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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JAN - 3 2012

By _____

Clerk

Deputy Clerk

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. 02-2318A

) (Wilkerson)

Case No. 39576

)

) ORDER GRANTING MOTION TO
) CORRECT CLERICAL ERROR

)

) ORDER AMENDING NOVEMBER 18,
) 2011 ORDER DENYING WILKERSONS'
) MOTION TO ALTER OR AMEND

)

)

)

On November 18, 2011, this Court entered an *Order* in the above-captioned matter denying the *Wilkersons' Motion to Alter or Amend October 31, 2011 Amended Memorandum Decision and Order on Challenge*. On December 13, 2011, Raymond C. Barker, Jr., Charles J. Kritz Jr. and Diane B. Kritz (collectively, "Objectors") filed a *Motion* pursuant to Idaho Rule of Civil Procedure 60(a), requesting that this Court correct a clerical error in the *Order*. The *Motion* focuses on paragraph 1 of the "Factual and Procedural Background" section of the *Order* which provides:

1. On August 29, 2011, this Court issued a *Memorandum Decision and Order on Challenge and Order of Partial Decree* ("Memorandum Decision") in the above-captioned matter. The procedural background and facts set forth in the *Memorandum Decision* are incorporated herein by reference and will not be repeated.

Order, p.1. Paragraph 5 of the *Order* then provides that "the Court [subsequently] entered an *Amended Memorandum Decision and Order on Challenge and Order of Partial Decree* ("Amended Memorandum Decision"). *Id.* at 2. The *Amended Memorandum Decision* is

identical to the *Memorandum Decision* except that footnote 1 of the *Memorandum Decision* was removed.

The Objectors assert that since the *Memorandum Decision* was amended and superseded by the *Amended Memorandum Decision* prior to the issuance of the *Order*, it is a clerical error to incorporate the procedural background and facts set forth in the *Memorandum Decision* into the *Order* as it may be construed as inadvertently including the deleted footnote 1. Objectors assert that the *Order* should have incorporated the updated procedural background and facts set forth in the *Amended Memorandum Decision* instead to avoid the potential re-introduction of footnote 1 into the record. This Court agrees and finds the incorporation into the *Order* of the procedural background and facts set forth in the *Memorandum Decision* to be the result of a clerical error. The Court further finds that Rule 60(a) permits the Court to correct “[c]lerical mistakes in judgments, orders or other parts of the record” at any time of its own initiative or on the motion of any party.

THEREFORE, IT IS HEREBY ORDERED that pursuant to I.R.C.P. 60(a) the *Order* entered in this matter on November 18, 2011, is hereby amended as follows:

1. The second sentence of paragraph 1 of the “Factual and Procedural Background” section of the *Order* providing: “[t]he procedural background and facts set forth in the *Memorandum Decision* are incorporated herein by reference and will not be repeated” is hereby stricken and removed from the *Order*.

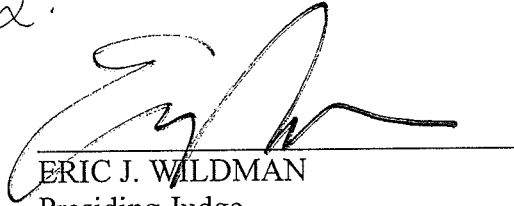
2. Paragraph 5 of the “Factual and Procedural Background” section of the *Order* is hereby amended to read as follows:

On October 31, 2011, the Court entered a series of *Orders*. The first was its *Memorandum Decision and Order on Motion to Alter or Amend Judgment*, denying the Claimants’ *Motion to Alter or Amend*. The second was an *Order Granting Motion to Strike*, striking all of the documents constituting Exhibits A and B to the *Beeman Affidavit* save a more legible copy of the *Notice of Claim* for water right 02-2318 and a more legible copy of the *Adjudication Claim Report of Examiners* for water right 02-2318. Third, the Court entered an *Amended Memorandum Decision and Order on Challenge and Order of Partial Decree* (“*Amended Memorandum Decision*”).¹ The procedural background and facts set forth in the *Amended Memorandum Decision* are incorporated herein by reference and will not be repeated.

¹ The *Amended Memorandum Decision* is identical to the *Memorandum Decision* except that footnote 1 of the *Memorandum Decision* was removed.

3. All other aspects of the November 18, 2011, shall remain unchanged and in full effect and force.

DATED: January 3, 2012.


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

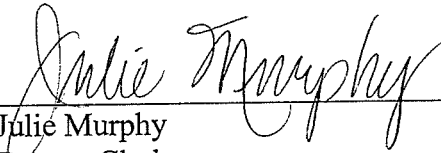
CERTIFICATE OF MAILING

I hereby certify that true and correct copies of the **ORDER GRANTING MOTION TO CORRECT CLERICAL ERROR and ORDER AMENDING NOVEMBER 18, 2011 ORDER DENYING WILKERSONS' MOTION TO ALTER OR AMEND** were mailed on January 3, 2012, by first-class mail to the following:

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Julie Murphy
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