

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO(208) 738-2011
FAX (208) 738-2121SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

DATE:

12/11/07

TO:

Ray

FAX #:

FROM:

RE:

OF PAGES INCLUDING THIS COVER SHEET _____

MESSAGE:

This facsimile may contain confidential information that is protected by the Idaho Court Administrative Rules. It is intended to the use of the individual(s) named above. If you are not the named recipient or an employee responsible for delivering the facsimile, you are instructed not to deliver, distribute or copy this facsimile, nor should you disclose its contents or take any action in reliance on the information it contains. If you have received this facsimile in error, please notify the Court immediately by telephone to arrange the return of the transmitted documents to us. Thank you.

ADDENDUM AGREEMENT:

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED upon between the Parties as follows:

1. Should the Portneuf River water right holders in the lower division (including Portneuf-Marsh Valley Canal Co., McCammon Ditch Co., and Portneuf Irrigating Co.) make a change in their diversions from their present place of use or from their present nature of use which materially and substantially impacts historic late season diversions (both those in and out of priority) of the upper river water right holders, then the upper river water users may request the Idaho Department of Water Resources to determine if a material and substantial impact has occurred. When so determined by IDWR, the Department will calculate an appropriate adjustment to the 17.4 cfs minimum stream flow at Topaz gauge as set forth in paragraph 3 of the Settlement Agreement which will be applied in future regulation.

2. "Historic late season diversions" are diversions by Lava Irrigation Co. and Dempsey Irrigation Co. from August 1 through September 15, determined from the IDWR water masters historic daily diversion logs on file with IDWR. IDWR has completed a spreadsheet of Lava Irrigation Company and Dempsey Irrigating company showing an average of 24.8 cfs, as more particularly set in the spreadsheet produced by IDWR and entitled "Avg_Lava-Dempsey_Diversions-Aug1-Sep15.xls" which shall be made a part of this Addendum Agreement. McCammon Ditch Company reserves the right to produce its own diversion records spreadsheet if a claimed impact under this addendum arises and the Parties agree that they reserve all rights and arguments as to the accuracy, applicability and relevancy of the said IDWR water master records.

3. Upon a determination by IDWR of any such impact of adjustment, either party may have a right to appeal in the normal administrative process.

4. This Addendum Agreement shall be submitted to the Court for approval and thereupon shall be binding upon the Parties, and recorded in the official records of Bannock County Recorder's Office.

5. Except for the specific additional terms contained herein, the original PORTNEUF RIVER SETTLEMENT AGREEMENT referred to above shall remain in full force and effect and is not further modified by this Addendum.

6. It is understood and agreed that Lava Irrigation Co. and Dempsey Irrigating Co. have entered into a "companion" Addendum Agreement with most (if not all) other signatories to the original Portneuf River Settlement Agreement and that this agreement with McCammon Ditch Company is intended to be construed for all purposes as a companion agreement to said Addendum Agreement with the other signatories and the two agreements shall be jointly filed with the court and jointly enforced with the sole exception of the differing language contained herein, which shall be enforced among the three parties described in the heading of this agreement only.

Dated this 18 day of October, 2007.

McCAMMON DITCH COMPANY

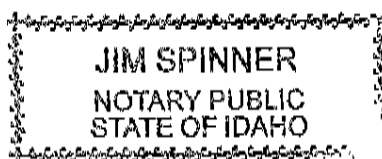
By: Byron K. Allen

STATE OF IDAHO)

County of Bannock)^{SS}

On this 18 day of October, in the year of 2007, before me Jim Spinner, personally appeared Byron K. Allen known or identified to me to be the president or vice-president, or secretary or assistant secretary, of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

SUBSCRIBED AND SWORN before me this 18 day of October, 2007.



Jim Spinner
NOTARY PUBLIC for Idaho
Residing at: Pocatello
Commission Expires: 3-16-11

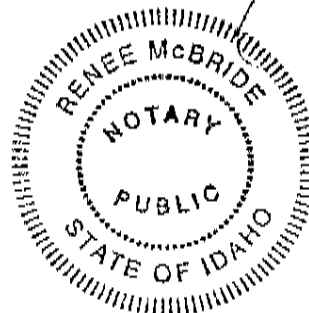
LAVA IRRIGATION COMPANY

By: *Kirk Erickson*

STATE OF IDAHO)

County of Bannock)
SS

On this 24 day of October, in the year of 2007, before me Renee McBride, personally appeared Kirk Erickson known or identified to me to be the president or vice-president, or secretary or assistant secretary, of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

SUBSCRIBED AND SWORN before me this 24 day of October, 2007.*Renee McBride*
NOTARY PUBLIC for IdahoResiding at: Law Hot SpringsCommission Expires: May 31, 2012

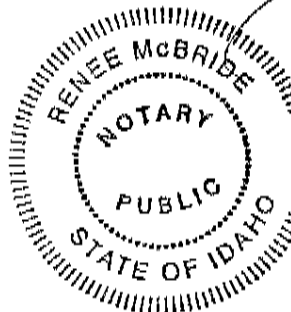
DEMPSEY IRRIGATING COMPANY

By: *Dan N. Dimick*

STATE OF IDAHO)

County of Bannock)
SS

On this 24 day of October, in the year of 2007, before me Renee McBride, personally appeared Dan Dimick known or identified to me to be the president or vice-president, or secretary or assistant secretary, of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

