

JUN 05 2023

TRENT TRIPPLE, Clerk  
By ERIC ROWELL  
DEPUTY

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

CITY OF POCA TELLO, CITY OF IDAHO )  
FALLS, CITY OF BLISS, CITY OF )  
BURLEY, CITY OF CAREY, CITY OF )  
DECLO, CITY OF DIETRICH, CITY OF )  
GOODING, CITY OF HAZELTON, CITY )  
OF HEYBURN, CITY OF JEROME, CITY )  
OF PAUL, CITY OF RICHFIELD, CITY OF )  
RUPERT, CITY OF SHOSHONE, CITY OF )  
WENDELL, and MCCAIN FOODS USA, )  
INC., )

Petitioners, )

vs. )

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

Respondents, )

and )

A&B IRRIGATION DISTRICT, BURLEY )  
IRRIGATION DISTRICT, MILNER )  
IRRIGATION DISTRICT, NORTH SIDE )  
CANAL COMPANY, TWIN FALLS CANAL )  
COMPANY, AMERICAN FALLS )  
RESERVOIR DISTRICT #2, MINIDOKA )  
IRRIGATION DISTRICT, IDAHO GROUND )  
WATER APPROPRIATORS, INC., )  
BINGHAM GROUNDWATER DISTRICT, )  
and BONNEVILLE-JEFFERSON GROUND )  
WATER DISTRICT, )

Intervenors. )  
\_\_\_\_\_ )

Case No. CV01-23-8306

**ORDER GRANTING MOTIONS  
TO DISMISS**

IN THE MATTER OF THE DISTRIBUTION )  
 OF WATER TO VARIOUS WATER )  
 RIGHTS HELD BY AND FOR THE )  
 BENEFIT OF A&B IRRIGATION )  
 DISTRICT, AMERICAN FALLS )  
 RESERVOIRS DISTRICT NO. 2, BURLEY )  
 IRRIGATION DISTRICT, MILNER )  
 IRRIGATION DISTRICT, MINIDOKA )  
 IRRIGATION DISTRICT, NORTH SIDE )  
 CANAL COMPANY, AND TWIN FALLS )  
 CANAL COMPANY. )


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On May 19, 2023, the Petitioners filed a *Petition for Judicial Review and Motion for Stay* in this matter. A hearing was held on June 1, 2023. The Respondents raised an oral *Motion to Dismiss* the *Petition*, asserting the Court lacks subject matter jurisdiction over this matter due to the Petitioners failure to exhaust their administrative remedies. Members of the Surface Water Coalition also raised an oral *Motion to Dismiss* the *Petition* on the same or similar grounds.<sup>1</sup> For the reasons set forth in the record, the Court granted the *Motions to Dismiss*.

THEREFORE, BASED ON THE FOREGOING, THE FOLLOWING ARE HEREBY ORDERED:

1. The *Motions to Dismiss* by the Respondents and the Surface Water Coalition are hereby granted.
2. The *Petition for Judicial Review* filed in the above-captioned proceeding is hereby dismissed.

Dated June 2, 2023

  
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 ERIC J. WILDMAN  
 District Judge

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<sup>1</sup> The term “Surface Water Coalition” refers collectively to Intervenor A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, Twin Falls Canal Company, American Falls Reservoir District #2, and Minidoka Irrigation District.

**CERTIFICATE OF SERVICE**

I certify that on this day I served a copy of the attached to:

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Date: 6/5/2023

Trent Tripple  
Clerk of the Court  
By *Eric Rowell*  
Deputy Clerk

