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Errata Idaho's Memo in Support for Mtn SJ

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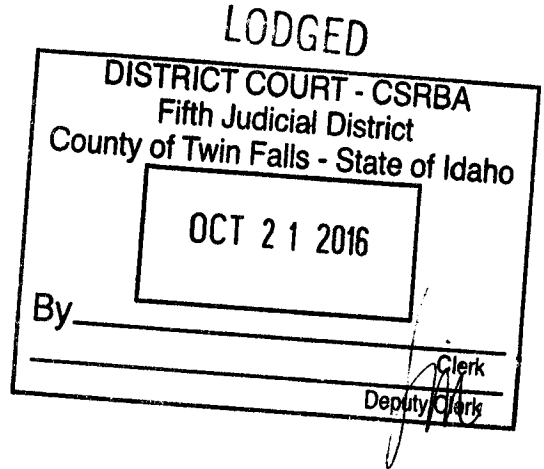
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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re CSRBA) Consolidated Subcase No. 91-7755
)
Case No. 49576) ERRATA TO STATE'S
) MEMORANDUM IN SUPPORT OF
) MOTION FOR SUMMARY
) JUDGMENT
)

Due to last-minute formatting issues, an intended edit to the State's brief was omitted from the version filed with the Court. In order to correct this error, please substitute the following paragraph for the paragraph that begins at the bottom of page 49 and continues to the top of page 50:

Given the dearth of authority for implying the separate reservation of water rights for commercial, industrial, and municipal purposes, the Court

should, if it recognizes such rights at all, limit them to the type of industrial activities specifically anticipated and provided for in the 1891 Act. The Act provided for construction of a steam powered saw mill and a grist mill—the common thread being that these are the types of industries intended to support the agrarian purposes of the Reservation. There is no support, however, for implying water rights for recreation and tourist-based attractions, including the claims of reserved water rights for a casino, hotel, golf courses, and water park. Creating commercial attractions geared to non-Indian customers was not a purpose of the 1887 or 1889 Agreements, which set apart the Reservation “as Indian land” and as a home for the Tribe. There is nothing in the text of the agreements, the negotiation transcripts, or the historical record to suggest that promoting recreational visitation was a primary purpose of the Reservation. Given the complete lack of any such documentation, it is not possible to conclude that Congress, in ratifying the 1887 and 1889 Agreements, intended to reserve water for tourism-based commercial activities.

Dated this 21st day of October 2016.

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Errata to the State's Memorandum in Support of Motion for Summary Judgment was mailed on October 21, 2016, with sufficient first-class postage to the following:

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