SUBSCRIBED AND SWORN before me this 24 day of October, 2007.*Renee McBride*
NOTARY PUBLIC for IdahoResiding at: Law Hot SpringsCommission Expires: May 31, 2012

LODGED
DISTRICT CLERK
PORTNEUF RIVER SETTLEMENT
FILED
DEC 11 2007

ADDENDUM AGREEMENT TO THE
PORTNEUF RIVER SETTLEMENT AGREEMENT

BASIN 29: PORTNEUF RIVER

THIS ADDENDUM AGREEMENT TO THE PORTNEUF RIVER SETTLEMENT AGREEMENT (the "Addendum") is made and entered into this ____ day of June, 2007, by and among PORTNEUF-MARSH VALLEY CANAL COMPANY, McCAMMON DITCH COMPANY, PORTNEUF IRRIGATING COMPANY, LAVA IRRIGATION COMPANY, DEMPSEY IRRIGATING COMPANY, TOPAZ IRRIGATION COMPANY, INDIAN FALLS PROPERTY ASSOCIATION/INDIAN FALLS WATER USERS ASSOCIATION, FISH CREEK IRRIGATING COMPANY (referred to collectively as the "Canal Companies"), and the individual parties whose names are set forth upon the signature page. The foregoing are sometimes referred to herein individually as a "Party" or collectively as the "Parties". Idaho Department of Water Resources sometimes referred to herein as IDWR or Department.

RECITALS:

A. Since the execution and SRBA Court approval of the Portneuf River Settlement Agreement -- Basin 29 Portneuf River dated March 23, 2005, (hereinafter "Settlement Agreement") the Parties have been negotiating the terms of this Addendum based upon further review and evaluation of the IDWR approved watermaster's records , and discovering additional facts concerning, historical diversions made above the Topaz gage at the end of the normal irrigation season, which were not considered in the Settlement Agreement calculations, and the impacts these historical diversions may have upon the calculation of the minimum stream flow at the Topaz gauge as set forth in the Settlement Agreement.

B. The Parties desire to enter into this Addendum Agreement to amend the Settlement Agreement and thereby fully and finally compromise and settle their disputes upon the terms set forth below.

ADDENDUM AGREEMENT:

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED upon between the Parties as follows:

1. Should the Portneuf River water right holders in the lower division (including Portneuf-Marsh Valley Canal Co., McCammon Ditch Co. and Portneuf Irrigating Co.) make a change in their diversions from their present place of use or from their present nature of use which materially and substantially impacts the historical late season diversions (both those in and out of priority) of the upper river water right holders, then the upper river water users may request the Idaho Department of Water Resources to determine if a material and substantial impact has occurred. When so determined by IDWR, the Department will calculate an appropriate adjustment to the 17.4 cfs minimum stream flow at Topaz gauge as set forth in paragraph 3 of the Settlement Agreement which will be applied in future regulation.

2. "Historical late season diversions" are diversions by Lava Irrigation Co. and Dempsey Irrigating Co. from August 1 through September 15, determined from the approved IDWR water masters historic daily diversion logs on file with IDWR to be an average of 24.8 cfs, as more particularly set forth in the spreadsheet produced by IDWR and entitled "Avg_Lava-Dempsey_Diversions-Aug1-Sep15.xls" which shall be made a part of this Addendum Agreement.

3. Upon a determination by IDWR of any such impact or adjustment, either party may have a right to appeal in the normal administrative process.

4. This Addendum Agreement shall be submitted to the Court for approval and thereupon shall be binding upon all parties to the Basin 29 sub-cases, including any who have not executed the Addendum Agreement, and then recorded in the official records of Bannock County Recorder's Office.

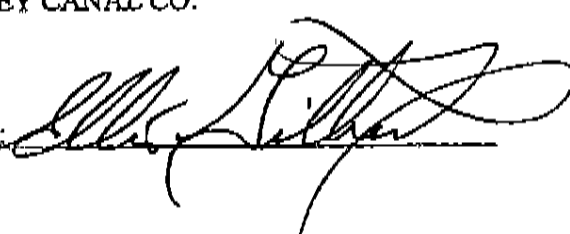
5. Except for the specific additional terms contained herein, the original PORTNEUF RIVER SETTLEMENT AGREEMENT referred to above shall remain in full force and effect and is not further modified by this Addendum.

Dated this ____ day of June, 2007.

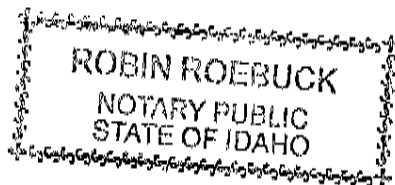
07/19/2007 7:35AM 8 23 id dept health welfare medicaid

No. 0944 P. 2/2 0002

PORTNEUF-MARSH VALLEY CANAL CO.

By: STATE OF IDAHO)
County of Bannock) ss.

On this 19th day of July, in the year of 2007, before me Robin Roebuck, personally appeared Ellis Gilbert known or identified to me to be the president or vice-president, or secretary or assistant secretary, of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

SUBSCRIBED AND SWORN before me this 19th day of July, 2007.

Robin Roebuck
NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Idaho
My commission expires: 8/18/2012