

Robert L. Harris (ISB No. 7018)
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
1000 Riverwalk Drive, Suite 200
Idaho Falls, ID 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Email: rharris@holdenlegal.com

RECEIVED

May 02, 2025

DEPARTMENT OF
WATER RESOURCES

Attorneys for Pancheri Inc. and Pancheri Brothers LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

2025-001

IN THE MATTER OF THE MITIGATION
PLAN OF FALLS WATER CO., INC.

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 OPPOSITION TO IGWA'S
PETITION TO INTERVENE**

Pancheri Inc. and Pancheri Brothers LLC ("Falls Water"), by and through its counsel, Holden, Kidwell, Hahn & Crapo, P.L.L.C., (collectively "Pancheri") hereby file *Pancheri Opposition to IGWA's Petition to Intervene*, which is submitted in response to IGWA's *Petition to Intervene* ("Petition"). This *Response* is filed pursuant to IDAPA 37.01.01.354 and other applicable law.

I. ARGUMENT

A party may intervene in an IDWR contested case proceeding under certain

circumstances. IDAPA 37.01.01.350. IDAPA 37.01.01.353.01 provides:

Timely-Filed Petitions. If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter **of a contested case** and does not unduly broaden the issues, the agency shall grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties.

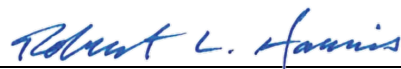
(emphasis added).

IGWA's *Petition* must be denied because there is no active contested case on the *Amended Pancheri CM Rule 43 Mitigation Plan*. To the best of Pancheri's knowledge, the mitigation plan has not even been advertised yet. When the mitigation plan is advertised, IGWA is free to protest and become a party, with no need to intervene. But because there is no contested case on Pancheri's mitigation plan, IGWA's *Petition* is premature and ultimately not allowed under applicable rules. Rule 351 only allows intervention in a "contested case." For that reason, IGWA's *Petition* should be dismissed and/or denied.

II. CONCLUSION

For the foregoing reasons, Pancheri requests an order from the Director dismissing and/or denying IGWA's *Petition*.

Dated this 2nd day of May, 2025.



Robert L. Harris

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

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 2025, I served a true and correct copy of the following described pleading or document on the attorneys and/or individuals listed below by the method(s) indicated.

DOCUMENT SERVED: PANCHERI OPPOSITION TO IGWA'S PETITION TO INTERVENE.

ATTORNEYS AND/OR INDIVIDUALS SERVED:

Idaho Department of Water Resources ☒ Email
file@idwr.idaho.gov

Mathew Weaver, Director ☒ Email
Garrick Baxter, Deputy Attorney General
mathew.weaver@idwr.idaho.gov
garrick.baxter@idwr.idaho.gov
sarah.tschohl@idwr.idaho.gov

John K. Simpson ☒ Email
Travis L. Thompson
Abigail R. Bitzenburg
tthompson@martenlaw.com
jsimpson@martenlaw.com
abitzenburg@martenlaw.com
jnielsen@martenlaw.com

Norman M. Semanko ☒ Email
Garrett M. Kitamura
Parsons Behle & Latimer
nsemanko@parsonsbehle.com
phampton@parsonsbehle.com



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