BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

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	Docket No. CM-DC-2010-001 Docket No. CM-MP-2026-003 **ORDER APPROVING A&B IRRIGATION DISTRICT'S INTERIM STIPULATED PLAN FOR 2026 & 2027**
IN THE MATTER OF THE MITIGATION PLAN FILED BY A&B IRRIGATION DISTRICT FOR THE DISTRIBUTION OF WATER TO WATER RIGHTS HELD BY THE SURFACE WATER COALITION	

BACKGROUND

On March 24, 2026, A&B Irrigation District ("A&B") and the other Surface Water Coalition ("SWC") members[1] filed *a Joint Motion for Order Approving the 2026-27 Interim Stipulation* ("*Joint Motion*"). Attached to the *Joint Motion* was a document titled 2026-2027 Interim Stipulation ("*Interim Stipulation*"), executed by A&B and the other SWC members. In the *Interim Stipulation*, the parties agreed that "[f]or the 2026 and 2027 irrigation seasons, A&B will continue to deliver surface water to approximately 3,576 acres previously irrigated with groundwater." *Interim Stipulation* at 1. The parties also agreed that "A&B will deliver and assign one hundred twenty (120) acre-feet to the SWC . . . ." *Id*. A&B and the other SWC members requested that the Director issue an order approving the *Interim Stipulation* "as stipulated compliance with [A&B's] approved mitigation plan for the 2026 and 2027 irrigation seasons." *Joint Motion* at 2.

On April 2, 2026, Idaho Ground Water Appropriators, Inc. ("IGWA"), filed its *Response in Opposition to Joint Motion for Order Approving 2026-27 Interim Stipulation; Notice of Protest*.

On April 3, 2026, A&B and the other SWC members filed a *Reply in Support of Joint Motion for Order Approving 2026-27 Interim Stipulation*.

On April 7, 2026, American Falls-Aberdeen Ground Water District ("AFA") filed its *Joinder in Support of IGWA's Response to Joint Motion for Order Approving 2026-27 Interim Stipulation; Notice of Protest*.

[1] The other members of the SWC are American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

Starting April 23, 2026, the Department published notice of the *Interim Stipulation* in regional newspapers. *Notice of A&B Irrigation District's Stipulated Interim Mitigation Plan for 2026 and 2027 Submitted in Response to the Surface Water Coalition Water Delivery Call.* The *Interim Stipulation* was published because the Department found the *Interim Stipulation* to be a substantive change to A&B's existing approved mitigation plan. The protest deadline was May 11, 2026.

On May 1, 2026, A&B, the other SWC members, IGWA, and AFA filed a *Joint Motion for Order Approving Amended 2026-2027 Interim Stipulation* ("*Amended Joint Motion*") requesting approval of the previously filed *Interim Stipulation* with an amendment to the storage volume of water to be delivered. *Amended Joint Motion*, at 3. The parties agree that "A&B will deliver 1,252 acre-feet of storage to injured SWC members instead of the previously stipulated amount of 120 acre-feet." *Id*. at 2. In addition, the parties agree that "A&B's delivery of 1,252 acre-feet of storage is subject to the reasonable carryover shortfall adjustment described in the *Joint Motion for Approval of First Addendum to the 2024 Stipulated Mitigation Plan and for Related Relief . . . .*" *Id*. The parties request the Director to issue an order accepting and approving the *Interim Stipulation* with the amendment to the storage volume of water to be delivered for the 2026 and 2027 irrigation seasons. *Id*. at 3.

On May 4, 2026, A&B orally requested a stay of the curtailment order during a status conference held in Docket No. CM-MP-2024-003. No party present at the status conference expressed opposition but the Director suggested a written motion would be appropriate. On the same day, A&B and SWC filed a *Joint Motion to Request Stay of Curtailment/Request for Expedited Consideration* ("*Stay Request*"), asking the Director to stay curtailment and for expedited consideration under IDAPA 37.01.01.220.02.f. *Stay Request*, at 3.

On May 6, 2026, the Director issued a *Notice of Status Conference, Order Granting Request for Expedited Consideration*, setting a status conference for May 12, 2026, and setting a deadline of 5:00 p.m. (MT) on Friday, May 8, 2026, for parties to file responses to the *Stay Request*. No responses to the *Stay Request* were filed.

On May 12, 2026, the Director held a status conference in which he indicated that because no additional protests were filed, and because the modified proposal is stipulated to by the other SWC members, IGWA and AFA, he would approve the *Joint Motion*.[2] During the status conference, the Director inquired about A&B's *Stay Request*. A&B's counsel agreed that if the Director approved the *Amended Joint Motion*, the Stay Request would thereafter be moot. The Director orally granted A&B's *Stay Request* retroactive from May 4, 2026, through the date of approval of A&B's *Amended 2026-2027 Interim Stipulation*.

[2] At the status conference, the Director also explained that because the *Interim Stipulation*, as modified by the *Amended Joint Motion*, did not mechanistically change the plan, he would not require the modified proposal to be readvertised.

ANALYSIS

The *Joint Motion* submitted by A&B and the other SWC members requested the Director approve the *Interim Stipulation* attached to the *Joint Motion* pursuant to Rule 43.03.o of the Department's Rules for Conjunctive Management of Surface and Ground Water Resources ("CM Rules"), to afford safe harbor to A&B's junior priority ground water rights for the 2026 and 2027 irrigation seasons. *Joint Motion*, at 2.

