



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

June 3, 2005

*Re: Settlement of Marsh Valley Development Objections
Proposed Language to be Included in Contested Subcases
List of Subcases Ready for Partial Decree*

Dear Special Master Bilyeu, Counsel and Parties:

This letter is intended to assist the court and the parties in determine the status of each water right that has been included in the hearings set on the Marsh Valley Development objections to the extended season of use claims in Basin 29.

Pursuant to the Portneuf River Settlement Agreement, include for the water right nos. 29-52,¹ 29-53, 29-589, 29-4060, 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, 29-13320, 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 the following language:

The operation and administration of this water right is also subject to the terms and conditions of the following contractual agreement: "The Portneuf River Settlement Agreement, Basin 29: Portneuf River" filed of record in the office of the Bannock County Recorder on _____, 2005 as Instrument No. _____; the provisions of such agreement to apply fully to this water right.

Some of the above water rights will also contain changes to specific elements that have been agreed to by the parties and submitted in separate stipulations or Standard Forms 5. Those specific element changes should be incorporated into the Special Master's Report and Recommendation along with the above proposed language.

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

¹ The description of this water right was inadvertently left off of the original Portneuf River Settlement Agreement. Mr. Budge sent a letter with a description of this water right to all the parties under a separate mailing on June 1, 2005.

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.

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.

Finally, concerning water right no. 29-13406 owned by Nathan and Brett Casperson: an Amended Director's Report for this water right was filed on May 3, 2005, and objections are due June 17, 2005. This water right was not attached to the original settlement agreement because there was no objection filed on it by Marsh Valley Development because the recommended priority date was April 1, 1962. The description of the water right should be as reflected in the Amended Director's Report. Whether or not the settlement agreement should apply to this water right if the priority date is changed to August 7, 1932, is unclear.

If you have any questions concerning this matter, please call me at (208) 287-4810.

Very Truly Yours,



Candice M. McHugh
Deputy Attorney General, IDWR

electronic c:

David R. Tuthill, Jr.
Ernie Carlsen