

Name of Party Filing Document:

UNITED STATES OF AMERICA

Attorney's Names and Addresses:

JOHN C. CRUDEN
Acting 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) 333-1936; facsimile (208) 334-1414
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. 75-11212
	)	
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 the water use specialist for the Forest Service in the Snake River

Basin Adjudication ("SRBA"). I have been employed by the Forest Service for 32 years.

2. As part of my assigned duties and responsibilities, I oversee water right claims submitted by the Forest Service in the SRBA. Attached as Exhibit 1 is a true and correct copy of claim number 75-11212, before the Court in the SRBA showing changes needed in the claim.

3. I have reviewed Exhibit 1, filed by the Forest Service for Hughes Creek Ranger 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 Lemhi Forest Reserve by "A Proclamation" signed November 5, 1906 by President Theodore Roosevelt. This is substantiated in historical documents and maps maintained by the Idaho State Office of the United States Bureau of Land Management in Boise, Idaho.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 Presidential Proclamation establishing the Lemhi Forest Reserve.

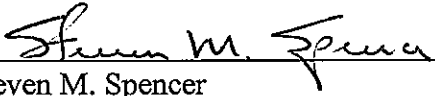
5. The priority date, November 5, 1906, for this reserved water right claim corresponds to the date of the Presidential Proclamation. *See* Exhibit 2.

6. Based upon the forgoing, I have personal knowledge of the following elements of the federal reserved right claim 75-11212 attached hereto as Exhibit 1, submitted in the SRBA:

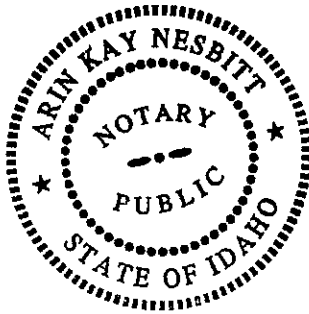
a. The land at the legal descriptions shown as the point of diversion and place of use is federally reserved National Forest System land. It was first reserved by Presidential Proclamation November 5, 1906 as the Lemhi Forest Reserve. It is now part of the Salmon-Challis National Forest.

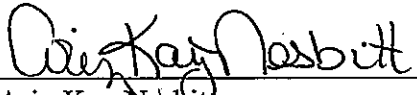
b. The name and address of the claimant is: UNITED STATES OF AMERICA acting on behalf of the USDA Forest Service, 550 W. Fort Street, MSC033, Boise, ID 83724.

c. The priority date is: November 5, 1906


Steven M. Spencer

SUBSCRIBED and SWORN to before me this 4th day of May 2009.




Arin Kay Nesbitt
NOTARY PUBLIC FOR: Idaho
Residing at: Emmett, Idaho
My Commission Expires: 11/21/2013

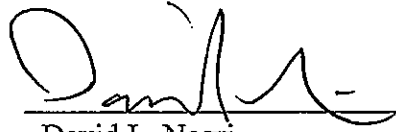
CERTIFICATE OF MAILING

I certify that on May 6, 2009, I mailed a true and correct copy of the foregoing Affidavit of Steven M. Spencer – 75-11212 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: A75-11212
Date received: _____
Receipt No: _____

NOTICE OF CLAIM

TO A

WATER RIGHT
RESERVED UNDER FEDERAL LAW

1. Name of Claimant: UNITED STATES OF AMERICA (USDA-Forest Service)
Address: ~~224 25th Street~~ 550 W FORT ST MSC 033
~~Ogden, Utah 84401~~ BOISE, ID 83724
~~801-625-5369~~

2. Date of Priority: 11/05/1906

3. Source of water supply: NF SALMON R Tributary to: SALMON R

Forest Service Record ID: 04 13 17060203 21 0 0006 0

4. a. Location of Point of Diversion:

Township	Range	Section	Tract	Gov't Lot	County	Meridian
-----	-----	-----	-----	-----	-----	-----
25 N	21 E	15	SESW		LEMHI	BOISE

b. Location of Place of Use:

Township	Range	Section	Tract	Gov't Lot	County	Meridian
-----	-----	-----	-----	-----	-----	-----
25 N	21 E	22	NENW		LEMHI	BOISE

c. Description of existing diversion: PUMP

d. If instream flows, beginning point of claimed instream flow is:

Township	Range	Section	Tract	Gov't Lot	County
-----	-----	-----	-----	-----	-----

Boise Meridian.

e. If instream flows, ending point of claimed instream flow is:

Township	Range	Section	Tract	Gov't Lot	County
-----	-----	-----	-----	-----	-----

Boise Meridian.

5. Total Quantity Claimed:

Cubic Feet per second -----	Acre-feet per annum -----	Elevation (ft) or Well Depth -----
0.03	0.00	0

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

Cubic Feet per second -----	Acre-feet per annum -----	Elevation (ft)/ or Well Depth -----
0.03	0.00	0

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

~~IRRIGATION~~ Administrative
Season of Use: January 1 thru December 31 05-01 TO 10-31

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.

BOUND SEPARATELY.

9. Remarks: (include a list of documents (s) creating the federal reservation and/or negotiated agreement).

Quad No. 19

BOUND SEPARATELY.

Application No: 75 -

10. Other water rights used for the same purpose:

11. Counties within the reservation:

12. Existing diversions:

Notice is hereby given that the United States Department of Justice will represent the Department of Agriculture, Forest Service, in all matters pertaining to the Snake River Basin Adjudication. All notices required by law to be mailed by the Director to the claimant should be mailed to the individuals at the address below:

Jack Haugrud
Geoffrey Garver
Daria J. Zane
U.S. Department of Justice
Environment and Natural Resources Division
General Litigation Section
P.O. Box 663
Washington, D.C. 20044-0663
202-272-4134

This form is an attachment to a letter forwarding the claims of the U.S. Department of Agriculture, Forest Service. The signature and affirmation on such letter constitutes the signature of the authorized agent representing the United States of America required for such claim.

November 5, 1906.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Lemhi Forest Reserve, Idaho.
Preamble.

Vol. 26, p. 1103.

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;

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 Lemhi 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 5th day of November, in the year of our Lord one thousand nine hundred and six,
[SEAL] and 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 5, 1906.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Peloncillo Forest Reserve, N. Mex.
Preamble.

Vol. 26, p. 1103.

WHEREAS, the public lands in the Territory of New Mexico, 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