The *Interim Stipulation* stated that A&B's mitigation would be accomplished by delivering surface water to approximately 3,576 acres previously irrigated with groundwater and delivering 120 acre-feet of storage water to injured SWC members. *Interim Stipulation*, at 1.

In the *Amended Joint Motion,* A&B, the other SWC members, and IGWA and AFA—the only two protestants to the *Interim Stipulation*—agreed to increase the volume of water that A&B must deliver to the injured SWC members from 120 acre-feet to 1,252 acre-feet. *Amended Joint Motion*, at 2. Additionally, they agreed that A&B's delivery of 1,252 acre-feet of storage water will be subject to the reasonable carryover volume calculation described in the *Joint Motion for Approval of First Addendum to the 2024 Stipulated Mitigation Plan and for Related Relief* ("*Joint Motion to Approve First Addendum*"), which was filed in Docket No. CM-MP-2024-003.[3] *Amended Joint Motion*, at 2.

Rule 43.03 of the CM Rules establishes factors that the Director may consider "in determining whether a proposed mitigation plan will prevent injury to senior rights . . . ." IDAPA 37.03.11.043.03. One factor the Director may consider is "[w]hether the petitioners and respondents have entered into an agreement on an acceptable mitigation plan even though such plan may not otherwise be fully in compliance with these provisions." IDAPA 37.03.11.043.03(o).

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[3] In the *Joint Motion to Approve First Addendum*, the parties requested the approval of a stipulated adjustment to the "reasonable carryover shortfall calculation under Section 6.4 of the *2024 [Stipulated Mitigation] Plan*." *Joint Motion to Approve First Addendum*, at 4. The parties agreed:

> [I]f A&B's proportionate share of any Demand Shortfall calculated under Steps 7-8 of the Methodology Order in 2026 or 2027 exceeds 1,252 acre-feet, the delta between A&B's proportionate share of the Methodology Order calculated Demand Shortfall and 1,252 acre-feet shall be deducted from any reasonable carryover shortfall calculated under Section 6.4 of the 2024 plan.

Id.

The Director understands this to mean that the volume of secured storage water that a SWC member can draw on to meet in-season irrigation needs and to maintain its reasonable carryover volume, as set forth is Section 6.4 of the *2024 Stipulated Mitigation Plan* filed in Docket No. CM-MP-2024-003, will be reduced by the delta between A&B's proportionate share of the Demand Shortfall calculated under Steps 7—8 of the Methodology Order and 1,252 acre-feet. For example, Appendix D of the *2024 Stipulated Mitigation Plan* establishes a Reasonable Carryover Volume of 37,400 acre-feet for the Twin Falls Canal Company. If the Step 7—8 Order establishes A&B's proportionate share to be 1,352 acre-feet, and Twin Falls Canal Company's remaining storage volume falls below 37,400 acre-feet and it chooses to draw on the volume of storage water established under Section 6.1 of the *2024 Stipulated Mitigation Plan*, the volume it can draw will be reduced by 100 acre-feet, or the delta between 1,352 acre-feet and 1,252 acre-feet. The Director confirmed this understanding with the parties at the May 12 status conference.

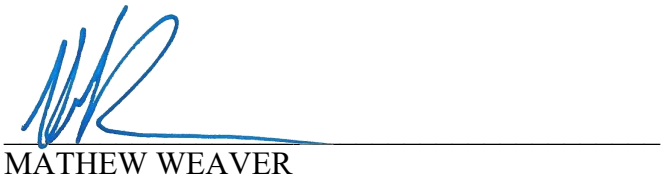
Under the *Interim Stipulation*, as amended by the *Amended Joint Motion*, A&B will not be fully mitigating for its proportionate share of the mitigation obligation, which would normally preclude approval of a mitigation plan. However, Rule 43.03(o) "goes so far as to permit the Director to consider stipulated mitigation plans that are not otherwise 'fully in compliance with these provisions.'" *Mem. Decision & Order*, at 7, *Cities of Bliss et al. v. Spackman*, No. CV-2015-172 (Minidoka Cnty. Dist. Ct. Idaho Sept. 8, 2015) (citing IDAPA 37.03.11.043.03(o)).

Having reviewed the filings in this matter, and because the proposal is stipulated to by the other SWC members and the protestants, the Director should approve the *Interim Stipulation*, as amended by the *Amended Joint Motion*, pursuant to CM Rule 43.03.o.

ORDER

Based upon and consistent with the foregoing, IT IS HEREBY ORDERED that the *2026-2027 Interim Stipulation*, as amended by the *Joint Motion Re: Amended 2026-2027 Interim Stipulation*, is APPROVED. This final order is effective immediately.

Dated this 14th day of May 2026.



MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of May 2026, I served a true and correct copy of the foregoing *Order Approving A&B Irrigation District's Interim Stipulated Plan for 2026 & 2027* on the following by the method indicated:

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EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

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

The accompanying document is a "**Final Order"** issued by the Idaho Department of Water Resources ("Department") pursuant to Idaho Code § 67-5246. The following statements describe the procedures and time limits for seeking reconsideration or other administrative relief as required by Idaho Code § 67-5248.

PETITION FOR RECONSIDERATION

(*See* Idaho Code § 67-5246(4))

Any party may file a petition for reconsideration of this final order 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 act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.

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, 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 or a request for hearing of this final 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.