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UNITED STATES OF AMERICA

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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: 74-11413
	)	
	)	MOTION TO CORRECT CLERICAL
Case No. 39576	)	ERROR
	)	
_____	)	

MOTION

Pursuant to Idaho R. Civ. P. 60(a), the United States of America, by and through the undersigned attorney, respectfully moves this Court to correct a clerical error in the partial decree filed in the above-captioned subcase because, through oversight, the water right was incorrectly decreed with a quantity of 0.02 cubic feet per second (hereinafter "cfs").

MEMORANDUM OF POINTS AND AUTHORITIES

The above-captioned subcase is a dual-based^{1/} water right claim for the watering of livestock filed by the United States Department of the Interior, Bureau of Land Management (hereinafter "BLM"). The director's report for the water right claim listed the quantity as 0.01 cfs.

On August 10, 2004, an evidentiary hearing under I.C. § 42-1411A was held by the Special Master. The BLM opted to pursue the federal reserve basis and relied upon the Affidavit of Alan Bittner as evidence to establish a prima facie case for the water right established under federal law. The affidavit stated that the quantity should be 0.02 cfs. Affidavit of Alan Bittner, Subcases 74-11014 et al., p. 8. The Special Master filed a Special Master's Report and Recommendation (hereinafter "SMRR") recommending the federal reserve basis, but, through oversight, the quantity was recommended as 0.01 cfs. The District Court filed a partial decree that is essentially identical to the SMRR. The United States respectfully requests the District Court to correct the clerical error in the partial decree by amending the quantity to 0.02 cfs, which would be consistent with the Affidavit of Alan Bittner, with the quantity listed under "Purpose and Period of Use" in the partial decree and SMRR, and with the agreement reached in Basin Wide Issue 12.

^{1/} The BLM's claim was based upon an appropriation of water under state law and a federal reservation of water for livestock using federal public land under Public Water Reserve 107.

CERTIFICATE OF SERVICE

I certify that on Dec. 3, 2004, I served a true and correct copy of the foregoing **MOTION TO CORRECT CLERICAL ERROR; SUBCASE NUMBER 74-11413** by placing the documents in the United States Mail in Washington D.C., postage paid, and addressed as follows:

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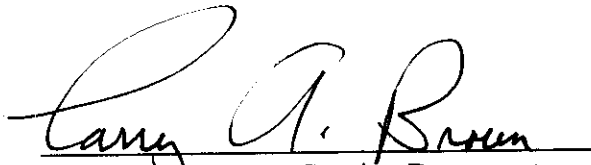
Clerk of the Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

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