

Aug 11, 2026

DEPARTMENT OF
WATER RESOURCES

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF JERRY D. AND
VALERIE H. BINGHAM'S MITIGATION
PLAN FOR THE SURFACE WATER
COALITION

Docket No. CM-MP-2026-004

**DECLARATION OF THOMAS J. BUDGE
IN SUPPORT OF IGWA'S RESPONSE
TO BINGHAMS' MOTION TO STRIKE
NOTICE OF PROTEST**

I, Thomas J. Budge, declare the following:

1. I am an attorney duly licensed to practice law in the State of Idaho and am counsel of record for Idaho Ground Water Appropriators, Inc. ("IGWA") in this matter.

2. I make this declaration based on my personal knowledge, my review of records maintained by IGWA and available to me as counsel for IGWA, and my review of records filed with or issued by the Idaho Department of Water Resources ("Department" or "IDWR"). If called as a witness, I could and would testify competently to the matters stated herein.

3. IGWA is a nonprofit corporation that represents the collective interests of its member ground water districts and their members in matters involving conjunctive administration, mitigation obligations, delivery calls, and related water-right administration proceedings before the Department and the courts.

4. IGWA's member ground water districts are organized under Idaho Code title 42, chapter 52. The districts administer mitigation and other water-right administration matters for the benefit of their respective members, including matters arising from the Surface Water Coalition delivery call and related ESPA conjunctive administration proceedings.

5. IGWA's member ground water districts mitigate under the 2024 Stipulated Mitigation Plan approved by the Department in Docket No. CM-MP-2024-003. That mitigation

plan requires substantial annual ground water conservation and a storage-water component tied to Snake River reach gains between Blackfoot and Minidoka Dam.

6. A true and correct copy of the Department's standard Notice of Protest form is attached hereto as ***Exhibit A***.

I declare under the penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

Dated this 11th day of August, 2026.

By: 
Thomas J. Budge
Attorneys for IGWA

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August, 2026, I caused the foregoing document to be served on the persons listed below by email at the addresses indicated:


Thomas J. Budge

Roger S. Burdick Garrick Baxter, Deputy Attorney General IDAHO DEPT. OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098	file@idwr.idaho.gov Roburd47@gmail.com garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov
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EXHIBIT A

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

NOTICE OF PROTEST

This form may be used to file a protest under Sections 42-203A, 42-203C, 42-211, 42-222 or 42-240, Idaho Code. The Department will also accept a timely protest completed in a different format if it contains the same information requested on this form. Each protestant must provide a separate \$25 filing fee for each application protested. The Department's Rules of Procedure (IDAPA 37.01.01) require the protestant to **send a copy of the protest to the applicant.**

1. Matter protested. Application for ☐ Permit ☐ Amendment of Permit ☐ Transfer ☐ Exchange

No. _____ in the name of _____

2. Protestant's Name: _____

Address: _____

Telephone: _____ Email: _____

3. Protestant's Representative: _____

Address: _____

Telephone: _____ Email: _____

4. Basis of protest. Clearly state your objections to approval of the application and identify the applicable review criteria. See *Instructions for Filing a Notice of Protest* for the relevant review criteria.

(Additional pages may be attached to describe the basis of your protest.)

Identify any review criteria that are not a basis for your protest:

5. ☐ Check here if Protestant and Representative will accept service of documents by email at the email address(es) listed under Item #2 and #3 above.

I acknowledge that if I, or my designated representative, fail to appear at any regularly scheduled conference or hearing in the matter, of which I have been properly notified, the Department may issue a notice of proposed default against me in this matter for failure to appear. **I also verify that I have served a copy of this protest upon the applicant.**

Protestant's or Representative's Signature

Printed Name and Title (if applicable)

Date

FOR DEPARTMENT USE ONLY

\$25.00 fee receipted by _____

Receipt # _____

Date _____

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INSTRUCTIONS FOR FILING A NOTICE OF PROTEST

1. The matter being protested must be clearly identified. Applications filed with IDWR typically have an application number assigned. Some examples include:
 Application for Permit No. 18-13455 in the name of Tom Rodgers, or
 Application for Transfer No. 85223 in the name of Rutebaga Canal Company.
2. List the name and contact information for the protestant(s). Generally, only one protestant should be listed. Joint owners of a water right (e.g., husband and wife) may file a joint protest. If the protest form lists more than one protestant, the Department will consider the first person listed on the form as the spokesperson for the group and the primary contact for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, please list the representative's name and contact information. If a representative is identified, the Department and other parties will use the representative's contact information for official communications.
4. Describe the basis of protest. A protest must be related to the review criteria set forth by statute. The various applications filed with the Department are governed by different statutes and have unique review criteria. The lists below summarize the review criteria for applications for permit and applications for transfer.

The criteria the Department must consider when evaluating an application for permit are set forth in Idaho Code § 42 203A(5).

1. Whether the proposed appropriation will reduce the quantity of water under existing rights. (Whether the proposed appropriation will injure existing water rights.)
2. Whether the water supply is sufficient for the purpose intended.
3. Whether the application is made in good faith or for delay or speculative purposes.
4. Whether the applicant has sufficient financial resources with which to complete the project.
5. Whether the application will conflict with the local public interest. ("Local public interest" is defined as the interests of the people in the area directly affected by the proposed use and its effects on the public water resource.)
6. Whether the proposed use is contrary to conservation of water resources within the state of Idaho.
7. In a case where the place of use is outside the watershed or local area containing the source of water, whether the proposed use will affect the local economy of the source's watershed or local area.

The criteria the Department must consider when evaluating an application for transfer are set forth in Idaho Code § 42 222(1).

1. Whether the proposed change will injure existing water rights.
2. Whether the proposed change will result in an enlargement in use under existing rights.
3. Whether the proposed change is contrary to conservation of water resources within the state of Idaho.
4. Whether the proposed change will conflict with the local public interest. ("Local public interest" is defined as the interests of the people in the area directly affected by the proposed use and its effects on the public water resource.)

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5. In a case where the place of use is outside the watershed or local area containing the source of water, whether the proposed change will adversely affect the local economy of the watershed or local area within which the source of water originates.
6. In a case where the nature of use is changing from agricultural use, whether the proposed nature of use change will significantly affect the agricultural base of the local area.
7. In a case where the water right is for municipal purposes, whether the proposed change is consistent with the requirements for municipal providers.

The criteria the Department must consider when evaluating an application for amendment of permit are set forth in Idaho Code § 42-211.

1. Whether the proposed amendment will result in the diversion and use of more water than originally permitted.
2. Whether the proposed amendment will adversely affect the water rights of others. (Whether the proposed amendment will injure existing water rights.)

The criteria the Department must consider when evaluating an application for exchange are set forth in Idaho Code § 42-240(5).

1. Whether the proposed exchange will injure other water rights.
 2. Whether the proposed exchange will result in an enlargement in use under existing rights.
 3. Whether the proposed exchange is contrary to the conservation of water resources within the state of Idaho.
 4. Whether the proposed change will conflict with the local public interest. (“Local public interest” is defined as the interests of the people in the area directly affected by the proposed use and it’s effects on the public water resource.)
 5. In a case where the place of use is outside the watershed or local area containing the source of water, whether the proposed exchange will adversely affect the local economy of the watershed or local area within which the source of water originates.
5. Pursuant to IDAPA 37.01.01.053.02.b, the Department may authorize parties to serve documents via email rather than mail or personal service. Check the box if you will accept service of documents, including notices and orders, by email. Please be sure to provide your email address(es) in Item #2 and #3.