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Names of Parties Filing Document:

UNITED STATES OF AMERICA

STATE OF IDAHO

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**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 Number 47-16132

)

Case No. 39576

) **STIPULATION AND JOINT MOTION**
) **TO SET ASIDE PARTIAL DECREE**
) **AND REFER TO THE SPECIAL**
) **MASTER FOR EVIDENTIARY**
) **HEARING**

The United States of America and the State of Idaho, by and through the undersigned
attorneys, agree and stipulate as follows:

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STIPULATION

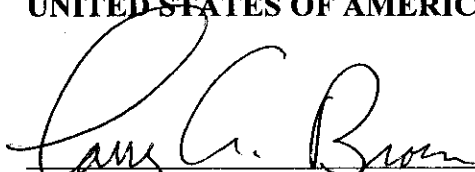
1. The parties agree and stipulate to join in a motion to set aside the partial decree and refer to the Special Master for evidentiary hearing in subcase 47-16132.
2. The parties agree that this stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, and that no offers and/or compromises made in the course thereof shall be construed as admissions against interest. The parties further agree that this stipulation does not create a precedent in any other dispute, case, or controversy.
3. The parties agree to bear their own costs and attorney fees.

STATE OF IDAHO


David J. Barber
Deputy Attorney General

DATED: 8/8/2003

UNITED STATES OF AMERICA


Larry A. Brown *Fwp*
Of Attorneys for the United States

DATED: 8/21/03

IDWR CONCURRENCE:


Roxanne Brown
Senior Water Agent

DATED: 8/20/2003

As to Form:


Nick Spencer
Deputy Attorney General

DATED: 8-20-03

JOINT MOTION

The United States of America and the State of Idaho, by and through the undersigned attorneys, respectfully move this Court for the following:

1. Pursuant to Idaho R. Civ. P. 60(b)(6), for an Order setting aside the partial decree filed in the above-captioned subcase because the water right was decreed with an incorrect priority date.
2. For an Order referring the above-captioned water right claim to the Special Master for evidentiary hearing in accordance with I.C. § 42-1411A.

MEMORANDUM OF POINTS AND AUTHORITIES

Water Right Number 47-16132 is a stockwatering claim filed by the United States Department of the Interior, Bureau of Land Management (hereinafter "BLM") based upon state law and based upon federal law. The State of Idaho filed an objection to the priority date of the claim based upon state law. The United States and the State of Idaho resolved all priority date objections to similarly situated BLM stockwater claims based upon state law in the Stipulation to Resolve Objections, Consolidated Subcase Numbers 23-10859, et al. dated June 11, 1999. The United States and the State of Idaho agreed, with certain exceptions, that BLM state law based stockwater claims would have a June 28, 1934 priority date. The above-captioned stockwater claim was decreed with a January 1, 1875 priority date, which does not comply with the terms of the Stipulation to Resolve Objections.

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Therefore, for good cause shown, this Court should set aside the partial decree. Because the above-captioned stockwater claim is also based upon federal law, the Court should refer the stockwater claim to the Special Master for evidentiary hearing in accordance with I.C. § 42-1411A.

DATED this 21st day of August 2003.

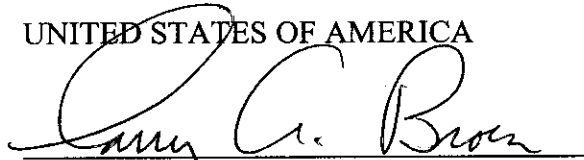
Respectfully submitted,

STATE OF IDAHO



David J. Barber
Of Attorneys for the State of Idaho

UNITED STATES OF AMERICA



Larry A. Brown *Fup*
Of Attorneys for the United States

CERTIFICATE OF SERVICE

I certify that on Aug. 31, 2003, I served a true and correct copy of the foregoing **STIPULATION AND JOINT MOTION TO SET ASIDE PARTIAL DECREE AND REFER TO THE SPECIAL MASTER FOR EVIDENTIARY HEARING; SUBCASE 47-16132** by placing the documents in the United States Mail in Washington D.C., postage paid, and addressed as follows:

Original to:

Clerk of the Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

Copies to:

U.S. Department of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
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Signature of Person Serving Documents