

2015 JAN 16 PM 12:00

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North Side Canal Company, Twin Falls Canal  
Company*

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**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**

**IDAHO GROUND WATER  
APPROPRIATORS, INC.,**

Petitioner-Appellant,

v.

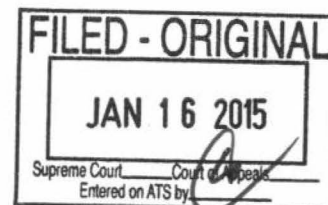
**THE CITY OF POCA TELLO,**

Petitioner-Appellant,

)  
)  
) Docket No. 42776-2015  
) (Consolidated with Docket No. 42778-  
) 2015)

)  
) Snake River Basin Adjudication No.  
) CV-2010-382

)  
) **SURFACE WATER COALITION'S**  
) **OBJECTION TO AMENDED**  
) **ORDER CONSOLIDATING**  
) **APPEALS FOR ALL PURPOSES**



**SWC OBJECTION TO AMENDED CONSOLIDATION ORDER**

ORIGINAL

TWIN FALLS CANAL COMPANY, NORTH  
SIDE CANAL COMPANY, A&B  
IRRIGATION DISTRICT, AMERICAN  
FALLS RESERVOIR DISTRICT #2,  
BURLEY IRRIGATION DISTRICT,  
MILNER IRRIGATION DISTRICT,  
MINIDOKA IRRIGATION DISTRICT,

Petitioners-Respondents,

v.

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

Respondents-Respondents.

COME NOW, Respondents, 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 (collectively hereinafter referred to as the “Surface Water Coalition” or “Coalition”), by and through their undersigned counsel, and object to the *Amended Order Consolidating Appeals for All Purposes* issued by the Court on January 6, 2015. The reasons for the Coalition’s objection are set forth below.

#### ARGUMENT

The Snake River Basin Adjudication (“SRBA”) District Court issued its *Memorandum Decision and Order on Petitions for Judicial Review* on September 26, 2014. The parties then filed petitions for rehearing and a motion to alter or amend the judgment. The SRBA Court issued an *Order Denying Petitions for Rehearing* and an *Order Denying Motion to Alter or Amend Judgment* on November 17, 2014. IGWA filed a timely notice of appeal on December

24, 2014. However, the City of Pocatello filed its notice of appeal on December 30, 2014, exactly forty-three (43) days following the orders denying the petitions for rehearing and the motion to alter or amend the judgment. The City's untimely appeal should be dismissed pursuant to Idaho law. *See Surface Water Coalition's Motion to Dismiss* (No. 42778-2015).

Idaho Appellate Rule (I.A.R.) 14 requires any appeal to be "physically" filed with the clerk of the court "within 42 days from the date evidenced by the filing stamp of the clerk of the court on any judgment or order of the district court appealable as a matter of right in any civil" action. The filing deadline is jurisdictional. *See also*, I.A.R. 21, *State v. James*, 112 Idaho 239, 241 (Ct. App. 1986) ("Appeals taken after the expiration of the filing period must be dismissed"); *see also*, *State v. Thomas*, 146 Idaho 592, 594 (2008). Since the City of Pocatello did not physically file its appeal within 42 days as required by I.A.R. 14 and 21, the Court does not have jurisdiction to review it. Consequently, the Coalition objects to the Court's *Amended Order Consolidating Appeals for All Purposes*.

Given the jurisdictional defect of the untimely filing, the Court should not consolidate the City's appeal (No. 42778-2015) with the timely appeal filed by the Idaho Ground Water Appropriators, Inc. (No. 42776-2015). Further, the Court should dismiss the City of Pocatello's appeal accordingly. *See Surface Water Coalition's Motion to Dismiss* (No. 42778-2015).

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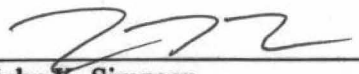
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**DATED this 16<sup>th</sup> day of January, 2015.**

**BARBER ROSSOLT & SIMPSON LLP**

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16<sup>th</sup> day of January, 2015, I served true and correct copies of the foregoing upon the following by the method indicated:

Idaho Supreme Court  
Clerk of the Court  
P.O. Box 83720  
451 W. State St.  
Boise, Idaho 83720

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☐ Overnight Mail  
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