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Attorneys for Respondents

District Court - SRBA
Fifth Judicial District
In Re: Administrative Appeals
County of Twin Falls - State of Idaho
MAY - 2 2016
By _____ Clerk
_____ Deputy Clerk

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,

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

RESPONDENTS' CERTIFICATE OF COMPLIANCE AND NOTICE OF ERRATA

and NEW YORK IRRIGATION DISTRICT,

Petitioners,

vs.

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

Respondents,

and

SUEZ WATER IDAHO, INC.,

Intervenor.

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

COME NOW Respondents, the Idaho Department of Water Resources ("IDWR") and Gary Spackman, in his official capacity as Director of IDWR, by and through their undersigned attorney of record, and hereby submit for the convenience of the Court two DVDs, each of which contain an electronic, hyperlinked copy of the Respondents' brief filed in this matter on April 8, 2016. Most of the citations to legal authority and the agency record in the brief have been hyperlinked to the cited authorities or portions of the record. The hyperlinked citations are identified by blue font and underlining. Clicking on a hyperlinked citation will cause a new window to open, and the new window will display the cited legal authority or portion of the agency record.

The undersigned does hereby certify that the electronic, hyperlinked copy of the Respondents' brief submitted herewith is in compliance with all the requirements set out in I.A.R. 34.1, with the following exceptions:

(1) Because hyperlinking requires embedded coding that links citations to legal authorities or portions of the agency record, the embedded coding and copies of cited legal authorities and portions of the record were not included in the original hardcopy brief Respondents filed on April 8, 2016;

(2) Because hyperlinking be requires additional time after a brief is completed, particularly given the size of the agency record and the opening briefs filed in this matter, the Respondents were not able to complete the process of hyperlinking their brief by April 8, 2016.

Several citation errors in the Respondents' brief were discovered in the course of creating the hyperlinked copy of the brief. The errors and their corrections are listed below (underlined as necessary for clarity). While the errors were not corrected in the text of the hyperlinked copy of the Respondents' brief (the text remains the same as the text of the original hardcopy brief filed on April 8, 2016), the erroneous citations are hyperlinked to the correct legal authority or portions of the record, as identified below:

- Page 10 (Statement of Facts): In the 7th line of the first full paragraph, the citation to "Ex. 3190—003972, 003977" should be "Ex. 2190—003972, 003977"; in the last line of the same paragraph, the citation to "Ex. 3190—003981" should be "Ex. 2190—3981";

- Page 13 (Statement of Facts): in the last line of the first full paragraph, the citation to "R. 00258 & n. 29" should be "R. 001258 & n. 29";

- Page 16, footnote 21 (Statement of Facts): the citation to "Ex. 5—000007" should be "Ex. 1—000007";

- Page 19, footnote 24 (Statement of Facts): the citation to "Ex. 5—000093-94" should be "Ex. 4—000093-94";

- Page 27, footnote 29 (Argument): the citation to "311 U.S. 377, 426 (1941)" should be "311 U.S. 377, 405 (1941)";

- Page 36 (Argument): at the end of the first line and the beginning of the second line, the citation to "*id.* at 1056" should be "*id.*at 1156";

- Page 38 (Argument): in the 4th line of the first full paragraph, the citation to "*BP Brief* at 76" should be "*BP Brief* at 77";

- Page 42 (Argument): in the 5th line of the first full paragraph, the citation to "*Rangen*, slip op. at 7, 19" should be "*Rangen*, slip op. at 17, 19"; in footnote 41 on the same page, the citation to "43 U.S.C. §83" should be "43 U.S.C. § 383";

- Page 48 (Argument): in the 2nd line of the second full paragraph, then citation to "*DC Brief* at 5, 105" should be "*DC Brief* at 2, 105";

- Page 55 (Argument): in the 2nd line from the bottom, the citation to "Ex. 2—000002" should be "Ex. 1—000002";

- Page 58 (Argument): in the 4th line from the bottom, the citation to "*Id.*" should be "R. 001277-78";

- Page 67 (Argument): in the 8th line of the first full paragraph, the citation to "*Id.*" should be "R. 001272";

- Page 95 (Argument): in the 8th line of the second full paragraph, the citation to "Idaho Code § 42-1702(4)" should be "Idaho Code § 42-1702";

- Page 98 (Argument): in the 6th line of the first full paragraph the citation to "IDAPA 04.01.01.001.02" should be "IDAPA 04.11.01.001.02."

- Page 103 (Argument): in the 3rd line of the first full paragraph, the citation to "Tr. 20150831 at 1549-80" should be "Tr. 20150910 at 1549-80."

The electronic, hyperlinked brief filed herewith is provided to this Court and the parties as a courtesy to facilitate their review of the Respondents' brief. Counsel of record for the parties have been served by U.S. mail with a copy of this filing and a DVD containing an electronic, hyperlinked copy of the Respondents' brief, at the following addresses:

//

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RESPECTFULLY SUBMITTED this 28TH day of April 2016.

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Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of April 2016, I caused a true and correct copy of the foregoing document and a DVD containing an electronic copy of the Respondents'brief, to be filed with the Court and served on the following parties by the indicated methods:

Original to: SRBA District Court 253 3rd Avenue North P.O. Box 2707 Twin Falls, ID 83303-2707 Facsimile: (208) 736-2121	☒ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Overnight Mail ☐ Facsimile ☐ Email
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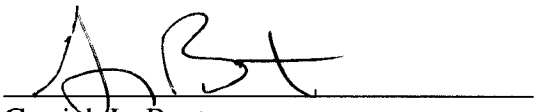

Garrick L. Baxter
Deputy Attorney General

BALLENTYNE DITCH CO., ET AL.
v.
IDWR
Case No. CV-WA-2015-21376
(Consolidated Ada Co. Case No. CV-WA-2015-21391)

In the Matter of Accounting for the Distribution of Water to the Federal On-Stream Reservoirs in Water District 63

ELECTRONIC BRIEF

BRIEF FOR RESPONDENTS' THE IDAHO DEPARTMENT OF WATER RESOURCES AND GARY SPACKMAN
April 8, 2016