

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF WATER  
TO VARIOUS WATER RIGHTS HELD BY OR  
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

Docket No. CM-DC-2010-001

**ORDER DENYING MOTION  
FOR SERVICE OF MITIGATION  
PLANS**

**BACKGROUND**

On March 30, 2026, Idaho Ground Water Appropriators, Inc. (“IGWA”) filed a *Motion for Service of Mitigation Plans* (“*Motion*”) with the Director of the Idaho Department of Water Resources (“Department”). The *Motion* asks the Director to issue an order requiring the Department to serve all mitigation plans filed in the Surface Water Coalition (“SWC”) Delivery Call under Docket No. CM-DC-2010-001 upon all parties of record in this docket. *Motion*, at 1.

The Director has considered the *Motion* and is denying it for the reasons discussed below.

**ANALYSIS**

Once the Director receives a proposed mitigation plan that meets the requirements of Rule 43.01 of the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources (“CM Rules”), IDAPA 37.03.11, the Director will publish notice of the proposed mitigation plan pursuant to Rule 43.02. That rule requires the Director to provide notice of a proposed mitigation plan in accordance with the procedural provisions of Idaho Code § 42-222(1). IDAPA 37.03.11.043.02. Pursuant to that statute, the Department is to provide notice in a similar manner as applications for new water rights under Idaho Code § 42-203A. The manner of notice is publication in a newspaper of general circulation at least once each week for two successive weeks. I.C. § 42-203A(2). The notice must also be accessible from the Department’s internet homepage, though the newspaper publication is the official notice and any “errors or omissions in the notices accessible from the internet webpage do not invalidate the published notice.” I.C. § 42-203A(3). This form of notice is reasonably calculated to inform affected persons and afford them opportunity to respond.

IGWA argues that mitigation plans are filings which affect the merits of a contested case and that such filings are ordinarily served upon parties or their representatives pursuant to Rule 53 of the Department’s Rules of Procedure (IDAPA 37.01.01). *Motion*, at 2. The language involving submissions that affect the merits of a contested case cannot be found in the cited section, nor any other section, of IDAPA 37.01.01.

In addition, Rule 53.03(a) requires that notices and orders issued by the Department be served upon parties or their representatives. Submitting a mitigation plan is the start of a new contested case with a new docket number. A person is not entitled to personal service of notices or orders issued in the new contested case until they become a party by protesting the mitigation plan. A proposed mitigation plan may affect persons who are not already parties to the underlying SWC Delivery Call, assigned Docket No. CM-DC-2010-001. Accordingly, newspaper publication provides a consistent and uniform method of notice and opportunity to be heard applicable to all interested persons, including existing participants in the SWC Delivery Call.

IGWA also argues that the Department's reliance solely on publication does not satisfy the standard for due process. *Motion*, at 2. IGWA contends that "requiring parties to monitor newspaper publications in order to preserve participation rights in a proceeding to which they are already parties imposes an unnecessary procedural burden and creates a substantial risk that such parties will be deprived of a meaningful opportunity to be heard." *Motion*, at 2. As discussed above, parties to the underlying SWC Delivery Call are not automatically parties to new mitigation plans and the notice requirements provide equal opportunity for non-parties and parties to the SWC Delivery Call to participate in the proceedings.

Requiring the Department to provide individualized notice for each mitigation plan filing would impose an impractical administrative burden given the volume and variety of filings that occur over the course of a contested case. Mitigation plans are not the only submissions that may affect a party's rights. Singling out mitigation plans for heightened notice obligations could invite the expansion of similar demands for individualized notice for virtually every filing in the proceeding. Granting this request, and possible future expansion of notice requirements will undermine efficiency and potentially delay proceedings. The fact that the Department maintains a service list and is aware of the identities of participating parties does not change this analysis. The existence of a list does not eliminate the Department's burden of tracking, preparing, and issuing individualized notices for each qualifying proceeding. It also does not change the expectation that parties who are actively participating in the proceeding remain informed of development through the established notice procedures.

For these reasons, the Director will deny IGWA's *Motion*.

### ORDER

IT IS HEREBY ORDERED that IGWA's *Motion for Service of Mitigation Plans* is DENIED.

Dated this 7th day of April 2026.

  
\_\_\_\_\_  
MATHEW WEAVER  
Director

## CERTIFICATE OF SERVICE

I HEREBY certify that on this 7th day of April 2026, the above and foregoing, was served by the method indicated below, and addressed to the following:

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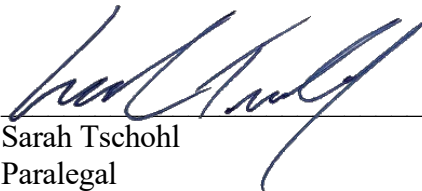
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