

DYLAN ANDERSON (ISB No. 9676)  
Dylan Anderson Law  
P.O. Box 35  
Rexburg, Idaho 83440

Telephone: (208) 684-7701  
Email: [dylan@dylanandersonlaw.com](mailto:dylan@dylanandersonlaw.com)

*Attorneys for Bingham Ground Water District (BGWD)*

\*IN THE MATTER OF THE  
MITIGATION PLAN FILED BY A&B  
IRRIGATION DISTRICT FOR THE  
DISTRIBUTION OF WATER TO  
WATER RIGHTS HELD BY THE  
SURFACE WATER COALITION

**STATE OF IDAHO**

**DEPARTMENT OF WATER RESOURCES**

~~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 \*~~

MP-2015-003  
Docket No. CM-~~DC-2010-001~~

**BGWD NOTICE OF PARTICIPATION IN  
MITIGATION PLAN AND REQUEST  
FOR APPROVAL**

COME NOW, the Applicant Bingham Ground Water District (BGWD), by and through its counsel of record, hereby file and submit this *BGWD Notice of Participation in Mitigation Plan and Request for Approval* in this matter.

In the Director’s Steps 1-3 Order dated April 18, 2024, said Order identifies that water right holders subject to curtailment may demonstrate they can join an approved mitigation plan. See Order at 6. The Order did not identify limitations or process in the opportunity to join existing mitigation plans. Hence, this notice and request for joinder attempts to provide a summary of the intent of BGWD to comply with the storage water component of the A&B plan. Through this plan BGWD can mitigate for its groundwater rights by delivering its proportionate share of the predicted in-season demand shortfall with its own storage water.

A&B has not consented to BGWD joining its approved mitigation plan in this matter in order to mitigate certain junior priority ground water rights held by BGWD for the 2024 irrigation season. Water rights contained in A&B's mitigation plan are enumerated. However, if Falls Irrigation District were to be able to join A&B's mitigation plan despite not having their water rights listed as part of the original plan, then why would that opportunity not be available for BGWD? Is A&B's consent legally required? Why would A&B object to BGWD joining their plan? Unlike A&B and Falls, BGWD does not hold storage water rights in the Upper Snake River Basin reservoir system that are expected to completely fill, but has demonstrated that sufficient storage has been purchased, and can be assigned to any injured Coalition member through Water District 01 during the irrigation season to mitigate for pumping impacts.

The members of the Surface Water Coalition have not agreed to BGWD's joint request to join A&B's mitigation plan this season and have not communicated that consent through counsel to the Director. Is this a legal requirement? BGWD has executed lease forms and payed the respective administrative fees to Water District 01, and may be used once the Department identifies its proportionate share of the in-season demand shortfall that BGWD needs to supply.

Finally, IDWR has not allowed IGWA or the Districts to mitigate pursuant to the 2009 Plan, and Falls does have a mitigation obligation as do all junior groundwater users. BGWD reserves the right to request a hearing on any curtailment notice if this joint notice is denied for any reason.

DATED June 1, 2024.

DYLAN ANDERSON LAW, PLLC

By: /s/ DYLAN ANDERSON  
Dylan Anderson  
*Attorney for BGWD*

## CERTIFICATE OF SERVICE

I hereby certify that on this 1<sup>st</sup> day of June, 2024, I served the foregoing document on the persons below via email or as otherwise indicated:

\_\_\_\_\_  
/s/ Dylan Anderson  
Dylan Anderson

Director Mat Weaver Garrick Baxter Kayleen Richter Sarah Tschohl IDAHO DEPARTMENT OF WATER RESOURCES 322 E Front St. Boise, ID 83720-0098	<a href="mailto:mat.weaver@idwr.idaho.gov">mat.weaver@idwr.idaho.gov</a> <a href="mailto:garrick.baxter@idwr.idaho.gov">garrick.baxter@idwr.idaho.gov</a> <a href="mailto:kayleen.richter@idwr.idaho.gov">kayleen.richter@idwr.idaho.gov</a> <a href="mailto:sarah.tschohl@idwr.idaho.gov">sarah.tschohl@idwr.idaho.gov</a> <a href="mailto:file@idwr.idaho.gov">file@idwr.idaho.gov</a>
Thomas J. Budge (ISB# 7465) Elisheva M. Patterson (ISB#11746) RACINE OLSON, PLLP 201 E. Center St. / P.O. Box 1391 Pocatello, Idaho 83204	<a href="mailto:tj@racineolson.com">tj@racineolson.com</a> <a href="mailto:elisheva@racineolson.com">elisheva@racineolson.com</a>
Skyler C. Johns Nathan M. Olsen Steven L. Taggart OLSEN TAGGART PLLC 1449 E 17th St, Ste A PO Box 3005 Idaho Falls, ID 83403	<a href="mailto:sjohns@olsentaggart.com">sjohns@olsentaggart.com</a> <a href="mailto:nolsen@olsentaggart.com">nolsen@olsentaggart.com</a> <a href="mailto:staggart@olsentaggart.com">staggart@olsentaggart.com</a>
John K. Simpson Travis L. Thompson Abigail R. Bitzenburg MARTEN LAW P. O. Box 63 Twin Falls, ID 83303-0063	<a href="mailto:jsimpson@martenlaw.com">jsimpson@martenlaw.com</a> <a href="mailto:tthompson@martenlaw.com">tthompson@martenlaw.com</a> <a href="mailto:abitzenburg@martenlaw.com">abitzenburg@martenlaw.com</a> <a href="mailto:jnielsen@martenlaw.com">jnielsen@martenlaw.com</a>
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318	<a href="mailto:wkf@pmt.org">wkf@pmt.org</a>

