

10-21-2016

## Affidavit from S. Strack

Steven W. Strack

*Deputy Attorney General, State of Idaho*

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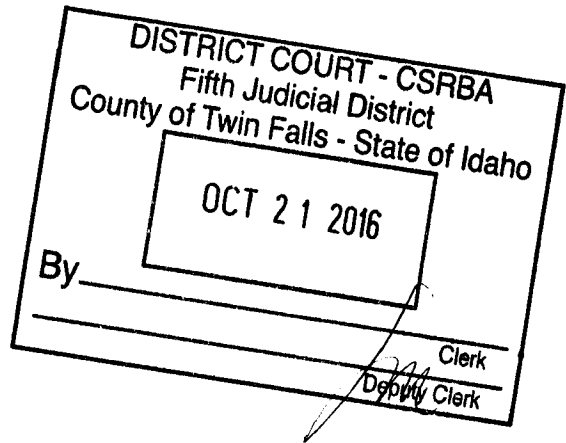
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*Attorneys for the State of Idaho*

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re CSRBA ) Consolidated Subcase No. 91-7755  
)  
Case No. 49576 ) AFFIDAVIT OF  
) STEVEN W. STRACK  
)  
)  
)  
)

\_\_\_\_\_  
State of Idaho )  
                  : ss  
County of Ada )

STEVEN W. STRACK, under oath, deposes and states as follows:

1. That I am over eighteen years of age and employed as a Deputy Attorney General for the State of Idaho, and I represent the State of Idaho in in this matter.
2. That I have caused to be gathered true, accurate and correct copies of the following documents from the sources identified below:

- Exhibit 1: Shanks to Sec. of the Interior, enclosing Agreement with the Coeur d'Alene Tribe, August 1, 1873, Letters Received, Idaho Superintendency, Microfilm, M234, Roll 341, National Archives [marked as Exhibit 645, United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL].
- Exhibit 2: Letter, Comm. Of Indian Affairs to Sec. of the Interior, Nov. 4, 1873, National Archives, RG 75, Office of Indian Affairs, Letters Sent, Book XXIII [marked as Exhibit 3240, United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL].
- Exhibit 3: Executive Order of November 8, 1873, copied from 1 Charles Kappler, *Indian Affairs: Laws and Treaties* 837 (1904).
- Exhibit 4: Sen Ex. Doc. No. 122, *In response to Senate resolution, March 30, 1886, report upon the claims of certain Indians for compensation for lands*, 49th Cong., 1st Sess. (April 9, 1886) [marked as Exhibit 212, United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL].
- Exhibit 5: Sen. Misc. Doc. No. 36, *Resolution*, 50th Cong., 1st. Sess. (Jan. 23, 1888) [marked as Exhibit 214, United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL].
- Exhibit 6: S. Ex. Doc. 76, *Letter from the Secretary of the Interior, Transmitting, in Response to Senate Resolution of January 25, 1888, Information About the Coeur d'Alene Indian Reservation, in Idaho*, 50th Congress, 1st session (February 13, 1888) [as disclosed by United States, USA-CDA00021564].
- Exhibit 7: Acting Commissioner to Simpson, Shupe and Humphrey. June 18, 1889. Indian Claims Commission Exhibit No. 111, Docket No. 81 [disclosed by Coeur d'Alene Tribe as Exhibit 731 to report of E. Richard Hart].
- Exhibit 8: United States Department of the Interior, Commissioner of Indian Affairs, *Annual Report, 1888-89*, Government Printing Office 1889 [marked as Exhibit 249, United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL].
- Exhibit 9: US Indian Inspector James A. Saunders, "Inspection report on Colville Agency, W.T.," January 17, 1889, 3. 1889-3058, Colville Agency, January 17, 1889 (464), Roll 7, M1070 Reports of Inspection of the Field Jurisdictions of the Office of Indian Affairs, 1873-1900, Nat'l Archives & Rec. Admin.

