

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 No. 29-00239

Case No. 39576

)
) **UNITED STATES' JOINDER IN**
) **SHOSHONE-BANNOCK TRIBES'**
) **MOTION TO CORRECT CLERICAL**
) **ERRORS PURSUANT TO RULE 60(a)**
)

The United States of America, Bureau of Indian Affairs, by and through its attorney of record, respectfully joins in the Motion to Correct Clerical Errors Pursuant to Rule 60(a), filed by the Shoshone-Bannock Tribes on or about January 4, 2005. The United States concurs as well in the points and authorities relied upon by the Tribes in support of their motion.^{1/}

As the Tribes' have explained, the 1995 Consent Decree contains certain clerical

^{1/}The United States notes that the Tribes' Motion was captioned for sub-case no. 29-00239 only, but it also seeks to correct errors with respect to water right nos. 29-00231 and 29-00238. The text of the Motion and supporting Memorandum are clear on their face, and it appears that the proper parties have been served. Nonetheless, the Court may want to clarify in the record that the Motion applies to all three water rights, not just 29-00239.

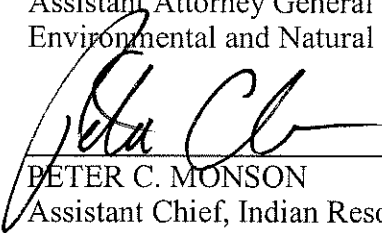
errors which are inconsistent with water rights originally decreed to the Tribes in *United States v. Hibner*, 27 F.2d 909 (D. Idaho 1928). The clerical errors are also inconsistent with the intent of the parties to the 1995 Consent Decree which was to conform these water rights to the terms of the *Hibner* decree to the extent possible. As such, it would be appropriate for this Court to correct those clerical errors in order to render complete justice in this matter. Those corrections include correcting the priority dates set forth in the 1995 Consent Decree for water rights nos. 29-00231 and 29-00238, as well as correcting water right no. 29-00239 to reflect the priority date, diversion volume, and rates of diversion to conform the 1995 Decree with the *Hibner* decree, as contemplated by the parties to the 1995 Consent Decree.

For the foregoing reasons, the United States respectfully requests the Court to grant the Tribes' motion and enter an order substantially in accord with the one submitted by the Tribes.

RESPECTFULLY SUBMITTED this 24th day of January, 2005.

Respectfully submitted,

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Certificate of Service

I certify that on this 24th day of January 2005, I served a true and correct copy of the foregoing UNITED STATES' BRIEF IN SUPPORT OF SHOSHONE-BANNOCK TRIBES' MOTION TO CORRECT CLERICAL ERRORS PURSUANT TO RULE 60(a) by depositing a copy thereof in the United States mail, postage prepaid, and addressed as follows:

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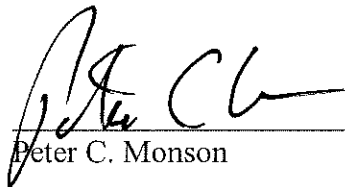
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