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USA-CDAT Joint Memo in Response to Idaho's Mtn to Reconsider

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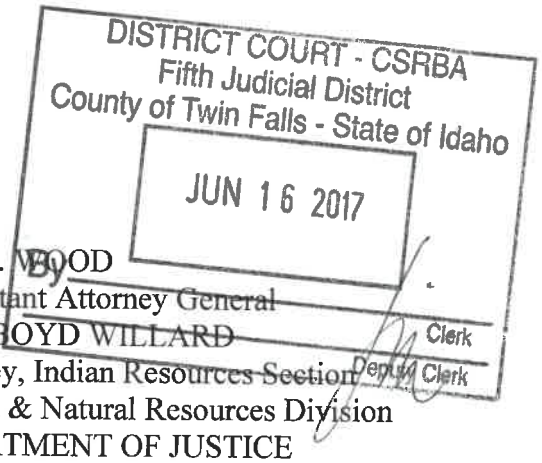

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IN THE DISTRICT COURT FOR THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS

	)	Consolidated Subcase No. 91-7755
	)	
In Re the CSRBA	)	**UNITED STATES' AND COEUR**
	)	**D'ALENE TRIBE'S JOINT**
Case No. 49576	)	**MEMORANDUM IN RESPONSE**
	)	**TO THE STATE OF IDAHO'S**
	)	**MOTION TO RECONSIDER**
	)	**ORDER ON MOTIONS FOR**
	)	**SUMMARY JUDGMENT**

INTRODUCTION

The United States of America ("United States") and Coeur d'Alene Tribe ("Tribe") hereby respond to the *State of Idaho's Motion to Reconsider Order on Motions for Summary Judgment* ("State's Motion"), and the related *State of Idaho's Memorandum in Support of State's Motion to Reconsider Order on Motions for Summary Judgment* ("State's Memo"), both dated May 16, 2017. The State's Motion seeks reconsideration regarding the priority date of water rights to support wildlife habitat at springs or wetlands on reacquired lands within the Coeur d'Alene Reservation ("Reservation"). The Motion likewise seeks to extend this Court's analysis regarding reacquired homestead to reacquired allotments.

The State's Motion should be denied because this Court correctly applied a time immemorial priority date to the seeps, springs, and wetlands claims because the Tribe's hunting activities are a continuation of their aboriginal practices that the Tribe has engaged in since time immemorial. Furthermore, this Court applied the correct priority date—November 8, 1873—to practicably irrigable acreage ("PIA") water rights on reacquired allotments. The Court's decision avoids the unnecessary and unduly burdensome effort that would be necessary under *United States v. Anderson*'s approach to reacquired allotments and, more importantly, recognizes the integral relationship these lands have always had to the Reservation.

STANDARD OF REVIEW

The State seeks reconsideration of certain issues in the *Order on Motions for Summary Judgment*, In Re CSRBA Case No. 49576, Consolidated Subcase No. 91-7755 (May 3, 2017) ("Summary Judgment Order") pursuant to Idaho Rule of Civil Procedure 11.2(b) which states:

> A motion to reconsider any order of the trial court entered before final judgment may be made at any time prior to or within 14 days after the entry of a final judgment. A motion to reconsider an order entered after the entry of final judgment must be made within 14 days after entry of the order.

A party making a motion for reconsideration is permitted to present new evidence, but is not required to do so. *Johnson v. Lambros*, 143 Idaho 486, 472 (Ct. App. 2006). However,

> [a] rehearing or reconsideration in the trial court usually involves new or additional facts, and a more comprehensive presentation of both law and fact. Indeed, the chief virtue of a reconsideration is to obtain a full and complete presentation of all available facts, so that the truth may be ascertained, and justice done, as nearly as may be.

Coeur d'Alene Mining Co. v. First Nat. Bank of North Idaho, 118 Idaho 812, 823 (1990) (quoting *J.I. Case Company v. McDonald,* 76 Idaho 223 (1955)). As a result, Parties should not simply repeat arguments from summary judgment briefing in hopes of a different result, but should demonstrate that "there is an intervening change of controlling law, the availability of new evidence, or the need to correct clear error or manifest injustice." *Olson v. Clinton*, 630 F.Supp.2d 60, 63 (D.D.C. 2009) (citations omitted). The moving party has the burden of bringing to the trial court's attention any new facts presented bearing on the correctness of the interlocutory order. *Devil Creek Ranch, Inc. v. Cedar Mesa Reservoir & Canal Co.*, 126 Idaho 202, 205 (1994). If no new facts are presented, the party moving for reconsideration must demonstrate errors of law or fact in the initial decision. *Lambros*, 143 Idaho at 472-73.

