

**LAWRENCE G. WASDEN**  
Attorney General

**DARRELL G. EARLY**  
Deputy Attorney General  
Chief, Natural Resources Division

**GARRICK L. BAXTER, ISB #6301**  
**EMMI L. BLADES, ISB #8682**  
**ANDREA L. COURTNEY, ISB #7705**  
**MICHAEL C. ORR, ISB # 6720**  
Deputy Attorneys General  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098  
Telephone: (208) 287-4800  
Facsimile: (208) 287-6700  
[garrick.baxter@idwr.idaho.gov](mailto:garrick.baxter@idwr.idaho.gov)  
[emmi.blades@idwr.idaho.gov](mailto:emmi.blades@idwr.idaho.gov)  
[andrea.courtney@idwr.idaho.gov](mailto:andrea.courtney@idwr.idaho.gov)  
[michael.orr@ag.idaho.gov](mailto:michael.orr@ag.idaho.gov)

*Attorneys for Respondents*

**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;

Supreme Court Docket No. 44745-2017

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

**JOINT MOTION TO SUSPEND APPEAL  
AND RESET ORAL ARGUMENT**

SOUTH BOISE WATER COMPANY; and  
THURMAN MILL DITCH COMPANY,

*Petitioners,*

vs.

BOISE PROJECT BOARD OF CONTROL,  
and NEW YORK IRRIGATION DISTRICT,

*Petitioners-Appellants-Cross Respondents,*

vs.

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

*Respondents,*

and

SUEZ WATER IDAHO, INC.,

*Intervenor-Respondent-Cross Appellant.*

The parties to the above-captioned appeal hereby jointly move this Court, pursuant to Rule 13.2 of the Idaho Appellate Rules, to suspend this appeal and reset oral argument to the first setting available after November 30, 2019. As discussed below, there is good cause for granting this relief because the parties have agreed to a settlement that if implemented in accordance with the terms of the parties' settlement stipulation would render this appeal moot, and the parties would jointly move for dismissal of this appeal. Otherwise the appeal would proceed to oral argument on the first date available after November 30, 2019.

**Statement in Support of Motion to Suspend Appeal**

The parties to the appeals and cross-appeals pending under Idaho Supreme Court

docket nos. 44677-2016, 44745-2017, and 44746-2017 have entered into a stipulation for the purpose of facilitating and expediting resolution of disputes that have arisen in various judicial and administrative proceedings pertaining to issues of the “fill” and/or “refill” of the storage water rights for the on-stream reservoirs in IDWR Administrative Basin 63 (Boise River Basin), including but not limited to: the appeals and cross-appeals pending under Idaho Supreme Court docket nos. 44677-2016, 44745-2017, and 44746-2017; the administrative and judicial proceedings underlying these same appeals and cross-appeals; and Snake River Basin Adjudication (“SRBA”) subcase nos. 00-91017, 63-33732, 63-33733, 63-33734, 63-33737, and 63-33738.

The parties have agreed to seek issuance in the SRBA of partial decrees and orders to implement the proposed settlement, and the form of one of the proposed partial decrees to be submitted to the SRBA Court depends on whether certain legislation is enacted during the 2019 Regular Legislative Session. If the SRBA district court issues partial decrees materially consistent with the proposed partial decrees the parties have agreed to submit to the SRBA district court, the parties have agreed to jointly move this Court for dismissal of the appeals and cross-appeals with instructions to the District Court to vacate the orders that are the subject of the appeals and cross-appeals. If the SRBA district court does not issue partial decrees materially consistent with the partial decrees to be submitted to the SRBA district court, the parties have agreed the appeals and cross-appeals will proceed to oral argument on the first date available after November 30, 2019.

