

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 Number: 85-15211
	)	
	)	UNITED STATES' MOTION TO
Case No. 39576	)	ALTER OR AMEND THE SPECIAL
_____	)	MASTER'S REPORT

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* filed in the above-captioned Subcase. Counsel for the United States requests telephonic oral argument to be set for Friday, February 27, 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 amend the Special Master's Report filed in Subcase Number 85-15211. This is a Federal Reserve stockwater claim to a spring based upon Public Water Reserve 107. An evidentiary hearing under I.C. 42-1411A was held on September 25, 2003. The Affidavit of Fredric W. Price testified to the elements of the Federal Reserve claim. The point of diversion described in the Special Master's Report indicates that the claim is for instream stockwater. This is a clerical error because a Federal Reserve water right under Public Water Reserve 107 is for livestock water from a spring or water hole, not a claim for instream livestock water. The Special Master's Report should be amended by deleting the following from the description of the Point of Diversion in Water Right Number 85-15211:

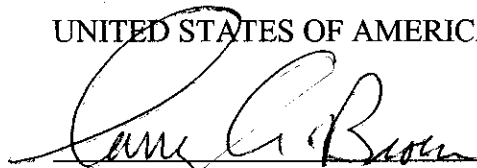
(Instream Beginning Point)

SWSENE (Instream Ending Point)

DATED this 7th day of February, 2004.

Respectfully submitted,

UNITED STATES OF AMERICA



Larry A. Brown
Of Attorneys for the United States

CERTIFICATE OF SERVICE

I certify that on 2/9, 2004, I served a true and correct copy of foregoing **UNITED STATES' MOTION TO ALTER OR AMEND THE SPECIAL MASTER'S REPORT; SUBCASE NUMBER 85-15211** upon the following individuals by placing the document in the United States Mail in Washington D.C., 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