

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

IN THE MATTER OF UPPER BIG LOST
RIVER GROUND WATER DISTRICT’S
MITIGATION PLAN FOR THE SURFACE
WATER COALITION

Docket No. CM-MP-2026-001

**ORDER ACKNOWLEDGING
WITHDRAWAL AND DISMISSING
CONTESTED CASE**

BACKGROUND

On February 17, 2026, the Upper Big Lost River Ground Water District (the “District”) submitted *Upper Big Lost River Ground Water District’s Mitigation Plan* (“*Proposed Mitigation Plan*”) to the Idaho Department of Water Resources (“Department”), pursuant to Rule 43 of the Department’s Rules for Conjunctive Management of Surface and Ground Water Resources (“CM Rules”), IDAPA 37.03.11.043. Notice of the *Proposed Mitigation Plan* and the March 23, 2026 deadline to file a protest against its approval was published in accordance with the Department’s CM Rules. *See* IDAPA 37.03.11.043.02.

On March 9, 2026, the Idaho Ground Water Appropriator, Inc. (“IGWA”) filed *IGWA’s Notice of Protest*.

On March 20, 2026, Jason Andersen filed a *Notice of Protest* with the Department.

On March 23, 2026, 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, collectively the “Surface Water Coalition” filed a *Notice of Joint Protest*.

On April 3, 2026, the District submitted a *Notice of Withdrawal of Mitigation Plan* (“*Notice*”).

ANALYSIS

The Department’s Rules of Procedure, Rule 303 (IDAPA 37.01.01.303) provides:

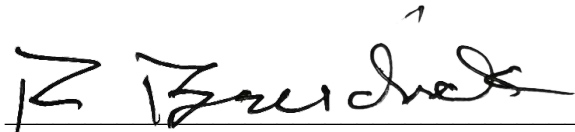
The agency may allow amendments to pleadings during informal proceedings. The presiding officer may allow amendments to pleadings during formal proceedings. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective seven (7) days after filing.

The District filed its *Notice* on April 3, 2026. The Hearing Officer will recognize the *Notice* pursuant to Rule of Procedure 303.

ORDER

IT IS HEREBY ORDERED, in accordance with IDAPA 37.01.01.303, that the *Upper Big Lost River Ground Water District's Mitigation Plan* is withdrawn, effective April 6, 2026, and the contested case in this matter is DISMISSED.

DATED this 6th day of April 2026.

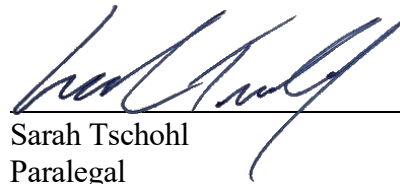
A handwritten signature in black ink, appearing to read "R. Burdick", is written over a horizontal line. There is a small superscript "1" above the final "k".

ROGER BURDICK
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of April 2026, the above and foregoing, was served by the method indicated below, and addressed to the following:

Upper Big Lost River Ground Water District PO Box 122 Mackay, ID 83251	☒ 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
Travis L. Thompson Abby R. Bitzenburg PARSONS BEHLE & LATIMER PO Box 63 Twin Falls, ID 83303 tthompson@parsonsbehle.com abitzenburg@parsonsbehle.com	☒ U.S. Mail, postage prepaid ☒ Email
Norman M. Semanko Garrett M. Kitamura PARSONS BEHLE & LATIMER 800 W. Main Street, Suite 1300 Boise, Idaho 83702 nsemanko@parsonsbehle.com gkitamura@parsonsbehle.com	☒ U.S. Mail, postage prepaid ☒ Email
Jason Andersen PO Box 474 Moore, Idaho 83255 andejaso66@yahoo.com	☒ U.S. Mail, postage prepaid ☒ Email



Sarah Tschohl
Paralegal

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

The accompanying document is a “**Preliminary Order**” issued by the Idaho Department of Water Resources (“Department”) pursuant to Idaho Code § 67-5243. **This preliminary order can and will become a final order without further action of the Department, unless a party petitions for reconsideration, petitions for review, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

(See Idaho Code § 67-5243(3))

Any party may file a petition for reconsideration of this preliminary order with the Department within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: the petition must be received by the Department within this fourteen (14) day period.** The presiding officer will issue a written order disposing of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.

PETITION FOR REVIEW (EXCEPTIONS)

(See Idaho Code § 67-5245)

Within fourteen (14) days after: (a) the service date of this preliminary order, (b) the service date of a denial of a petition for reconsideration of this preliminary order, or (c) the failure of the presiding officer to dispose of a petition for reconsideration of this preliminary order within twenty-one (21) days, any party may petition the Director in writing to review any part of this preliminary order by filing exceptions, and any supporting brief, with the Department.¹ Any parties opposing the exceptions shall have fourteen (14) days from the service date of the exceptions to file a brief. If the Director determines that oral argument is necessary, the Director will provide reasonable notice to the parties of the place, date, and hour for the argument.

The Director will issue a final order on exceptions within fifty-six (56) days of receipt of the final written brief or oral argument, whichever is later, unless extended for good cause. The Director may remand the matter for or hold an evidentiary hearing if further factual development of the record is necessary before issuing a final order.

REQUEST FOR HEARING

(See Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Director or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order,

¹ The Director may decide to review this preliminary order upon his own motion. Should the Director decide to do so, the Director will provide written notice to the parties within the period the parties are allowed to petition the Director for review of the preliminary order.

or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the Director to contest the action. The person shall file with the Director, within fifteen (15) days after receipt of written notice of the action issued by the Director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the Director and requesting a hearing. **Note: The request must be received by the Department within this fifteen (15) day period.**

CERTIFICATE OF SERVICE

(See IDAPA 37.01.01.053, 37.01.01.202)

All documents filed with the Department in connection with a petition for reconsideration, petition for review, or a request for hearing of this preliminary order shall be served on all other parties to the proceeding in accordance with Rules 53 and 202 of the Department's Rules of Procedure.