The settlement contemplated by the parties’ stipulation thus depends in part on whether certain legislation is enacted during the 2019 Regular Legislative Session. The parties therefore request that the appeals and cross-appeals be suspended and oral argument rescheduled for the

first available setting after November 2019. If the settlement is successfully implemented in accordance with the terms of the parties' stipulation, the appeals and cross-appeals would be rendered moot and the parties would jointly move for dismissal of the appeals and cross-appeals. If the settlement is not successfully implemented in accordance with the terms of the stipulation, the appeals and cross-appeals would proceed to oral argument on the first available date after November 30, 2019.

For these reasons, the parties respectfully submit there is good cause to grant this motion, and respectfully request that this Court suspend this appeal and reschedule oral argument for the first setting available after November 30, 2019.

DATED this 16<sup>th</sup> day of July, 2018.

LAWRENCE G. WASDEN  
Attorney General

DARRELL G. EARLY  
Deputy Attorney General  
Chief, Natural Resources Division

  
By: Garrick Baxter  
Deputy Attorney General  
*Attorneys for Idaho Department of  
Water Resources*

DATED this 9<sup>th</sup> day of July, 2018.

GIVENS PURSLEY LLP

  
By: Christopher H. Meyer  
*Attorneys for Suez Water Idaho, Inc.*

DATED this 1<sup>st</sup> day of July, 2018.

**BARKER ROSHOLT & SIMPSON LLP**

  
\_\_\_\_\_  
By: Albert P. Barker  
*Attorneys for Boise Project Board of Control*

DATED this \_\_\_\_ day of July, 2018.

**SAWTOOTH LAW OFFICES, PLLC**

\_\_\_\_\_  
By: Daniel V. Steenson  
*Attorneys for Ditch Companies*

DATED this \_\_\_\_ day of July, 2018.

**CHARLES MCDEVITT, ATTORNEY AT LAW**

\_\_\_\_\_  
By: Charles McDevitt  
*Attorney for New York Irrigation District*

DATED this \_\_\_\_ day of July, 2018.

**BARKER ROSHOLT & SIMPSON LLP**

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By: Albert P. Barker  
*Attorneys for Boise Project Board of Control*

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**CHARLES MCDEVITT, ATTORNEY AT LAW**



\_\_\_\_\_  
By: Charles McDevitt  
*Attorney for New York Irrigation District*

*7/10/18*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16<sup>TH</sup> day of July 2018, I caused to be served a true and correct copy of the foregoing document by the method(s) indicated:

*Original to:*  
Clerk of the Court  
IDAHO SUPREME COURT  
451 W. State Street  
Boise, ID 83303-2707

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- Hand Delivery
- Overnight Mail
- Facsimile

Daniel V. Steenson  
S. Bryce Farris  
Andrew Waldera  
SAWTOOTH LAW OFFICES, PLLC  
P.O. Box 7985  
Boise, ID 83707  
[dan@sawtoothlaw.com](mailto:dan@sawtoothlaw.com)  
[bryce@sawtoothlaw.com](mailto:bryce@sawtoothlaw.com)  
[andy@sawtoothlaw.com](mailto:andy@sawtoothlaw.com)

- iCourt Portal (email)
- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Email
- Facsimile

Albert P. Barker  
Shelley M. Davis  
BARKER ROSHOLT & SIMPSON, LLP  
P.O. Box 2139  
Boise, ID 83701-2139  
[apb@idahowaters.com](mailto:apb@idahowaters.com)  
[smd@idahowaters.com](mailto:smd@idahowaters.com)

- iCourt Portal (email)
- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Email
- Facsimile

Charles F. McDevitt  
P.O. Box 1543  
Boise, ID 83701  
[chas@mcdevitt.org](mailto:chas@mcdevitt.org)

- iCourt Portal (email)
- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Email
- Facsimile

Christopher H. Meyer  
Michael P. Lawrence  
GIVENS PURSLEY, LLP  
P.O. Box 2720  
Boise, ID 83701-2720  
[chrismeyer@givenspursley.com](mailto:chrismeyer@givenspursley.com)  
[mpl@givenspursley.com](mailto:mpl@givenspursley.com)

- iCourt Portal (email)
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- Email
- Facsimile

  
\_\_\_\_\_  
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Deputy Attorney General