

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

GARRICK L. BAXTER, ISB #6301
EMMI L. BLADES, ISB #8682
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 287-4800
Facsimile: (208) 287-6700
garrick.baxter@idwr.idaho.gov
emmi.blades@idwr.idaho.gov

Attorneys for Respondents

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

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,

Petitioners,

vs.

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

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

**ORDER SETTLING THE AGENCY
RECORD AND TRANSCRIPT**

Petitioners,

vs.

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

Respondents.

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

On December 24, 2015, the Idaho Department of Water Resources (“Department”) served its *Notice of Lodging Agency Record and Transcript with the Agency* (“Notice”) in this matter pursuant to I.R.C.P. 84(j). The Notice gave the parties fourteen (14) days from the date of the Notice to file any objection to the agency record.

On January 7, 2016, the Boise Project Board of Control and the New York Irrigation District (collectively referred to as “BOC”), filed an *Objection to the Agency Record and Motion to Augment* (“BOC Objection”). On that same date, the Ditch Companies¹ filed *Ditch Companies Objection to the Agency Record Lodged by IDWR* (“Ditch Companies’ Objection”). On January 11, 2016, the BOC filed a *Supplemental Objection to Agency Record and Motion to Augment*.

A. BOC’s Objection

a. Objection to Documents Related to Water Rights and Water Right Claims nos. 63-303, 63-2158, 63-3613, 63-3614, 63-3618, 63-5261, and 63-5262.

First, the BOC states that officially noticed records related to water right and water right claim nos. 63-303, 63-2158, 63-3613, 63-3614, 63-3618, 63-5261, and 63-5262 should be deleted from the agency record. *BOC Objection* at 2-3. The BOC argues these officially noticed records should be deleted because (1) they were not referenced by the Director in his final order; or (2) if they were referenced, the portions of the officially noticed documents relied upon by the Director were not disclosed prior to or during the course of the contested case. *BOC Objection* at 2.

¹ The Ditch Companies are comprised of the 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.

The BOC argues the Director is required to remove officially noticed materials from the record if they are not referenced in his final order but the BOC provides no legal support for this argument. The documents the BOC seeks to exclude all relate to the water rights and water right claims for the three federal on-stream reservoirs at issue in this proceeding. The Director is reluctant to remove the officially noticed documents from the record because other parties may have relied upon this designation in lieu of seeking to have the documents admitted into evidence. For example, in response to a question from the Director asking whether any other documents should be admitted into the record by stipulation, counsel for United Water stated:

Mr. Director, earlier in the proceeding I asked for – or I offered some of the exhibits on United Water’s list. And I just wanted to go through those real fast. I’ve been able to look at them further, and some of them are already in the record through official notice or through another party’s exhibit.

Hearing Tr. Vol. V, p. 1594, ln. 18-24. Whether or not to take official notice of documents is within the Director’s discretionary power. *See* IDAPA 37.01.01.602 (“Official notice *may* be taken ...”). As other parties may seek to rely on these officially noticed documents on appeal and the BOC fails to provide legal support for its argument, the BOC’s request is denied.

The BOC’s second argument also fails. The *Rules of Procedure of the Idaho Department of Water Resources* (IDAPA 37.01.01) provide that a presiding officer may take official notice of materials in a contested case proceeding and the rules sets forth the procedure for taking official notice:

Parties shall be notified of the specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. Notice that official notice will be taken should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed.

IDAPA 37.01.01.602.

The documents the BOC seeks to exclude from the appellate record were first identified to the parties in a document titled “Document Overview,” which was issued on November 4, 2014, in response to a request from counsel for the BOC that the Department identify “everything that the Department has” concerning “how water has been accounted for in Basin 63.” Status Conf. Tr. (Oct. 7, 2014), p. 17, ln. 15-19. The *Document Overview* specifically identified the Department’s files for the above listed water rights and water right claims and explained how to access the documents. *Document Overview* (Nov. 4, 2014) at 1. These documents were again identified in the Department’s *Response to Boise Project Board of Control’s Request and Request for Disclosure* (Jan. 9, 2015), where the Director responded to a request by the Boise Project Board of Control to provide “Documents concerning the basis for provisions for water quantity on the Boise River storage rights, including from the License files pre-dating the SRBA.” *Response to Boise Project Board of Control’s Request and Request for*

Disclosure (Jan. 9, 2015) at 4. The Department also notified the parties that the documents listed in the *Document Overview* may be made part of the record in this proceeding when it filed its prehearing witness, exhibit and document list. *IDWR Witness, Exhibit, and Document List* (July 31, 2015) at 2.

