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MAY - 9 2002

Department of Water Resources

May 5, 2002

Portneuf Marsh Valley Canal Company, Ltd.  
Attn. Ellis Gilbert  
% Deryl Parris  
18746 S Washington Av  
Virginia Id. 83234

From:  
Portneuf Irrigation Co  
P.O. Box 194  
Arimo, Id. 83214

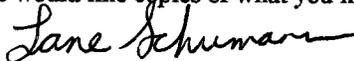
Ellis;

Enclosed is a copy of Portneuf Irrigation Co, Ltd's Conveyance and Contract agreement ( Instrument No. 21341) which permitted Portneuf M.V. Canal to carry water in the Portneuf Irrigation Co's ditch from the diversion out of the Portneuf River to the diversion to Arimo Ditch. The locations given by section and quarter sections.

We have no records showing ownership transferred to Portneuf - Marsh Valley Canal Company, Ltd. as you emphasized on our recent tour with the Idaho Water Representatives and our board members.

Do you have documentation that supports your opinion?

We would like copies of what you have for our records. Thank you.



Lane Schuman, President of Portneuf Irrigation Co. Ltd



Jim Burnham, President of Arimo Ditch Company, Inc.

c.c. Tim Luke, Idaho Water Resources Representative

P.S. Tim, do you know the correct answer to this question?

CONVEYANCE AND CONTRACT.

The Portneuf Irrigating Company, Ltd., a corporation organized and existing under and by virtue of the laws of the State of Idaho, party of the first part on the conditions, and for and in consideration of the promises and covenants hereinafter contained by these presence does grant, bargain, sell and convey to the Portneuf-Marsh Valley Irrigation Company, Ltd., and the Portneuf-Marsh Valley Canal Company, Ltd., corporations, organized and existing under and by virtue of the laws of the State of Idaho, parties of the second part the right to enlarge the ditch of the said party of the first part hereinafter described to make the same of the following dimensions, to-wit: Twenty (20) feet wide on the bottom with approximately two to one slopes on the banks and having a depth of five (5) feet, or of such other dimensions as may be approved by the State Engineer. Said ditch is particularly described as follows, to-wit:

Commencing at a point about five hundred (500) feet east and about six hundred (600) feet south of the Southwest corner of the Southeast Quarter (SE 1/4) of the Northwest Quarter (NW 1/4) of Section 22, Township Nine South Range 37 East of Boise Meridian, running thence generally in a westerly and southwesterly direction through said section 22 and sections 21, 20, 29, and 30 in Township Nine South, Range 37 East of Boise Meridian to a point in the Northeast Quarter (NE 1/4) of said section 30 about five hundred (500) feet north of the southwest corner of the Northwest Quarter (NW 1/4) of the Northeast quarter (NE 1/4) of Section (30); said canal being commonly known as the ditch of the Portneuf Irrigating company from Portneuf river.

Together with the perpetual right to convey and conduct through said canal when so enlarged the waters to which the said parties of the second part, their successors and assigns, are or may become entitled.

The following are the conditions upon which said grant and conveyance is made and which are hereby expressly understood to be the consideration therefor, to-wit:

I.

The said party of the first part shall have the perpetual right to turn into said enlarged canal all waters to which it is or may be entitled as an appropriator of the waters of the Portneuf River and does hereby expressly reserve unto itself its title to such proportionate interest in said enlarged ditch as the quantity of water to which it is or shall be entitled to use and flow through the same, shall bear to the entire quantity of water which shall flow through said enlarged ditch under the appropriations of the parties to this contract.

II.

The said parties of the second part hereby agree and covenant that they will perpetually maintain said ditch as enlarged entirely at their own expense, and that they will at their own expense perpetually keep the same in repair and at all times save the said party of the first part harmless of and from all claims, demands, suits, actions or causes of action, which may arise by reason of the construction or operation of said enlarged canal, and that they will assume control over the same and of the distribution of water therefrom as herein provided.

III.

It is agreed that when said parties of the second part shall clean out said ditch the work shall begin at the easterly end thereof, and said enlarged ditch shall be first cleaned to the point of diversion of the party of the first part at the west end of said enlargement.

IV.

That said parties of the second part agree that they will deliver to the party of the first part at the lower end of said enlarged canal, which is at or near the point heretofore described, all waters to which the party of the first part is or may be entitled, and which said party of the first part shall turn into said enlarged canal through its headgate on the Portneuf River. Provided, however, that upon request of the watermaster or other agent of the party of the first part said parties of the second part will, at such times as said watermaster or agent may designate, divert from said enlarged canal

at the places to be designated as hereinafter specified, for the use of those stockholders of the party of the first part who take water from the present canal where the same is to be enlarged, such quantities of the waters of the said party of the first part as said water master or agent shall direct.

V.