ARGUMENT

A. The Court Correctly Found that the Priority Date for PIA Claims on Allotments is the Date the Reservation was Created.

This Court found that "the United States is entitled to a priority date of November 8, 1873, for its agricultural claims as a matter of law." *Order on Motions for Summary Judgment*, In Re CSRBA Case No. 49576, Consolidated Subcase No. 91-7755 at 17 (May 3, 2017) ("Summary Judgment Order"). The Court found a single, limited exception for reacquired lands that were formally homestead lands. *Id.* at 18-19. The State takes exception to the Court's

holding and repeats the same arguments asserted in summary judgment that the exception should be extended to reacquired lands that were formally allotments as well. State's Memo at 6. The United States and Coeur d'Alene Tribe respectfully request that the Court reject the State's arguments.[1]

There are two cases that provide guidance regarding tribal priority date for water rights on reservation lands that left tribal ownership but are later reacquired by the tribe: *In re General Adjudication of All Rights to Use Water in Big Horn River System*, 753 P.2d 76, 114 (Wyo. 1988) and *United States v. Anderson*, 736 F. 2d 1358 (9th Cir. 1984).

There are three primary reasons why the *Big Horn* approach is preferable in this case. First, as explained by the United States and the Tribe during the briefing on summary judgment, the *Big Horn* Court's approach avoids a patchwork of priority dates in favor of recognizing that reacquired lands were historically part of the reservation and, thus, should have the same priority date as other water rights necessary to serve the overall purposes of the reservation once they are reacquired by the Tribe. United States' Response Brief at 49-51 (*citing* 753 P.2d at 114); Coeur d'Alene Tribe's Response Brief at 105-07.

Second, the Wyoming Supreme Court's analysis is consistent with Supreme Court precedent that allotments remain part of the reservation and should be treated as reservation land, regardless of ownership at any particular time. *Mattz v. Arnett*, 412 U.S. 481, 497 (1973) ("[t]he [Allotment] Act did no more . . . than open the way for non-Indian settlers to own land on the

[1] The Tribe and the United States already addressed both of the State's arguments during summary judgment. *See*, *United States' Response to the State of Idaho's and Objector's Motions for Summary Judgment*, In Re CSRBA Case No. 49576, Consolidated Subcase No. 91-7755 at 49-51 (Feb. 24, 2017) (hereinafter "United States' Response Brief"); *Coeur d'Alene Tribe's Response to the State of Idaho's Hecla, and the North Idaho Water Rights Group*, In Re CSRBA Case No. 49576, Consolidated Subcase No. 91-7755 at 105-114 (Feb. 24, 2017) (hereinafter "Coeur d'Alene Tribe's Response Brief"). Those arguments are incorporated herein.

reservation in a manner which the Federal Government, acting as guardian and trustee for the Indians, regarded as beneficial to the development of its wards.'"); *Seymour v. Superintendent of Washington State Penitentiary*, 368 U.S. 351, 356 (1962) (finding that the Colville Reservation continued to wholly exist after the Colville Allotment Act and that "when Congress has once established a reservation *all tracts* included within it remain a part of the reservation until separated therefrom by Congress."); *United States v. Celestine*, 215 U.S. 278, 285 (1909) (finding that although the Tulalip Reservation had been allotted, "all tracts included within remain a part of the reservation," and that no Congressional Act had operated to separate those allotments from the Reservation.).

Finally, from a practical perspective, *Big Horn* is preferable because it implicitly recognizes the difficulty of trying to apply the *Anderson* analysis to a reservation-wide general stream adjudication. Importantly, *Anderson* was not a general stream adjudication addressing all of the water rights on the Spokane Reservation but instead was only an adjudication of Chamokane Creek, a single stream that borders the Spokane Reservation. *Anderson*, 736 F.2d at 1361. There were only eleven reacquired parcels at issue when *Anderson* was decided. Aff. Counsel, Ex. 5, p. 8-9 (Feb. 24, 2017) (*United States and Spokane Tribe of Indians v. Anderson*, No. 3643, Memorandum Opinion and Order (E.D. Wash. 1979)) (hereinafter "1979 *Anderson* Opinion").[2]

[2] Further, consistent with the arguments fully addressed in section B of this memorandum, the Ninth Circuit limited its holding to *irrigation* water rights on reacquired allotments by finding that the root of the analysis is *Walton* a case that found that non-Indians may only acquire the allottees' PIA water right, which is "'limited by the number of irrigable acres [of former reservation lands that] he owns." *Anderson*, 736 F.2d at 1362 (quoting *Adair*, 723 F.2d at 1417; *Walton*, 647 F.2d at 51).