On August 19, 2015, the Director took “official notice” of the documents the BOC seeks to now exclude. *Documents Officially Noticed* (Aug. 19, 2015) at 1-2. The Director identified the documents and explained how the documents could be viewed:

- The water right licenses and decrees for the federal reservoirs, under the following water right numbers: 63-3618 (Lucky Peak), 63-303, 63-3613, (Arrowrock), 63-3614 (Anderson Ranch). These documents can be accessed through the Department's online "Water Right Research" webpage. SRBA partial decrees can be accessed through the SRBA website.
- The SRBA water right claims, recommendations, and (if applicable) disallowal orders or decrees for the federal reservoirs, under the following water right claim numbers: 63-3618 (Lucky Peak), 63-303, 63-3613, 63-2158, 63-5261, 63- 5262, (Arrowrock), 63-3614, 63-5261 (Anderson Ranch). These documents can be accessed through the Department's online "Water Right Research" webpage, and/or through the SRBA website.

* * *

- Documents in the Department's files for each of the above-listed water rights and water rights claims. These documents are available online at the Department's website, through the "Water Right Research" webpage. The Department's hard copy water right files can be reviewed at the Department's state office in Boise.

Documents Officially Noticed (Aug. 19, 2015) at 3.

The BOC argues the identification of these documents in the *Documents Officially Noticed* is “inadequate” because it failed to identify “*the specific portions* of officially noticed documents that the Director relied upon to form the findings in his Contested Case Order.” *BOC Objection* at 2 (emphasis added). The BOC’s argument fails because the Director is not required to identify “*the specific portions*” of the officially noticed documents he intends to rely upon in his order. The Director is only required to provide notice of the materials he intends to take notice of, the source of those materials, and to provide the notice before or during the hearing. IDAPA 37.01.01.602. In this case, the Director complied with the rule. The BOC’s suggestion that they were not provided adequate time to evaluate the materials is contrary to the facts in the record. These documents were first identified to the parties on November 4, 2014, over nine months before the hearing on the matter. These documents were again identified in the Department’s *Response to Boise Project Board of Control’s Request and Request for Disclosure* (Jan. 9, 2015) in response to a request from the Boise Project Board of Control to provide documents related to the Boise River storage rights. Furthermore, the Department notified the BOC and other parties that the documents listed in the *Document Overview* may be made part of

the record when it filed its prehearing witness, exhibit and document list. *IDWR Witness, Exhibit, and Document List* (July 31, 2015) at 2. Notice that the Director would take official notice of these documents was provided on August 19, 2015, a week in advance of the hearing. This collection of documents is a discrete number of documents that relate directly to the federal on-stream reservoirs at issue in this proceeding. The BOC was made aware of these documents early in the contested case and was provided “a timely and meaningful opportunity to contest and rebut the facts or material so noticed” as required by IDAPA 37.01.01.602. The BOC does not allege the documents in the agency record are not accurate representations of the Department’s files. Accordingly, the BOC’s request to remove these documents from the record is denied. These documents will remain part of the agency record on appeal.

b. Objection to Documents Related to Basin-Wide Issue 17.

The BOC also requests that officially noticed records related to Basin-Wide Issue 17 be deleted from the agency record. The BOC argues the Director did not provide timely notice that he was going to take official notice of these documents. *BOC Objection* at 3. The BOC also argues the Director cannot take official notice of entire court files and that in doing so, the Director failed to provide the parties “a timely and meaningful opportunity to contest and rebut the facts or material so noticed.” *Id.* at 4.

