to the south-east corner of said section; thence northerly to the north-east corner of said section; thence westerly to the north-west corner of the north-east quarter of Section fourteen (14), said township; thence southerly to the south-east corner of the south-west quarter of said section; thence westerly to the north-west corner of Section twenty-one (21), said township; thence southerly to the south-west corner of said section; thence westerly to the north-west corner of Section twenty-nine (29), said township; thence southerly to the south-west corner of said section; thence westerly to the north-west corner of the north-east quarter of Section thirty-one (31), said township; thence southerly to the south-east corner of the south-west quarter of said section; thence westerly to the south-west corner of said township; thence northerly to the north-west corner of Section thirty (30), Township eleven (11) North, Range four (4) East; thence easterly to the south-east corner of Section twenty (20), said township; thence northerly to the north-west corner of Section sixteen (16), said township; thence easterly to the north-east corner of said section; thence northerly to the north-west corner of Section three (3), said township; thence easterly to the south-east corner of Section thirty-four (34), Township twelve (12) North, Range four (4) East; thence northerly to the north-west corner of Section two (2), said township; thence easterly to the south-west corner of Township thirteen (13) North, Range five (5) East; thence northerly to the north-west corner of Section thirty (30), said township; thence easterly to the north-east corner of said section; thence northerly to the north-west corner of Section twenty (20), said township; thence easterly to the north-east corner of said section; thence northerly to the north-west corner of Section sixteen (16), said township; thence easterly to the north-east corner of said section; thence northerly to the north-west corner of Section three (3), said township, the place of beginning; such of the above-named corners as have not been established by the official surveys being intended to be located at the points where such corners would fall in projecting the surveys in the directions indicated without allowing for any irregularities which may occur in actually extending the surveys;

Excepting from the force and effect of this proclamation all lands which may have been, prior to the date hereof, embraced in any legal

Sawtooth Forest
Reserve—Continued.

Lands excepted.

PROCLAMATIONS, 1905.

entry or covered by any lawful filing duly of record in the proper United States Land Office, or upon which any valid settlement has been made pursuant to law, and the statutory period within which to make entry or filing of record has not expired: *Provided*, that this exception shall not continue to apply to any particular tract of land unless the entryman, settler or claimant continues to comply with the law under which the entry, filing or settlement was made.

Reserved from
settlement.

Warning is hereby expressly given to all persons not to make settlement upon the lands reserved by this proclamation.

Name.

The reservation hereby established shall be known as The Sawtooth Forest Reserve.

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 29th day of May, in the year of our Lord one thousand nine hundred and five, and of [SEAL] the Independence of the United States the one hundred and twenty-ninth.

THEODORE ROOSEVELT

By the President:

FRANCIS B. LOOMIS

Acting Secretary of State.