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SPECIAL INSTRUCTIONS: Attached for filing is United States' Notice of Error in Motion to Disallow Costs in Subcase No. 63-27475.

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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. 63-27475
	)	
Case No. 39576	)	UNITED STATES' NOTICE
	)	OF ERROR IN MOTION TO
	)	DISALLOW COSTS
_____	)	

COMES NOW the United States by and through the undersigned Counsel and informs the parties and the Court of an error in the UNITED STATES' MOTION TO DISALLOW COSTS AND OPPOSITION TO REQUEST FOR ATTORNEY FEES filed on or about Sept. 13, 2008 ("MOTION TO DISALLOW"). That memorandum incorrectly asserted that the United States' merits brief had argued that a remark should be included in any water right issued. See MOTION TO DISALLOW at 9 (citing UNITED STATES' OPPOSITION TO JANICEK PROPERTIES' MOTION FOR SUMMARY JUDGMENT at 2 ("OPPOSITION")). In fact, the United States did not assert that a remark was appropriate until oral argument, as Janicek correctly stated in its MEMORANDUM OF

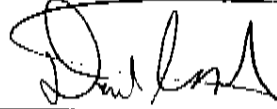
COSTS AND REQUEST FOR ATTORNEY FEES.

Counsel for the United States learned of the possibility of the error through a telephone call from Plaintiffs' attorney on September 24, 2008. Subsequent investigation revealed that in preparing the MOTION TO DISALLOW, Counsel for the United States relied on a copy of the OPPOSITION pulled from his electronic directory which, although not labeled as such, turned out to be a draft that varied from the memorandum that was actually filed. Counsel regrets the error.^{1/}

DATED this 26th day of September, 2008.

Respectfully submitted,

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^{1/} This error, while regrettable, does not change the substance of the United States' argument in which the brief was cited because that argument does not turn on when the United States first argued for a remark. For the purposes of the argument it is only important that the United States did argue for a remark and that the Court accepted that argument. *See* MOTION TO DISALLOW at 9-10. All the other arguments presented by the United States are entirely unaffected by the error.

CERTIFICATE OF MAILING

I certify that on September 26, 2008, I sent true and correct copies of the foregoing **UNITED STATES' NOTICE OF ERROR IN MOTION TO DISALLOW COSTS** as follows:

via Facsimile transmission:

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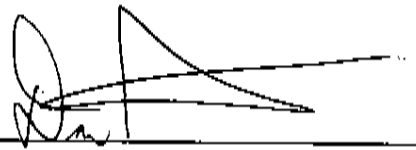
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