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Department of Water Resources

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY
CHARTERED**

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www.racinelaw.net

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

101 SOUTH CAPITOL
BOULEVARD, SUITE 208
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE

477 SHOUP AVENUE
SUITE 203A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

*ALSO MEMBER WY & IL BARS
**ALSO MEMBER D.C. BAR
***ALSO MEMBER MO BAR
†ALSO MEMBER UT BAR
††ALSO MEMBER IL BAR
†††ALSO MEMBER CA BAR
‡ALSO MEMBER IL BAR

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
CONRAD J. AIKEN
RICHARD A. HEARN, M.D.**
DAVID E. ALEXANDER***
LANE V. ERICKSON†
LISA M. CHRISTON††
PATRICK N. GEORGE
SCOTT J. SMITH
LISA A. WOOD, CPA
STEPHEN J. MUHONEN
BRENT L. WHITING
LISA R. TANNER†††
JUSTIN R. ELLIS
JOSHUA D. JOHNSON‡

April 22, 2005

Fax 208-736-1212

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707
ATTN: Janet

RE: *Case No. 39576, Subcase Nos. 29-11175, 29-13406, 29-13407*

Dear Janet:

Please file the enclosed Motion to Enforce Settlement Agreement and bring the matter to the attention of Special Master Bilyeu so a hearing can be scheduled on the same.

Thank you for your assistance.

Sincerely,



RANDALL C. BUDGE

RCB:pc

Encl

c: Service List

Claimants on equal status with other similarly situated Claimants in Basin 29, will not cause prejudice or injury to them, and will be in the interest of fairness and justice to all other parties who have expended considerable time and money with respect to the settlement.

WHEREFORE, Movants request that this Motion be scheduled for hearing before the Court and following the hearing that an Order be entered as above requested, causing Wilmore and Casperson to be bound by the Settlement Agreement.

DATED this 22 day of April, 2005.

PORTNEUF MARSH
VALLEY CANAL COMPANY

MARSH VALLEY DEVELOPMENT, INC.

By Randall C. Budge
RANDALL C. BUDGE

By Randall C. Budge
RANDALL C. BUDGE

MCCAMMON DITCH COMPANY

PORTNEUF IRRIGATING COMPANY

By (Approved w/o signature) RB
JAMES A. SPINNER

By (Approved w/o signature) RB
RANDOLPH C. STONE

LAVA IRRIGATION COMPANY

By (Approved w/o signature) RB
JERRY RIGBY

Randall C. Budge, ISB 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109
E-mail: rcb@racinelaw.net

**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	)	A. Subcase No. 29-11775
	)	Subcase No. 29-13406
Case No. 39576	)	Subcase No. 29-13407
	)	
_____	)	MOTION TO ENFORCE SETTLEMENT
		AGREEMENT

COME NOW Portneuf Marsh Valley Canal Company, through counsel, Randall C. Budge, Marsh Valley Development, Inc., through counsel Randall C. Budge, McCammon Ditch Company, through counsel James A. Spinner, Portneuf Irrigating Company, through counsel Randolph C. Stone, Lava Irrigation Company, through counsel Jerry R. Rigby (hereinafter collectively "Movants") and hereby move the Court for an Order compelling Claimants Carroll and Ione Wilmore Estate, Subcase No. 29-11175 ("Wilmore"), and Claimants Bret and Nathan Casperson, Water Right Numbers 29-13406 and 29-13407 ("Casperson") be legally bound and made parties to the Portneuf River Settlement Agreement - Basin 29, Portneuf River, entered into on March 23, 2005 (the "Settlement Agreement"), executed by all other parties previously. This Motion is made upon the grounds and for the reasons:

1. On August 26, 2004, Special Master Brigitte Bilyeu entered an Order setting mandatory settlement conference before the Honorable Barry Wood on November 10, 2004, at the Twin Falls County Courthouse. Said Order stated:

“Each party and IDWR is required to be present with the individual having full settlement authority on every aspect of the contested subcase . . . **failure to attend or attendance without settlement authority may result in sanctions by the court.**”

2. The mandatory settlement conference was conducted before the Honorable Judge Barry Wood on November 10, 2004, at the Twin Falls County Courthouse. It is believed that all parties to the Portneuf River Basin 29 subcases participated, excepting Wilmores and Caspersons who did not appear. At the conclusion of the mediation, a settlement agreement was reached between all parties and read into the record.

3. Subsequent to the mediation, meetings between the parties were held and several status conferences conducted by the Court to resolve details and finalize the settlement agreement terms which Wilmores and Caspersons had notice of but failed to participate in.

