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IDAHO SUPREME COURT
COURT OF APPEALS

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IN THE SUPREME COURT OF THE STATE OF IDAHO

IN THE MATTER OF ACCOUNTING FOR
DISTRIBUTION OF WATER TO THE
FEDERAL ON-STREAM RESERVOIRS IN
WATER DISTRICT 63 BEFORE THE IDAHO
DEPARTMENT OF WATER RESOURCES.

BALLENTYNE DITCH COMPANY, BOISE
VALLEY IRRIGATION DITCH COMPANY,
CANYON COUNTY WATER COMPANY,
EUREKA WATER COMPANY, FARMERS'
CO-OPERATIVE DITCH COMPANY,
MIDDLETON MILL DITCH COMPANY,
MIDDLETON IRRIGATION ASSOCIATION,
INC., NAMPA & MERIDIAN IRRIGATION
DISTRICT, NEW DRY CREEK DITCH
COMPANY, PIONEER DITCH COMPANY,
PIONEER IRRIGATION DISTRICT,
SETTLERS IRRIGATION DISTRICT, SOUTH
BOISE WATER COMPANY, and THURMAN
MILL DITCH COMPANY,

Petitioners/Respondents,

v.

BOISE PROJECT BOARD OF CONTROL and
NEW YORK IRRIGATION DISTRICT,

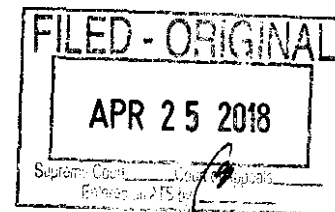
Petitioners/Appellants-Cross
Respondents,

v.

Supreme Court Docket No. 44745-2017

Ada County District Court No. CVWA-
2015-21376 (Consolidated Ada County
No. CVWA-2015-21391)

**SUEZ'S RESPONSE TO JOINT MOTION
TO SUSPEND AND VACATE**



IDAHO DEPARTMENT OF WATER
RESOURCES and GARY SPACKMAN, in his
capacity as the Director of the Idaho Department
of Water Resources,

Respondents/Respondents,
and

SUEZ WATER IDAHO INC.,
Intervenor-Respondent/Respondent-
Cross Appellant.

On April 18, 2018, Appellants-Cross Respondents Boise Project Board of Control and the New York Irrigation District and Respondents Ballentyne Ditch Company, et al. (collectively “Irrigators”) filed their *Joint Motion to Suspend Appeal and to Vacate Oral Argument* (“*Joint Motion*”). On April 23, 2018, Respondents Idaho Department of Water Resources and Gary Spackman, in his capacity as director thereof, (collectively “IDWR”) filed the *Department’s Statement in Opposition to Suspend Appeal and Vacate Oral Argument*. This is the response of Respondent-Cross Appellant SUEZ Water Idaho Inc. (“SUEZ”) to those filings.

In the last 48 hours, the parties have been engaged intensively in further settlement discussions, assisted by the Speaker of the House. SUEZ’s sole settlement issue (subordination of any new water rights issued to the Irrigators and/or the United States as a part of the global settlement to all of SUEZ’s existing surface water rights and entitlements) has been agreed to by the Irrigators, IDWR and the State of Idaho. But that is only one piece in a jigsaw puzzle that must come together for global settlement.

The parties were quite far apart on a number of issues as recently as two days ago. Substantial progress has been made since that time, but it appears that there is one significant

issue that still divides the parties. (Of course, this appearance of progress may or may not be real. It is subject to client approval.)

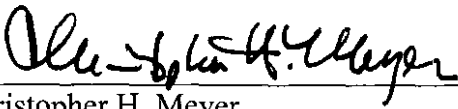
There is, in theory, no reason that the parties cannot continue to negotiate as the oral argument approaches, and even afterwards. As a practical matter, however, SUEZ believes that a short amount of breathing room might assist the parties in overcoming what appears to be the last remaining obstacle to settlement. Indeed, this would be a good test of whether the parties and their lawyers are serious about settlement, or not.

Accordingly, SUEZ would support a short delay in the oral argument to the next available Court hearing date for which the key lawyers do not have pre-existing and insurmountable time conflicts (such a long-planned trip for as my son's wedding in late June). SUEZ would hope for a date for a re-scheduled oral argument no later than August, and preferably earlier.

SUEZ believes that the Irrigators' request for a longer suspension is unjustified at this time and, indeed, would likely undermine settlement efforts. If, as I hope, the parties are promptly (within the next week or so) able to reach an agreement among themselves, it is possible that they might approach the Court again with a request for a longer suspension to implement some of the settlement conditions (e.g., agreement by the Bureau of Reclamation, etc.). But, again, seeking a longer suspension at this point would be unwise, and is not supported by SUEZ.

Respectfully submitted this 25th day of April, 2018.

GIVENS PURSLEY LLP

By 

Christopher H. Meyer

Michael P. Lawrence

Attorneys for Suez Water Idaho Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2018, I caused to be filed and served true and correct copies of the foregoing document to the persons listed below by the method indicated:

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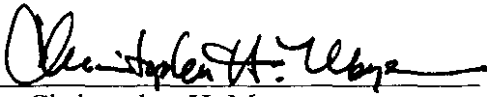
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