The Department’s Rules of Procedure provide that notice may be provided “either before *or during the hearing...*” IDAPA 37.01.01.602 (emphasis added). Rule 602 also requires that notice “be provided before the issuance of any order that is based in whole or in part on facts or material noticed.” *Id.* Here, the Director provided notice that he would take official notice of the Basin-Wide Issue 17 court documents during the hearing, Hearing Tr. Vol. 5, p. 1601, ln. 1, and provided notice before the issuance of his order, which relied in part on the record created in Basin-Wide Issue 17. *See e.g. Amended Final Order*, at 2-3 (discussing procedural history of Basin-Wide Issue 17). While the BOC argues that it was not provided a timely and meaningful opportunity to contest and rebut the material noticed, the BOC fails to explain how it would have contested or rebutted court documents taken from court files. The Director can understand that the BOC may think the Basin-Wide Issue 17 documents are not relevant to the proceeding (a point with which the Director disagrees as evidence by the fact notice was taken of the documents) but they are the publicly available records of the Idaho court system. Idaho courts regularly take notice of existing case files. *See I.R.E. 201(d)* (requiring a court to take judicial notice of records, exhibits or transcripts from the court file in the same or a separate case when requested). While the Director did not go through and identify each document in the Basin-Wide Issue 17 case with particularity, both the Boise Project Board of Control and New York Irrigation District were petitioners in that case and thus should be familiar with the record. Moreover, the BOC does not suggest the record lodged with the agency is not an accurate representation of the Basin-Wide Issue 17 court file. Accordingly, these documents will remain part of the agency record on appeal.

c. Objection to Documents Listed on Attachment A

The BOC also requests that “IDWR Doc List – Attachment A” be removed from the agency record. *BOC Objection* at 4. The BOC asserts the Director’s notice of these documents

was “legally insufficient to include them in the record on appeal.” *Id.* at 5. The BOC argues that “[p]hysical copies of the documents were never made available for review prior to or during the contested case proceedings” and that the documents “were never introduced or referenced in the hearing.” *Id.* The BOC argues the Director “did not identify in advance of or even in his determination that the records were relied upon” thereby failing “to provide the parties with a fair and adequate opportunity to rebut” the Attachment A documents. *Id.*

First, the contention the Attachment A documents had to be introduced as exhibits or referenced at the hearing is incorrect. The Director is authorized to take official notice of documents. IDAPA 37.01.01.602. Here, the Director took official notice of the Attachment A documents. *See Documents Officially Noticed* (Aug. 19, 2015) at 3 (“The Director will also take official notice of the Documents listed in Attachment A to *IDWR Witness, Exhibit, and Document List*.”); *Amended Documents Officially Noticed* (Sep. 15, 2015) at 3 (same). It is not necessary that officially noticed documents be introduced as exhibits or referenced in the hearing.

Second, the BOC’s contention that physical copies of the Attachment A documents “were never made available for review prior to or during the contested case hearings” is contrary to the record. The documents identified in Attachment A are “Historical Documents” regarding the Boise River Reservoirs that were in the custody of the Bureau of Reclamation. *Supplement to Document Overview* (June 18, 2015); *IDWR Witness, Document and Exhibit List* (Jul. 31, 2015) at 2. The Bureau of Reclamation made the historical documents “available for review” via an e-mail sent to counsel for the Ditch Companies, the BOC, and United Water Idaho on March 3, 2015. *Id.* The *IDWR Witness, Document and Exhibit List* individually identified, in “Attachment A” thereto, ninety-five (95) of the historical documents made available by the Bureau of Reclamation as “documents that may be made part of the record in this matter.” *IDWR Witness, Document and Exhibit List* at 2. The documents were identified with specificity and the BOC was provided with an explanation of how to review the Documents. As such, the documents were available to the BOC and they will remain part of the agency record on appeal.

d. Water District 63 Records of Water Administration and Water District 63 Black Books.

