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March 22, 2007

Honorable John M. Melanson
Presiding Judge
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707

Re: *Portneuf River Subcases - March 21, 2007 Scheduling Order*

Dear Judge Melanson:

I participated in the March 20, 2007 status conference in the above-captioned matter as counsel for Portneuf-Marsh Valley Canal Company and Marsh Valley Development Company, two of the several parties of record opposing the Motion to Alter or Amend filed by Lava Irrigation Company, et al., represented by Jerry Rigby. My recollection and understanding at the status conference was that the moving party had 10 days within which to file an affidavit stating with particularity the substance of which the witness will be testifying and present any other evidence that will be presented at the hearing. This was to allow those opposing the motion to have a reasonable opportunity to prepare and respond at the hearing.

However, the Scheduling Order indicates in paragraph 2 that "any party intending to present expert testimony file and serve an affidavit executed by the witness stating with particularity the substance of which the witness will be testifying" to be served by no later than March 30, 2007. To date the moving parties have not presented any testimony or evidence in support of their motion. Accordingly, the opposing parties simply don't know the factual basis in support of the motion and, both as a practical and legal matter, would not be able to simultaneously file an affidavit by March 30 stating with particularity the substance of their responding witnesses. For that reason I would like

2007 MAR 23 AM 10 38
FILED
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

March 22, 2007

Page 2

to clarify that the March 30, 2007 filing deadline is intended to apply to the moving parties' witnesses, and that the opposing parties will have an opportunity to respond at or prior to the hearing. I trust the Court can appreciate the dilemma we otherwise would be facing.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Randall C. Budge". The signature is fluid and cursive, with the first name "Randall" and last name "Budge" clearly distinguishable. It is positioned above the printed name.

RANDALL C. BUDGE

RCB:rr

cc: Parties of Record per Service List