In contrast, the *Big Horn* adjudication, much like the CSRBA, was a much larger adjudication, involving the entire Wind River Reservation. The Wyoming Supreme Court rejected the *Anderson* approach and instead found "[b]ecause all the reacquired lands on the ceded portion of the [Wind River] [R]eservation are reservation lands, the same as lands on the diminished portion, the same reserved water rights apply. Thus, reacquired lands on both portions of the reservation are entitled to an 1868 priority date." *Big Horn I*, 753 P.2d at 114.

The *Big Horn* approach regarding reacquired allotments should be adopted by this Court because, simply put, application of the *Anderson* approach regarding reacquired allotments in this case would lead to a judicial black hole that would take years to sort out. For example, such a process would require the parties to present evidence and this Court to rule on at least the following categories of information for every allotment: 1) land ownership records; 2) irrigation history information; and 3) application of the legal principles of water use on allotments acquired by non-Indians.

Indeed, such an approach would require this Court look at every parcel on which the Tribe has an irrigation claim and determine whether the State has demonstrated, by clear and convincing evidence, that *any* intervening non-Indian owner, none of whom are currently known, lost some or all of the irrigation water right for non-use. *See* Coeur d'Alene Tribe's Response Brief at 111-14. The burden becomes more acute when you consider the fact that the total PIA claim is just 17,815 acre-feet—less than one percent of the total annual discharge of the basin. *Id.* at 106. The State proposes that this Court engage in this morass despite providing no evidence that the tribal claims, which represent such a small percentage of water in the Basin, will affect junior appropriators or that such an exercise would otherwise lead to a result that would justify the enormous investment of time and expense that would be necessary.

In short, the Court was correct in determining that the priority date for the Tribe's irrigation water rights on allotments was November 8, 1873—the date of the creation of the Coeur d'Alene Reservation—because such a right fulfills the agricultural purpose of the Reservation and recognizes the integral relationship these lands have always had to the Reservation. Moreover, the Court avoids the unnecessary and unduly burdensome expense and effort to conduct a parcel-by-parcel analysis of lands ownership and irrigation history that could result in a patchwork of priority dates leading to significant administrative challenges.

B. Non-consumptive water rights for aboriginal hunting, fishing and gathering rights are different than irrigation rights because they are held by the Tribe as a whole, cannot be transferred to an individual, and survive changes to underlying land ownership.

The Summary Judgment Order confirmed water rights necessary to serve the fishing and hunting purpose of the Reservation and recognized that such rights carry a time immemorial priority date. Summary Judgment Order at 12-13; 18. The non-consumptive water rights necessary to serve the fishing and hunting purpose include the water rights at springs and wetlands at issue in the State's Motion. The State argues that the priority date for water rights at springs and wetlands should be the date of reacquisition, rather than time immemorial, if the underlying lands were reacquired by the Tribe. State's Motion at 3-6.

The State's argument should be rejected because it fails to recognize the critical distinction between the irrigation water rights considered in *Anderson*, which can be apportioned from the Tribe and transferred to allottees and ultimately to non-Indians, as compared to non-consumptive water rights, which cannot be transferred to an allottee or third party because they are held for the communal benefit of the Tribe as a whole and survive changes in land ownership within the Reservation. Non-consumptive water rights bear time immemorial priority dates

because they provide habitat for species necessary to fulfill the hunting and fishing purpose of the Reservation that the Tribe continues from aboriginal times.

These distinctions are critical because they demonstrate why the *Anderson* approach cannot apply to non-consumptive rights. The *Anderson* reacquired lands analysis turns on "use it or lose it" principles of Western water law, including a requirement that water rights be perfected through beneficial use under state law to hold earlier priority dates for irrigation rights on reacquired lands. 736 F.2d at 1362-63. These concepts simply do not apply to non-consumptive water rights because those rights cannot be separately transferred for use on private lands. In fact, these rights are not "use" rights at all but the opposite—a right to prevent others from consumptively depleting the water supply below the levels necessary for habitat. The absence of a "use it or lose it" requirement and an inability to transfer to individuals illustrates why non-consumptive water rights are held by the Tribe as a whole for the communal benefit and, therefore, must be administered with a single priority date regardless of changes of land ownership within the Reservation. Changes in land ownership may limit Tribal members' access to lands to exercise their harvest rights; but such changes do not result in a patchwork of priority dates for a non-consumptive water right meant to fulfill the subsistence purpose of the Reservation. The priority date for the non-consumptive water rights remains time immemorial based on the Tribe's continuation of its aboriginal rights to hunt and fish.