The BOC also seeks to exclude records related to Water District 63 water administration and the Water District 63 Black Books from the agency record. *BOC Objection* at 5. The BOC argues these documents “could have been properly part of the officially noticed documents” but that the Director “failed to provide specific information concerning what portions of those officially noticed records he relied upon to reach his determination to meet the requirements of I.C. § 67-5251.” *Id.* As discussed above, the BOC’s argument fails because the Director is not required to identify “the specific portions” of the officially noticed documents he intends to rely upon in his order. The Director is only required to provide notice of the materials he intends to take notice of, the source of those materials, and to provide the notice before or during the hearing. IDAPA 37.01.01.602. Because these documents were identified in the August 19, 2015, *Documents Officially Noticed*, the requirements of the rule have been met. Moreover, as explained by the Director in the hearing, “We’ve referred to a lot of [the Water District 63 records] during the course of this hearing, including the green bar sheets. And this needs to be in there so that I have

the ability to look at all of those as I deliberate and write a decision.” Hearing Tr. Vol. V, p. 1603, ln. 17-21. Accordingly, these documents will remain part of the agency record on appeal.

e. Communication Documents

The BOC also seeks to have certain documents added to the record which it characterizes as “ex parte communications” by the Director. *BOC Objection* at 5. The documents were provided to the parties “in an exercise of full transparency” in response to a request by the Boise Project Board of Control to disclose contacts the Director had with “any legislator, legislative groups, and any other representative of the government of the State of Idaho concerning the issue of storage fill.” *Response to Boise Project Board of Control’s Document Request and Request for Disclosure* (Jan. 9, 2015) at 10-11. As explained in the Director’s response, these documents are not improper *ex parte* communications by the Director. *Id.* at 11. The Department’s Rule of Procedure 417 (“Rule 417”) provides, in part:

Unless required for the disposition of a matter specifically authorized by statute to be done *ex parte*, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate *ex parte* with a party concerning procedural matters (i.e. scheduling). *Ex parte* communications from members of the general public not associated with any party are not required to be reported by this rule.

IDAPA 37.01.01.417. Rule 417 only requires disclosure of contacts the Director had with parties to this contested case proceeding once the Director became the presiding officer. Contacts with legislators, legislative groups, representatives of the government of the State of Idaho, or other non-parties are not *ex parte* communications because they are not parties to the proceeding. Furthermore, the Director is the executive within the State of Idaho vested with the statutory authority to oversee water right distribution within the state of Idaho. Idaho Code §§ 42-602 and 42-1701. As part of this role, it is appropriate for the Director to meet with legislators and other water user groups to keep them apprised of issues related to public concern. The Director was open with the fact that he met with legislators, the Governor’s office and water users’ groups to keep them apprised of the issues raised in the Water District 63 contested case. Contrary to the BOC’s suggestion, there is nothing improper in such meetings. The Director’s participation in public discussions and presentations related to this matter has been appropriate.²

This notwithstanding, the Director, in the exercise of full transparency, will include the requested documents in the record.

² Even if the documents identified are assumed for the sake of argument to be *ex parte* communications, the Director’s posting of the documents and notifying the parties of the documents resolves the issue. IDAPA 37.01.01.417.

B. BOC's Supplemental Objection

On January 11, 2016, the BOC filed the *Supplemental Objection to Agency Record and Motion to Augment*, in which the BOC asks that the record be supplemented with a transcript of the August 14, 2015, pre-hearing conference. The Director will supplement the record with the requested transcript.

C. Ditch Companies' Objection

The Ditch Companies also object to the inclusion of the officially noticed documents in the agency record. The Ditch Companies' first argument is that the documents officially noticed should be struck from the record because they "were not introduced or admitted into evidence at the Hearing for this Contested Case" *Ditch Companies' Objection* at 2. The Ditch Companies suggest that because the Department offered exhibits at the hearing and the exhibits were admitted into evidence by the presiding officer, the presiding officer is then prevented from then taking official notice of any material. *Id.* at 5-6 (The Department "could have offered [the officially noticed] documents as exhibits, but instead only identified and introduced nine exhibits [at hearing]... . This is an improper use of official/judicial notice.")

