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3 Movant's Name:
Roost Potato Co.

4 Attorney's Name & Address:
5 Roger D. Ling
6 LING, ROBINSON & WALKER
7 Attorneys at Law
8 P. O. Box 396
9 Rupert, Idaho 83350
10 Telephone (208) 436-4717
11 Facsimile (208) 436-6804
12 ISB No. 1018

13 **IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE**
14 **STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

14 In Re SRBA)

Subcase No. 36-13931

15 Case No. 39576)

MOTION FOR RELIEF FROM CLERICAL
MISTAKE IN PARTIAL DECREE

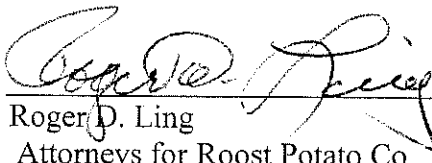
17
18 COMES NOW the claimant Roost Potato Co., by and through its attorney, and
19 moves the Court, pursuant to Rule 14d of the SRBA Administrative Order 1 and Rule 60(a) of
20 the Idaho Rules of Civil Procedure, for an Order striking the following words, to-wit: "The
21 quantity of water under this right shall not exceed 13,000 gallons per day." from the Partial
22 Decree entered herein on December 16, 1997, on the grounds and for the reasons that the
23 inclusion of such phrase under the quantity element of this water right was a clerical mistake and
24 error arising from oversight, and the phrase is inconsistent with the 40.2 acre-feet per year
25 allowed under the quantity element of this water right and the diversion rate of 0.4 cfs to provide

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27 MOTION FOR RELIEF FROM CLERICAL
28 MISTAKE IN PARTIAL DECREE

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3 water for three (3) domestic homes and a minimum of 1,400 cattle in a feedlot, and this
4 erroneous quantity phrase limits this right, notwithstanding the purpose and diversion rate, to a
5 quantity allowed for one (1) domestic water right, and for the further reason that said limitation
6 did not appear in the Recommendation contained in the Director's Report for Water Right No.
7 36-13931, and the portion of the right for the three homes allows the daily diversion of 39,000
8 gallons and the stockwater portion allows the daily diversion of 206,820 gallons.
9

10 DATED this 6th day of January, 2005.

11 LING, ROBINSON & WALKER

12
13 By: 

Roger D. Ling

Attorneys for Roost Potato Co.

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16 . CERTIFICATE OF MAILING .

17 I hereby certify that on January 7, 2005, I mailed the original and copies of this motion,
18 including all attachments, to the following persons, by mailing the original and/or copies, postage
19 prepaid and addressed as follows:

20 1. Original to:

21 Clerk of the District Court
22 Snake River Basin Adjudication
23 253 Third Avenue North
24 P.O. Box 2707
25 Twin Falls, Idaho 83303-2707

26 2. Copies to:

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

MOTION FOR RELIEF FROM CLERICAL
MISTAKE IN PARTIAL DECREE

LING, ROBINSON & WALKER

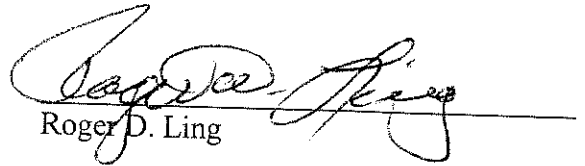
ATTORNEYS AT LAW

RUPERT, IDAHO 83350-0396

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Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734


Roger D. Ling

MOTION FOR RELIEF FROM CLERICAL
MISTAKE IN PARTIAL DECREE

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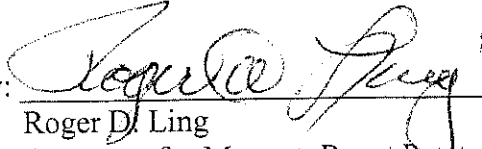
Case No. 39576

NOTICE OF MOTION

TO: CLERK OF THE DISTRICT COURT, SNAKE RIVER BASIN ADJUDICATION
PLEASE TAKE NOTICE that the undersigned will bring the *Motion for Relief*
from Clerical Mistake in Partial Decree of the claimant Roost Potato Co. on for hearing before
the Snake River Basin Adjudication District Court at Twin Falls, Idaho on the 19th day of April,
2005, at 1:30 o'clock p.m. of that day or as soon thereafter as counsel can be heard.

DATED this 6th day of January, 2005.

LING, ROBINSON & WALKER

By: 

Roger D. Ling
Attorneys for Movant, Roost Potato Co.

NOTICE OF MOTION

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

CERTIFICATE OF MAILING

I hereby certify that on January 7th, 2005, I mailed the original and copies of this notice to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

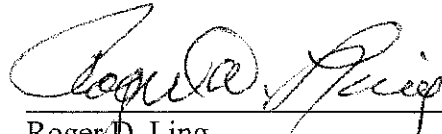
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
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Roger D. Ling

NOTICE OF MOTION