

Jeanette Wolfley, ISB No. 3968
Attorney at Law
202 North Arthur
Pocatello, ID 83204
(208) 232-1922
Fax: (208) 232-7472
wolfleyj@nicoh.com

RECEIVED
JAN 06 2005
DEPARTMENT OF
WATER RESOURCES

Attorney for Shoshone-Bannock Tribes

**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 No. 29-00239
	)	
	)	
Case No. 39576	)	MOTION TO CORRECT CLERICAL
	)	ERRORS PURSUANT TO RULE 60(a)
_____	)	

COMES NOW, the Shoshone-Bannock Tribes, by and through their attorney Jeanette Wolfley, and moves this Court pursuant to I.R.C.P. 60(a) to grant their motion to correct clerical errors in the Partial Final Consent Decree Determining Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin (August 2, 1995) ("1995 Consent Decree"). This motion is supported by the memorandum of law in support of the motion and attached hereto.

The water rights, which the Shoshone-Bannock Tribes seek to correct, were originally decreed for Fort Hall Reservation Allotments 61, 71, and 72 in the case of *United States v. Hibner*, 27 F.2d 909 (D.Idaho, E.D. 1928), and the Decree of April 8, 1929. During the negotiations of the 1990 Fort Hall Indian Water Rights Agreement, counsel for the Shoshone-Bannock Tribes, United States, and State of Idaho, inadvertently omitted the water right number,

amount of water, and use of water for Allotment 72, and filed an incorrect priority dates for Allotments 61 and 71.

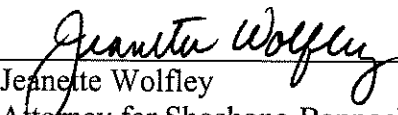
Subsequently, the parties sought to correct the oversight by placing Allotment 72 in the 1995 Consent Decree. Allotment 72 is mentioned in the 1995 Consent Decree under water right No. 29-00238, however, water right 29-00239 is again omitted from the listed rights. The 1995 Consent Decree fails to set forth any right for Allotment 72, the use of water and a priority date as established in the *United States v. Hibner* decree.

Correcting the clerical errors for the water rights originally decreed for Allotments 61, 71 and 72 are necessary as Shoshone-Bannock Tribal members wish to use the water for irrigation purposes and should have a senior water right in the area as contemplated under the *United States v. Hibner* decree and 1990 Fort Hall Indian Water Rights Agreement. The corrections are easily completed by relying upon a prior court record/decision – the *Hibner* Decree.

Accordingly, the Shoshone-Bannock Tribes respectfully request that their motion be granted and an order be issued amending the 1995 Consent Decree.

DATED this 4th day of January 2005.

Respectfully submitted,



Jeanette Wolfley
Attorney for Shoshone-Bannock Tribes