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Attorneys for Respondents

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;

Supreme Court Docket No. 44745-2017

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

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

SOUTH BOISE WATER COMPANY; and
THURMAN MILL DITCH COMPANY,

Petitioners,

vs.

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

Petitioners-Appellants-Cross Respondents,

vs.

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

Respondents,

and

SUEZ WATER IDAHO, INC.,

Intervenor-Respondent-Cross-Appellant.

Respondents the Idaho Department of Water Resources and Gary Spackman, in his capacity as Director of the Idaho Department of Water Resources (collectively, "Department"), by and through their attorneys of record and pursuant to Idaho Appellate Rule 32 hereby submit this memorandum in support of their accompanying motion to file a response brief in this appeal in excess of the 50 page limit set forth in Idaho Appellate Rule 34(b). The Department estimates that the text of the brief will be approximately 100 pages, but would not exceed 110 pages.

This case is an appeal from an IDAPA administrative judicial review proceeding initiated by the “Ditch Companies,”¹ the Boise Project Board of Control, and New York Irrigation District (collectively, “Irrigation Organizations”).² The Irrigation Organizations petitioned the District Court for review of the Director’s final orders regarding “distribution of water to 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 factually and legally complex questions of water administration.

On May 8, 2017, this Court granted the request of the Boise Project Board of Control and New York Irrigation District to file an overlength opening brief of not more than 70 pages. The Ditch Companies’ opening brief in this matter was over 60 pages in length. Accordingly, 50 pages will be insufficient to address all of the issues raised by the Ditch Companies.

Given the voluminous record, the nature and complexity of the issues, and the length of the opening brief filed in this appeal, good cause exists to grant the Department’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 the Department has

¹ The “Ditch Companies” are: 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.

² Judicial review of a final agency decision is governed by the Idaho Administrative Procedure Act, or “IDAPA.” Idaho Code §§ 67-5201—67-5292.

discussed this matter with opposing counsels and is authorized to represent that opposing counsels have no objection to this motion.

DATED this 7th day of July 2017.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7TH day of July 2017, I caused to be served a true and correct copy of the foregoing document by the method(s) indicated:

Original to:

Clerk of the Court
IDAHO SUPREME COURT
451 W. State Street
Boise, ID 83303-2707

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