As explained above, the contention that officially noticed documents had to be introduced as exhibits is incorrect. The Director is authorized to take official notice of documents. IDAPA 37.01.01.602. Here, the Director took official notice of certain documents posted at the parties request on IDWR's web page, documents identified in the November 4, 2014 *Document Overview*, and the documents listed in Attachment A to *IDWR Witness, Exhibit, and Document List*. See *Documents Officially Noticed* (Aug. 19, 2015) at 1-3; *Amended Documents Officially Noticed* (Sep. 15, 2015) at 1-3 (also recognizing that the Director would take notice of the court files related to Basin-Wide Issue 17). The Ditch Companies fail to point to legal authority in support of their argument that these documents were required to be introduced or accepted as exhibits at hearing.

The Ditch Companies also object to the way the Director took official notice of documents in this proceeding, arguing "[c]opies of the documents listed in *Documents Officially Noticed* were not provided to the parties but rather the disclosure indicated that they could be accessed through the Department and SRBA's websites, or that the paper files could be reviewed in the Department's state office in Boise upon request." *Id.* at 3. Here, the Director provided notice consistent with procedural rule requirements. Rule 602 provides:

Parties shall be notified of the specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. Notice that official notice will be taken should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed.

IDAPA 37.01.01.602.

In the *Documents Officially Noticed*, the Director took official notice of specific Basin 63 records posted on the Department's web page, the water right and water right claim files for the three reservoirs at issue, the annual water master reports for Water District 63 (the Black Books), and the documents listed in Attachment A to *IDWR Witness, Exhibit, and Document List*. *Documents Officially Noticed* (Aug. 19, 2015) at 1-3.³ The source of the materials for all but the Attachment A documents was identified as the Department's and the SRBA Court's records. *Id.* The source of the Attachment A documents was the United States Bureau of Reclamation. *IDWR Witness, Exhibit, and Document List* at 2. While the Director took notice of the "documents in Basin-wide Issue 17," Hearing Tr. Vol. 5, p. 1601, ln. 1, implicit in his statement was that the source of the documents were Basin-Wide Issue 17 court files. This was affirmed in the *Amended Documents Officially Noticed*. *Amended Documents Officially Noticed* (Sep. 15, 2015) at 3 ("The Director will also take notice of ... [t]he SRBA Court record and the Idaho Supreme Court record for Basin Wide Issue No. 17."). The Director's method of taking notice in this proceeding is consistent with Rule 602.

The Ditch Companies also allege the Department has now "after the fact" scanned and copied various files to make them available, thereby suggesting the documents were not available prior to the hearing. This is incorrect. The records posted on the Department's web page and the water right and water right claim files for the three reservoirs at issue were already scanned and available prior to the hearing through the Department's web page. The Bureau of Reclamation files related to Attachment A were also already scanned and would have been made available upon request but the Department never received such a request. Moreover, the Ditch Companies were aware of the Attachment A documents before IDWR filed the *Supplement to Document Overview*, and also before the Bureau of Reclamation notified other parties and the Department via e-mail on March 3 that "Historical Documents" regarding the Boise River Reservoirs were available for review. The Ditch Companies' expert, Dr. Jennifer Stevens, reviewed the Bureau's historical documents in February 2015. *See* Ex. 2053 at 49 n. 123-24; *id.* at 51 n. 129. The historical documents had been collected and sent to the Bureau's Snake River Area Office in Boise pursuant to Dr. Stevens' request. *Id.* at 6. The Ditch Companies' exhibits included a number of the same historical documents identified in Attachment A,⁴ and Dr. Stevens' expert report discussed and/or cited a number of the same documents identified in Attachment A.⁵ Finally, both the BOC and the Ditch Companies participated in the Basin-Wide Issue 17 proceeding and thus would have already had copies of the court documents. In short, the documents the Ditch Companies now seek to exclude were available prior to the hearing.

³ While the Director originally took notice of other documents, the scope of the notice was subsequently narrowed and these other documents were not made part of the record. *See* Tr. Vol. 5, p. 1603, ln. 3-6; *See Amended Documents Officially Noticed* (Sep. 15, 2015). The documents at issue here, which the Ditch Companies seek to have removed from the record, were properly noticed in advance of the hearing pursuant to Rule 602.