<p>Kathleen Marion Carr  U.S. DEPT. INTERIOR  960 Broadway Ste 400  Boise, ID 83706</p>	<p><a href="mailto:kathleenmarion.carr@sol.doi.gov">kathleenmarion.carr@sol.doi.gov</a></p>
<p>David W. Gehlert  Natural Resources Section  Environment and Natural Resources Division  U.S. DEPARTMENT OF JUSTICE  999 18th St., South Terrace, Suite 370  Denver, CO 80202</p>	<p><a href="mailto:david.gehlert@usdoj.gov">david.gehlert@usdoj.gov</a></p>
<p>Matt Howard  U.S. BUREAU OF RECLAMATION  1150 N Curtis Road  Boise, ID 83706-1234</p>	<p><a href="mailto:mhoward@usbr.gov">mhoward@usbr.gov</a></p>
<p>Sarah A Klahn  Maximilian C. Bricker  SOMACH SIMMONS &amp; DUNN  2033 11th Street, Ste 5  Boulder, Co 80302</p>	<p><a href="mailto:sklahn@somachlaw.com">sklahn@somachlaw.com</a>  <a href="mailto:mbricker@somachlaw.com">mbricker@somachlaw.com</a>  <a href="mailto:vfrancisco@somachlaw.com">vfrancisco@somachlaw.com</a></p>
<p>Rich Diehl  City of POCATELLO  P.O. Box 4169  Pocatello, ID 83205</p>	<p><a href="mailto:rdiehl@pocatello.us">rdiehl@pocatello.us</a></p>
<p>Candice McHugh  Chris Bromley  MCHUGH BROMLEY, PLLC  380 South 4th Street, Suite 103  Boise, ID 83702</p>	<p><a href="mailto:cbromley@mchughbromley.com">cbromley@mchughbromley.com</a>  <a href="mailto:cmchugh@mchughbromley.com">cmchugh@mchughbromley.com</a></p>
<p>Robert E. Williams  WILLIAMS, MESERVY, &amp; LOTH SPEICH, LLP  P.O. Box 168  Jerome, ID 83338</p>	<p><a href="mailto:rewilliams@wmlattys.com">rewilliams@wmlattys.com</a></p>
<p>Robert L. Harris  HOLDEN, KIDWELL, HAHN &amp; CRAPO, PLLC  P.O. Box 50130  Idaho Falls, ID 83405</p>	<p><a href="mailto:rharris@holdenlegal.com">rharris@holdenlegal.com</a></p>

<p>Michael A. Kirkham  City Attorney  CITY OF IDAHO FALLS  P.O. Box 50220  Idaho Falls, ID 83405</p>	<p><a href="mailto:mkirkham@idahofallsidaho.gov">mkirkham@idahofallsidaho.gov</a></p>
<p>Corey Skinner  IDWR-Southern Region  1341 Fillmore St., Ste. 200  Twin Falls, ID 83301-3033</p>	<p><a href="mailto:corey.skinner@idwr.idaho.gov">corey.skinner@idwr.idaho.gov</a></p>
<p>Craig Chandler  IDWR-Eastern Region  900 N. Skyline Drive, Ste. A  Idaho Falls, ID 83402</p>	<p><a href="mailto:craig.chandler@idwr.idaho.gov">craig.chandler@idwr.idaho.gov</a></p>
<p>William A. Parsons  PARSONS SMITH &amp; STONE  P.O. Box 910  Burley, ID 83318</p>	<p><a href="mailto:wparsons@pmt.org">wparsons@pmt.org</a></p>
<p>Jerry Rigby  RIGBY, ANDRUS &amp; RIGBY LAW, PLLC  P.O. Box 250  Rexburg, ID 83440</p>	<p><a href="mailto:jrigby@rex-law.com">jrigby@rex-law.com</a></p>
<p>Andrew J. Waldera  SAWTOOTH LAW OFFICES, PLLC  1101 W. River Street, Suite 110  Boise, ID 83702</p>	<p><a href="mailto:andy@sawtoothlaw.com">andy@sawtoothlaw.com</a></p>