

MAR 23 2026

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

IN THE MATTER OF THE APPLICATION OF
 THE UPPER BIG LOST RIVER GROUND
 WATER DISTRICT FOR APPROVAL OF A
 MITIGATION PLAN

Docket No. CM-MP-2026-001

NOTICE OF JOINT 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

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 (the “Coalition” “SWC” or “Protestants”), by and through their attorneys of record,
 hereby file this *Notice of Joint Protest* against the approval of the *Upper Big Lost River Ground Water
 District’s CM Rule 43 Mitigation Plan* (“Mitigation Plan”) filed with the Idaho Department of Water

Resources (“Department”) by the UPPER BIG LOST RIVER GROUND WATER DISTRICT (the “District”) on February 17, 2026, pursuant to the provisions of Conjunctive Management Rule 43, IDWR Procedural Rule 300, and other applicable law.

The SWC is authorized to oppose the Mitigation Plan because the Plan attempts to mitigate injury to the Coalition’s senior surface water rights caused by the District’s members’ junior priority ground water rights. The initial bases for SWC’s *Protest* are as follows:

1. The Mitigation Plan attempts to use certain metrics from the *2024 Stipulated Mitigation Plan* (CM-MP-2024-003) for proposed pumping reductions without the Coalition’s consent or stipulation.
2. The Mitigation Plan proposes to perform groundwater recharge and receive credit without identifying specific locations, quantities, or modeled benefits.
3. The Mitigation Plan proposes to supply storage water from Snake River Valley Irrigation District for 2026 without a signed lease agreement or any explanation as to the proposed quantity to be supplied.
4. The Mitigation Plan does not identify, with particularity, any circumstances or limitations on the availability of the water supply proposed to be conserved for mitigation or supplied through storage delivery.
5. The District’s proposed activities, including reduced pumping and recharge, are not defined with any particularity, including location and water rights involved.
6. The Mitigation Plan does not identify that it will provide replacement water, at the time and place required by SWC’s senior priority surface water rights, sufficient to offset the depletive effect of the District’s ground water withdrawals on the Snake River at such time and place necessary to satisfy SWC’s senior priority water rights.

7. The Mitigation Plan contains no “contingency provisions to assure protection of the senior-priority right in the event the mitigation water source becomes unavailable” and therefore violates Rule 43.03.c.

8. The Mitigation Plan does not identify how injury to the Coalition’s right to reasonable carryover storage will be addressed.

9. The Mitigation Plan does not identify how it should be considered in relation to other approved and unapproved mitigation plans (i.e. IDWR’s implementation of the existing methodology order with respect to a multitude of mitigation plans and what share of any in-season demand shortfall and injury to reasonable carryover that the District should be held responsible for).

10. In general, the Mitigation Plan is vague and ambiguous, does not provide for adequate mitigation, furnishes no certainty that the mitigation water will be delivered to prevent injury, does not supply a reliable source of replacement water, could result in the diversion and use of ground water at a rate beyond the reasonably anticipated average rate of future natural recharge, and otherwise fails to adequately mitigate for injury caused by the District’s members’ junior priority ground water rights.

11. For such other and further reasons as may be discovered.

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DATED this 23rd day of March, 2026.

PARSONS BEHLE & LATIMER



Travis L. Thompson
Payton G. Hampton
Abby R. Bitzenburg

*Attorneys for A&B Irr. District, Burley Irr.
District, Milner Irr. District, North Side
Canal Co., and Twin Falls Canal Co.*

PARSONS BEHLE & LATIMER

/s/: Norman M. Semanko

Norman M. Semanko
Garrett M. Kitamura

*Attorney for American Falls Reservoir
District #2 & Minidoka Irrigation District*

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of March, 2026, I served a copy of the foregoing

NOTICE OF PROTEST, by hand-delivery to the following:

Idaho Department of Water Resources
Southern Region
650 Addison Ave W, Ste 500
Twin Falls, Idaho 83301-5858

And by U.S. Mail to:

Randy Nelson
c/o Upper Big Lost River Ground Water District
P.O. Box 122
Mackay, Idaho 83251

Email Only to:

T.J. Budge
Racine Olson PLLP
P.O. Box 1391
Pocatello, Idaho 83204
tj@racineolson.com



Abby R. Bitzenburg

Idaho Department of Water Resources Receipt

Receipt ID: S041004

Payment Amount	\$50.00	Date Received	3/23/2026	Region	SOUTHERN
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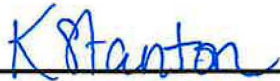
Payment Type	Charge Card
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Payer	NIELSEN, JESS; PARSONS BEHLE LATIMER
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Comments	NOTICE OF JOINT PROTEST FILED ON BEHALF OF A & B IRRIGATION DISTRICT, AMERICAN FALLS RESERVOIR DISTRICT #2, BURLEY IRRIGATION DISTRICT, MILNER IRRIGATION DISTRICT, MINIDOKA IRRIGATION DISTRICT, NORTH SIDE CANAL CO & TWIN FALLS CANAL CO AGAINST UPPER BIG LOST RIVER GWD MITIGATION PLAN ORDERID: 76777476 LOCAL REFID: xsWjtG1cj0aTzmJ0Bw2G3Q== TOTAL PAID: \$52.25(FEEs: \$2.25) AUTH_CODE: 04341Z REC DATE: 3/23/2026 04:36:47 PM MDT
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Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$50.00	PROTESTS	64103	0229	21		1155



Signature Line (Department Representative)