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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	)	ORDER SETTING HEARING
	)	ON MOTION TO CORRECT
	)	CLERICAL ERROR
Case No. 39576	)	
_____	)	SUBCASE NOS.: 29-52

On June 2, 2005 the Clerk of the Court received correspondence from Mr. Randy Budge, counsel for Marsh Valley Development, Inc. and Portneuf Marsh Valley Canal Co. Ltd. regarding a water right that was inadvertently omitted from the attachments to the *Portneuf River Settlement Agreement*. According to the correspondence, the print out for water right 29-00052 was omitted by mistake.

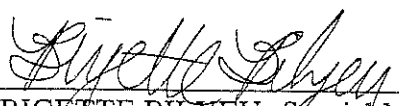
The court is treating this correspondence as a *Motion to Correct Clerical Error*. We assume that Mr. Budge is asking that the attachments to *Portneuf River Settlement Agreement* be altered to include 29-00052. Any party objecting to the inclusion of 29-00052 in the attachments to the *Portneuf River Settlement Agreement* should notify the parties and the court in writing. A hearing will be held June 15, 2005 at 9:00 a.m. In the absence of any objections, the printout for 29-00052 shall be attached to the *Portneuf River Settlement Agreement* contained in the files of this court.

A hearing on the *Motion to Correct Clerical Error* will be set as follows:

June 15, 2005 9:00 am Status Conference
Location: Snake River Basin Adjudication
253 3rd Ave. North
Twin Falls, Idaho 83301

Parties may participate by phone by dialing 1-225-383-1099 and when prompted enter participant code 926509.

Dated June 3, 2005.


BRIGETTE BILYEU, Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING HEARING ON MOTION TO CORRECT CLERICAL ERROR was mailed on June 3, 2005, with sufficient first-class postage to the following:

Director of IDWR
P O Box 83720
Boise, Idaho 83711-0098

United State Department of Justice
550 West Fort Street, MSC 033
Boise, Idaho 83724

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Randall C Budge
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P O Box 1391
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Randolph Calvin Stone
P O Box 910
Burley, Idaho 83318

Ronald J Jarman
P O Box 2696
Pocatello, Idaho 83206-2696

Indian Falls Property Assn
C/O Earl Mapes
1061 Sagewood Place
Pocatello, Idaho 83201

Dempsey Irrigation Company
C/O Earl Smith
P O Box 235
Lava Hot Springs, Idaho 83246

Topaz Irrigation Co.
C/O Gene Fagnant
P O Box 293
Lava Hot Springs, Idaho 83246

Carrol & Ione Willmore Estate
C/O Jim Willmore
519 Park St
St Anthony, Idaho 83445

Fish Creek Irrigating Co
C/O Wallace Whitehead
P O Box 152
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Fagnant & Olson Ranch LLC
Frances Gene Fagnant
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Lava Hot Springs, Idaho 83246

Indian Falls Water Users Assoc
Phil Hudgens President
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Lava Irrigation Co Inc
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Portneuf Irrigating Co
P O Box 194
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Barbara W Kevan
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Jim Andrus, Kenneth D Andrus
Colleen L Andrus
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Lynn W & Margie H Stewart
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Lava Hot Springs, Idaho 83246

Nathan Casperson
8789 E Maughan Road
Lava Hot Springs, Idaho 83246

Brett Casperson
8893 E Maughan Road
Lava Hot Spring, Idaho 83246

A handwritten signature in cursive script, reading "Janet Cornell", is written over a horizontal line.

Deputy Clerk

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

RIGHT NUMBER: 29-52
NAME AND ADDRESS: PORTNEUF MARSH VALLEY CANAL CO LTD
C/O ELLIS GILBERT
2777 E HAWKINS RD
DOWNEY ID 83234
SOURCE: PORTNEUF RIVER TRIBUTARY: SNAKE RIVER
QUANTITY: 176.850 CFS
USE OF THIS RIGHT WITH RIGHT NO. 29-13318 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 176.85 CFS.
PRIORITY DATE: 12/18/1907
POINT OF
DIVERSION: T09S R37E S22 SWSNW Lot 3 Within BANNOCK County
PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 09/15	176.850 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS
EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31,
PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE
USE OF WATER BEFORE APRIL 15 AND AFTER SEPTEMBER 15 UNDER
THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO
SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY
DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR
THIS RIGHT.

PLACE OF USE: 5103.2 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)(H). 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 SRBA 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.

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:

~~THIS STORAGE WATER RIGHT IS TO BE DELIVERED WITHOUT
CONVEYANCE LOSS FROM THE RESERVOIR TO THE POINT OF
DIVERSION LOCATED ON THE PORTNEUF RIVER AT T9S R37E SEC. 22
N4W3E (LOT 3) FOR THE PORTNEUF MARSH VALLEY CANAL
COMPANY'S CANAL THROUGH SAID COMPANY'S DRAINAGE CANAL
AND THE PORTNEUF RIVER CHANNEL.~~

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.