

May 09, 2025

DEPARTMENT OF  
WATER RESOURCES

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

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

Docket No. CM-MP-2025-001

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

**IGWA’S RESPONSE TO PANCHERI CO.,  
INC.’S OPPOSITION TO IGWA’S  
PETITION TO INTERVENE**

Idaho Ground Water Appropriators, Inc. (“IGWA”), acting for and on behalf of its members, hereby responds to *Pancheri Co., Inc.’s Opposition to IGWA’s Petition to Intervene* (“Pancheri’s Opposition”) filed May 2, 2025, in this matter. This response is filed pursuant to rule 354 of the rules of procedure of the Idaho Department of Water Resources (“Department”).

**A. Pancheri failed to serve its mitigation plan on IGWA.**

Rule 53.02.a of the Department’s rules of procedure states: “All documents filed with the agency must be sent by mail or delivered personally to the representatives of each party concurrently with filing the original with the agency.” (IDAPA 37.01.01.053.02.a.) Pancheri’s mitigation plan was filed *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*, to which IGWA is a party. Therefore, Pancheri

should have filed its mitigation plan upon IGWA. Pancheri's failure to do so can be remedied by granting IGWA's petition to intervene in this matter.

**B. No Department rule precludes intervention prior to advertising.**

Pancheri argues that IGWA is not allowed to intervene because the Department has not yet advertised its mitigation plan; therefore, no contested case exists. However, the Department's rules of procedure do not define a contested case based on whether advertising has occurred. Rather, a contested case is defined as a "formal or informal proceeding which results in the issuance of an order." (IDAPA 37.01.01.02.02.05.) This is the same definition given under the Idaho Administrative Procedures Act. Idaho Code § 67-5240.


Pancheri's mitigation plan includes a request that the Director "[e]nter an order approving the Plan upon such terms and conditions as may be reasonable and necessary to comply with CMR 43." (Pancheri CM Rule 43 Mitigation Plan, 6). Pancheri's filing of a petition requesting a Department order creates a contested case. Therefore, IGWA is permitted to intervene.

**Conclusion**

For the foregoing reasons, IGWA respectfully requests its petition to intervention in this matter be granted.

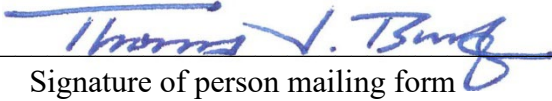
DATED this 9<sup>th</sup> day of May, 2025.

RACINE OLSON, PLLP

By:   
Thomas J. Budge  
*Attorneys for IGWA*

## CERTIFICATE OF MAILING

I certify that on this 9<sup>th</sup> day of May, 2025, the foregoing document was served on the following persons in the manner indicated.

  
Signature of person mailing form

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