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Department of Water Resources

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: 29-53

Case No. 39576

STIPULATION TO RESOLVE
OBJECTION

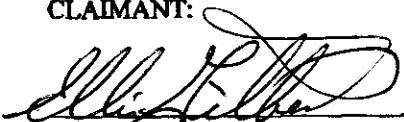
This form is used to report the stipulated elements of one water right acquired under state law. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law; and that they have appeared, prosecuted and defended their positions with regard to this water right dispute.

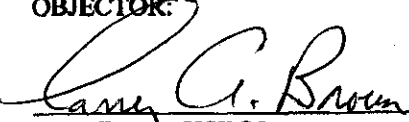
The BLM, claimant and IDWR agree and stipulate that the elements of this water right should be described per the attached and that this stipulation resolves the BLM objection to the Director's Report. The BLM, claimant and IDWR acknowledge that the objections to the Director's Report filed by Kenneth Andrus and Lava Irrigation Co., Ltd. are still outstanding. The BLM, claimant and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

OBJECTOR:


Ellis Gilbert, President
Portneuf Marsh Valley Canal Co.

6-30-04
Date


Larry Brown, USDOJ
Attorney for BLM

7/5/04
Date

IDWR CONCURRENCE:


Ernie Carlsen
Adjudication Supervisor, Eastern Region

6-22-04
Date


Candice M. McHugh
Attorney for IDWR

6/22/04
Date

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-53

NAME AND ADDRESS:

PORTRNEUF MARSH VALLEY CANAL CO
LTD
C/O ELLIS GILBERT
2777 E HAWKINS RD
DOHNEY ID 83234

SOURCE:

Source:
TOPONCE CREEK

Tributary:

PORTRNEUF RIVER

POINT OF INJECTION INTO PORTRNEUF RIVER. POINT OF REDIVERSION FROM
PORTRNEUF RIVER.

QUANTITY:

164.430 CFS 16,410.000 AFT

THIS RIGHT WHEN COMBINED WITH 29-589 IS LIMITED TO A COMBINED TOTAL
OF 16410 AFA.

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 23695 AF. COMBINED RIGHT NOS.: 29-53,
29-589, 29-4060, 29-13319.

PRIORITY DATE: 07/06/1912

POINT OF DIVERSION:

T06S R38E S33 SWSESE

Within CARIBOU County

T06S R39E S19 SWSESW Injection

Within CARIBOU County

T09S R37E S22 SWSESW Lot 3 Rediversion

Within BANNOCK County

~~T09S R37E S22 SWSESW Rediversion~~

Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION STORAGE

01/01 12/31

16,410.00 AFT

IRRIGATION FROM STORAGE

04/15 09/15

16,410.00 AFT

DIVERSION TO STORAGE

09/16 04/14

164.430 CFS

PLACE OF USE:

5183.2 ACRES TOTAL

Place of use is within the area served by the Portneuf Marsh Valley Canal Co. LTD.

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(b). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRRA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

USE OF WATER UNDER THIS RIGHT DOES NOT INCLUDE A USE
ON FEDERAL PUBLIC LAND.

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 5103.2 ACRES IN A SINGLE IRRIGATION
SEASON. COMBINED RIGHT NOS.: 29-52, 29-53, 29-589, 29-4060, 29-13318,
29-13319.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

SUITABLE MEASURING DEVICES SHALL BE INSTALLED ON THE PORTNEUF RIVER ABOVE THE FLOW
LINE OF THE PORTNEUF-MARSH VALLEY IRRIGATING COMPANY RESERVOIR AT WHICH POINT THE
WATER COMES INTO THE RESERVOIR AT T6S R38E S11 NWSEW AND IMMEDIATELY BELOW THE
DAM OF SAID RESERVOIR AT T6S R39E S19 SWSNW SO THAT THE WATER RELEASED MAY BE MORE
ACCURATELY DETERMINED. THE NORMAL FLOW OF THE PORTNEUF RIVER MAY NOT BE OBSTRUCTED
BY THE RESERVOIR WITH REFERENCE TO THE AMOUNT OF WATER DELIVERED THROUGH THE RESERVOIR
DURING THE IRRIGATING SEASON. NO CHARGE SHALL BE MADE AGAINST THE NORMAL STREAM FLOW
FROM THE POINT ABOVE THE RESERVOIR LOCATED AT T6S R38E S11 NWSEW AND THE POINT BELOW TO
RESERVOIR LOCATED AT T6S R39E S19 SWSNW.
~~THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER DISTRICT #29.~~

This partial decree is subject to such general provisions necessary for
the definition of the rights or for the efficient administration of the water
rights as may be ultimately determined by the Court at a point in time
no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
SECTION 42-1425, IDAHO CODE.

~~WATER IS DELIVERED THROUGH PORTNEUF-MARSH VALLEY CANAL.~~

Sm^a
EMC
JAB

CERTIFICATE OF MAILING

I certify that on July 2, 2004 I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

Larry Brown
US DOJ
Attorney for BLM
550 W. Fort St. MSC 033
Boise, ID 83724

Kenneth Andrus
6948 E Old Oregon Trail Rd
Lava Hot Springs, ID 83246

Jerry Rigby
Attorney for Lava Irrigation Co., Ltd.
P.O. Box 250
Rexburg, ID 83440-0250

Randall Budge
Attorney for the Portneuf Marsh Valley Canal Co.
P.O. Box 1391
Pocatello, ID 83204-1391


Signature of person or attorney mailing the form

Claim No.:
29-52, 29-53
29-589
29-4060
29-13318
29-13319

Portneuf Marsh Valley Canal Co Service Area Boundary

Boundary
Township/Range
Sections

Water Deposits of Water Resources
1987-88 NAPP Photography
Prepared by: Susan Calton
Date Prepared: June 2004



0 1 2 3 Miles

