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*Attorneys for Magic Valley Ground Water District and
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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 Nos. CM-DC-2010-001

JOINT NOTICE OF COMPLIANCE

Magic Valley Ground Water District and North Snake Ground Water District (“MV,” “NS,” or collectively the “Districts”), through undersigned counsel and in response to the Director’s *Final Order Curtailing Ground Water Rights Junior to March 31, 1954* (May 30, 2024) (“Curtailment Order”), submit the following 2024 mitigation proposal, seeking Director approval of the same.

**I.
 BACKGROUND**

On May 29, 2024, MV and NS filed their *Notice of Compliance; Request for Clarification* (“Clarification Request”) in response to the Director’s *Amended Order Determining Deficiency in Notices of Secured Water* (May 28, 2024) (“Amended Deficiency Order”). The Districts proposed

mitigating their proportionate share of the April 2024-predicted IDS of 74,100 AF attributable to the Twin Falls Canal Company. The Districts' proposal was rooted in IGWA's 2009 Storage Water Mitigation Plan (Docket CM-MP-2009-007) ("2009 Plan").

The Director's Curtailment Order confirmed that the 2009 Plan was still viable as a mitigation vehicle for the 2024 irrigation season. But, the Director rejected the Districts' proportionate share-based proposal based on 2009 Plan language suggesting that those seeking safe harbor from curtailment under the plan are required to produce sufficient evidence of the ability to provide the *full* 74,100 AF IDS on behalf of all ground water users, rather than only proportionate shares of the 74,100 IDS directly attributable to the districts seeking shelter under the same. Curtailment Order, pp. 7-8. Absent demonstration of the Districts' ability to provide the entire 74,100 AF predicted IDS, the Districts would be subject to curtailment unless they agreed to mitigate under IGWA's 2016 Mitigation Plan (Docket CM-MP-2016-001) ("2016 Plan"). *Id.*; *see also, Order Denying IGWA's Second Petition for Reconsideration; Order Determining Deficiency in IGWA's May 17, 2024 Storage Water Leases*, p. 8.

II. 2024 COMPLIANCE PROPOSAL

In response to the Director's Curtailment Order, the Districts provide notice that they intend to comply with the 2016 Plan for the 2024 irrigation season by:

(a) Providing their historic proportionate shares of the 50kAF storage water delivery obligation. By district, those shares equal 8,000 AF (MV) and 6,410 AF (NS), totaling 14,410 AF to be delivered within 21 days of the day of allocation. These historical proportionate shares are illustrated and discussed in the *Declaration of Timothy P. Deeg in Support of AFA's Motion for*

Reconsideration of Order Determining Deficiency in Notices of Secured Water (May 17, 2024) and the SWID Letter Agreement attached to the Districts’ Clarification Request¹; and

(b) Meeting their proportionate shares of the 2024 irrigation season conservation obligation required under the 2016 Plan, as further modified by the Director’s *Final Order Specifying Additional Actions* (May 3, 2024) (“Additional Actions Order”). The Director’s Additional Actions Order increased the 2016 Plan conservation obligation from 240,000 AF up to 252,000 AF for the 2024 irrigation season. The Districts’ respective percentage-based shares of the overall conservation obligation equal 15.8% for MV, and 12.4% for NS under steady-state application of the ESPAM 2.2 model. These conservation obligation percentages are the same as calculated by then-Director Spackman in his *Amended Final Order Regarding Compliance With Approved Mitigation Plan* (Apr. 24, 2023) (“Compliance Order”) at Table 2.²

¹ Though the Districts are not required to provide proof demonstrating their ability to supply the aggregate 14,410 AF of storage water at this time, they nonetheless have already done so within their prior Clarification Request (producing and relying upon the October 27, 2020 *Multi-Year Tribal Lease Agreement* attached thereto).

² As noted in the Districts’ *Joint Notice of Compliance; 2024 Irrigation Season Mitigation Commitments* (May 2, 2024), the Districts do not admit or concede that steady-state application of the ESPAM model is the correct application of the model, nor determinative of their mitigation obligations going forward under either the 2009 Plan or the 2016 Plan. *See id.*, p. 3 (incorporated by this reference herein). To the contrary, the Director has shifted to transient model runs to both predict injury (IDS) and determine the level (priority) of curtailment necessary to mitigate for the injury predicted. The Director’s shift to transient modeling undermines (if not entirely negates) the credibility and applicability of the steady-state-based “Re-proportioning” percentages contained in Table 2 of the April 2023 Compliance Order.

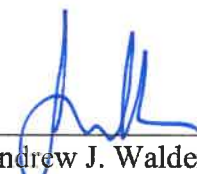
Transient runs of the model demonstrate that MV and NS’s impacts upon (shares of) the April 2024-predicted IDS are negligible (currently 25 AF for MV and < 1.0 AF for NS). Consequently, the Districts reserve the right to seek reallocation of their shares of injury and mitigation obligation going forward. However, the Districts are willing to mitigate under steady-state application of the ESPAM model for 2024 out of recognition of the effects of legacy pumping, and in a good faith effort to do more than their fair share to encourage additional review and modification of the 2016 Plan prior to the 2025 irrigation season.

**III.
CONCLUSION**

For the foregoing, the Districts request that the Director: (a) find them in compliance with the 2016 Plan, as well as the Additional Actions Order; and (b) confirm their (and their patrons') safe harbor from curtailment for the 2024 irrigation season by operation of the Director's Curtailment Order.

DATED this 5th day of June, 2024.

SAWTOOTH LAW OFFICES, PLLC

By  _____
Andrew J. Waldera
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Water District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of June, 2024, I caused a true and correct copy of the foregoing **JOINT NOTICE OF COMPLIANCE** to be served by the method indicated below, and addressed to the following:

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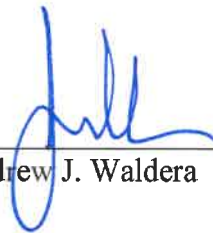
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