

RECEIVED

OCT 23 2019

DEPARTMENT OF WATER RESOURCES

District Court - SRBA Fifth Judicial District In Re: Administrative Appeals County of Twin Falls - State of Idaho	
OCT 22 2019	
By _____	Clerk
_____	Deputy Clerk

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

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,

vs.

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

Petitioners,

vs.

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

Respondents,

and

Case No. CV-WA-2015-21376  
(Consolidated Ada County Case  
No. CV-WA-2015-21391)

**ORDER VACATING ORDERS  
AND REMANDING TO THE  
IDAHO DEPARTMENT OF  
WATER RESOURCES (With  
Corrected Certificate of Mailing)**



The settlement anticipates the parties thereto supporting certain legislative and judicial actions. In the legislative arena, the parties agreed to jointly support passage of legislation pertaining to new or proposed projects to store more than one thousand acre feet of surface water. That legislation, which is now codified as Idaho Code § 42-115, was passed and made effective as of February 13, 2019.

In the judicial arena, the parties agreed to jointly support the filing of the following *Motions* with the SRBA District Court: (1) *Motion to Decree Water Right No. 63-33734A*; (2) *Motion to Decree Water Right No. 63-33734B and Disallow Water Right Claim Nos. 63-33732, 63-33733, 63-33734, 63-33737, and 63-33738*; and (3) *Motion to Alter or Amend Partial Decrees for Water Right Nos. 63-303, 63-3613, 63-3614, and 63-3618*. The State of Idaho filed the *Motions* on February 19, 2019. The Court entered *Orders* granting the *Motions* on July 19, 2019. No notices of appeal from these *Orders* were filed and the time for doing so has expired.

The parties also agreed to file a *Joint Motion to Dismiss Appeal* in Idaho Supreme Court docket nos. 44677-2016, 44745-2017, and 44746-2017. The *Joint Motions* were filed on July 29, 2019, and request that the Idaho Supreme Court dismiss the appeals with instructions to the district court to vacate its *Memorandum Decision and Order* and *Order Denying Rehearing*. On August 23, 2019, the Idaho Supreme Court entered its *Order Re: Joint Motion to Dismiss Appeal*. The Court informed the parties that there is no rule allowing it to vacate a judgment of a trial court pursuant to stipulation of the parties. It ordered that the matter be remanded to this Court “for further proceedings in accordance with applicable legislation and stipulation of the parties.”


On September 17, 2019, the Court gave notice that it was its intent pursuant to stipulation of the parties to (1) enter an *Order* vacating its *Memorandum Decision and Order* dated September 1, 2016, and its *Order Denying Rehearing* dated November 14, 2016, and (2) remand this matter to the Idaho Department of Water Resources for further proceedings, if any, as may be necessary. Any party wishing to object to the Court’s intended action was required to file a written objection with the Court on or before October 15, 2019. No written objections were filed and the time for doing so has expired.

THEREFORE, BASED ON THE FOREGOING, THE FOLLOWING ARE  
HEREBY ORDERED:

1. The Court's *Memorandum Decision and Order* dated September 1, 2016, and its *Order Denying Rehearing* dated November 14, 2016, are hereby vacated.
2. The matter is remanded to the Idaho Department of Water Resources for further proceedings, if any, as may be necessary.

IT IS SO ORDERED.

Dated Oct 22, 2019

  
\_\_\_\_\_  
ERIC J. WILDMAN  
District Judge

**CERTIFICATE OF MAILING**

I certify that a true and correct copy of the ORDER VACATING ORDERS AND REMANDING TO IDWR (WITH CORRECTED CERTIFICATE OF MAILING) was mailed on October 22, 2019, with sufficient first-class postage to the following:

ALBERT P BARKER  
1010 W JEFFERSON ST STE 102  
PO BOX 2139  
BOISE, ID 83701-2139  
Phone: 208-336-0700

ANDREW J WALDERA  
SAWTOOTH LAW OFFICES PLLC  
1101 W RIVER ST STE 110  
PO BOX 7985  
BOISE, ID 83707  
Phone: 208-629-7447

CHARLES F MC DEVITT  
PO BOX 1543  
BOISE, ID 83701-1543  
Phone: 208-412-5250

DANIEL V STEENSON  
SAWTOOTH LAW OFFICES PLLC  
1101 W RIVER ST STE 110  
PO BOX 7985  
BOISE, ID 83707  
Phone: 208-629-7447

GARRICK L BAXTER  
DEPUTY ATTORNEY GENERAL  
STATE OF IDAHO - IDWR  
PO BOX 83720  
BOISE, ID 83720-0098  
Phone: 208-287-4800

MICHAEL P LAWRENCE  
601 W BANNOCK ST  
PO BOX 2720  
BOISE, ID 83701-2720  
Phone: 208-388-1200

S. BRYCE FARRIS  
SAWTOOTH LAW OFFICES PLLC  
1101 W RIVER ST STE 110  
PO BOX 7985  
BOISE, ID 83707  
Phone: 208-629-7447

DIRECTOR OF IDWR  
PO BOX 83720  
BOISE, ID 83720-0098

A handwritten signature in cursive script, reading "Julie Murphy", is written over a horizontal line. The signature is positioned to the right of the typed name "Deputy Clerk".