

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
POCATELLO, CITY OF BLISS, CITY OF
BURLEY, CITY OF CAREY, CITY OF
DECLO, CITY OF DIETRICH, CITY OF
GOODING, CITY OF HAZELTON, CITY OF

Case No. CV01-23-13173

**DECLARATION OF KAYLEEN R.
RICHTER IN SUPPORT OF JOINT
MOTION TO MODIFY BRIEFING
SCHEDULE AND VACATE AND RESET
ORAL ARGUMENT**

HEYBURN, CITY OF JEROME, CITY OF PAUL, CITY OF RICHFIELD, CITY OF RUPERT, CITY OF SHOSHONE, 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

I, Kayleen R. Richter, certify and declare under penalty of perjury pursuant to the laws of the State of Idaho, that the following is true and correct:

1. I am over the age of eighteen (18) years and competent to testify to the matters contained herein. I make this declaration pursuant to Idaho Code § 9-1406 and based on my own personal knowledge.
2. I am currently a deputy attorney general for the Office of the Attorney General representing the Idaho Department of Water Resources. My work address is 322 E. Front Street, Boise, ID 83702-7371. I have served in this capacity since August 2023.
3. In accordance with the Court's original briefing schedule set forth in its August 16, 2023 *Procedural Order*, Petitioner's opening brief was due on November 1, 2023, Respondents' brief was due 28 days after service of the opening brief, and any reply brief was due 21 days after service of Respondents' brief.

4. In accordance with the Court's August 16, 2023 *Procedural Order*, oral argument was originally set for January 11, 2024, at 1:30 p.m. (MT).

5. A request to vacate the briefing schedule and oral argument was previously made and granted in this case; and a later request to reset the vacated briefing schedule and oral argument was made and granted. One additional uncontested motion to extend briefing deadlines was made and granted. In accordance with the Court's November 17, 2023 *Order Granting Unopposed Motion; Order Vacating and Resetting Hearing* and January 16, 2024 *Order Granting Uncontested Motion to Modify Briefing Schedule*, the modified schedule is as follows:

- Petitioner's Opening Brief due December 8, 2023;
- Respondents'/Intervenors' Response due January 19, 2024;
- Petitioner's Reply due February 15, 2024; and
- Oral argument set for February 22, 2024, at 10:00 a.m. (MT).

6. Petitioner timely filed *Idaho Ground Water Appropriators, Inc.'s Opening Brief* on December 8, 2023.

7. Respondents timely filed *Respondent IDWR's Brief* on January 19, 2024.

8. Intervenors American Falls Reservoir District #2, Minidoka Irrigation District, A & B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company timely filed *Surface Water Coalition's Response Brief* on January 19, 2024.

9. Intervenor Bingham Groundwater District timely filed *Bingham Groundwater Users Response Brief* on January 19, 2024.

10. Due to heavy staff workload and the complexity of the issues involved in this matter, the parties believe there is good cause to extend the remaining briefing deadline and vacate and reset oral argument for a later date.

11. The undersigned has been in communication with the Court regarding new proposed dates for oral argument. April 4, 2024, was presented by the Court as an available option for resetting oral argument in this matter.

12. The undersigned conferred with counsel for Petitioner and Intervenors and they all expressed agreement with modifying the remaining briefing deadline so that Petitioner's reply brief is due March 1, 2024 (a 15-day extension). Additionally, all parties wish to vacate and reset oral argument, currently set for February 22, 2024, to April 4, 2024, at a time of day that is convenient for the Court. A corresponding *Joint Motion to Modify Briefing Schedule and Vacate and Reset Oral Argument* is filed contemporaneously herewith.

13. The parties are known entities to the Court, having participated in prior judicial review proceedings before it. To the best of my knowledge, in recent history, all parties have complied with the Court's deadlines, submitted timely briefs, and appropriately appeared for oral argument.

DATED and CERTIFIED this 23rd day of January 2024.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



KAYLEEN R. RICHTER
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of January 2024, I caused to be served a true and correct copy of the foregoing *Declaration of Kayleen R. Richter in Support of Joint Motion to Modify Briefing Schedule and Vacate and Reset Oral Argument*, 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

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
SOMACH SIMMONS & DUNN, P.C.
sklahn@somachlaw.com
mbricker@somachlaw.com



KAYLEEN R. RICHTER
Deputy Attorney General