BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF INTEGRATED MUNICIPAL APPLICATION PACKAGE ("IMAP") OF SUEZ WATER IDAHO INC., BEING A COLLECTION OF INDIVIDUAL APPLICATIONS FOR TRANSFERS OF WATER RIGHTS AND APPLICATIONS FOR AMENDMENT OF PERMITS.

SUEZ'S DISCUSSION OF SURFACE WATER APODs
# Table of Contents

I. Summary of Boise River surface water rights ......................................................... 3

II. Twelve surface water rights and entitlements were not included in the IMAP ......................................................... 4
   A. Water Right Nos. 63-20041, 63-169F, 63-243E, and 63-243H .......................... 4
   B. Water Right No. 63-31409 ............................................................................. 5
   C. Exchange and contract rights ........................................................................ 5

III. The only surface water right included in the IMAP: No. 63-12055 ......................... 5

IV. Effects of adding an upstream POD ................................................................. 6
   A. No effect on senior rights ............................................................................. 6
   B. Possible effect on junior rights .................................................................... 6

Certification of Service .......................................................................................... 8
DISCUSSION

During the status conference on August 24, 2017, questions arose over the effect of adding a second point of diversion ("POD") to the permit for surface water right No. 63-12055. This submission is provided to the Idaho Department of Water Resources ("IDWR") by Applicant SUEZ Water Idaho Inc. ("SUEZ") in response to those questions.

The quick answer is that the addition of a second POD upstream of the Marden Treatment Plant for No. 63-12055 will not and cannot affect any surface water right senior to 1993. Existing surface rights junior to 1993 can be protected through appropriate conditioning.

Questions were also raised about why some water rights are not included in the IMAP. This submission re-caps prior explanations as to this.

I. SUMMARY OF BOISE RIVER SURFACE WATER RIGHTS

SUEZ owns 13 surface water rights and entitlements. Six are Boise water rights or permits. Five are Snake River exchange rights. Two are storage contract rights.

Of the six Boise River surface water rights, only one is included in the IMAP:

<table>
<thead>
<tr>
<th>Table 1</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Boise River Surface Water Right Included in IMAP</strong></td>
</tr>
<tr>
<td>Water Right No.</td>
</tr>
<tr>
<td>63-12055</td>
</tr>
</tbody>
</table>

| **Boise River Surface Water Rights Not Included in IMAP** |
| Water Right No. | Priority Date | POD(s) (surface water intakes) | cfs |
| 63-20041 (formerly 63-165L) | 6/1/1866 | Marden | 0.68 |
| 63-169F | 6/1/1868 | Marden | 0.81 |
| 63-243E | 5/1/1889 | Marden | 3.30 |
| 63-243H | 5/1/1889 | Marden | 0.93 |
| 63-31409 | 1/18/2002 | Marden & Columbia | 20.00 |
II. TWELVE SURFACE WATER RIGHTS AND ENTITLEMENTS NOT INCLUDED IN THE IMAP

The IMAP includes most, but not all, water rights and entitlements in SUEZ’s portfolio. This section explains why 12 of SUEZ’s 13 surface water rights and entitlements were not included in the IMAP. An explanation of why ten of SUEZ’s 112 ground water rights were not included in the IMAP is set out in Suez’s 2017 Update Report on IMAP and 2065 Master Water Plan (with errata dated April 28, 2017) at pages 9-13 and footnote 15 at page 16.¹

As has been explained before, SUEZ’s gap analysis is based on a comparison of future need to the quantity available under all water rights and entitlements in SUEZ’s portfolio, not just the 103 water rights and permits included in the IMAP. See, Suez’s 2017 Update Report on IMAP and 2065 Master Water Plan (April 28, 2017) at pages 9-10 and 22-23; Master Water Plan for the Years 2015 to 2065 (with errata dated April 28, 2017) at pages 35-42.

A. Water Right Nos. 63-20041, 63-169F, 63-243E, and 63-243H

At the time the IMAP was filed, four Boise River surface water rights now decreed to SUEZ were held in the name of other entities (Nos. 63-20041, 63-169F, 63-243E, and 63-243H). When the IMAP was filed, SUEZ (then United Water Idaho) intended to claim them in the SRBA. However, as explained in the original IMAP submission, SUEZ thought it unwise to include them in the IMAP because their status was unresolved:

In order to avoid potentially distracting side issues over which entity has the right to change these water rights and other complexities unique to these interests, UWID intends to exclude them from this IMAP.

