

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING

IDAHO GROUND WATER APPROPRIATORS, INC.,

Petitioners,

vs.

CITY OF POCA TELLO,

Petitioner,

vs.

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

Petitioners,

vs.

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

Respondents.

IN THE MATTER OF DISTRIBUTION OF WATER TO VARIOUS WATER RIGHTS

) Case No.: CV-2010-382
)
) (consolidated Gooding County Cases
) CV-2010-382, CV-2010-383, CV-
) 2010-384, CV-2010-387, CV-2010-
) 388, and Twin Falls County Cases
) CV-2010-3403, 2010-5520, 2010-
) 5946, 2012-2096, 2013-2305, 2013-
) 4417 and Lincoln County Case CV-
) 2013-155)

ORDER AMENDING IN PART PROCEDURAL ORDER GOVERNING JUDICIAL REVIEW OF FINAL ORDERS OF DIRECTOR OF IDAHO DEPARTMENT OF WATER RESOURCES

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)
 _____)

On August 3, 2010, this Court issued a *Procedural Order Governing Judicial Review of Final Orders of Director of Idaho Department of Water Resources* (“*Procedural Order*”). The above-captioned matter was subsequently stayed pursuant to stipulation of the parties pending the Idaho Supreme Court’s issuance of its written decision in Supreme Court Docket No. 2010-38193. The Idaho Supreme Court has issued its written decision, and the stay is now lifted. Many of the deadlines previously set forth in this Court’s *Procedural Order* now need to be revisited and amended.

Therefore, the *Procedural Order* is amended in part as follows:

Preparation of Agency Record: The clerk of the Idaho Department of Water Resources (“Department”) shall lodge the record with the Department within 14 days of the entry of this *Amended Order*, or no later than **March 10, 2014**.

Preparation of Transcript: The transcript shall be lodged with the agency within 14 days of the entry of this *Order*, or no later than **March 10, 2014**.

Settlement of Transcript and Record: Pursuant to I.R.C.P. 84(j), and unless otherwise provided by statute, upon receipt of the transcript and upon completion of the record, the Department shall mail or deliver notice of lodging of transcript and record to all attorneys of record or parties appearing in person and to the district court. The parties shall have 14 days from the date of mailing of the notice to pick up a copy of the transcript and agency record and to object to the transcript or record. All fees for the preparation of the transcript and record shall be paid by the responsible party at or before the pick up of the agency record and transcript. Any objection to the record shall be determined by the Department within 14 days of the receipt of the objection and the decision on the objection shall be included in the record on petition for review. Upon the failure of the party to object within 14 days, the transcript and record shall be deemed settled. Pursuant to I.R.C.P. 84(k), the settled record and transcript shall be lodged with the district court no later than **April 7, 2014**.


Briefs and Memoranda: The petitioners' briefs shall be filed with the clerk of the court within 35 days after lodging of the transcript and record. The respondents' briefs shall be filed within 28 days after service of petitioners' briefs. Any reply briefs shall be filed within 21 days after service of respondents' briefs. The organization and content of briefs shall be governed by I.A.R. 35 and 36, provided:

- a. Pursuant to the request of the parties, the parties may split their briefing of the issues raised in this matter into two separate briefs as follows: The first shall address the issues raised by the parties in Gooding County Case Nos. CV-2010-383, CV 2010-384 and CV-2010-388, pertaining to the Director's *Methodology Order*.¹ The second shall address the issues raised by the parties in Gooding County Cases CV-2010-382, CV-2010-387, Twin Falls County Cases CV-2010-3403, 2010-5520, 2010-5946, 2012-2096, 2013-2305, 2013-4417 and Lincoln County Case CV-2013-155, pertaining to all other *Final Orders* issued by the Director that are at issue in this proceeding. To avoid repetition the parties may cross-reference the two briefs.
- b. Pursuant to the request of the parties, the fifty (50) page limit on briefing provided for in Idaho Appellate Rule 34(b) is hereby waived. The length of the parties' briefing shall be limited only by what is reasonable.

Pursuant to I.R.C.P. 84(p) only one (1) original signed brief may be filed with the court and copies shall be served on all parties.

Oral Argument, Telephonic and Video Teleconferencing: Oral argument will be heard on July 9, 2014, at 1:30 p.m. (Mountain Time) at the Snake River Basin Adjudication District Court, 253 3rd Avenue North, Twin Falls, Idaho. Telephone participation will be available by dialing 1-215-446-0193 and entering 406128# when prompted. Video teleconferencing ("VTC") will also be available by appearing at the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., Conference Rm. B, Boise, Idaho. Parties should refer to the *Procedural Order* regarding protocol for telephone and VTC participation. The form and order of argument shall be governed by I.A.R. 37.

Dated February 24, 2014


ERIC J. WILDMAN
District Judge

¹ The term "*Methodology Order*" refers to the Director's June 23, 2010, *Second Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* issued in IDWR Docket No. CM-DC-2010-001.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER AMENDING IN PART PROCEDURAL ORDER GOVERNING JUDICIAL REVIEW OF FINAL ORDERS 0224OF DIRECTOR OF IDWR was mailed on February 24, 2014, with sufficient first-class postage to the following:

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