

RAÚL R. LABRADOR
ATTORNEY GENERAL

SCOTT L. CAMPBELL
Chief of Energy and Natural Resources Division

GARRICK L. BAXTER, ISB No. 6301
KAYLEEN R. RICHTER, ISB No. 11258

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
kayleen.richter@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**

IDAHO GROUND WATER
APPROPRIATORS, INC.,

Petitioner,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES, and MATHEW WEAVER
in his capacity as the Director of the Idaho
Department of Water Resources,

Respondents,

and

AMERICAN FALLS RESERVOIR
DISTRICT #2, MINIDOKA IRRIGATION
DISTRICT, A&B IRRIGATION
DISTRICT, BURLEY IRRIGATION
DISTRICT, MILNER IRRIGATION
DISTRICT, NORTH SIDE CANAL
COMPANY, TWIN FALLS CANAL
COMPANY, CITY OF POCA TELLO,
CITY OF BLISS, CITY OF BURLEY,
CITY OF CAREY, CITY OF DECLO,

Case No. CV01-23-13173

**MOTION TO SHORTEN TIME AND
SUPPORTING POINTS**

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, AND CITY OF WENDELL, BONNEVILLE-JEFFERSON GROUND WATER DISTRICT, and BINGHAM GROUNDWATER DISTRICT,

Intervenors.

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 RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL COMPANY, AND TWIN FALLS CANAL COMPANY

Respondents the Idaho Department of Water Resources and Mathew Weaver, Director of the Idaho Department of Water Resources (collectively referred to as “Department”), by and through their attorneys of record, hereby move the Court to shorten time for hearing and briefings on this motion and the Department’s concurrently filed *Motion to Strike IGWA's Reply to SWC's Opposition to Motion to Augment*.

STANDARD OF REVIEW

The Idaho Rules of Civil Procedure addressing judicial review of agency actions state that “[t]he opposing party has 14 days from the service to file a response or reply brief” to all motions, I.R.C.P. 84(o), and “[o]ral argument may be heard by the district court after notice to the parties in the same manner as notice of hearing of a motion before a trial court under these rules,” I.R.C.P. 84(q). “[I]f a hearing is requested, the notice of

hearing for the motion, must be filed with the court and served so as to be received by the parties at least 14 days prior to the day designated for hearing.” I.R.C.P. 7(b)(3)(A).

Rule 84(r) of the I.R.C.P. also requires that “[a]ny procedure for judicial review not specified or covered by these rules must be in accordance with the appropriate rule of the Idaho Appellate Rules”. Neither I.R.C.P. 84 nor the I.A.R. specifically provide an avenue to shorten time limits. “In cases where no provision is made by statute or by these rules, proceedings in the Supreme Court shall be in accordance with the practice usually followed in such or similar cases” I.A.R. 48. Idaho Rule of Civil Procedure 7 provides that an exception to motion practice time limits “may be granted by the court for good cause shown.” The Idaho Supreme Court has said that a trial court has discretion to grant a motion to shorten time when it finds that good cause exists. *Dodge v. Bonners Ferry Police Dep’t*, 165 Idaho 650, 654, 450 P.3d 298, 302 (2019) (citing *Brinkmeyer v. Brinkmeyer*, 135 Idaho 596, 601, 21 P.3d 918, 923 (2001); *Sun Valley Potatoes, Inc. v. Rosholt, Robertson & Tucker*, 133 Idaho 1, 6, 981 P.2d 236, 241 (1999)).

ARGUMENT

As argued in the concurrently filed *Motion to Strike IGWA's Reply to SWC's Opposition to Motion to Augment*, IGWA is using improper procedure to get the records it failed to attach to its motion before the Court. IGWA’s attempt to get the records before the Court by attaching them to an impermissible reply brief prejudices the Department because the Department will be without an opportunity to timely consider and respond in writing to the over 300 pages submitted. Given that IGWA’s briefing was filed less than 48-hours before the hearing on this matter, good cause exists, and the Court should

exercise its discretion to grant the Department's request to shorten time to hear the motion to strike.

REQUEST FOR ORAL ARGUMENT

The Department requests that oral argument be set on this motion. A *Notice of Hearing* has been concurrently filed.

DATED this 8th day of November 2023.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



GARRICK L. BAXTER
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of November 2023, I caused to be served a true and correct copy of the foregoing *Motion to Shorten Time and Supporting Points*, via iCourt E-File and Serve, upon the following:

Thomas J. Budge
Elisheva M. Patterson
RACINE OLSON, PLLP
tj@racineolson.com
elisheva@racineolson.com

Dylan Anderson
DYLAN ANDERSON LAW
dylan@dylanandersonlaw.com

Skyler C. Johns
Nathan M. Olsen
Steven L. Taggart
OLSEN TAGGART PLLC
johns@olsentaggart.com
nolsen@olsentaggart.com
staggart@olsentaggart.com
icourt@olsentaggart.com

Candice M. McHugh
Chris M. Bromley
MCHUGH BROMLEY, PLLC
cbromley@mchughbromley.com
cmchugh@mchughbromley.com

W. Kent Fletcher
FLETCHER LAW OFFICE
wkf@pmt.org

John K. Simpson
Travis L. Thompson
MARTEN LAW LLP
jsimpson@martenlaw.com
tthompson@martenlaw.com

Sarah A. Klahn
Maximilian C. Bricker
sklahn@somachlaw.com
mbricker@somachlaw.com



GARRICK L. BAXTER
Deputy Attorney General