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DEPARTMENT OF
WATER RESOURCES

Names of Parties Filing Document:

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: 43-04132
	)
	) 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 in the above-captioned subcase because the water right claim designated two tracts of federal public land as irrigation and stockwater places of use. The parties filed a Stipulation to Resolve Objection and Motion to Dismiss the United States as a Party, In Re SRBA, Case No. 39576, Subcase Number 43-04312 (March 3, 2003). The parties agreed that “any amended Director’s Report recommendation, partial decree, or final decree for Water Right Number 43-04132 shall not contain public land places of use. Id. at 2. The stipulation states that “T.14S., R.25E., Section 17, NESE and SWSE . . . describe public land.” Id.

On July 31, 2003, the SRBA District Court entered its *Order of Partial Decree*, In Re SRBA, Case No. 39576, for Water Right Number 43-04132 (July 31, 2003). The Order contains the public land places of use that the parties agreed would not be included in the partial decree. Id. at 2. The legal description of the place of use is a clerical mistake in the record that arose through oversight.

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 objector. The correct legal description of the irrigation place of use should be:

T14S R25E S17 SESE 13.2 acres

See State of Idaho Department of Water Resources Transfer of Water Right, Transfer No. 71863 (June 28, 2005) at 2. The correct legal description of the stockwatering place of use should be:

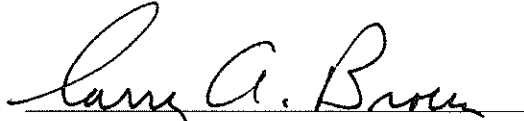
T14S R25E S17 SESE

Id.

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 place of use, and re-enter the Partial Decree, as corrected.

DATED this 28th day of March, 2007.

Respectfully submitted,

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

Larry A. Brown
Of Attorneys for the United States

CERTIFICATE OF SERVICE

I certify that on Mar. 28, 2007, 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: 43-04132** upon the following individuals by placing the document in the United States Mail in Washington, D.C., postage paid, and addressed as follows:

Original to:

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

Copy to:

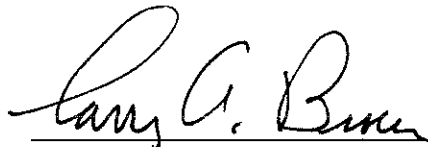
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