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May 28, 2026

DEPARTMENT OF
WATER RESOURCES

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Attorney for Jerry D. Bingham and Valerie H. Bingham

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

Water Rights of Jerry D. Bingham and)
Valerie H. Bingham,)
1675 W 400 N)
Blackfoot, ID 83221-5051)
)
Water Rights No: 35-12226, 35-2202B,)
35-2205E, 35-2266, 35-2269G, and)
35-2183D,)
)
_____)

Docket No. ~~CM-MP-2025-003~~
CM-MP-2026-004

**BINGHAMS' FIFTH MITIGATION
AND CURTAILMENT PLAN**

**TO: MATTHEW WEAVER
DIRECTOR OF IDAHO DEPARTMENT OF WATER RESOURCES**

COME NOW Jerry D. Bingham and Valerie H. Bingham, by and through the undersigned
counsel, and pursuant to IDAPA 37.03.11.043 submits the following Fifth Proposed Mitigation and
Curtailment Plan for the 2026 irrigation season.

I. MITIGATION PLAN

A. The names and mailing address of Jerry D. Bingham and Valerie H. Bingham are
provided above.

B. Identification of the water rights that will benefit from the mitigation plan as proposed
are as follows:

1. Shakey Farm, 250 acres, priority date 1951, Water Right #35-2202B, reduced to 1.7 acre-feet (“AF”);
2. Havens Farm, 207 acres, priority date 1951, Water Right #35-2205E, reduced to 1.7 AF; and
3. Home Place, 156 acres, priority date 1950, Water Right #35-2183D, reduced to 1.72 AF.

Binghams also own Cinder Block Farm, 155 acres, priority date 1952, Water Right #35-2266; Over the Hill, 240 acres, priority date 1952, Water Right #35-2269G¹; and Shakey Farm, 35 acres, with a priority date 1987, Water Right# 35-12226. These rights will all be shut off for the 2026 season.

C. Description of Mitigation Plan:

1. **Baseline Historic Diversion and Consumptive Use Volumes.**

For purposes of establishing the baseline condition against which mitigation obligations shall be measured for Bingham, the most recent five-year average annual diversion volume is 2,933 acre-feet per year (“AFA”), and the corresponding five-year average annual Consumptive Use Volume is 2,464 AFA.

2. **Diversion and Consumptive Use Volume Reductions.**

The baseline Diversion Volume and Consumptive Use Volume associated with the Bingham Water Rights shall be reduced by 41%, calculated as follows: Binghams’ combined water rights total 1,039 acres. Binghams propose that they curtail Water Rights 35-12226, 35-2266 and 35-2269G,

¹The Acre Limit for Right #35-2266 is 155 acres and the Acre Limit for Right #35-2269G is 240 acres, however use of these rights together are limited to the irrigation of a combined total of 391 acres in a single irrigation season.

which total 426 acres, that would be shut off for the 2026 irrigation. This would result in a 41% reduction. Bingham's water rights on Shakey Farm (Water Right #35-2202B), Havens Farm, (Water Right #35-2205E) and Home Place (Water Right #35-2183D) would be reduced to the amount stated above. It is Bingham's contention that this mitigation effort is in excess of any other known approved plan, by the shut off of 41% of Bingham's water rights.

3. **Maximum In-Season Benefit from Complete Curtailment of Bingham Water Rights.**

Complete curtailment of Bingham Water Rights 35-12226, 35-2266 and 35-2269G is estimated by Bingham to result in at least an in-season benefit of 223 AF in-stream benefit for purposes of mitigation accounting and administration under this Agreement.

While the amount of shut off may not be an exact amount of mitigated water, it represents a significant reduction in use of a senior priority date water right greater than other junior rights through their approved plans in the Bingham's opinion, and this curtailment has resulted in additional estimated benefits to the Near Blackfoot to Minidoka reaches of the Snake River. Further shutting off Water Rights 35-2266 and 35-2269G as senior water rights on 395 acres and 35-12226 on 35 acres and a junior water right represents a complete dry land mitigation of 426 acres. All of which is easily verified by pumps being off and land being idle.

4. **Annual Reporting & Accounting.**

Annual Reporting will be completed and submitted by December 31 of each year to include:

- a. Ground water diversion volumes based on metered readings

b. Validation of metered diversion volumes based on daily ArgiMet data ET estimates and/or METRIC ET data

c. Declaratory statement regarding the best estimate of annual Diversion Volumes in comparison to the established Diversion Volume Target (i.e., 2,640 AFA).

5. This Plan has been submitted to and discussed with the Surface Water Coalition (“SWC”) and formal approval by all of the members of the SWC is pending and a stipulation approving this plan is expected in accordance with CM Rule 43.03.o. This stipulation will not shift any share of Bingham’s injury to other non-signatory juniors or impose burdens on IDWR.

6. Bingham’s reserve and do not relinquish any of their claims, causes of action, defenses, rights, and privileges pertaining to the Bingham Water Rights and subject matter of this stipulated Mitigation Plan and further acknowledge and agree that this stipulated Mitigation Plan is temporary and will terminate in accordance with IDAPA Rule 43 or as determined by the IDWR Director.

WHEREFORE, the Applicants pray that the Director of the Department of Water Resources of the State of Idaho take the following actions:

a. Find that this proposed plan will provide mitigation, at the time, place and amount required by the senior water rights, sufficient to mitigate the impacts of the Bingham’s ground water withdrawal for use in irrigating their land.

b. Find that this proposed mitigation plan is adequate to prevent injury to other water rights.

c. Order that the Watermaster for Water District 120 permit the use of groundwater by the Bingham to continue out of priority for the 2026 irrigation season.

d. Order that IDWR Water Right Nos. 35-2202B, 35-2205E, 35-2266, 35-2269G, 35-2183D, and 35-12226 be regulated in accordance with this mitigation plan.

e. That time is of the essence and that the Director of IDWR address this matter and act as the presiding officer should there be any objections.

Respectfully submitted.

DATED this 28th day of May, 2026.

COOPER & LARSEN, CHARTERED

By /s/ Reed W. Larsen

REED W. LARSEN

Attorney for Jerry D. Bingham and

Valerie H. Bingham

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May, 2026, I served a true and correct copy of the above and foregoing document to the following person(s) as follows:

Mathew Weaver, Director	<input type="checkbox"/>	U.S. Mail/Postage Prepaid
Garrick Baxter	<input type="checkbox"/>	Hand Delivery
IDAHO DEPT. OF WATER RESOURCES	<input checked="" type="checkbox"/>	Email
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Sarah A. Klahn	<input type="checkbox"/>	U.S. Mail/Postage Prepaid
Maximilian C. Bricker	<input type="checkbox"/>	Hand Delivery
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Thomas J. Budge	<input type="checkbox"/>	U.S. Mail/Postage Prepaid
RACINE OLSON, PLLP	<input type="checkbox"/>	Hand Delivery
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Candice McHugh	<input type="checkbox"/>	U.S. Mail/Postage Prepaid
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/s/ Reed W. Larsen