- Exhibit 10: Sen. Ex. Doc. No. 14, *A letter of the Secretary of the Interior relative to the purchase of a part of the Coeur d'Alene Reservation*, 51st Cong., 1st Sess. (Dec. 18, 1889) [marked as Trial Exhibit 3164, United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL]. In copying this document, pages 24-43, 57-66, and 80-91 were omitted in order to save space: such pages address dealings with tribes other than the Coeur d'Alenes.
- Exhibit 11: House Rep. No. 1109, *Ratification of Coeur d'Alene Indian Treaties in Idaho*, 51st Cong., 1st Sess. (March 28, 1890) [marked as Exhibit 3145, United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL].
- Exhibit 12: Act of March 3, 1891, 26 Stat. 1027-1032.
- Exhibit 13: Plat of the Confirmed Claim of Frederick Post in T. 50 N., R. 5 W., Boise Mer., Surveyed November 10-12, 1891 and July 1st 1893, by W. Clayton Miller, U.S. Dep. Surveyor, located in Patents, General Land Office Records, Bureau of Land Management, available at: <https://www.glorerecords.blm.gov/search/default.aspx?searchTabIndex=0&searchByTypeIndex=1>, last accessed September 29, 2016.
- Exhibit 14: H. Ex. Doc. No. 158, *Agreement with Coeur d'Alene Indians. Letter from the Secretary of the Interior, transmitting An agreement with the Coeur d'Alene Indians in Idaho, for a change of the northern boundary line of their reservation*, 53d Cong., 2d sess. (1894) [marked as Exhibit 3189, United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL].
- Exhibit 15: Charles O. Worley, Superintendent, to The Commission of Indian Affairs, Subject: Cultivation, and irrigation of Indian lands, Tekoa Wash, May 27th 1908. Department of the Interior, Item 202, Off. 10/7/05 to 10/7/08 [Letterpress Book], p. 406, Box No. 0001, Letters sent to the Commissioner of Indian Affairs, 1905-1911, Coeur d'Alene Agency, Northern Idaho Agency, RG 75, Nat'l Archives & Rec. Admin.
- Exhibit 16: Department of the Interior, Office of Indian Affairs, Hon. R. G. Valentine, Commissioner, "Map of Coeur d'Alene Indian Reservation, Idaho" showing "Original allotted land." (1911). Map No. 8871, Tube 290, Idaho-Coeur d'Alene, Entry 110, Central Map Files, Cartographic Records of the Bureau of Indian Affairs, RG 75, Nat'l Archives & Rec. Admin.

- Exhibit 17: Simon H. Rifkind, Special Master Report, *Arizona v. California* (1960), downloaded from the website of the Arizona v. California Collection at the University of Colorado's William A. Wise Law Library, <https://lawlibrary.colorado.edu/arizona-v-california-collection>, last accessed September 27, 2016.
- Exhibit 18: Ross R. Cotroneo and Jack Dozier, "A Time of Disintegration: The Coeur d'Alene and the Dawes Act," *Western Historical Quarterly* 5 (1974).
- Exhibit 19: State Board of Land Commissioners, Board Action approving Settlement Agreement, Release, Easement and Rights Between the State of Idaho, Templins and WWP (Dec. 13, 1998) (with attachments).
- Exhibit 20: United States of America, *Complaint to Quiet Title*, as filed in United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL.
- Exhibit 21: *Judgment and Decree*, as filed in United States of America and Coeur d'Alene Tribe v. State of Idaho, Case No. CIV-94-0328-N-EJL.
- Exhibit 22: E. Richard Hart, *A History of Coeur d'Alene Tribal Water Use, 1780-1915*, pp. 135-36 (Nov. 25, 2015) [disclosed by Coeur d'Alene Tribe].
- Exhibit 23: Pages 1, 17-20, and 28 of the United States' Response to State of Idaho's 1st Set of Discovery Requests, CSRBA Consolidated Subcase 91-7755.

Further your affiant sayeth naught.

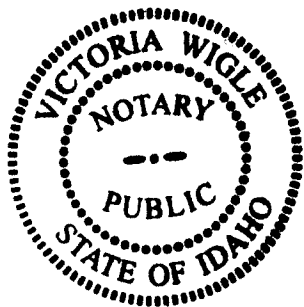
Dated this 20<sup>th</sup> day of October 2016.

*Steven W. Strack*

STEVEN W. STRACK

Subscribed and sworn to before me this 20<sup>th</sup> day of October 2016.

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A  
L



*Victoria Wigle*

Notary Public

Residing at Boise, Idaho

My Commission Expires on 10/22/2022

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Affidavit of Steven W. Strack was mailed on October 20, 2016, with sufficient first-class postage to the following:

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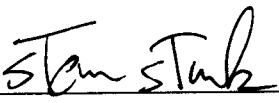
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