⁴ The documents in the record as Ditch Companies' exhibit nos. 2073, 2108, 2123, 2124, 2134, 2139, 2135, 2137, 2125 (p. 40 of 116), 2146, 2149, 2154, 2155, 2166, 2165, 2169, 2170, and 2046 (p. 4) are the same documents identified in Attachment A as document nos. 2, 8, 23, 26, 32, 33, 35, 38, 40 60, 66, 68, 69, 72, 77, 78, 81, and 95.

⁵ While Dr. Stevens' expert report cited and/or discussed some of the same Bureau of Reclamation historical documents identified in Attachment A, it also omitted citation or discussion of several other "related" Bureau documents identified in Attachment A "on the same subject during the same timeframe" as the cited documents. *Amended Final Order* at 25 n. 26.

In conclusion, the Ditch Companies received notice that the Director was taking official notice of the documents which the Ditch Companies now seek to exclude and the Director identified the source of the material noticed. As such, the Director complied with Rule 602. Accordingly, these documents will remain part of the agency record on appeal.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that, timely objections to the agency record having been filed, and with the additions or changes to the record described above, the agency record and transcript are deemed settled.

IT IS FURTHER ORDERED that, pursuant to Idaho Rule of Civil Procedure 84(j), the objections, and this order shall be included in the record on the petition for judicial review. The Department shall provide the parties with copies of the settled agency record and transcript on one (1) DVD consistent with modifications made in this order.

DATED this 19th day of January 2016.



GARY SPACKMAN
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19TH day of January 2016, I served the foregoing document to the following and by the method(s) indicated below:

<p><i>Original to:</i> Clerk of the Court SRBA DISTRICT COURT 253 3rd Avenue North P.O. Box 2707 Twin Falls, ID 83303-2707 Facsimile: (208) 736-2121</p>	<input type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Email
<p>Daniel V. Steenson S. Bryce Farris Andrew Waldera SAWTOOTH LAW OFFICES, PLLC P.O. Box 7985 Boise, ID 83707 dan@sawtoothlaw.com bryce@sawtoothlaw.com andy@sawtoothlaw.com</p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
<p>Albert P. Barker Shelley M. Davis BARKER ROSHOLT & SIMPSON, LLP P.O. Box 2139 Boise, ID 83701-2139 apb@idahowaters.com smd@idahowaters.com</p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
<p>Erika E. Malmen PERKINS COIE, LLP 1111 West Jefferson St., Ste 500 Boise, ID 83702-5391 emalmen@perkinscoie.com</p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
<p>David Gehlert, Esq. U.S. DEPARTMENT OF JUSTICE Denver Field Office 999 18th Street, South Terrace, Ste. 370 Denver, CO 80202 david.gehlert@usdoj.gov</p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email

James C. Tucker, Esq. IDAHO POWER COMPANY P.O. Box 70 Boise, ID 83702 jamestucker@idahopower.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Chas. F. McDevitt Dean J. Miller McDEVITT & MILLER, LLP P.O. Box 2564 Boise, ID 83701 chas@mcdevitt-miller.com joe@mcdevitt-miller.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Jerry A. Kiser P.O. Box 8389 Boise, ID 83707 jkiser@cableone.net	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
John K. Simpson Travis L. Thompson Paul L. Arrington BARKER ROSHOLT & SIMPSON, LLP 195 River Vista Place, Ste. 204 Twin Falls, Idaho 83301-3029 jks@idahowaters.com tlr@idahowaters.com pla@idahowaters.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, Idaho 83318 wkf@pmt.org	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Christopher H. Meyer Michael P. Lawrence GIVENS PURSLEY, LLP P.O. Box 2720 Boise, ID 83701-2720 chrismeyer@givenspursley.com mpl@givenspursley.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email

Rex Barrie Watermaster WATER DISTRICT 63 P.O. Box 767 Star, ID 83669 waterdistrict63@qwestoffice.net	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email
Ron Shurtleff Watermaster WATER DISTRICT 65 102 N. Main St Payette, ID 83661 wd65@srvinet.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email



Garrick L. Baxter
Deputy Attorney General