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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

2007 DEC 17 PM 3 16

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

Case No. 39576

) Subcase nos: See Exhibit A
) (Portneuf River Decrees)
)
) ORDER DISMISSING MOTION TO
) ALTER OR AMEND PARTIAL
) DECREES AND AMENDING PARTIAL
) DECREES TO INCLUDE ADDENDUM
) AGREEMENT TO PRIOR PORTNEUF
) RIVER SETTLEMENT AGREEMENT

I. PROCEDURAL BACKGROUND AND FACTS

Partial Decrees for the thirty-four (34) above-captioned water rights were previously issued pursuant to a comprehensive settlement agreement entered into on March 23, 2005, referred to as the *Portneuf River Settlement Agreement* ("Agreement").

On March 23, 2006, two of the signatories to the *Agreement*, Lava Irrigation Co. Ltd. and Dempsey Irrigation Co., motioned the Court to alter or amend the *Partial Decrees*. The *Motion* alleged that certain assumptions used in arriving at the settlement were later determined to be erroneous. At the request of the movants the hearing set on the *Motion* was ultimately stayed to allow the parties time to attempt to renegotiate the part of the *Agreement* at issue. Throughout the course of the negotiations the Court held periodic status conferences. All parties to the *Agreement* were provided notice of the status conference hearings.

On December 6, 2007, in resolution of the *Motion*, the parties lodged two separate amendments ("*Addendum Agreement*") to the *Agreement*. On December 11, 2007, pursuant to notice to all parties, the Court held a hearing on the *Addendum Agreement*.

ORDER DISMISSING MOTION TO ALTER OR AMEND PARTIAL DECREES AND
AMENDING PARTIAL DECREES TO INCLUDE ADDENDUM AGREEMENT TO PRIOR
PORTNEUF RIVER SETTLEMENT AGREEMENT

Lava Irrigation Co. Ltd. and Dempsey Irrigation. Co. agreed to withdraw their *Motion* conditioned on the Court's approval of the *Addendum Agreement*. Three parties, Jeffery F. Harris, Nathan Casperson and Roben Hull, were not signatories to the *Addendum Agreement*. The basis for their not signing was not stated other than the parties could not be located despite receiving notice

The Court, in accepting the *Addendum Agreement*, makes the following findings. All parties, including Jeffery F. Harris, Nathan Casperson and Roben Hull, were provided notice of the *Addendum Agreement* and the hearing thereon, and of all previous status hearings pertaining to the progress of the settlement. Jeffery F. Harris, Nathan Casperson and Roben Hull did not appear at the hearing in opposition to the Court's acceptance of the *Addendum Agreement* nor did any other party. Finally, the terms of the *Addendum Agreement* only stand to benefit the water rights of Jeffery F. Harris, Nathan Casperson and Roben Hull based on their location on the Portneuf River.

On December 14, 2007, Lava Irrigation Co. Ltd. and Dempsey Irrigation. Co. filed a *Motion to Withdraw Movants Lava Irrigation Company, Limited and Dempsey Irrigating Company's Motion to Alter or Amend Order of Partial Decrees on Portneuf River*.

II. ORDER

THEREFORE, IT IS ORDERED, that the *Motion to Withdraw Motion to Alter or Amend Partial Decrees* is GRANTED and the *Motion to Alter or Amend Partial Decrees* is DISMISSED.

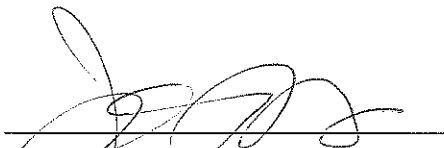
IT IS FURTHER HEREBY ORDERED, that the above-captioned water rights are hereby amended to incorporate the attached *Addendum Agreement* into the March 23, 2005, *Portneuf River Settlement Agreement* and the ***Partial Decrees*** listed in Exhibit A.

**ORDER DISMISSING MOTION TO ALTER OR AMEND PARTIAL DECREES AND
AMENDING PARTIAL DECREES TO INCLUDE ADDENDUM AGREEMENT TO PRIOR
PORTNEUF RIVER SETTLEMENT AGREEMENT**

III. RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for the delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Dated December 17, 2007



JOHN M. MELANSON
Presiding Judge
Snake River Basin

**ORDER DISMISSING MOTION TO ALTER OR AMEND PARTIAL DECREES AND
AMENDING PARTIAL DECREES TO INCLUDE ADDENDUM AGREEMENT TO PRIOR
PORTNEUF RIVER SETTLEMENT AGREEMENT**

EXHIBIT A (PORTNEUF RIVER DECREES)

