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DEPARTMENT OF
WATER RESOURCES

Thomas J. Budge (ISB# 7465)
RACINE OLSON, PLLP
201 E. Center St. / P.O. Box 1391
Pocatello, Idaho 83204
Phone: (208) 232-6101
tj@racineolson.com

Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE MITIGATION
PLAN OF UPPER BIG LOST RIVER
GROUNDWATER DISTRICT

Docket No. CM-MP-2026-001

IGWA'S NOTICE OF PROTEST

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

Idaho Ground Water Appropriators, Inc. ("IGWA"), by and through counsel, acting for and on behalf of its members, hereby protests the mitigation plan ("Plan") filed by the Upper Big Lost River Ground Water District ("District") on February 17, 2026, in this matter.

1. The proliferation of incongruent mitigation plans is unworkable

As a threshold matter, IGWA objects to approval of additional stand-alone mitigation plans for similarly situated groundwater users in the Surface Water Coalition delivery call proceeding. The growing number of separate mitigation plans—each with different standards, accounting rules, mitigation tools, baseline methodologies, and performance metrics—creates an unworkable and onerous system of water administration predicated on inconsistent technical assumptions and inequitable outcomes among users in the same class.

There are currently six different approved mitigation plans (2024 Stipulated Mitigation Plan along with plans for Southwest Irrigation District, A&B Irrigation District, J.R. Simplot Company, the Coalition of Cities, and the Water Mitigation Coalition). An additional five mitigation plans are currently pending, including plans filed by Falls Irrigation District, Falls Water Company, Jerry and Valerie Bingham, the Big Lost River Basin Ground Water District, and Upper Big Lost River Ground Water District. The proliferation of separate plans with divergent standards is administratively and technically problematic and invites collateral disputes as each plan may provide different levels and types of mitigation with differing impacts on the Surface Water Coalition and on other mitigation plans.

For practical, legal, and technical reasons, mitigation obligations and compliance standards should be congruent among all ground water users in the same class, and IDWR should avoid further fragmentation of mitigation compliance into individualized or entity-by-entity plans that undermine consistent administration. Accordingly, IGWA requests that the Plan be denied on this threshold basis.

2. Additional reasons for IGWA’s protest

Without waiving the threshold objection set forth above, and without implying that revisions would eliminate IGWA’s overarching concerns regarding fragmentation of mitigation administration, IGWA further objects to the Plan because, as filed, it is incomplete and/or relies on assumptions that have not been supported with necessary technical detail. If IDWR elects to consider approval of the Plan despite the foregoing concerns, IGWA requests that IDWR require the District to address, at minimum, the following:

- 2.1 Recharge credit equivalency.** The Plan states it is “structurally consistent with the pumping reductions associated with the approved mitigation plan between IGWA and the SWC,” and asserts a right to “perform groundwater conservation equivalent to that of the IGWA ground water districts.” To the extent the Plan seeks to incorporate recharge crediting concepts associated with the 2024 Stipulated Mitigation Plan—including 1:1 crediting of managed aquifer recharge at an “In-District Site”—the Plan must demonstrate that such recharge is hydrologically equivalent in timing and effect to reductions in groundwater consumptive use relevant to the ESPA and reach gains to the Near Blackfoot-Minidoka reach of the Snake River. As filed, the Plan does not demonstrate equivalency.

- 2.2 Storage water quantity.** The Plan proposes to “lease/rent storage water as an additional supply of water to be specified and delivered as described in Exhibit B.” Exhibit B is a letter from Snake River Valley Irrigation District committing to lease 231 acre-feet to the District for 2026. The Plan does not explain how this quantity satisfies the District’s mitigation obligation as compared to the estimated storage water obligation that would apply if the District were participating under the 2024 Plan (estimated at approximately 404 acre-feet).
- 2.3 Recharge benefits.** The Plan proposes to allow the District to perform groundwater recharge within Water District 34 in exchange for “12.2% of a 1:1 credit for each acre-foot of recharge that occurs within the Big Lost River Tributary.” The Plan appears to assume that managed aquifer recharge within the Big Lost River Basin will benefit Near Blackfoot–Minidoka reach gains. Because outflow from the Big Lost River naturally infiltrates the ESPA, recharge within the Basin benefits those reach gains only to the extent there is a corresponding reduction in consumptive use within the Basin. As filed, the Plan does not provide a technical basis for the claimed 12.2% credit.
- 2.4 Baseline pumping period.** The Plan proposes groundwater conservation by reducing groundwater diversion by 11.4% compared to baseline pumping during the period 2013-2015. Under the 2024 Plan, baseline pumping is based on the time period 2010-2014. Additional data is needed to confirm that 2013-2015 is an appropriate baseline period for this District and that 1.9 acre-feet per water right acre is an appropriate allocation.
- 2.5 Reach gains, performance metrics & adaptive measures.** The Plan purports to be structured after the 2024 Plan, but it does not address reach gains to the Near Blackfoot–Minidoka reach of the Snake River or provide for additional mitigation if reach gains decline below the 2023 level as required by the 2024 Plan.

3. Reservation of Rights

This protest is continuing in nature. IGWA reserves all rights to raise additional objections to the Plan; to submit additional information, evidence, and argument; and to participate in further proceedings regarding approval, conditioning, or enforcement of the Plan.

4. Request for Relief

IGWA respectfully requests that IDWR deny the Plan on the threshold grounds set forth above. In the alternative, if IDWR elects to consider approval notwithstanding IGWA's threshold objection, IGWA requests that IDWR require the District to address the deficiencies identified above as minimum conditions before any approval, and to require any additional information necessary to ensure consistent, measurable, and administrable mitigation accounting.

Dated this 5th day of March, 2026.

RACINE OLSON, PLLP

By: 
Thomas J. Budge
Attorneys for IGWA

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of March, 2026, I cause the foregoing document to be served on the persons below via the method below:


Thomas J. Budge

Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 file@idwr.idaho.gov	Email and US Mail
Garrick Baxter Idaho Department of Water Resources garrick.baxter@idwr.idaho.gov	Email
Upper Big Lost River Ground Water District P.O. Box 122 Mackay, Idaho 83251	Mail

Courtesy copies sent by email:

Jerry R. Rigby
RIGBY, ANDRUS & RIGBY LAW, PLLC
jrigby@rex-law.com

Skyler C. Johns
OLSEN TAGGART PLLC
sjohns@olsentaggart.com

Dylan Anderson
DYLAN ANDERSON LAW PLLC
dylan@dylanandersonlaw.com

Sarah Klahn
Maximillian Bricker
SOMACH SIMMONS & DUNN
sklahn@somachlaw.com
mbricker@somachlaw.com

Andrew J. Waldera
SAWTOOTH LAW OFFICES, PLLC
andy@sawtoothlaw.com

Candice McHugh
Chris M. Bromley
MCHUGH BROMLEY, PLLC
cmchugh@mchughbromley.com
cbromley@mchughbromley.com

Travis Thompson
Norm Semanko
Abby Bitzenburg
Garrett Kitamura
PARSONS BEHLE & LATIMER
tthompson@parsonsbehle.com
nsemanko@parsonsbehle.com
abitzenburg@parsonsbehle.com
gkitamura@parsonsbehle.com

Big Lost River Ground Water District
blrgwd@atcnet.net