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DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE MITIGATION
PLAN OF PANCHERI CO., INC.

2025-001

Docket No. CM-MP-2024-_____

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

**PANCHERI CM RULE 43
MITIGATION PLAN**

Pancheri, Inc. and Pancheri Brothers LLC, an Idaho corporation and Idaho limited liability company respectively (collectively “Pancheri”), hereby submit this *Pancheri CM Rule 43 Mitigation Plan* (the “Plan”) in response to the Surface Water Coalition’s (the “SWC”) ¹ delivery call (hereinafter, the “SWC Call”). The SWC Call was initially filed in January of 2005 and is

¹ The SWC consists of the A&B Irrigation District, American Falls Reservoir District No. 2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company.

ongoing. The SWC Call has resulted in certain administrative orders from the Director of the Idaho Department of Water Resources (“IDWR” or “Department”) which quantifies material injury to the SWC’s senior surface water rights resulting from junior ground water diversions from the Eastern Snake Plain Aquifer (“ESPA”). The methodology to determine and quantify material injury to each individual member of the SWC is now described in the Director’s July 19, 2023 *Sixth Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (the “Methodology Order”).

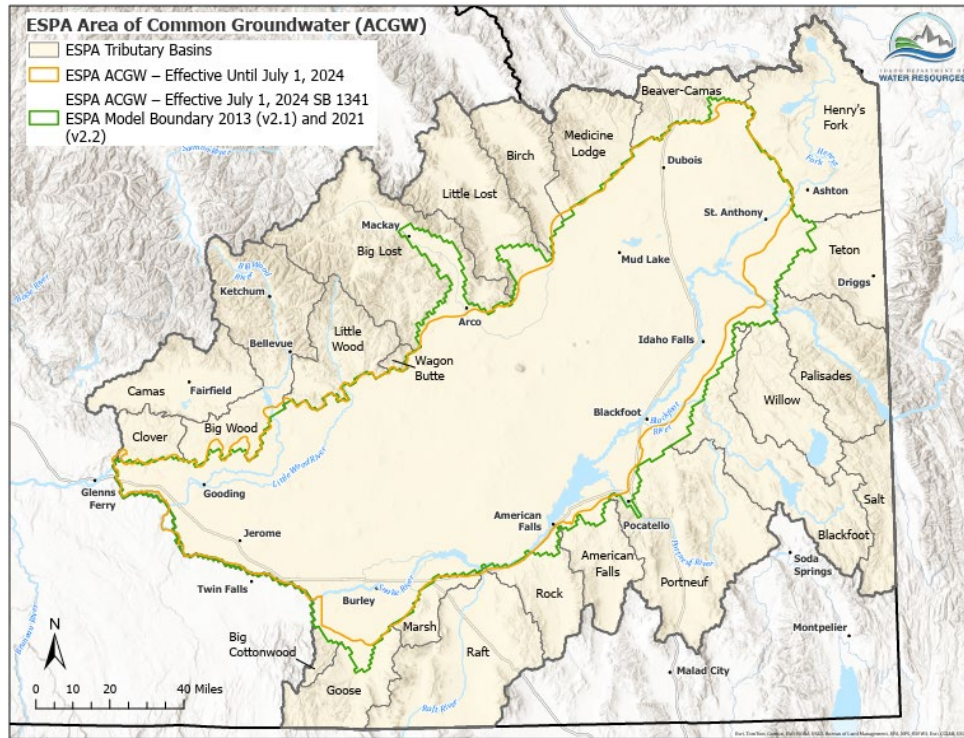
The Plan is submitted pursuant to Rule 43 of the Idaho Department of Water Resources’ *Rules for Conjunctive Management of Surface and Ground Water Resources* found at IDAPA² 37.03.11 (hereinafter, the “CM Rules”). Rule 43 of the CM Rules is hereafter referred to as “CM Rule 43.”

