

Christopher H. Meyer, ISB #4461
Michael P. Lawrence, ISB #7288
GIVENS PURSLEY LLP
601 W Bannock St
PO Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
chrismeyer@givenspursley.com
mpl@givenspursley.com
Attorneys for Suez Water Idaho Inc.



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/Appellants-Cross
Respondents,
and

BOISE PROJECT BOARD OF CONTROL and
NEW YORK IRRIGATION DISTRICT,

Petitioners/Respondents,

IDAHO DEPARTMENT OF WATER
RESOURCES and GARY SPACKMAN, in his

Supreme Court Docket No. 44677-2016

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

**SUEZ'S MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO FILE
OVERLENGTH BRIEF**

capacity as the Director of the Idaho Department
of Water Resources,

Respondents/Respondents,
and

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

Intervenor-Respondent/Respondent-Cross Appellant, Suez Water Idaho Inc. (“Suez”), by and through its attorneys of record, and pursuant to Idaho Appellate Rule 32, hereby submits this memorandum in support of its accompanying motion to file a response to the opening brief in this appeal in excess of the 50 page limit set forth in Idaho Appellate rule 34(b). Suez intends to file a substantively identical brief in this appeal and two related appeals, Supreme Court Docket Nos. 44745-2016 and 44746-2017 (in one of which Suez is a cross-appellant), which will respond to the opening briefs in all three appeals, and serve as Suez’s opening briefs as cross-appellant in Docket Nos. 44677-2016 and 44745-2017.¹ Suez estimates that the text of the brief would not exceed 110 pages.

This case is an appeal from an IDAPA administrative judicial review proceeding initiated by Ballantyne Ditch Company, *et al.* (the “Ditch Companies”), and the Boise Project Board of Control and New York Irrigation District (together, “Boise Project”). The Ditch Companies and Boise Project petitioned the District Court for review of the Idaho Department of Water Resources (the “Department”) Director’s final orders regarding the “distribution of water to

¹ Suez has made minor adjustments to the party designations in the caption (separating district court designations from appeal designations with a forward slash). Suez will defer, of course, to the Court’s designation of the caption. Suez also notes that Settlers Irrigation District was omitted from the caption on the District Court’s *Clerk’s Certificate of Appeal* and the Idaho Supreme Court’s *Order Consolidating Appeal Nos. 44677, 44745 and 44746 for Record and Transcript Only*.

federal on-stream reservoirs in Water District 63.” R. 001053. The District Court affirmed the Director’s orders in part, and set aside and remanded in part. R. 001052-74.

The underlying administrative contested case was initiated in 2013 and concluded in 2015. There was a five-day hearing and the agency record exceeds 28,000 pages. The Director’s orders are lengthy and include extensive factual findings and legal analysis. The issues include numerous factual and legal questions concerning water administration.

On May 8, 2017, this Court granted the request of the Ditch Companies to file an overlength opening brief of not more than 110 pages in Supreme Court Docket No. 44677-2016. The Ditch Companies’ opening brief in that appeal was 90 pages in length. Also on May 8, 2017, this Court granted the request of the Boise Project to file an overlength opening brief of not more than 70 pages in Supreme Court Docket No. 44745-2017. The Boise Project’s opening brief in that appeal was over 60 pages in length. Also, on May 8, 2017, this Court granted the request of the Department to file an overlength brief of not more than 70 pages in Supreme Court Docket No. 44746-2017. The Department’s opening brief in that appeal was 60 pages in length. As mentioned, Suez intends to file a substantively identical brief in all three appeals, which will respond to the opening briefs in all three appeals, and also serve as Suez’s opening briefs as cross-appellant in Docket Nos. 44677-2016 and 44745-2017. Accordingly, 50 pages will be insufficient to respond to all of the issues raised in the opening briefs filed in the three appeals, and to address the issues in Suez’s opening brief as cross-appellant.

Given the voluminous record, the nature and number of issues, the length of the opening briefs in this and the related appeals, and Suez’s need to address issues in its opening brief on cross-appeal, good cause exists to grant Suez’s motion for leave to exceed the 50 page limit of Idaho Appellate Rule 34(b). As the Certificate of Uncontested Motion accompanying the motion

explains, counsel for Suez has discussed this matter with opposing counsels and is authorized to represent that opposing counsels have no objection to this motion.

Suez also is filing a substantively similar motion and memorandum in support in Supreme Court Docket Nos. 44746-2017 and 44745-2017.

Respectfully submitted this 10th day of July, 2017.

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 10th day of July, 2017, I caused to be filed and served true and correct copies of the foregoing document to the persons listed below by the method indicated:

Original to:
Clerk of the court
Idaho Supreme Court
451 W. State Street
Boise, ID 83702

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile: 208-629-7559
- E-mail

Daniel V. Steenson, Esq.
S. Bryce Farris, Esq.
Andrew J. Waldera, Esq.
SAWTOOTH LAW OFFICES, PLLC
PO Box 7985
1101 W River St, Ste 110
Boise ID 83707
Facsimile: (208) 629-7559
dan@sawtoothlaw.com
bryce@sawtoothlaw.com
andy@sawtoothlaw.com

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile: 208-629-7559
- E-mail

Albert P. Barker, Esq.
Shelley M. Davis, Esq.
BARKER, ROSHOLT & SIMPSON, LLP
PO Box 2139
1010 W Jefferson, Ste 102
Boise, ID 83701-2139
Facsimile: (208) 344-6034
apb@idahowaters.com
smd@idahowaters.com

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile: 208-344-6034
- E-mail

Hon. Charles F. McDevitt
Chas. F. McDevitt Law Office
PO Box 1543
Boise, ID 83701
chas@mcdevitt.org

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile:
- E-mail

Garrick L. Baxter, Esq.
Emmi L. Blades, Esq.
Andrea L. Courtney, Esq.
Deputy Attorney General
IDAHO DEPARTMENT OF WATER
RESOURCES
PO Box 83720
322 E Front St
Boise, ID 83720-0098
garrick.baxter@idwr.idaho.gov
emmi.blades@idwr.idaho.gov
andrea.courtney@idwr.idaho.gov

U. S. Mail
 Hand Delivered
 Overnight Mail
 Facsimile: 208-287-6700
 E-mail



Michael P. Lawrence