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DEPARTMENT OF
WATER RESOURCES

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Attorney for Jerry D. Bingham and Valerie H. Bingham

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION	)	Docket No. CM-DC-2010-001
OF WATER TO VARIOUS WATER	)	
RIGHTS HELD BY OR FOR THE	)	
BENEFIT OF A&B IRRIGATION	)	JERRY D. BINGHAM'S AND VALERIE
DISTRICT, AMERICAN FALLS	)	H. BINGHAM'S PETITION FOR
RESERVOIR DISTRICT #2, BURLEY	)	RECONSIDERATION AND REQUEST
IRRIGATION DISTRICT, MILNER	)	FOR HEARING
IRRIGATION DISTRICT, MINIDOKA	)	
IRRIGATION DISTRICT, NORTH SIDE	)	
CANAL COMPANY, AND TWIN FALLS	)	
CANAL COMPANY.	)	
	)	

COME NOW Jerry D. Bingham and Valerie H. Bingham ("Binghams"), by and through counsel of record, and hereby petition the Idaho Department of Water Resources ("IDWR") for reconsideration pursuant to Idaho Code § 64-5246(4), and request a hearing in the above-referenced matter pursuant to Idaho Code § 42-1701A(3).

Binghams' water rights have been curtailed under the Director's Order Revising April 2026 Forecast Supply and Continuing May 16, 2026 Curtailment Order issued on July 21, 2026. As an aggrieved party, Binghams submit the following list of issues regarding the Director's order issued on July 21, 2026. These issues do not challenge the Director's authority to administer the Delivery

Call or mitigation requirements for In-Season Demand Shortfalls (“IDS”). Rather, they challenge whether the current methodology allocates mitigation responsibilities in a manner that is consistent, priority-based, and equitable. As currently implemented, the methodology imposes disproportionate obligations on certain groundwater users, including Bingham, while similarly situated water users, or more importantly users that are junior to Bingham, are treated differently or excluded from comparable responsibility. Bingham reserve the right to supplement this request as necessary.

1. Whether the Order Contains a Lack of Priority-Based Allocation Among Groundwater Users.

The Director's Order Revising April 2026 Forecast Supply and Continuing May 16, 2026 Curtailment Order focuses on junior groundwater users continuing to divert out of priority while not being administered on a time-priority basis for IDS responsibility. Specifically, the methodology appears to treat groundwater rights of different priorities as equivalent when assigning IDS responsibility. As a result, certain users, including Bingham, bear a disproportionate share of the mitigation burden while other junior-priority diversions continue to operate without a commensurate obligation.

Priority appears to be recognized for some administrative purposes but disregarded when allocating IDS responsibility. That raises a question of whether the methodology is consistent with the framework of the Idaho Constitution, Idaho statutes, and Conjunctive Management Rules (37.03.11 et seq.) requiring administration according to priority.

2. Whether Allocation of IDS Should be Assigned Only Among Groundwater Rights.

Under the Order Revising April 2026 Forecast Supply and Continuing May 16, 2026 Curtailment Order, the Director is apparently assigning IDS responsibility only among groundwater

users rather than among all water rights according to priority. By limiting responsibility to one category of users, the methodology creates a distinction between groundwater and surface-water rights that is not supported by the doctrine of prior appropriation. The July 21, 2026 Order focuses more on technical accounting than on the unequal treatment of similarly situated appropriators. By assigning IDS responsibility exclusively among groundwater users, the methodology departs from a priority-based administration framework and instead creates a categorical distinction between groundwater and surface-water rights not supported by governing law, including IDAPA 37.03.11, which provides for conjunctive management of surface and ground water resources; Idaho Code §§ 42-101 et. seq., which governs the use of any of the waters of the state to include both ground water and surface water; and Article XV of the Idaho Constitution.

3. Whether the Director's Order Uses Inconsistent Hydrologic Methodology.

The methodology of the Director's Order Revising April 2026 Forecast Supply and Continuing May 16, 2026 Curtailment Order applies different hydrologic assumptions to two mitigation mechanisms intended to address the same water-supply deficiency. This potentially results in disproportionate allocations of responsibility and an inequitable burden on affected water users.

Under the July 21, 2026 Order, storage obligations are allocated using long-term steady-state impacts, while conservation obligations are allocated under a different framework. The obvious question is whether there is a rational basis for valuing these mitigation actions under different hydrologic standards. The current methodology employed by the IDWR moves away from priority administration and instead relies on a series of administrative and methodological distinctions that produce unequal outcomes.

Binghams reserve the right to identify additional issues as necessary in this proceeding.

As previously stated above, Bingham's petition IDWR for reconsideration of the Director's Order Revising April 2026 Forecast Supply and Continuing May 16, 2026 Curtailment Order pursuant to Idaho Code § 64-5246(4); and request a hearing pursuant to Idaho Code § 42-1701A(3). Bingham's are aggrieved under Idaho Code § 42-1701A(3), as they have not been afforded an opportunity for a hearing on the Director's final order, and are entitled to an administrative hearing on the matter pursuant to Idaho law.

Respectfully submitted.

DATED this 3rd day of August, 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 3rd day of August, 2026, I served a true and correct copy of the above and foregoing document to the following person(s) as follows:

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