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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Coalition of Cities

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF WATER RIGHTS OF
JERRY D. BINGHAM,
1675 W 400 N
BLACKFOOT, ID 83221-5051

WATER RIGHT NO: 35-12226, 35-2202B,
35-2205E, 35-2266, 35-2269G, AND 35-2186D

Docket No. CM-MP-2025-003

Fee Category Exempt: I.C. § 67-2301

**COALITION OF CITIES' PROTEST
TO JERRY BINGHAM
MITIGATION PLAN**

The cities of Bliss, Burley, Carey, Declo, Dietrich, Gooding, Hazelton, Heyburn, Jerome, Paul, Richfield, Rupert, Shoshone, and Wendell (collectively the "Coalition of Cities"), by and through counsel McHugh Bromley, PLLC, and pursuant to Rule 43 of the Idaho Department of Water Resources' ("IDWR" or "Department") *Rules for Conjunctive Management of Surface and Ground Water Resources*, IDAPA 37.03.11 ("CM Rules") and Rule 154 of IDWR's *Rules of Procedure*, IDAPA 37.01.01, hereby files this Protest in the above-captioned mitigation plan filed by Jerry D. Bingham in response to the Surface Water Coalition's ("SWC")¹ delivery call.

¹ SWC is made of A&B Irrigation District, American Falls Reservoir District #2, Bingham Irrigation District, Burley Irrigation District, Minidoka Irrigation District, Northside Canal Company, and Twin Falls Canal Company.

BASES FOR PROTEST

1. At various times during the on-going SWC delivery call, certain junior ground water users have received approval from the Director for CM Rule 43 mitigation plans to allow out-of-priority pumping, including but not limited to Coalition of Cities, as part of a larger group composed of the City of Pocatello, City of Idaho Falls, and a number of other participating cities. See *Final Order Approving Stipulated Mitigation Plan*, Docket No. CM-MP-2019-0001 April 9, 2019) (“Cities Mitigation Plan”). The Cities Mitigation Plan was the result of a Settlement Agreement (“Cities Settlement Agreement”) between the SWC and the Idaho Ground Water Appropriators, Inc., effective January 1, 2019.

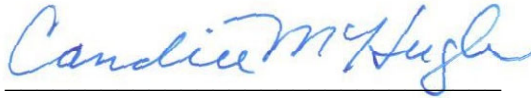
2. The Cities Mitigation Plan authorizes the cities to supply mitigation water in the amount of 7,650 acre-feet to the SWC through direct delivery of storage water, recharge, ground water to surface water conversions, temporary or permanent dry-ups, or other agreed to activities.

3. It is understood that Mr. Bingham is within the boundaries of a ground water district who is party to the *Final Order Approving Stipulated Mitigation Plan*, yet he has chosen not to join the district. The cities also fall within boundaries of certain ground water districts but are not members of such districts and have received approval of the Cities Mitigation Plan.

4. Mr. Bingham’s separate CM Rule 43 mitigation plan proposes certain activities to offset his pumping which may or may not be acceptable to the Department. Furthermore, it is unclear how the Department may condition his mitigation plan or whether or not any orders arising from the proceeding on Mr. Bingham’s mitigation plan could impact the Cities Mitigation Plan or any future modification(s) thereof or future mitigation plans that may become necessary once the Cities’ Mitigation Plan expires.

5. The Coalition of Cities requests that this Protest be considered continuing in nature and reserves the right to amend as necessary as additional grounds become apparent during the course of this proceeding.

DATED this 22nd day of September, 2025.



Candice McHugh
McHugh Bromley, PLLC
Attorneys for the Coalition of Cities

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of September, 2025, I served a true and correct copy of the foregoing document on the person(s) whose names and addresses appear below by electronic service:

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