

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

IN THE MATTER OF JERRY D. AND
VALERIE H. BINGHAM’S MITIGATION
PLAN FOR THE SURFACE WATER
COALITION

Docket No. CM-MP-2026-004

**ORDER AUTHORIZING DISCOVERY
AND EMAIL SERVICE;**

SCHEDULING ORDER; AND

NOTICE OF HEARING

BACKGROUND

On May 28, 2026, Jerry D. Bingham and Valerie H. Bingham (the “Binghams”) submitted *Binghams’ Fifth Mitigation and Curtailment Plan* (“*Mitigation Plan*”) to the Idaho Department of Water Resources (“Department”) pursuant to the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources (“CM Rules”), IDAPA 37.03.11.043. Notice of the *Mitigation Plan* was published in accordance with the Department’s CM Rules. *See* IDAPA 37.03.11.043.02.

On June 18, 2026, Idaho Ground Water Appropriators, Inc. (“IGWA”) filed *IGWA’s Notice of Protest* with the Department.

On July 28, 2026, Hearing Officer Burdick held a prehearing conference on this matter. Both parties were represented by counsel. After some discussion concerning the Binghams’ proposed *Mitigation Plan* being limited in time to the 2026 irrigation season and the lack of protest from the Surface Water Coalition, counsel for the Binghams raised an objection to IGWA’s participation based on a lack of standing. In response, the Hearing Officer ordered the parties to brief the issue of standing. Later, while discussing discovery needs and a date for hearing, counsel for IGWA objected to holding a hearing during the first half of September 2026. Noting a desire to balance the necessity of both parties, the Hearing Officer decided to move forward with setting the hearing in September 2026 and authorized the parties to immediately conduct and engage in discovery.

Pursuant to IDAPA 37.01.01.514, this order memorializes and clarifies the rulings made and scheduling agreements reached during the prehearing conference. Although not previously discussed, the Hearing Officer will also exercise his discretion to establish deadlines concerning hearing exhibits and to authorize the Department and the parties to officially serve documents by email.

ORDER

IT IS HEREBY ORDERED that as of July 28, 2026, and pursuant to IDAPA 37.01.01.521, the parties are authorized to conduct and engage in the methods of discovery listed under IDAPA 37.01.01.520.01. Barring any conflicting discovery procedures or limitations set forth in the Department's Rules of Procedure, IDAPA 37.01.01, or an order of the hearing officer, discovery shall conform to Title V of the Idaho Rules of Civil Procedure.

IT IS FURTHER ORDERED that as of July 29, 2026, and pursuant to IDAPA 37.01.01.053.02–03, the Department and the parties are authorized to serve documents by email as an alternative to service by mail or personal service. The emails included in the certificate of service below are to be used as the official service emails, unless a notice instructing otherwise is filed with the Department and properly served on the parties.

IT IS FURTHER ORDERED that the following schedule is ADOPTED:

Aug. 4, 2026 Deadline for the Bingham's to file a brief on the issue of IGWA's standing to participate in this matter.

Aug. 14, 2026 Deadline for IGWA to file a response brief on the issue of its standing to participate in this matter.

Deadline for the Bingham's to provide IGWA with a copy of any expert reports they intend to rely upon at the hearing on this matter. The Bingham's must also include an updated curricula vitae for every named author on their expert report(s).

Aug. 20–21, 2026 Dates on which the Bingham's must make themselves and their experts available to IGWA for depositions by oral examination, so long as notice was served at least 48 hours in advance of the deposition time.

Aug. 24, 2026 Deadline for the parties to complete all discovery. Given the compressed schedule, the responding party must serve its answers and any objections to all written discovery requests by this deadline so long as the requests were served at least 14 days prior to the completion deadline.

Aug. 28, 2026 Deadline for the parties to file a list of the names and addresses of all witnesses that they may call to testify at the hearing on this matter. A short summary of the scope of each witnesses' anticipated testimony shall be included, and expert witnesses shall be identified as such. Unless the expert

identified is an employee of the Department, the expert must be noted as an author of an expert report disclosed, or to be timely disclosed, in this matter.

Aug. 31, 2026

Deadline for IGWA to provide the Bingham with a copy of any expert reports they intend to rely upon at the hearing on this matter. IGWA must also include an updated curricula vitae for every expert named as an author on its expert report(s).

Sep. 3, 2026

Deadline for the parties to file an index of exhibits and to provide all parties and the Department with an electronic copy (via e-file email or USB flash drive) of their pre-marked exhibits. Each exhibit must be an independent file, and all file text must be machine readable. Exhibits must be pre-marked in the bottom right corner of every page and must include the name of the party proposing the exhibit, the exhibit number, and a page number. Each exhibit must start with page 1 and be consecutively numbered through the end of the exhibit, inclusive of any attachments. The parties shall use the following reserved exhibit numbers and reach out to the Hearing Officer if additional numbers are needed:

Exhibit Nos.	Assigned Party
1–99	Binghams
100–199	IGWA

Sep. 9, 2026

Prior to the start of the hearing, the parties must submit to the Department three physical copies of their pre-marked exhibits.¹ Given the compressed schedule, the parties shall also provide each other with one physical copy of their pre-marked exhibits. Exhibits must be organized in binders that are labeled with the party's name and include dividers that identify each exhibit by its number.

NOTICE OF HEARING

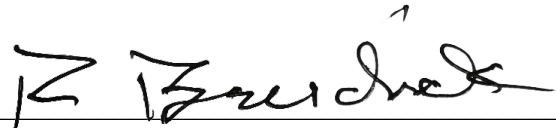
NOTICE IS HEREBY GIVEN that Hearing Officer Burdick will hold a hearing in this matter on **September 9–10, 2026**. Each hearing day will begin at **9:00 a.m. (MDT)**. The hearing will take place at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Rooms 602C–D, Boise, Idaho. All parties who wish to participate in the hearing and their witnesses shall be present in person.

¹ The three copies required for the Department covers use by witnesses.

The hearing will be held in accordance with the provisions of Chapter 17, Title 42, and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/370101.pdf>.

The hearing will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require reasonable accommodation to attend, participate in, or understand the hearing, please advise the Department no later than five (5) days before the hearing. Inquiries for reasonable accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, PO Box 83720, Boise, Idaho 83720-0098, telephone (208) 287-4815, or email sarah.tschohl@idwr.idaho.gov.

DATED this 29th day of July 2026.



ROGER S. BURDICK
Hearing Officer

CERTIFICATE OF SERVICE

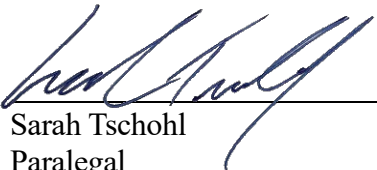
I HEREBY CERTIFY that on this 29th day of July 2026, the above and foregoing was served by the method indicated below, and addressed to the following:

Reed W. Larsen COOPER & LARSEN, CHARTERED PO Box 4229 Pocatello, ID 83205-4229 reed@cooper-larsen.com	☐ U.S. Mail, postage prepaid ☒ Email
Thomas J. Budge RACINE OLSON, PLLP PO Box 1391 Pocatello, Idaho 83204 tj@racineolson.com	☐ U.S. Mail, postage prepaid ☒ Email

Courtesy copy via email:

Travis L. Thompson
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tthompson@parsonsbehle.com
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Sarah Tschohl
Paralegal