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Department of Water Resources

**Names of Parties Filing Document:**

UNITED STATES OF AMERICA

**Attorneys' Names and Addresses:**

THOMAS L. SANSONETTI  
Assistant Attorney General  
Environment and Natural Resources Division

LARRY A. BROWN  
Attorney, U.S. Dept. of Justice  
General Litigation Section  
Environment and Natural Resources Division  
550 West Fort Street, MSC 033  
Boise, Idaho 83724  
Ph.: (202) 305-0435 FAX: (202) 305-0274

**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 Numbers: See attached Exhibit A |
|                | ) |                                         |
|                | ) | <b>UNITED STATES' MOTION TO</b>         |
|                | ) | <b>ALTER OR AMEND THE SPECIAL</b>       |
| Case No. 39576 | ) | <b>MASTER'S REPORTS AND</b>             |
|                | ) | <b>RECOMMENDATIONS, FINDINGS</b>        |
|                | ) | <b>OF FACT AND CONCLUSIONS OF</b>       |
| _____          | ) | <b>LAW</b>                              |

**MOTION**

Pursuant to Idaho R. Civ. P. 59(e) and the SRBA Court's Administrative Order 1, 13, the  
United States respectfully moves to Alter or Amend the *Special Master's Report and  
Recommendation, Findings of Fact and Conclusions of Law* filed in the above-captioned

Subcases. Counsel for the United States requests telephonic oral argument to be set for Thursday, January 15, 2004 at 11:00 a.m. A memorandum in support of this motion is filed herewith.

### **MEMORANDUM IN SUPPORT OF MOTION TO ALTER OR AMEND**

The United States respectfully requests the Special Master to withdraw the Special Master's Reports and Recommendations and set an evidentiary hearing for Federal Reserve Water Rights in Subcases 82-10677, 82-10678, 82-10729, 82-10740, 82-10749, 82-10831, 82-10865, 83-10370, 83-10636, 83-10654, 84-11925, 84-11958, 85-15267, 85-15394, and 86-10860. The Standard Forms 5, Amended Claim, filed in these subcases merely amended certain elements of the state-based portion of the water right claims. The Federal Reserve Basis of each claim was specifically retained in the Standard Forms 5, Amended Claim. The United States filed affidavit testimony to prove the elements of the Federal Reserve basis for each water right claim. In accordance with I.C. § 42-1411A, the Special Master should set an evidentiary hearing. If the Special Master finds that the United States has proven the elements of Federal Reserve claims, then the United will elect the Federal Reserve basis for the claims.

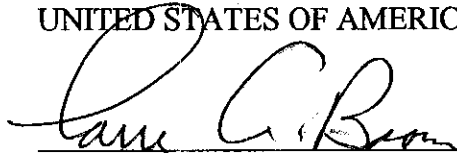
The United States respectfully requests the Special Master to Amend the Special Master's Report and Recommendation in Subcase Number 82-12000. The Special Master's Report and Recommendation should delete the language indicated by strikeout, as follows: "However, on August 20, 2003, the United States, with IDWR's concurrence, filed an Amended Claim Standard Form 5 ~~agreeing to a June 28, 1934, state law based beneficial use priority date and~~ agreeing that the claim should be renumbered to 85-15394 and 82-12000 disallowed." The Standard Form 5, Amended Claim, filed in Subcase 82-12000 merely amended certain elements

of the state-based portion of the water right claim, such changes resulting in 82-12000 being dismissed. The BLM did not elect the state law basis for the claim renumbered as 85-15394. Thus, as stated above, the Special Master should set an evidentiary hearing on the Federal Reserve basis for 85-15394.

DATED this 18<sup>th</sup> day of December, 2003.

Respectfully submitted,

UNITED STATES OF AMERICA

A handwritten signature in cursive script, appearing to read "Larry A. Brown", is written over a horizontal line.

Larry A. Brown  
Of Attorneys for the United States

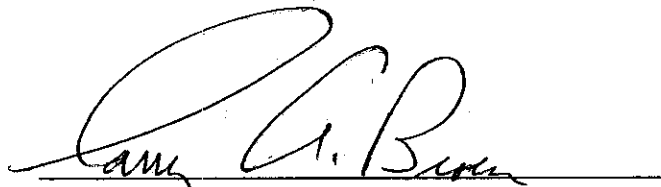
# **CERTIFICATE OF SERVICE**

I certify that on Dec. 18, 2003, I served a true and correct copy of foregoing **UNITED STATES' MOTION TO ALTER OR AMEND THE SPECIAL MASTER'S REPORTS AND RECOMMENDATIONS, FINDINGS OF FACT AND CONCLUSIONS OF LAW** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

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  
P.O. Box 44449  
Boise, ID 83720-0098

IDWR Document Depository  
P.O. Box 83720  
Boise, ID 83720-0098



Signature of attorney serving document

## **EXHIBIT A**

### **Subcase Numbers:**

82-10677  
82-10678  
82-10729  
82-10740  
82-10749  
82-10831  
82-10865  
82-12000

83-10370  
83-10636  
83-10654

84-11925  
84-11958

85-15267  
85-15394

86-10860