Said parties of the second part agree that for the purpose of distributing from said enlarged canal to the party of the first part the waters to which it shall be entitled, they will construct and install at the lower end of said enlarged canal a concrete headgate of sufficient size and dimensions \* to permit all the waters of the said party of the first part to flow from said enlarged canal into the present canal of said party of the first part; and said parties of the second part further agree that they will construct and install at such places as may be designated by the party of the first part, along the course of said enlarged canal, concrete headgates of sufficient size (not to exceed ten in number) to permit the distribution of water to those stockholders of the party of the first part referred to in paragraph IV hereof, who are to receive water directly from said enlarged canal. Said parties of the second part further agree that they will perpetually maintain and keep in good repair all of said headgates above referred to at their own expense and that they will at each of said headgates install and perpetually maintain and keep in good repair measuring devices for the distribution of the water of the said party of the first part from said enlarged canal as herein provided.

VI.

The parties of the second part agree that in low water season or at any time when the natural flow of the Portneuf River exclusive of the flow from the reservoir of the party of the second part is 5000 miner's inches (100 second feet) or less, they will close down their headgate so as to permit only the waters from their said reservoir to flow through the same, and that they will deliver to said party of the first part, as heretofore provided, from said enlarged canal, all of said natural flow which said party of the first \* part shall divert into said enlarged canal through its headgate. Provided, however, that the party of the first part does not by the foregoing provision admit, concede or acknowledge that its right to claim upon the waters of Portneuf River is limited, during said season, or at any time, to 5000 inches. neither does said provision in anywise limit said party of the first part as to the quantity of water it shall divert when the water in Portneuf River is not low, but it is intended simply as an agreement by the parties of the second part that when the natural flow of the stream is 5000 inches or less they will not divert any part thereof and that the party of the first part may if it so elects divert and use said natural flow up to 5000 inches until such time as a court of competent jurisdiction shall adjudicate the rights of all appropriators from said stream. Provided further that if such a decree shall be entered the parties of the second part will thereafter distribute as heretofore provided all waters which may be decreed to said party of the first part. It is further agreed that this agreement shall in no wise affect the right of the parties of the second part to divert from the said Portneuf River all waters stored by them in their reservoir near Chesterfield, which shall flow from said reservoir through the Portneuf River to their headgate.

VII.

Said parties of the second part agree that the foregoing provisions with reference to the handling and distribution of the waters to which party of the first part shall be entitled shall be binding and obligatory, not only during irrigating seasons but at all seasons of the year, that is to \* say, said parties of the second part will deliver and distribute from said enlarged canal as above provided during all seasons, all waters to which said party of the first part is or shall be entitled.

VIII.

It is further agreed that as a part of the consideration for the foregoing conveyance by the party of the first part, the party of the second shall pay to said party of the first part the sum of Three Hundred (\$300.00) dollars and that upon said payment being made, said party of the second part may immediately proceed with the work of enlargement and enter into possession

of said canal as herein provided.

IX.

This instrument and all the provisions thereof shall be binding upon the successors in interest, assignees or transferees of the parties hereto. ✓

In witness whereof the parties hereto have hereto set their hands and seals this 26th day of September, 1911.

Portneuf Irrigating Co.  
By Meyers Cohn, President.

Attest: D.H. Evans, Secretary  
Portneuf Marsh Valley Irrigation Co. Ltd.  
by W. Rodman Peabody, Secretary

(SEAL)

Attest: \_\_\_\_\_  
Secretary.  
Portneuf Marsh Valley Canal Company Ltd.  
By Geo. T. Hyde, President.

(SEAL)

Attest: T.M. Edwards, Secretary.  
State of Idaho. ) ss  
County of )

On this 26th day of September in the year 1911 before me Wm. H. Jackson, Jr. a Notary Public in and for said county and state appeared Meyers Cohn, known to me to be the President of the Portneuf Irrigating Company, Ltd. that executed the foregoing instrument and acknowledged to me that such corporation executed the same.

(SEAL) Wm. H. Jackson, Jr., Notary Public.

On this 26th day of September in the year 1911 before me Wm. H. Jackson, Jr. a Notary Public in and for said county and state appeared W. Rodman Peabody, known to me to be the Secretary of the Portneuf-Marsh Valley Irrigation Company, Ltd. That executed the foregoing instrument and acknowledged to me that such corporation executed the same.

(SEAL) Wm. H. Jackson, Jr. Notary Public.

On this 26th day of September in the year 1911 before me S.F. Johnson a Notary Public in and for said county and state appeared George T. Hyde, known to me to be the President of the Portneuf-Marsh Valley Canal Company, Ltd. that executed the foregoing instrument and acknowledged to me that such corporation executed the same.

(SEAL) Swen F. Johnson, Notary Public

My commission expires Apr. 28th, 1915.  
Recorded at the request of John Ware, Sept. 26th, 1911 at 3:11 P.M.  
By C.W. Pomeroy, Deputy. Fee \$3.60 E.G. Gallet, Recorder.