

DEC 17 2007

ADDENDUM AGREEMENT TO THE  
PORTNEUF RIVER SETTLEMENT AGREEMENT

BASIN 29: PORTNEUF RIVER

Clerk  
Deputy Clerk

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-Demsey\_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.

PORTNEUF-MARSH VALLEY CANAL CO.

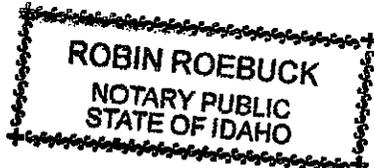
By: [Signature]

STATE OF IDAHO )  
County of Bannock ) ss.

On this 19<sup>th</sup> 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 19<sup>th</sup> day of July, 2007.

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



McCAMMON DITCH COMPANY

By: \_\_\_\_\_

STATE OF IDAHO            )  
  ss.  
County of \_\_\_\_\_  )

On this \_\_\_ day of \_\_\_\_\_, in the year of 2007, before me \_\_\_\_\_, personally appeared \_\_\_\_\_ 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 \_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at:  
My commission expires:

PORTNEUF IRRIGATING COMPANY

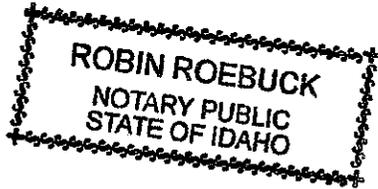
By Teresia Avery

STATE OF IDAHO )  
County of Bannock ) SS.

On this 16<sup>th</sup> day of July, in the year of 2007, before me Robin Roebuck personally appeared Teresia Avery 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 16<sup>th</sup> day of July, 2007.

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



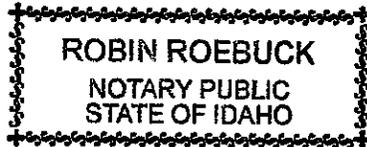
MARSH VALLEY DEVELOPMENT COMPANY

By: *Rob Sorenson*

STATE OF IDAHO )  
County of Bannock )  
SS.

On this 4th day of Sept, in the year of 2007, before me Robin Roebuck personally appeared Rob Sorenson 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 4th day of Sept, 2007.



*Robin Roebuck*  
NOTARY PUBLIC FOR IDAHO  
Residing at: Porter  
My commission expires: 8/18/2012







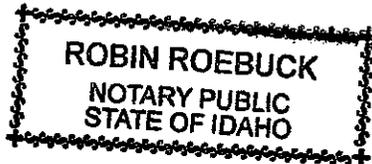
INDIAN FALLS PROPERTY ASSOCIATION/  
INDIAN FALLS WATER USERS ASSOCIATION

By: Carl C Mays

STATE OF IDAHO )  
County of Bannock ) ss.

On this 27<sup>th</sup> day of June, in the year of 2007, before me Robin L Roebuck personally appeared for C. Mays 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 27<sup>th</sup> day of June, 2007.



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



INDIVIDUAL SIGNATORY PARTIES

I. GLENN PERKINS  
MARY D. PERKINS

I. Glenn Perkins

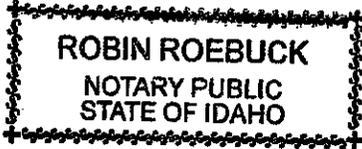
Mary D. Perkins

STATE OF IDAHO )  
County of Bannock )  
SS.

On this 16<sup>th</sup> day of July, in the year of 2007, before me Robin Roebuck, personally appeared Glenns Mary Perkins known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SUBSCRIBED AND SWORN before me this 16<sup>th</sup> day of July, 2007.

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



BARBARA W. KEVAN

Barbara W. Kevan

STATE OF IDAHO )  
County of Twin Falls )  
SS.

On this 27 day of June, in the year of 2007, before me Amy Brinkman personally appeared, Barbara Kevan known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SUBSCRIBED AND SWORN before me this 27 day of June 2007.



Amy Brinkman  
NOTARY PUBLIC FOR IDAHO  
Residing at: Twin Falls  
My commission expires: 7/17/09



DAVID LEE LOSEE

David Lee Losee

STATE OF IDAHO )  
County of Caribou )  
ss.

On this 8<sup>th</sup> day of Aug, in the year of 2007, before me David Lee Losee, personally appeared, \_\_\_\_\_ known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SUBSCRIBED AND SWORN before me this 8<sup>th</sup> day of Aug, 2007.

