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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

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

Petitioners,

vs.

**THE IDAHO DEPARTMENT OF WATER  
RESOURCES, AND DIRECTOR GARY  
SPACKMAN**

Respondents.

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IN THE MATTER OF ACCOUNTING FOR  
THE DISTRIBUTION OF WATER TO THE  
FEDERAL ON-STREAM RESERVOIRS IN  
WATER DISTRICT 63

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CASE NO. CV-WA-2015-21376  
(consolidated with Ada County  
CV-WA-2015-21391)

**SUPPLEMENTAL OBJECTION TO  
AGENCY RECORD AND MOTION TO  
AUGMENT**

COME NOW, the Petitioners, the Boise Project Board of Control ("Boise Project"), by and through its counsel of record Barker Rosholt & Simpson, LLP, and the New York Irrigation District ("NYID"), by and through its counsel, Charles McDevitt of McDevitt & Miller, PLLC, and pursuant to I.R.C.P. 84(j), I.C. §§ 67-5248, 67-5249, 67-5251 and 67-5275 hereby submit this additional objection to the agency record in the above-referenced proceedings.

## **OBJECTION AND MOTION TO AUGMENT**

On August 14, 2015, a pre-hearing conference was held before the Hearing Officer and the Department's counsel. At the pre-hearing conference a number of objections were renewed by the parties to the proceedings, and questions were raised concerning the scope and use of the voluminous "officially noticed" documents in the record. Conspicuously, no transcript of that proceeding was included in the Agency Record. It is the only hearing or status conference held that a transcript was not prepared of among all of the conferences and hearing dates held in the proceedings.

Matters taken up and determined at the pre-hearing conference included "intermediate rulings" on renewed motions and objections as well as "statement[s] of matters officially noticed." I.C. § 67-5249(2)(a) and (c). Additionally, the pre-hearing conference was the only hearing held in the matter that was not transcribed and provided as part of the record in violation of the Department's rule of procedure 651. IDAPA 37.01.01.651. Therefore, in addition to the relief sought in the Boise Project and New York Irrigation District's Objection to Record and Motion to Augment filed January 7, 2016, both further request that a transcript of the August 14, 2015, Pre-Hearing Conference also be prepared and added to the Agency Record.


Dated this 11<sup>th</sup> day of January, 2016.

**BARKER ROSHOLT & SIMPSON LLP**

**MCDEVITT & MILLER, PLLC**



By: Shelley M. Davis  
*Attorneys for Boise Project Board of Control*



By: Charles McDevitt  
*Attorneys for New York Irrigation District*

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11<sup>th</sup> day of January, 2016, I caused to be served a true and correct copy of the foregoing **SUPPLEMENTAL OBJECTION TO RECORD AND MOTION TO AUGMENT** the method indicated below, and addressed to each of the following:

Original Filed with the Clerk of the SRBA Court, via Facsimile.

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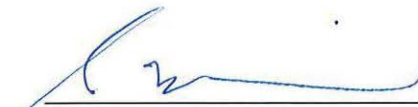
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