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DEPARTMENT OF
WATER RESOURCES

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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. 2-2318A
	)	(Wilkerson)
	)	WILLIAM & IMOGENE WILKERSON
Case No. 39576	)	MOTION TO ALTER OR AMEND
	)	AUGUST 29, 2011 MEMORANDUM
	)	DECISION AND ORDER ON
_____	)	CHALLENGE

INTRODUCTION

William and Imogene Wilkerson (Wilkersons), by and through their counsel of record, Beeman & Associates, P.C., hereby move this Court to alter or amend its August 29, 2011 Memorandum Decision and Order on Challenge pursuant to I.R.C.P. 7(b)(1), 7(b)(3), and 59(e). A brief in support of this motion will be filed within 14 days in accordance with I.R.C.P. 7(b)(3). Oral argument is requested.

MOTION

The Wilkersons respectfully move this Court to amend its August 29, 2011 Memorandum Decision and Order on Challenge (Order on Challenge) entered in the above-captioned subcase to address or provide for the following:

1. The Court's findings of fact should clarify that an IDWR field exam on September 16, 1983 confirmed irrigation of the 13 Acre Parcel. Page 3, Footnote 1 of the Order on Challenge states,

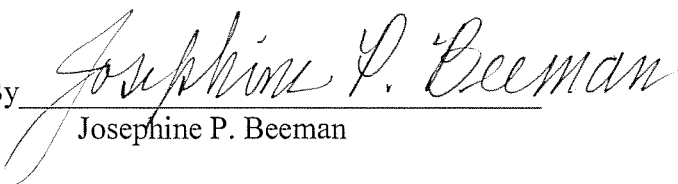
“The field examiner's report for the claim filed for the right in a prior adjudication was based on an aerial photograph taken in 1977. *Gould Aff.*, Ex. D. The 13 Acre Parcel was therefore irrigated at least as of this date.”

The same page of Exhibit D, at the bottom, shows that the field examiner's report was also based on a field exam of the acreage and point of diversion made on September 16, 1983.

2. The Court's remark for SRBA Partial Decree 2-2318A needs to be removed or clarified because of the pending status of *Wilkerson v. Snake River R. V. Resort, et. al.*, Third Judicial District, Owyhee County (Case No. CV-06-05541)]. There is no final judgment and settlement cannot be precluded in the proceeding. In addition, since the SRBA is a “snapshot in time” the remark could be “misconstrued” as determining that there was never a valid “right of access” for water right 2-2318A.

Dated this 12th day of September 2011.

BEEMAN & ASSOCIATES, P.C.
Attorneys for William and Imogene Wilkerson

By 
Josephine P. Beeman

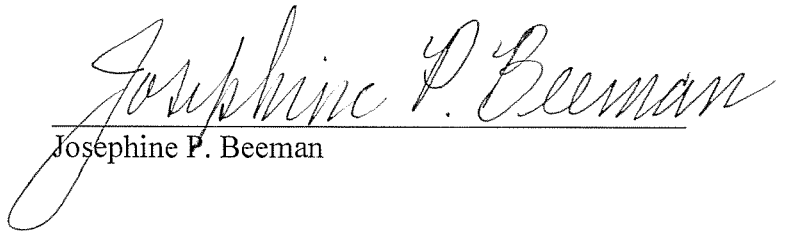
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of September 2011, I caused a true and correct copy of the foregoing document to be served on the following by U.S. Mail:

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