Pancheri’s farmground is located within the Little Lost River Basin. Pancheri diverts ground water from wells for agricultural irrigation purposes.³

Pancheri was previously not subject to the SWC Call because the Pancheri farmground is located outside of the area of common ground water (“ACGW”) for the Eastern Snake Plain Aquifer (“ESPA”) defined in Rule 50 of the CM Rules. On July 1, 2024, a new Idaho statute became effective (Idaho Code § 42-233c) which changed the ACGW boundary to that “described in a model calibration report, eastern Snake plain aquifer model version 2.2. of May 2021.” Idaho Code § 42-233c(1). The new ACGW boundary encompasses the Pancheri farmground and Pancheri well locations located in the Little Lost River Basin as depicted on the following map:

2 “IDAPA” is an acronym for rules promulgated pursuant to the Idaho Administrative Procedure Act (Chapter 52 of Title 67 of the Idaho Code). The IDAPA administrative rules can be accessed at <http://adminrules.idaho.gov/rules/current/index.html>

3 Pancheri also diverts surface water from the Little Lost River and several of its tributaries for its agricultural operations.



By letter, Director Weaver has indicated that he will begin administering water rights in 2026 for the areas originally outside the CM Rule 50 Boundary, but now within the eastern Snake plain aquifer model version 2.2. of May 2021 boundary. Consequently, it is necessary for Pancheri to submit this Plan.

As set forth below, diversion of ground water under Pancheri's water rights, subject to any future curtailment orders under the *Methodology Order*, can be fully mitigated with various actions undertaken by Pancheri. This Plan is being submitted to mitigate for Pancheri's impacts to the SWC's senior water rights and to avoid any disruption in Pancheri's operations.

I. MITIGATION PLAN

CM Rule 43 describes the information that must be contained in a mitigation plan. In accordance with CM Rule 43, Pancheri submits the following information.

A. Name and Mailing Address the Person or Persons Submitting the Plan.

The names and mailing address of those individuals who are submitting the Plan, and who are to receive correspondence in regard to this Plan, are as follows:

<p>Rod Pancheri Pancheri, Inc. Pancheri LLC 1494 Highway 33 Howe, ID 83244-8719 rpancheri@gmail.com</p>	<p>Robert L. Harris Holden, Kidwell, Hahn & Crapo, PLLC 1000 Riverwalk Dr. Suite 200 P.O. Box 50130 Idaho Falls, ID 83405 rharris@holdenlegal.com</p>
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B. Identification of the Water Rights for Which Benefit the Mitigation Plan is Proposed.

Through submission of this plan, it is Pancheri’s intent to mitigate for diversion of ground water under all of the ground water rights set forth on **Exhibit 1** (utilized on ground that Pancheri either owns or leases) and any other junior priority ground water rights obtained by Pancheri in the future.

C. Description of the Plan.

1. Plan Structure.

Pancheri’s proposed mitigation plan is structurally consistent with the pumping reductions imposed by the Jefferson Clark Ground Water District (“JCGWD”), a nearby ground water district, on its patrons based on the structure of the *Amended Final Order Approving Stipulated Mitigation Plan* (February 7, 2025) (the “SWC-IGWA Plan”) and its associated agreements between the SWC and IGWA’s member ground water districts (which includes JCGWD).

JCGWD utilizes a three-step process to calculate the allocation to each of its patrons.

First, for each patron, JCGWD calculates an average priority date weighted by the acre limit of each water right. The calculated “farmer priority” year for Pancheri is 1965.

Second, JCGWD has a chart which shows the percent reduction applied to each patron based on the farmer priority year calculated above. According to this chart, a year of 1965 has a reduction rate of 12.02 percent.

Finally, JCGWD calculates a five-year pumping average based on WMIS data from 2010 to 2014. The percentage found in step two is then applied to the calculated average pumping. Pancheri has not yet had sufficient time to collect a fifth year of pumping data to form a baseline pumping amount equivalent to the JCGWD baseline. Pancheri proposes to first receive approval for the overall structure of this Plan, and then once the 2025 pumping data is obtained, to update the baseline number and then multiply that updated number by 12.02 percent to calculate the pumping reductions.