The Ninth Circuit in *United States v. Adair,* 723 F.2d 1394, 1418 (9th Cir. 1984) considered and rejected the argument espoused by the State that consumptive, irrigation water rights should be analyzed the same as the non-consumptive water rights necessary to support aboriginal subsistence hunting. *See* State's Memo at 3. In *Adair,* the United States' Fish and Wildlife Service, which operates several wildlife refuges in the Klamath Basin, argued that it was a successor-in-interest to a portion of the Klamath Tribes' water right reserved in support of

its treaty-reserved hunting, fishing, and gathering rights. The Ninth Circuit rejected that argument, however, and held:

> [T]he Government has no ownership interest in, or right to control the use of, the Klamath Tribe's hunting and fishing water rights. The hunting and fishing right from which these water rights arise by necessary implication were reserved by the Tribe in the 1864 treaty with the United States. The hunting and fishing rights themselves belong to the Tribe and may not be transferred to a third party. Because the Klamath Tribe's treaty right to hunt and fish is not transferable, it follows that no subsequent transferee may acquire the right of use or the reserved water necessary to fulfill that use.

Adair, 723 F.2d at 1418. (citations omitted). Indeed, *Adair* noted that "[a] forceful argument can be made that the Klamath's hunting and fishing water rights should not be treated differently from other reserved water rights, such as those for irrigation." *Adair*, 723 F.2d at 1418, n. 31. If such rights were treated the same, the Court reasoned, "the Tribe's hunting and fishing water rights would be transferrable to the United States." *Id. Adair* rejected that analogy, however, "because even when the Tribe transfers the land to which the hunting and fishing water rights might be said to be appurtenant, it is the Tribe and its members, not some third party, that retains the right to hunt and fish and needs water to support that right." *Id.* The Tribe accordingly retained those rights with a time immemorial priority date.

Non-consumptive water rights are necessary to provide sufficient habitat within the Reservation for species subject to hunting and fishing by the Tribe regardless of underlying land ownership. *See* United States' Response Brief at 35-43; Coeur d'Alene Tribe's Response Brief at 31-40. Indeed, *Walton*, *Anderson* and *Adair* all recognized non-consumptive water rights to serve hunting and/or fishing purposes in water sources that flow over lands then in private ownership. If non-consumptive water rights apply to lands now in private ownership, such rights

must apply to lands which were in private ownership in the past but are again in tribal ownership at present.[3]

An examination of *Walton*, *Anderson*, and *Adair* demonstrates that non-consumptive water rights held by the Tribe were not disturbed by changes to land ownership status within the Reservation and, thus, maintain time immemorial priority dates. For example, in *Walton II*, the Ninth Circuit held that the Colville Tribes had reserved water rights for both irrigation and instream flows to support fish habitat. 647 F. 2d at 47-48. The Ninth Circuit held that irrigation rights could be transferred to individuals by recognizing "that a ratable share of this [tribal] water reserved for irrigation passed to Indian allottees" . . . and "could in turn be conveyed to a non-Indian purchaser." *Id.* at 48. Accordingly, Mr. Boyd Walton, a non-Indian purchaser of a former allotment, could access a portion of the Colville Tribes' irrigation water rights if he met certain criteria. *Id.* at 50.

