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DEPARTMENT OF
WATER RESOURCES

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF DISTRIBUTION OF
WATER TO VARIOUS WATER RIGHTS
HELD BY OR FOR THE BENEFIT OF
A&B IRRIGATION DISTRICT, AMERI-
CAN FALLS RESERVOIR DISTRICT #2,
BURLEY IRRIGATION DISTRICT,
MILNER IRRIGATION DISTRICT,
MINIDOKA IRRIGATION DISTRICT,
NORTH SIDE CANAL COMPANY, AND
TWIN FALLS CANAL COMPANY

Docket No. CM-DC-2010-001

**IGWA’S RESPONSE TO JERRY D.
BINGHAM’S AND VALERIE H.
BINGHAM’S PETITION FOR
RECONSIDERATION AND REQUEST
FOR HEARING**

Idaho Ground Water Appropriators, Inc. (“IGWA”), through counsel and on behalf of its member ground water districts, submits this response in opposition to Jerry D. Bingham’s and Valerie H. Bingham’s Petition for Reconsideration and Request for Hearing (“Petition”), filed August 3, 2026, in this matter. As explained below, the Petition does not identify any error in the Order Revising April 2026 Forecast Supply and Continuing May 16, 2026 Curtailment Order issued July 21, 2026 (“July 2026 As-Applied Order”) that warrants reconsideration.

The first issue for which the Bingham’s seek reconsideration—“whether the order contains a lack of priority-based allocation among groundwater users”—asks the Director to revisit the same proportionate-share theory A&B Irrigation District raised in response to the 2025 As-Applied Orders in this matter. *See A&B Proportionate Share Expert Report* at 4, Docket No. CM-DC-2010-001 (Nov. 7, 2025) (“ESPA methodology calculation of IDS is caused by decades of junior groundwater pumping, and the mitigation responsibility should consider priority. . . . IDWR should explain how the groundwater rights with a priority date senior to the time of over-appropriation are equally responsible for mitigating the IDS as groundwater rights junior to that time”). That case is now pending on appeal in Minidoka County District Court, Case No. CV34-26-462.

Reconsideration is not a vehicle for duplicative litigation of issues already presented in this contested case and now before the district court. *See Losser v. Bradstreet*, 145 Idaho 670, 674 (2008) (“This Court has emphasized the desirability of avoiding piecemeal litigation”). The Petition does not identify a distinct legal theory or materially different factual record that would justify

reopening that issue here. Therefore, the Department should decline to take up the issue again in the interest of orderly administration and judicial economy.

The Binghams' second issue—"whether allocation of IDS should be assigned only among groundwater rights"—misapprehends the scope of this proceeding. This matter involves the administration of groundwater rights under the Conjunctive Management Rules. It does not involve surface-to-surface water-right administration, which occurs within water districts under Idaho Code § 42-602. If the Binghams disagree with the way water districts are administering surface-water rights, they must challenge those actions in a separate proceeding, not through this conjunctive-management case. Because the Binghams' second issue falls outside the scope of this proceeding, reconsideration is improper.

The Binghams' third issue—"whether the Director's order uses inconsistent hydrologic methodology"—goes beyond the parameters of the July 2026 As-Applied Order. The Petition alleges that "storage obligations are allocated using long-term steady-state impacts, while conservation obligations are allocated under a different framework." Petition at 3. However, the July 2026 As-Applied Order does not allocate storage water or conservation obligations at all.

The Binghams appear to be conflating the July 2026 As-Applied Order with the mitigation plan approved in Docket No. CM-MP-2024-003 (the "2024 Plan"). Those are separate matters. The July 2026 As-Applied Order applies the Methodology Order to determine material injury under Conjunctive Management Rule 42. The 2024 Plan, by contrast, defines obligations of groundwater users participating in a mitigation plan approved under Conjunctive Management Rule 43. The July 2026 As-Applied Order and the 2024 Plan therefore address different questions under different rules. An alleged inconsistency between those separate administrative decisions is not an error in the July 2026 As-Applied Order and provides no basis for reconsideration.

To the extent the Petition challenges the Department's use of modeling at different steps in the Methodology Order, that issue also overlaps with A&B Irrigation District's challenge to the 2025 As-Applied Orders, which is on appeal. See *A&B Proportionate Share Expert Report* at 3 ("Whether the steady-state use of the ESPAM 2.2 in identifying A&B's proportionate share is consistent with the transient use of the model in identifying ground water rights subject to curtailment as outlined in the *Sixth Methodology Order*"). Accordingly, the Department should decline to take up the issue again in the interest of orderly administration and judicial economy.

For the foregoing reasons, the Department should deny the Petition.

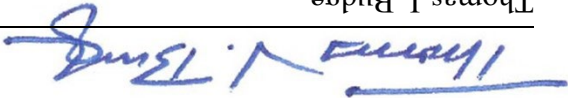
DATED this 12th day of August, 2026.

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By: 
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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of August 2026, I caused the foregoing document to be served on the persons below via email:



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