IMAP (amended April 9, 2003) at page 38.
During the SRBA, these four rights were decreed to SUEZ. Accordingly, SUEZ could seek to amend the IMAP today to add these rights to the transfer package. But SUEZ has not elected to do so, in order to expedite resolution of the current IMAP.

B. Water Right No. 63-31409

The application for permit for Water Right No. 63-31409 was filed on November 16, 2001, and the permit was not issued until March 4, 2004. Thus, the permit did not exist when the IMAP was filed on May 4, 2001 nor when it was amended on April 9, 2003. Moreover, there is no need to change this right, because the permit as issued authorizes alternative points of diversion ("APODs") at both the Marden and Columbia Treatment Plants.

C. Exchange and contract rights

The five Snake River exchange rights are not included in the IMAP because exchanges are inherently complex and could add to confusion in IMAP proceeding. The two storage water contracts are not included in the IMAP, because these are not SUEZ's privately held water rights.

III. The one surface water right included in the IMAP: No. 63-12055

As noted in Suez's 2017 Update Report on IMAP and 2065 Master Water Plan (April 28, 2017) (Table 2 at page 10), the IMAP includes only one surface water right. This is a permit for Water Right No. 63-12055. It has a September 8, 1993 priority and one point of diversion for the Marden Treatment Plant (near the Warm Springs Golf Course below the diversion for the Ridenbaugh canal). The IMAP seeks to add a second point of diversion, upstream at SUEZ's

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1 Briefly, one was only a permit application when the original IMAP was filed, four were later-discovered SRBA claims, two were removed from IMAP to facilitate transfer actions, and three are Ranney collector rights split off during the SRBA.
Columbia Treatment Plant (above the Ridenbaugh canal and below the New York canal diversion at Diversion Dam). This would create a mini-APOD authority with two PODs.

IV. EFFECTS OF ADDING AN UPSTREAM POD

A. No effect on senior rights

Water rights senior to 1993 (the priority date of No. 63-12055) would not be injured by the addition of a POD at the Columbia Treatment Plant. The priority system protects those rights, and would result in curtailment of No. 63-12055, in the event there is not enough water to satisfy both SUEZ’s right and the senior. In other words, the addition of an APOD provides no exemption from the priority system. If needed to satisfy their priorities, seniors could call water past SUEZ’s APOD.

Accordingly, the water rights of Protestant Nampa Meridian Irrigation District, which are senior to No. 63-12055, would be unaffected by the proposed new APOD at Columbia, even though it is upstream of NMID’s point of diversion for the Ridenbaugh Canal at Barber Park.

B. Possible effect on junior rights

The addition of an upstream APOD could injure junior surface rights with points of diversion between Marden and Columbia. To SUEZ’s knowledge (based on an examination of IDWR’s website), there are only three such rights:

<table>
<thead>
<tr>
<th>Water Right No.</th>
<th>Owner</th>
<th>Priority Date</th>
<th>cfs</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>63-12577</td>
<td>Idaho Shakespeare Festival</td>
<td>12/2/1999</td>
<td>0.11</td>
<td>Aesthetic</td>
</tr>
<tr>
<td>63-31878</td>
<td>Bown Crossing LLC</td>
<td>8/19/2003</td>
<td>4.50</td>
<td>Aesthetic</td>
</tr>
<tr>
<td>63-33341</td>
<td>City of Boise, Parks &amp; Rec</td>
<td>2/18/2010</td>
<td>0.54</td>
<td>Irrigation</td>
</tr>
</tbody>
</table>

In the event SUEZ inadvertently has failed to identify other junior surface rights between Marden and Columbia, the discussion in this section likely would apply to them as well.

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2 In the event SUEZ inadvertently has failed to identify other junior surface rights between Marden and Columbia, the discussion in this section likely would apply to them as well.
In order to avoid injury to these (and any similarly situated rights), IDWR may find it appropriate to impose a condition on No. 63-12055 (if its proposed transfer in IMAP is approved) limiting SUEZ's diversions under that right at Columbia Treatment Plant so as to avoid impairment of junior surface rights existing as of the time of approval of the IMAP.\(^3\) (Again, seniors already are protected by virtue of their priority.)

Respectfully submitted this 3\(^{rd}\) day of November, 2017.

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By

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\(^3\) Conditioning might come in the form of a subordination to specific water rights or in the form of the "APOD condition language" employed by IDWR for ground water rights.
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of November, 2017, the foregoing was filed, served, and copied as shown below. Service by email is authorized by the Hearing Officer’s Order of September 11, 2017 at page 3.

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