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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: 73-11902
	)
	) MOTION FOR RELIEF FROM
	) PARTIAL DECREE TO CORRECT A
Case No. 39576	) CLERICAL MISTAKE AND
	) MEMORANDUM OF POINTS AND
_____	) AUTHORITIES IN SUPPORT

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 set aside the partial decree entered in the above-captioned subcase, correct a clerical mistake in record, and re-enter the partial decree. A Memorandum of Points and Authorities in support of this Motion is filed herewith.

MEMORANDUM OF POINTS AND AUTHORITIES

The United States Department of the Interior, Bureau of Land Management (the "BLM") filed an objection to the above-captioned water right claim to add "Lot 2" to the legal description of the point of diversion (the "POD") and the place of use (the "POU"). The Affidavit of Alan Bittner, In Re SRBA, Case No. 39576, Subcase Number 73-10518 *et al.* at 6 stated that the legal description of the POD and the POU of 73-11902 should be Lot 2, Section 31, T.10N., R.22E., B.M.

The BLM and the State of Idaho filed a Standard Form 5, Stipulated Elements of a Water Right that described the POD as Lot 2 (NENWNW), Section 31, T.10N., R.22E., B.M. and described the POU as Lot 2 (SWSW), Section 31, T.10N., R.22E., B.M.. The legal description of the POU is a clerical mistake in the record that arose through oversight. The POU should have been described as Lot 2 (NWNW), Section 31, T.10N., R.22E., B.M. This error in the record resulted in the Special Master's Report and Recommendation and the Partial Decree having a clerical mistake in the legal description of the POU. The legal description of the POU in the Partial Decree should be Lot 2 (NWNW), Section 31, T.10N., R.22E., B.M., which is the same 40 acre tract that contains the legal description of the POD.

The Idaho Rules of Civil Procedure allow relief from judgments to correct clerical mistakes. The rule states:

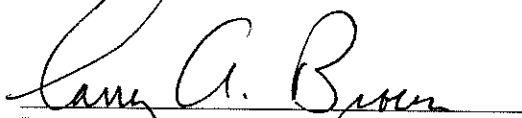
Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders.

IDAHO R. CIV. P. 60(a). The typographical error in the record of this subcase arose from oversight and should be corrected by the District Court on motion of the claimant. There appearing to be good cause, the Court should set aside the Partial Decree entered in the above-captioned subcase, correct the clerical mistake in the legal description of the POU, and re-enter the Partial Decree, as corrected.

This Motion has been discussed with counsel for the Idaho Department of Water Resources (the "IDWR"), Mr. Chris Bromley, and counsel for the State of Idaho, Mr. David J. Barber. The undersigned attorney is authorized to represent that counsel for IDWR and counsel for the State of Idaho do not object to this Motion.

DATED this 9th day of November, 2005.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Larry A. Brown", written over a horizontal line.

Larry A. Brown
Of Attorneys for the United States

CERTIFICATE OF SERVICE

I certify that on Nov. 9, 2005, I served a true and correct copy of the foregoing **MOTION FOR RELIEF FROM PARTIAL DECREE TO CORRECT CLERICAL MISTAKE AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT; SUBCASE NUMBERS: 73-11902** upon the following individuals by placing the document in the United States Mail in Washington, D.C., postage paid, and addressed as follows:

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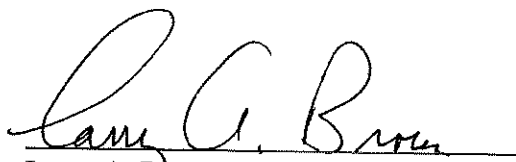
Clerk of the Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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