

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.

BALLANTYNE 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,
SOUTH BOISE WATER COMPANY,
THURMAN MILL DITCH COMPANY,

Petitioners,

and

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

Petitioners-Appellants-Cross
Respondents,

v.

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

Respondents,

and

SUEZ WATER IDAHO, INC.,

Intervenor-Respondent-Cross
Appellant.

**Order Re: Joint Motion to Dismiss
Appeal**

Docket No. 44745-2017

Ada County District Court
CV-WA-2015-21376

An Order Granting Joint Motion to Suspend Appeal and Reset Oral Argument was entered by this Court on July 30, 2018, suspending proceedings in this appeal, and directing that oral argument would be reset to the first setting available after November 30, 2019. A Joint Motion to Dismiss Appeal was filed on July 29, 2019, which requested this Court to: "... dismiss the appeals with instructions to the District Court to vacate the two underlying Orders, the: Memorandum Decision and Order (Sep.1, 2016), and Order Denying Rehearing (Nov. 14, 2016) entered in Twin Falls County Case No. CV-WA-2015-21376 (Consolidated Ada County Case No. CV-WA-2015-21391)."

Although the parties seem to have persuaded the Idaho State Legislature to pass the legislation in the 2019 session necessary to settle this matter and as a result, have reached a global settlement, this Court informs the parties there is no rule allowing the vacation of a district court decision. Idaho Appellate Rule (I.A.R.) 13.5 was repealed on August 27, 2013, by Order of this Court, a copy of which is attached hereto; therefore:

IT IS HEREBY ORDERED that this matter is REMANDED to the Twin Falls County District Court, Honorable Eric Wildman presiding, for further proceedings in accordance with applicable legislation and stipulation of the parties. When said proceedings have concluded, this Court will hear further Motions to dismiss the appeal.

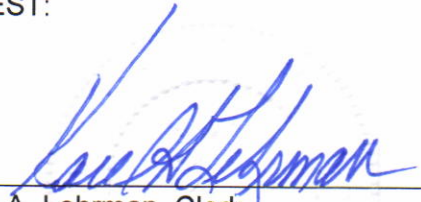
IT IS FURTHER ORDERED that this appeal remains SUSPENDED, and will not be set for oral argument unless ordered by this Court.

DATED this 23rd day of August, 2019.

By Order of the Supreme Court


Roger S. Burdick, Chief Justice

ATTEST:


Karel A. Lehrman, Clerk

cc: Counsel of Record
District Court Clerk
District Court Judge

ORDER RE: JOINT MOTION TO DISMISS APPEAL – Docket No. 44745-2017

In the Supreme Court of the State of Idaho

IN RE: REPEAL OF IDAHO APPELLATE)
RULE (I.A.R.) 13.5) ORDER
_____)

The Court having reviewed a recommendation by the Administrative Conference to repeal an Idaho Appellate Rule, and the Court having approved the recommendation;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Appellate Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, repealed as follows:

1. That RULE 13.5 be, and the same is hereby, REPEALED:

~~Rule 13.5 Stipulation for vacation, reversal or modification of judgment.~~

~~Upon stipulation of all affected parties that a criminal or civil judgment of the trial court or administrative agency may be vacated, reversed, modified or remanded for further hearings, the court may enter an order accomplishing the stipulated result without briefs, oral argument, or an opinion of the court. An order entered by the court pursuant to such a stipulation shall not be considered as precedent for any purpose other than a resolution of that appeal. The clerk of the court shall issue a remittitur for the order under Rule 38 in the same manner as a remittitur on an opinion of the court.~~

IT IS FURTHER ORDERED, that this order shall be effective immediately.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through shall not be considered a part of the permanent Idaho Appellate Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 27 day of August, 2013.

By Order of the Supreme Court

R. Burdick
Roger S. Burdick, Chief Justice

ATTEST: Stephen W. Kenyon
Stephen W. Kenyon, Clerk