In contrast, the non-consumptive water rights for fish habitat in No Name Creek were awarded to the Tribes with a date-of-reservation priority date. *Colville Confederated Tribes v. Walton*, 752 F.2d 397, 405 (9th Cir. 1985) ("*Walton III*"). The court found that "[t]his quantity of water, unrelated to irrigation, was not affected by the allotment of reservation lands and passage of title out of the Indians' hands." *Id.* at 400. In other words, the non-consumptive water rights were not subject to transfer to individuals, but remained with the Tribes even when their reservation was fully allotted. *Id.* at 399 (noting that all lands within the Colville Reservation were allotted). Mr. Walton was not entitled to any part of the Tribes' non-consumptive water right even though No Name Creek ran through his property. *Walton II*, 647 F. 2d at 45. Mr. Walton's consumptive water right was limited by the extent of the former allottee's irrigable

[3] The non-consumptive water rights do not equate to Tribal harvest rights on private lands. *See* United States Response Brief at 35-36.

acreage. *Id.* at 51. Overall, *Walton II* and *Walton III* demonstrate that a non-consumptive water right is held by the Tribe with a priority date that applies to the entirety of that right and is not subject to transfer to individual allottees. Since such a water right is not subject to transfer, the *Anderson* rationale regarding reacquired lands does not apply to a non-consumptive tribal water right.

The federal district court in *Anderson* likewise found a dual agriculture/fishing purpose for the creation of the Spokane Reservation. 1979 *Anderson* Opinion at 5-10. Although Judge Neill's 1979 Opinion was modified by Judge Quackenbush shortly after Judge Neill's death, his analysis regarding the scope of the Tribe's water rights was left largely unchanged. *See United States v. Anderson*, 591 F. Supp. 1, 3 (E.D. Wash. 1982), *rev'd on other grounds*, *United States v. Anderson*, 736 F.2d 1358 (9th Cir. 1984).[4] This chronology is important because the 1979 *Anderson* Opinion—which remains good law—reached a conclusion that demonstrates the flaw in the State's Motion: the priority date of the Spokane Tribe's non-consumptive instream flow water rights was not subject to the reacquired lands analysis but was instead limited to the section analyzing the Tribe's irrigation claims. 1979 *Anderson* Opinion at 8-10. The 1979 *Anderson* Opinion awarded a priority date of "at the latest . . . the date of the creation of the reservation" for instream flow water rights and, thereby, rejected application of its reacquired lands analysis to that claim. *Id.* at 9-10.[5]

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[4] The 1982 district court decision was issued in response to motions to amend the unpublished 1979 Memorandum Opinion and Order that was filed by the original judge in the case, Judge Neill, shortly before he died. *See Anderson*, 591 F. Supp. at 3 (explaining the history of the case).

[5] Regarding the Tribe's non-consumptive water rights, the 1979 *Anderson* Opinion noted that the Tribe had "used this creek for fishing purposes since 'time immemorial'" but declined to rule on whether a time immemorial priority date should apply because "under either [a date-of-reservation or time immemorial] priority date, the Tribe's reserved water rights for fishing are superior." 1979 *Anderson* Opinion at 10.

On appeal, the Ninth Circuit considered the priority date of only irrigation water rights on reacquired lands. 736 F.2d at 1361-63. The Spokane Tribe's non-consumptive water rights were not the subject of appeal and the Ninth Circuit did not disturb the 1979 *Anderson* Opinion's application of a date-of-reservation priority date to the entirety of the tribal instream flow claim. *Anderson*, 591 F. Supp. at 5-6. The court also noted that "much of the reservation land with state water rights is immediately adjacent to the creek" in which the instream flow rights were confirmed. *Id.* at 1366. Such a finding confirms that federal reserved non-consumptive water rights have a singular priority date linked to communal subsistence rights held by the Tribe rather than subject to an analysis of title of the underlying lands.

Adair reflects a similar treatment of non-consumptive subsistence water rights. The Klamath Tribes in *Adair* were found to have reserved water rights to serve both an agricultural purpose and to continue the Tribe's right to hunt, fish, and gather. *Adair*, 723 F.2d 1394, 1410. *Adair* outlined precisely how the non-consumptive water rights to support hunting and fishing are unique:

> The holder of such a right is not entitled to withdraw water from the stream for agricultural, industrial, or other consumptive uses (absent independent consumptive rights). Rather, the entitlement consists of the right to prevent other appropriators from depleting the stream waters below a protected level in any area where the non-consumptive right applies. In this respect, the water right reserved for the Tribe to hunt and fish has no corollary in the common law of prior appropriations.

Id. at 1411.

