



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

March 18, 2005

Re: Settlement of Marsh Valley Development Objections
to Extended Season of Use Claims

Dear Counsel and Parties:

I have enclosed the final draft of the settlement agreement. **PLEASE REVIEW THE AGREEMENT. IF YOU AGREE TO SETTLE THIS MATTER AS CONTAINED IN THE AGREEMENT, PLEASE SIGN THE AGREEMENT WHERE INDICATED. IT WOULD BEST IF YOU SIGNED THE ORIGINAL DOCUMENT LOCATED AT RANDY BUDGE'S OFFICE AT 201 E. CENTER, PO BOX 1391, POCATELLO, ID 83204-1391. PLEASE CALL (208) 232-6101 AND SPEAK WITH PAM MOTTISHAW TO ARRANGE A TIME TO GO IN AND SIGN. If you are unable to sign the original document at Randy's office, please sign the enclosed settlement agreement on the appropriate signature line and have it properly acknowledge, then, mail it to Randy's office at the above address.**

The rest of this letter is going to explain details about the water rights involved in this agreement and the status of the uncontested overlapping water rights. The following water rights are subject to the settlement agreement. 29-4364, 29-4467, 29-10816, 29-11277, 29-11681, 29-11773, 29-11774, 29-11775, 29-13279, 29-13289, 29-13299, 29-13310, 29-13311, 29-13317, 29-13318, 29-13319, 29-13320, 29-13321, 29-13213, 29-13334, 29-13363, 29-13407, 29-13521, 29-13535, 29-13536, 29-13580, 29-13581, 29-13582, 29-13583, 29-13584, 29-13586. You will note that this draft contains a couple minor changes from the 2/22/05 draft sent to you earlier. Those changes are:

- 1) The 17 cfs has been changed to 17.4,
- 2) Paragraph 5.2 concerning East Bob Creek has changed as the earlier draft did not contain the agreement offered by the claimants,
- 3) Copies of the water rights affected by the agreement are attached. Most of these water rights are unchanged from the original director's report with the following exceptions:

29-13318 (Portneuf Marsh Valley Canal Company) which has a stipulation to remove BLM acres already filed with the court and the changes contained in the stipulation should already incorporated in the attachment to the agreement;

29-13319 (Portneuf Marsh Valley Canal Company) disallowed;

29-11277 (Portneuf Irrigating Company) which has a stipulation to change the place of use boundary already filed with the court and the changes contained in the stipulation should already incorporated in the attachment to the agreement.

29-11681 (Andrus) which has a stipulation to remove BLM acres already filed with the court and the changes contained in the stipulation should already incorporated in the attachment to the agreement.

29-11773 (Dempsey Irrigation) which has a stipulation to remove BLM acres already filed with the court and the changes contained in the stipulation should already incorporated in the attachment to the agreement.

29-13311 and 29-13317 (McCammon Ditch) SF5 to be signed by the parties changeing the place of use to remove BLM acres; the changes in the SF5s are already incorporated and in the attachment to the agreement.

29-13320 and 29-13321 (Phillips) the priority date in the original director's report contained a typo so it has been changed to 8/7/1932 in the attachment to the agreement; an SF5 will be signed by the parties acknowledging the change.

29-13213 (Kevan) which contained an error in the original director's report that added enlargement language unnecessarily. The change is already incorporated in the attachment to the agreement; an SF5 will be signed by the parties acknowledging the change.

Water right no. 29-4060 (Portneuf Marsh Valley Canal Company) will be changed in an SF5 priority date to 1949, added the without loss remark, changed the irrigation from storage season to end 9/15, changed POU remark regarding digital boundary.

In addition to the above water rights and parties receiving SF5s, some of you will also be receiving SF5s to sign on the uncontested overlapping claims. These SF5s are to resolve typographical errors contained in the original director's report and do not substantively change your water rights. The following parties, in addition to those to water rights listed above, should expect to have SF5s included in this mailing: Tillotson (29-168, 29-178, 29-179, 29-13333); Casperson (29-10831, 29-13406); Portneuf Marsh Valley Canal Company (29-52); Kevan (29-35); Fish Creek Irrigating Co. (29-11774) and Lava Irrigation (29-4467).

Water right nos. 29-53 and 29-589 owned by Portneuf Marsh Valley Canal Company were objected to, however, no changes to the original director's report are required. SF5s on these water rights should be included with this mailing to be routed. These water rights are not attached. You can look at the Director's Report for these water rights on IDWR's website www.idwr.idaho.gov, the SRBA website www.srba.state.id.us, or review these recommendations at your local county courthouse.

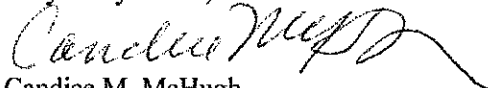
The uncontested overlapping water rights that are ready for a Special Master's Report and Recommendation with no changes to the original director's report are: 29-30, 29-31, 29-32, 29-46, 29-47A, 29-48, 29-169, 29-183, 29-184, 29-204, 29-205, 29-206, 29-207B, 29-214B, 29-215B, 29-2378, 29-10833, 29-12078, 29-12079, 29-13553, 29-13554, 29-13617, 29-13618, 29-13619, 29-13620, 29-13621, 29-13622. I have not included copies of these water rights. If you have a question concerning the elements of these water rights, you can look at the Director's Report on IDWR's website www.idwr.idaho.gov, the SRBA website www.srba.state.id.us, or review these recommendations at your local county courthouse.

Finally, there were some uncontested overlapping water rights that were also related to objections filed by Allen Christensen on West Bob Smith Creek. Those water rights proceeded to a separate hearing on November 24, 2004, to add a clarifying remark concerning quantity. Those water rights are ready for a Special Masters Report and Recommendation as agreed upon at the November 24, 2004, hearing. Those water right numbers are 29-10774B, 29-10776B, 29-13511, 29-13513, 29-13515, 29-13517, 29-13519, 29-13538, 29-13539, 29-13541, 29-13542, 29-13544, 29-13545, 29-13547, 29-13548, 29-13550, 29-13551, 29-13589, 29-13590, 29-13591, 29-13592, 29-13594, 29-13595, 29-13596, 29-13597, 29-13598, 29-13600, 29-13601, 29-13602, 29-13603, 29-13604, 29-13606, 29-13607, 29-13608, 29-13609, 29-13610, 29-13612, 29-13613, 29-13614, 29-13615, 29-13616. Again, I have not included copies of these water rights. If you have a question concerning the elements of these water rights, you can look at the Director's Report on IDWR's website www.idwr.idaho.gov, the SRBA website www.srba.state.id.us, or review these recommendations at your local county courthouse.

The SRBA Court has set a settlement status hearing on April 13, 2005, at 10:30 a.m. to hear which parties have signed the agreement and which parties will proceed to trial on April 25, 2005. You should all have received a notice from the court regarding this hearing. You can participate in that hearing by telephone: 1-225-383-1099, participate code 926509. Once it is clear which parties settled and the agreement is finalized, it will be recorded in the county courthouse and given an instrument number. At the April 13, 2005, hearing, I intend to request that the Special Master include in her Report and Recommendation a reference to the settlement agreement instrument number for those water rights that settled.

I know this letter contains a lot of detail and information. If you have any questions concerning this matter, please call me at (208) 327-4810.

Very Truly Yours,



Candice M. McHugh
Deputy Attorney General, IDWR

Enclosures

cc: Mailing list (enclosed)
David R. Tuthill, Jr.
Ernest Carlsen