4. A formal written agreement entitled “PORTNEUF RIVER SETTLEMENT AGREEMENT BASIN 29: PORTNEUF RIVER” was made and entered into on March 23, 2005 (re: “Settlement Agreement”) which has been executed by all parties, excepting Wilmore and Casperson and has been filed with the SRBA Court for the purpose of fully and finally settling all issues between the parties, including the withdrawal of all objections and the termination of all water rights of the parties in Portneuf River Basin 29.

5. By reason of the Wilmore and Casperson failure to participate in the mandatory settlement conference and subsequent proceedings to finalize the Settlement Agreement, sanctions should be imposed against them including an Order compelling them to be bound by the Settlement Agreement, thereby settling and resolving their water right claims consistent with all other parties to Basin 29, providing for the withdrawal of all objections to their water rights and for the decree of their water rights as recommended by the Department. The requested relief will place these

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22 day of April, 2005, I served a true and correct copy of the above and foregoing document to the following person(s) as follows:

Indian Falls Property Assn
Indian Falls Water Users Assoc.
Represented by:
Craig W. Parrish
P.O. Box 4321
Pocatello, ID 83205

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Amber Hall
Evelee Hill Rush
Jason and Amber Hall
Jason Hall
Jeffery F. Harris
Lana Naef
Larry Naef
Lava Irrigation Co., Inc.
Lynn W. Stewart
Margie H. Stewart
Max W. Hall
Natalie Gunter
Roben Hull
Robert E. Rush
Russell Gunter

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Represented by:
Jerry R. Rigby
P.O. Box 250
Rexburg, ID 83440-0250

Portneuf Irrigating Co.
Represented by:
Randolph Calvin Stone
P.O. Box 910
Burley, ID 83318

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

I. Glenn Perkins
Mary D. Perkins
Represented by:
Ronald J. Jarman
P.O. Box 2696
Pocatello, ID 83206-2696

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

USDI BLM

Represented by:
U.S. Department of Justice
Environmental & Nat'l Resources
550 West Fort Street, MSC 033
Boise, ID 83724

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Indian Falls Property Assn
c/o Earl Mapes
1061 Sagewood Place
Pocatello, ID 83201

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Dempsey Irrigation Co.
c/o Earl Smith
P.O. Box 235
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Topaz Irrigation Co.
c/o Gene Fagnant
P.O. Box 239
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Carroll & Ione Willmore Estate
c/o Jim Willmore
519 Park Street
St. Anthony, ID 83445

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Fish Creek Irrigating Co.
c/o Wallace Whitehead
P.O. Box 152
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Fagnant & Olson Ranch, L.L.C.
c/o Frances Gene Fagnant
P.O. Box 293
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Indian Falls Water Users Assoc.
Attn: Phil Hudgens, President
P.O. Box 134
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Lava Irrigation Co., Inc.
P.O. Box 182
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Portneuf Irrigating Co.
P.O. Box 194
Arimo, ID 83214

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Jeffrey F. Harris
P.O. Box 252
McCammon, ID 83250

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Ronnie D. & Sherril Tillotson
P.O. Box 261
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

David Lee Losee
13092 Creekside Circle
Lava Hot Springs, ID 83246-1546

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Russell & Natalie Gunter
P.O. Box 433
McCammon, ID 83250

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Candice & Lynden Symons
P.O. Box 604
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Roben Hull
2142 Arbon Valley Hwy
Pocatello, ID 83204

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Carl L. & Nola Rae Phillips
2884 W 1400 S
Aberdeen, ID 83210

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Barbara Kevan
3462 N 2500 E
Twin Falls, ID 83301

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Lana & Larry Naef
5812 E. Old Oregon Trail Road
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Colleen L., Jim & Kenneth D. Andrus
6948 E. Old Oregon Trail Road
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Lynn W. & Margie H. Stewart
8574 Bob Smith Road
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Nathan Casperson
8789 E. Maughan Road
Lava Hot Springs, ID 83246

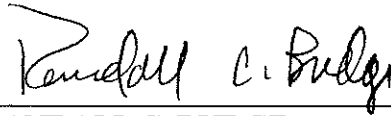
☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

Brett Casperson
8893 E. Maughan Road
Lava Hot Springs, ID 83246

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile

McCammon Ditch Co
10192 S. Hall Road
McCammon, ID 83250

☒ U. S. Mail
Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile



RANDALL C. BUDGE