Subcase Nos:

29-00052
29-00053
29-00589
29-04060
29-04364
29-04467
29-10816
29-11277
29-11681
29-11773
29-11774
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29-13213
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29-13582
29-13583
29-13584
29-13586

**ORDER AMENDING PARTIAL DECREES TO INCLUDE ADDENDUM TO PRIOR PORTNEUF
RIVER SETTLEMENT AGREEMENT**

EXHIBIT A

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER DISMISSING MOTION TO ALTER OR AMEND PARTIAL DECREE AND AMENDING PARTIAL DECREES was mailed on December 17, 2007, with sufficient first-class postage to the following:

INDIAN FALLS PROPERTY ASSN
INDIAN FALLS WATER USERS ASSOC

Represented by:
CRAIG W. PARRISH
PO BOX 4321
POCATELLO, ID 83205
Phone: 208-234-1202

MC CAMMON DITCH CO LTD
MCCAMMON DITCH COMPANY

Represented by:
JAMES A. SPINNER
PO BOX 6009
POCATELLO, ID 83205
Phone: 208-232-4471

AMBER HALL
EVELEE HILL RUSH
JASON AND AMBER HALL
JASON HALL
JEFFERY F HARRIS
LAVA IRRIGATION CO INC
LAVA IRRIGATION COMPANY
MAX W HALL
NATALIE GUNTER
ROBEN HULL
ROBERT E RUSH
RUSSELL GUNTER

Represented by:
JERRY R. RIGBY
25 N 2ND E
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

MARSH VALLEY DEVELOPMENT INC
PORTNEUF MARSH VALLEY CANAL CO

Represented by:
RANDALL C BUDGE
201 E CENTER, STE A2
PO BOX 1391
POCATELLO, ID 83204-1391
Phone: 208-232-6101

PORTNEUF IRRIGATING CO
PORTNEUF IRRIGATING COMPANY

Represented by:
RANDOLPH CALVIN STONE
PO BOX 910
BURLEY, ID 83318
Phone: 208-878-8382

I GLENN PERKINS
MARY D PERKINS
Represented by:
RONALD J. JARMAN
PO BOX 6252
POCATELLO, ID 83205-6252
Phone: 208-233-8421

USDI BLM
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DEMPSEY IRRIGATION COMPANY
C/O EARL SMITH
PO BOX 235
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5348

TOPAZ IRRIGATION CO
C/O GENE FAGNANT
PO BOX 293
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5280

CARROLL & IONE WILLMORE ESTATE
C/O JIM WILLMORE
519 PARK ST
ST ANTHONY, ID 83445
Phone: 208-624-7692

FISH CREEK IRRIGATING CO
C/O WALLACE WHITEHEAD
PO BOX 152
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5253

(Certificate of mailing continued)

FAGNANT & OLSON RANCH LLC
FRANCES GENE FAGNANT
PO BOX 293
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5290

LAVA IRRIGATION CO INC
PO BOX 182
LAVA HOT SPRINGS, ID 83246

PORTNEUF IRRIGATING CO
PO BOX 194
ARIMO, ID 83214
Phone: 208-254-9022

RONNIE D TILLOTSON
SHERRIL TILLOTSON
PO BOX 261
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5267

DAVID LEE LOSEE
PO BOX 27
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5630

RUSSELL AND NATALIE GUNTER
PO BOX 433
MCCAMMON, ID 83250
Phone: 221-4682

CANDICE SYMONS
LYNDEN SYMONS
PO BOX 604
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5316

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

EARL MAPES
1061 SAGEWOOD PLACE
POCATELLO, ID 83201

CARL L PHILLIPS
NOLA RAE PHILLIPS
2884 W 1400 S
ABERDEEN, ID 83210
Phone: 208-397-4690

BARBARA W KEVAN
3462 N 2500 E
TWIN FALLS, ID 83301
Phone: 208-733-5730

MARK J MADSEN
5812 E OLD OREGON TL ROAD
LAVA HOT SPRINGS, ID 83246

COLLEEN L ANDRUS
JIM ANDRUS
KENNETH D ANDRUS
6948 E OLD OREGON TRAIL RD
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5380

LYNN W STEWART
MARGIE H STEWART
8574 BOB SMITH RD
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-9770

BRETT CASPERSON
NANCY CASPERSON
8893 E MAUGHAN RD
LAVA HOT SPRINGS, ID 83246
Phone: 208-776-5428

This mailing does not include
Addendum Agreement. Copies of
Agreement are on file with the
SRBA Court

ORDER

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FILE COPY FOR 00118

Deputy Clerk

