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APR 12 2012
DEPARTMENT OF
WATER RESOURCES

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

APR 11 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) Water Right No. 29-11278
Case No. 39576)
ORDER GRANTING RULE 60(a)
MOTION TO AMEND PARTIAL
DECREE
ORDER OF SECOND AMENDED
PARTIAL DECREE

An *Amended Partial Decree* was issued for the above-captioned water right on December 29, 2011. On April 9, 2012, Rowlands, Inc. ("Claimant") filed a *Motion to Amend Partial Decree*. The *Motion* asserts that the *Standard Form 5* ("SF5") filed by the parties on September 15, 2011 provided as follows with respect to the purpose and period of use element:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Industrial	01/01 12/31	0.110 CFS 7.20 AFY
Domestic	01/01 12/31	<u>0.060 CFS</u>

(emphasis added).

The subsequently issued *Special Master's Report and Recommendation* and *Amended Partial Decree* provided as follows with respect to the purpose and period of use element:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Domestic	01/01 12/31	<u>0.06 AFY</u>
Industrial	01/01 12/31	0.11 CFS 7.20 AFY

(emphasis added). The Claimant asserts that the use of "0.06 AFY" in the *Partial Decree* as opposed to "0.060 CFS" used in the *SF5* is the result of clerical error. The Claimant did not request a hearing on its *Motion*, and this Court in exercising its discretion under Idaho Rule of Civil Procedure 7(b)(3)(D) does not find a hearing to be necessary given the circumstances.

Idaho Rule of Civil Procedure 60(a) provides for the correction of “[c]lerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission.” The Idaho Supreme Court has directed that Rule 60(a) applies to those errors in which the type of mistake or omission is “mechanical in nature which is apparent in the record.” *Silsby v. Kepner*, 140 Idaho 410, 411, 95 P.3d 28, 29 (2004). The Court has further directed that clerical errors “include those where what is written or recorded is not what the court intended to write or record,” and where “the error can be corrected whether it is made by a clerk or by the judge.” *Id.* at 412, 95 P.3d at 30.

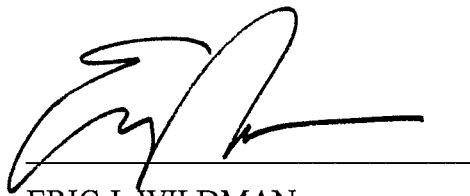
The Court finds the transcription of “0.06 AFY” into the *Amended Partial Decree* rather than the “0.060 CFS” agreed to by the parties in the *SF5* to be the result of clerical error. The error in this case is mechanical in nature, and is apparent from the record. The use of “AFY” as opposed to “CFS” was merely a transcription error, and one that may be corrected whether it is made by a clerk or by the presiding judge of this Court. In addition, the transcription error is apparent from the record, as the *SF5* on which the *Amended Partial Decree* is based provided for “0.060 CFS.” Therefore, the Court finds the error in the *Amended Partial Decree* to be the result of a clerical error.

THEREFORE THE FOLLOWING ARE HEREBY ORDERED:

1. The *Motion to Amend Partial Decree* is hereby granted.
2. Pursuant to Idaho Rule of Civil Procedure 60(a), the above-captioned water right is hereby amended as set forth in the attached *Second Amended Partial Decree*. The previously issued *Amended Partial Decree* is superseded thereby.

IT IS SO ORDERED.

Dated: April 11, 2012

A handwritten signature in black ink, appearing to read 'Eric J. Wildman', written over a horizontal line.

ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

2nd AMENDED

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

APR 11 2012

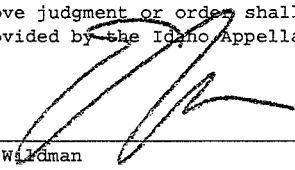
By _____ Clerk

Deputy Clerk

PAGE 1
Apr-10-2012

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING
RULE 60(A) MOTION TO AMEND PARTIAL DECREE AND ORDER OF SECOND
AMENDED PARTIAL DECREE was mailed on April 11, 2012, with sufficient
first-class postage to the following:

ROWLANDS INC

Represented by:

THOMAS J BUDGE

201 E CENTER ST

PO BOX 1391

POCATELLO, ID 83204-1391

Phone: 208-232-6101

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is in dark ink and is positioned to the right of the printed text "Deputy Clerk".