

District Court - SRBA
Fifth Judicial District
In Re: Administrative Appeals
County of Twin Falls - State of Idaho

JAN - 3 2011

By _____ Clerk
_____ Deputy Clerk

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

TWIN FALLS CANAL COMPANY, NORTH) Case No. CV-2010-5946
SIDE CANAL COMPANY, A & B)
IRRIGATION DISTRICT, AMERICAN) **ORDER CONSOLIDATING**
FALLS RESERVOIR DISTRICT #2,) **PROCEEDING INTO GOODING**
BURLEY IRRIGATION DISTRICT,) **COUNTY CASE NO. CV 2010-**
MILNER IRRIGATION DISTRICT, and) **382**
MINIDOKA IRRIGATION DISTRICT,)
) **ORDER GRANTING MOTION**
Petitioners,) **FOR STAY**

vs.)

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

IN THE MATTER OF DISTRIBUTION OF)
WATER TO VARIOUS WATER RIGHTS)
HELD BY OR FOR THE BENEFIT OF A&B)
IRRIGATION DISTRICT, AMERICAN)
FALLS RESERVOIR DISTRICT #2,)
BURLEY IRRIGATION DISTRICT,)
MILNER IRRIGATION DISTRICT,)
MINIDOKA IRRIGATION DISTRICT,)
NORTH SIDE CANAL COMPANY, AND)
TWIN FALLS CANAL COMPANY)

I.
MOTION

On December 20, 2010, a *Petition for Judicial Review* was filed in the above-captioned matter seeking judicial review of a final decision of the Director of the Idaho Department of Water Resources (“IDWR”). On December 22, 2010, Petitioners filed a *Motion for Consolidation and Stay* in the above-captioned matter. The *Motion* requests that this Court consolidate this proceeding into Gooding County Case No. CV 2010-382 (“2010-382 Case”), which is presently pending before this Court, and that this Court stay this proceeding consistent with the stay presently imposed in the 2010-382 Case.¹ In the *Motion*, counsel for Petitioners represents that no party to this action opposes the *Motion*. No request for oral argument on the *Motion* has been made by any party, nor has any opposition to the *Motion* been filed by any party.

II.
ANALYSIS

A court’s decision to grant or deny a request for consolidation is a discretionary one. *Branom v. Smith Frozen Foods of Idaho, Inc.*, 83 Idaho 502, 508, 365 P.2d 958, 961 (1961). The Idaho Supreme Court has directed that “whenever the court is of the opinion that it may expedite its business and further the interests of the litigants, at the same time minimizing the expense upon the public and the litigants alike, the order of consolidation should be made.” *Id.*

The final order from which Petitioners seek judicial review in this case is the *Final Order Establishing 2010 Reasonable Carryover (Methodology Step 9)* issued by the Director in IDWR Docket No. CM-DC-2010-001 (“*Final Order*”). The *Final Order* is one of a series of orders issued by the Director in response to a delivery call filed by Petitioners with IDWR in 2005. The orders of the Director currently under review before this Court by way of the *Petitions for Judicial Review* filed in the 2010-382 Case are

¹ On December 13, 2010, this Court entered an *Order Granting Motion for Stay* in Gooding County Case No. CV 2010-382, staying that matter pending the Idaho Supreme Court’s issuance of its decision in *A&B Irrigation Dist., et al. v. Spackman, et al.*, Idaho Supreme Court Docket No. 38192-2010.

likewise orders issued by the Director in response to the delivery call filed by Petitions with IDWR in 2005.

Therefore, this Court finds that the *Petition for Judicial Review* filed in the above-captioned matter, and the *Petitions* presently pending before this Court in the 2010-382 Case involve similar issues, similar parties, and that consolidation of this matter with the 2010-382 Case will expedite this Court's business in resolving the *Petitions for Judicial Review* and further the interests of the litigants.

Last, via this Court's *Order Granting Motion for Stay* issued on December 13, 2010 in the 2010-382 Case, the proceedings in that case are presently stayed pending the Idaho Supreme Court's issuance of its opinion in *A&B Irrigation Dist., et al. v. Spackman, et al.*, Idaho Supreme Court Docket No. 38192-2010. Therefore the proceedings in this matter, once consolidated with the 2010-382 Case, will be subject to the same stay, deadlines and conditions applicable to the proceedings in the 2010-382 Case as set forth in the December 13, 2010 *Order Granting Motion for Stay*.

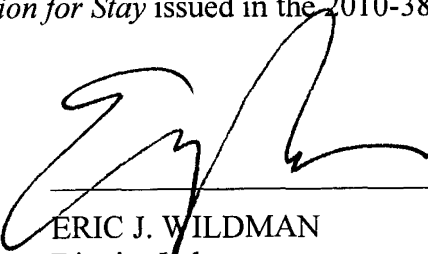
III.

ORDER

THEREFORE, THE FOLLOWING ARE HEREBY ORDERED:

1. Petitioners' *Motion for Consolidation and Stay* is hereby **granted**.
2. The *Petition for Judicial Review* filed by Petitioners in this matter shall forthwith be consolidated into Gooding County Case No. CV 2010-382.
3. Once consolidated, all proceedings in Gooding County Case CV 2010-382 shall be subject to the same stay, deadlines and conditions set forth in this Court's December 13, 2010 *Order Granting Motion for Stay* issued in the 2010-382 Case prior to this consolidation.

Dated January 3, 2011


ERIC J. WILDMAN
District Judge

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION FOR STAY was mailed on January 03, 2011, with sufficient first-class postage to the following:

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