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*Attorneys for Boise Project Board of Control*

**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.

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

**IRRIGATION ENTITIES'  
PETITION FOR REHEARING**

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

Petitioners,

vs.

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.

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

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 "Ditch Companies") and the Boise Project Board of Control (collectively the "Irrigation Entities"), by and through undersigned counsel of record and pursuant to Idaho Rules of Civil Procedure 84(r) and 84(t)(2), and Idaho Appellate Rule 42, and hereby submit this Petition for Rehearing in the above-captioned matter in response to the Court's *Memorandum Decision and Order* (Sept. 1, 2016).


The Irrigation Entities will file a memorandum supporting this petition within 14 days (on or before October 6, 2016) in accordance with Idaho Appellate Rule 42(b). The Irrigation

Entities seek rehearing primarily regarding the Court's findings and statements regarding:

(1) the Boise River Reservoir operating/planning documents, including the 1953 *Memorandum of Agreement between the Department of the Army and the Department of Interior for Flood Control Operation of Boise River Reservoirs* (Ex. 2038); and (2) the 1985 *Water Control Manual for Boise River Reservoirs* (Ex. 2156), among others. Though these documents (and others) may not be expressly referenced in the SRBA Partial Decrees for the existing storage rights, these documents are integral to their accounting and administration. Indeed, the Idaho Department of Water Resources computerized water right accounting program is predicated upon these documents providing and governing dual purpose reservoir operations (flood control and beneficial use storage) in the Boise River Basin. The Irrigation Entities seek rehearing on the inappropriate application of the Department's statewide "one-fill rule" to the Boise Reservoir rights through the administrative process and ask the Court to rehear the effect of the Department's procedural irregularities and determine the extent to which the Department violated the due process requirements of the Idaho and federal constitutions and violated state law and administrative rules, and determine whether additional direction from the Court to the Department on remand as to appropriate procedures to follow in this and other cases is necessary.

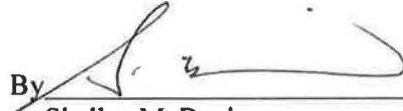
DATED this 22<sup>nd</sup> day of September, 2016.

SAWTOOTH LAW OFFICES, PLLC

By   
Daniel V. Steenson  
Attorneys for the Ditch Companies

DATED this 22<sup>nd</sup> day of September, 2016.

BARKER ROSHOLT & SIMPSON LLP

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

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of September, 2016, I caused a true and correct copy of the foregoing **IRRIGATION ENTITIES' PETITION FOR REHEARING** to be served by the method indicated below, and addressed to the following:

*Original to:*

Snake River Basin Adjudication  
253 3<sup>rd</sup> Avenue North  
P.O. Box 2707  
Twin Falls, ID 83303-2707

☐ U.S. Mail, Postage Prepaid  
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☐ Electronic / CM-ECF

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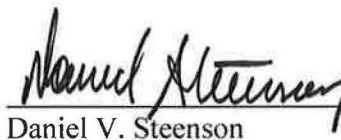
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