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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; *et al.*,

Petitioners/Appellants/Cross
Respondents,

vs.

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

Petitioners,

vs.

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

Supreme Court Docket No. 44677-2016

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

**DITCH COMPANIES' NOTICE OF
FILING HYPERLINKED BRIEF AND
NOTICE OF ERRATA**

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

TO: THE CLERK OF THE IDAHO SUPREME COURT AND ALL COUNSEL OF RECORD

Pursuant to this Court's order granting the parties' *Motion for Leave to File Hyperlinked Electronic Briefs* in this matter, Appellant, the Ditch Companies, by and through their counsel of record, hereby submit their hyperlinked electronic *Appellants' Reply Brief* in PDF format on DVD. Copies of the DVD are being mailed with this notice to each party listed on the attached Certificate of Service.

The Ditch Companies hereby submit this *Notice of Errata* to correct the following clerical errors in, and corrections to, the Ditch Companies' *Reply Brief*, filed September 8, 2017.

Page 6, fn. 4 *See also, Burgess v. Salmon River Canal Co.*, 119 Idaho 299, 305-06, 805 P.2d 1223, 1229-30 (1991)

Page 13 *Id.*, p. 19; Ex. 2008, 000488-89, ¶ 32;

Page 15 2. IDWR contends that the accounting program is not based upon a "store it or lose it" principle. IDWR Response, pp. 46-47.

Page 15, fn. 7 IDWR Deputy Director ~~Matthew~~ Mathew Weaver provided a FAQ document prior to these proceedings which made it clear that IDWR's accounting program follows the "store it or lose it" principle. *See* Comm. Docs. 000067-70, 000088-90, and 000109-111. Said FAQ document is attached hereto as **Appendix 1**. *See* Comm. Docs. 000069, paragraph 9. It should also be noted that the FAQ documents explained IDWR's position before the hearing was held before the Director, and before evidence was presented, specifically Sutter and Sieo ~~Sisco~~, to explain IDWR's "scattered and incomplete" records.

Page 16 3. . . . But now, Suez suggests a simple (albeit contradictory) solution: that the Ditch Companies file an application for permit or the Ditch Companies should agree to a settlement similar to that agreed to by IDWR, the State and the water users in Basin 01. *Suez Brief* ~~IDWR Response~~, p. 65.

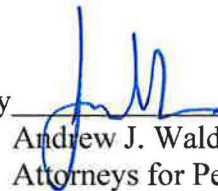
Page 18 Then Suez has the audacity to suggest to this Court that the Contested Case and the Director's decision "is a model of unemotional, and even-handed decision-making in which each of the parties' arguments received careful attention and explanation." *Suez Brief*, pp. 72 and [80-81-82](#).

Page 19 The procedural flaws with the Contested Case proceeding, from its *sua sponte* initiation by the Director to the result-oriented bias and the due process violations, are addressed at length in the *DC's App. Brief* at pages 69-86, as well as the *BPBC Appellant's Brief* at pages 38-[6158](#).

DATED this 19th day of September, 2017.

SAWTOOTH LAW OFFICES, PLLC

By



Andrew J. Waldera
Attorneys for Petitioners/Appellants/
Cross Respondents Ditch Companies

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of September, 2017, I caused a true and correct copy of the foregoing **DITCH COMPANIES' NOTICE OF FILING HYPERLINKED BRIEF AND NOTICE OF ERRATA** to be served by the method indicated below, and addressed to the following:

Original via Hand Delivery to:

Idaho Supreme Court
451 W. State Street
P.O. Box 83720
Boise, ID 83720
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Fax (208) 947-7590

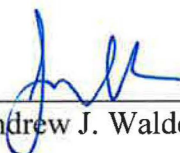
Copies via U.S. Mail and Email to:

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Andrew J. Waldera

**Idaho Supreme Court
Docket No. 44677-2016**

Ballentyne Ditch Company, et al.

v.

Idaho Department of Water Resources and Spackman

Case No. CV-WA-2015-21376

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

In the Matter of
Accounting for the
Distribution of
Water to the
Federal On-Stream
Reservoirs in Water
District 63 before
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Department of
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Ditch Companies

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**DITCH COMPANIES'
APPELLANTS' REPLY BRIEF**

filed September 8, 2017

HYPERLINKED ELECTRONIC BRIEF