By way of information, Pancheri's **four-year** pumping average for 2020-2024 is 17,393 acre-feet per annum (afa), based on pumping data obtained from meters installed in response to a measuring device order from IDWR and supplemented with WMIS data and calculated values for years when the data was incomplete. Pancheri's pumping data is set forth on **Exhibit 2** attached hereto. Hypothetically, assuming 17,393 as the baseline number after 2025 data is included, then application of the 12.02 percent reduction to this average yields a pumping reduction of 2,091 afa, resulting in an allocation of **15,302 afa** to Pancheri (unless Pancheri provides approved ground water recharge in lieu of the pumping reduction of 2,091 afa (discussed further below)).

Just like the SWC-IGWA Plan, Pancheri will limit its ground water pumping to 61,208 acre-feet for use over a four-year period ($15,302 \times 4$), or alternatively, may credit any ground water recharge against this amount if such recharge is accomplished (discussed further below). Any

unused pumping volume will carry over to the following four-year compliance period.

2. Sources of Mitigation Water

Pancheri's primary source of mitigation water are ground water pumping reductions.

Secondly, Pancheri may also perform ground water recharge by importing water from another basin, in which case, Pancheri will receive a 1:1 credit for each acre-foot of recharge that occurs in the Little Lost River Basin.

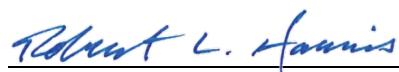
Thirdly, Pancheri may also lease storage water and recharge it on the ESPA, in which case, Pancheri will receive the same credit for recharge as the IGWA-SWC Plan provides (based on location). As of the submission date of this Plan, Pancheri is not under contract for any storage water, but will supplement this Plan if or when such storage water is leased. The use of storage water for recharge will be transacted through Water District 1 and will be subject to the most recent iteration of the *Water District 1 Rental Pool Procedures*. See <https://www.waterdistrict1.com/media/qwjbw5e/2024-rental-pool-procedures.pdf>.

II. REQUEST FOR RELIEF

Pancheri hereby requests that the Director:

1. Advertise this Plan as required under the CM Rules;
2. If necessary, hold a hearing regarding this Plan pursuant to CM Rule 43.02; and
3. Enter an order approving the Plan upon such terms and conditions as may be reasonable and necessary to comply with CMR 43.

DATED this 20th day of March, 2025.



Robert L. Harris,
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Exhibit 1
Pancheri, Inc. and Pancheri LLC Water Rights
Participating Water Rights Overview

Pancheri, Inc. and Pancheri Brothers LLC					
Water Right #	Priority Date	Rate (cfs)	Volume (afa)	Acre Limit	Priority Year
33-2108A	October 25, 1961	1.6	381.5	109	1961
33-7027	November 6, 1973	6	2508	827	1973
33-2117A	May 31, 1963	1.86	325.5	93	1963
33-10109	May 1, 1980	2.84	1165.5	333	1980
33-2108B	October 25, 1961	3.09	735	210	1961
33-2117B	May 31, 1963	2.98	521.5	149	1963
33-2056	January 18, 1950	2.74	623	178	1950
33-2068B	January 14, 1953	2.64	476	136	1953
33-2093	July 27, 1960	2.41	847	242	1960
33-2126B	July 22, 1966	4.04	962.5	275	1966
33-2094	September 11, 1960	4.11	1530	437	1960
33-7038	February 3, 1975	3.06	459	153	1975
33-2113	November 26, 1962	2.52	560	160	1962
33-2126A	November 26, 1962	1.96	763	218	1962
33-2138	March 3, 1959	2.36	412.4	117.9	1959
33-7040	October 16, 1975	3.97	695.8	198.7	1975
33-7172	April 2, 1985	0.6	105.8	30.2	1985
33-2040	March 24, 1948	1.69	354.2	101.2	1948
33-14904	April 11, 1973	0.85	460.25	131.5	1973
33-14929	May 25, 1972	0.56	246.05	70.3	1972
33-14931	April 11, 1973	0.46	246.05	70.3	1973
33-14949	May 25, 1972	0.16	70	20	1972
33-14950	April 11, 1973	0.13	70	20	1973
33-15068	October 16, 1975	0.83	145	41.4	1975
33-15070	March 3, 1959	0.49	85.8	24.5	1959
33-15069	April 2, 1985	0.13	22.1	6.3	1985
33-14852	April 8, 1948	0.88	250.6	71.6	1948
33-2115	February 20, 1963	2.2	752.5	215	1963
33-15081	May 7, 1963	3.86	1100.75	314.5	1963
33-15083	May 1, 1956	3.61	1263.85	361.1	1956
33-15085	July 1, 1951	3.04	1263.85	361.1	1951
33-15082	February 13, 1953	3.97	694.4	198.4	1953
33-15084	May 1, 1954	3.27	843.85	241.1	1954
33-15086	July 13, 1949	1.94	541.8	154.8	1949
33-7063	March 20, 1978	7.27	2226	644	1978
33-2087B	June 12, 1959	0.84	304.5	87	1959
33-2104A	July 21, 1961	3.62	938	268	1961
33-14876	April 15, 1968	2.85	696.5	199	1968
33-14878	April 30, 1976	1.34	696.5	199	1976
33-14880	July 15, 1978	0.36	108.5	31	1978