Marilyn Bissegger  
NOTARY PUBLIC FOR IDAHO  
Residing at: Montpelier  
My commission expires: 04/08/08





FAGNANT & OLSON RANCH, LLC

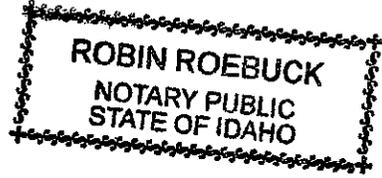
By: Gene Fagnant

STATE OF IDAHO )  
County of Bernoeck ) ss.

On this 2nd day of July, in the year of 2007, before me Robin Roebuck, personally appeared, Gene Fagnant known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SUBSCRIBED AND SWORN before me this 2nd day of July, 2007.

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







RONNIE D. TILLOTSON  
SHERRILL TILLOTSON

Ronnie D. Tillotson

Sherrill Tillotson

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

On this 11<sup>th</sup> day of Dec, in the year of 2007, before me Canda L. Dimick,  
personally appeared, Ronnie D. Tillotson known or identified to me to be the person whose name  
Sherrill Tillotson is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SUBSCRIBED AND SWORN before me this 11<sup>th</sup> day of Dec, 2007.



Canda L. Dimick  
NOTARY PUBLIC FOR IDAHO  
Residing at Law Hot Springs  
My commission expires: 5/27/2011

AMBER HALL  
JASON HALL

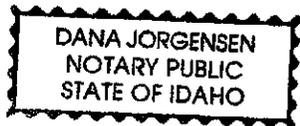
Jason W. Hall  
\_\_\_\_\_

STATE OF IDAHO            )  
  ss.  
County of Bannock        )

On this 6 day of July, in the year of 2007, before me Dana Jorgensen, personally appeared, Jason W. Hall known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SUBSCRIBED AND SWORN before me this 6 day of July, 2007.

Dana Jorgensen  
\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at: Portnevo  
My commission expires: 6/2/2010





Dennis Richard  
David Sturdivant  
Thomas Richard

  
\_\_\_\_\_  
Dennis Richard

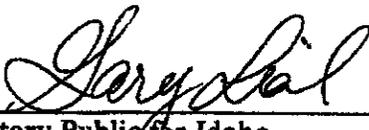
State of Nevada )

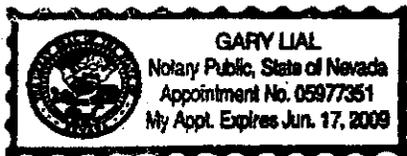
SS

County of Clark

On this 10<sup>th</sup> day of December in the year of 2007, before me Gary Lial, personally appeared, Dennis Richard known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

SUBSCRIBED AND SWORN before me this 10<sup>th</sup> day of December 2007.

  
\_\_\_\_\_  
Notary Public for Idaho  
My Commission Expires: June 17, 2009





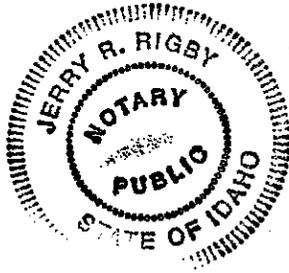
MAX W. HALL

Max W. Hall

STATE OF IDAHO )  
County of MADISON )  
SS.

On this 5th day of August, in the year of 2007, before me Jerry R. Rigby, personally appeared, Max W. Hall known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SUBSCRIBED AND SWORN before me this 5th day of August 2007.



Jerry R. Rigby  
NOTARY PUBLIC FOR IDAHO  
Residing at: Redolt  
My commission expires: 11-09-11







BRETT CASPERSON

Brett Casperson

STATE OF IDAHO )  
County of Bannock )  
ss.

On this 17<sup>th</sup> day of July, in the year of 2007, before me Gerri Wellard, personally appeared, Brett Casperson known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SUBSCRIBED AND SWORN before me this 17<sup>th</sup> day of July, 2007.



Gerri Wellard  
NOTARY PUBLIC FOR IDAHO  
Residing at:  
My commission expires: 2-11-11



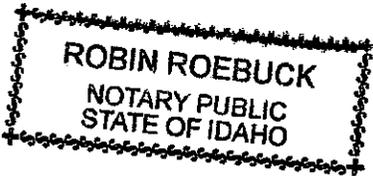
CARROLL & IONE WILLMORE ESTATE

*Kenneth Knowles*  
*Sharon Knowles*

STATE OF IDAHO )  
County of Bennett )  
SS.

On this 28<sup>th</sup> day of June in the year of 2007, before me Robin Roebuck personally appeared, ~~Kenneth Sharon Knowles~~ known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

SUBSCRIBED AND SWORN before me this 28<sup>th</sup> day of June, 2007.



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