The non-consumptive water rights were recognized for the Klamath Tribes in streams flowing throughout their former Reservation, located on privately owned lands, with a time immemorial priority date. *Id.* at 1414. In fact, the Ninth Circuit made a point of noting that "[non-Indian] [a]ppellants argue vigorously that the Tribe can no longer hold a water right to support its treaty hunting and fishing rights because the Tribe no longer owns the land to which

this water right is appurtenant. *Id.* at 1415, n. 24. The Court rejected this argument, finding that it "misperceives the history and nature of the Klamath's reserved water rights." *Id.* It went on to reaffirm that the Tribe's hunting and fishing water rights vested upon the creation of the Klamath Reservation and "[t]he issue is whether these water rights, once reserved, are terminated by a transfer of the appurtenant land." *Id.* In answering this question, the Ninth Circuit recognized "[w]e have already held in *Kimball I* that the Tribe's hunting and fishing rights guaranteed by the treaty survived despite the land transfer." *Id.* (citing 493 F.2d at 569-70).

The portion of *Kimbal I* cited by the Ninth Circuit demonstrates the fundamental flaw of the State's reliance on *Blake v. Arnett*.[6] *Blake* recognized that the Klamath River Tribes retained their fishing rights and instead dealt with *access* to non-Indian fee land, not hunting and fishing rights. 663 F.2d at 908. Consistent with *Blake*, the Court in *Kimbal I* highlighted that although the Klamath Tribes did not retain the right to access non-Indian fee lands to exercise their subsistence rights, "they may exercise their treaty hunting, trapping, and fishing rights free from state fish and game regulations on the lands constituting their ancestral Klamath Indian Reservation, including that land now constituting United States national forest land and that privately owned land on which hunting, trapping, or fishing is permitted." 493 F.2d at 569-70.[7]

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[6] The State also cites to *County of Yakima v Confederated Tribes of the Yakima Indian Nation*, as well as *Oneida Tribe of Indians of Wisconsin v. Village of Hobart*. State's Memo at 5. However, neither of these cases are applicable to the present case. Simply put, whether lands held in *fee-simple* by the Tribe are subject to state taxes and condemnation proceedings provides no guidance to this Court regarding the scope of the Tribe's subsistence water rights within the reservation.

[7] The Idaho Supreme Court has recognized the fundamental difference between tribal hunting and fishing rights and the right to *access* non-Indian fee land to exercise that underlying right. *State v. McConville*, 65 Idaho 46, 139 P.2d 485, 487 (1943).

In other words, the Ninth Circuit found the Tribe had retained their subsistence rights throughout the entirety of the Klamath Reservation.

Importantly, the Ninth Circuit came to this conclusion despite the fact that the Klamath Reservation was allotted just like the Coeur d'Alene Reservation. *Adair*, 723 F.2d at 1398. In this case, as in *Adair*, the fact that some lands in the Reservation have been alienated from the Tribe makes the water rights all the more important to ensure water continues to be present at the locations where the Tribe can continue to exercise its fishing, hunting, and gathering rights. Coeur d'Alene Response Brief at 34. Together, *Kimbal I* and *Adair* unequivocally demonstrate that since reserved subsistence rights belong collectively to the Tribe and may not be transferred to a third party, those rights were never lost and subsequently reacquired. Accordingly, the priority date should remain time immemorial.

Altogether, these cases demonstrate that non-consumptive water rights to support hunting and fishing rights are inherently different than the consumptive rights addressed in the reacquired lands portion of the *Anderson* decision. The differences are important because they demonstrate that the water rights apply for the Tribe as a whole, are not transferable, and continue with the Reservation regardless of land ownership. Since such rights provide habitat for plants, game, waterfowl, and fish, these water rights ensure the continuation of the Tribe's aboriginal subsistence activities and, thus, carry a time immemorial priority date. The *Anderson* rationale to support a later priority date on reacquired lands only applies to consumptive uses for irrigation purposes. That rationale simply does not extend to non-consumptive water rights that provide necessary habitat for species required within the whole Reservation to support hunting and fishing.

CONCLUSION

For all of the reasons described above, the United States moves the Court to deny the State's Motion for Reconsideration and clarify that water rights for irrigation water rights on reacquired allotments carry a priority date of November 8, 1873 and water rights at springs and wetlands to support Tribal hunting hold priority dates of time immemorial.

DATED this 15th day of June, 2017.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that original copies of the UNITED STATES' AND COEUR D'ALENE TRIBE JOINT MEMORANDUM IN RESPONE TO THE STATE OF IDAHO'S MOTION TO RECONSIDER ORDER ON MOTIONS FOR SUMMARY JUDGMENT was sent via overnight Federal Express this 15th day of June, 2017 to:

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I certify that true and correct copies of the documents listed above were sent via electronic mail to those parties for which the US has email addresses and U.S. Post to all parties below on this 15th day of June, 2017.

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