Leased Properties					
33-2102	June 21, 1961	1.6	-	77	1961
33-14866	November 10, 1948	0.9	266	76	1948
33-2103	June 28, 1961	3.52	616	176	1961
33-10985	April 1, 1987	1.73	592	169	1987
33-2107	October 2, 1961	3.68	2783	795	1961
33-7183	April 17, 1987	3.61	1120	320	1987

Exhibit 2
Pancheri Pumping Data 2021-2024

Row	Cell	Well Code	Well Name	WMIS Number	Pumping (AF)			
					2021	2022	2023	2024
24	129	27A	Roman 200 HP	1003665	910	724	448	739
24	129	28A	Roman 150 HP	1003781	399.19	371.38	427	532
25	128	29A	Borah Peaks River	1003663	1902	1882	1360	3083
26	131	25A	Balding	1003692	526	688	131	492
26	131	26A	Matt	1003697	190	106	127	192
27	129	8A	Harrell House	1003683	462	510	340	218
27	129	10A	Jack Mays 130	1003676	913	1025	829	1236
27	129	11A	Omaley	1003679	1400	1385	912	1440
28	129	6A	Hartman	1003684	509	496	192	592
28	129	7A	Jack Mays	1003687	1097	994	997	1483
28	129	9A	Bare	1003677	584	768	1017	941
28	131	12A	Haight	1003712	462	711	403	585
28	131	13A	Dean Haight	1003715	389.74	477.09	433.415	436
28	131	14A	Sunken	1003717	125	171	123	150
28	131	15A	New Well Haight	1004469				406
29	129	4A	Aaron Romrell	1003702	1081	1047	838	1230
29	129	5A	Rory House	1003686	473	244	90	249
29	131	24A	Smith	1003729	428.5	465	392	571
29	132	16A	Nickerson Tree	1003737	51	77	81	117
30	130	3A	Harshburger Well	1003716	1118	1142	850	1261
30	131	22A	Walker	1003782	20.65	89	41	35
30	131	23A	Mandrietta	1003735	54.5	57	52	57
30	132	17A	Strope	1003741	120.26	171	170	170
30	133	18A	Bill Stauffer House	1003747	72	44	24	124
30	133	19A	Diehl	1003749	10.7	10.7	10.7	
30	133	20A	Stauffer Deep Well	1003794	1742	1249	951	1397
31	134	21A	Williams East	1003753	1353	1717	1102	1671
32	127	2A	Borah Peaks HWY 33	1003779	1011	450	565	783
33	130	1A	Desert Deep Well	300001	627	475	398	502

Total (AF)	18,032	17,546	13,304	20,692
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Average (AF)	17,393
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Origin of Data - Key
Flow Meter
WMIS Data
Calculated Averages
Leased Property