

**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 No. CM-MP-2016-001

**ORDER GRANTING REQUEST FOR  
HEARING; NOTICE OF  
PREHEARING CONFERENCE**

IN THE MATTER OF IGWA'S SETTLEMENT  
AGREEMENT MITIGATION PLAN

**BACKGROUND**

On September 8, 2022, the Idaho Department of Water Resources ("Department") issued a *Final Order Regarding Compliance with Approved Mitigation Plan* ("Final Order"). The Final Order concluded that, in 2021, the Idaho Ground Water Appropriators, Inc. ("IGWA") did not comply with the approved mitigation plan between the Surface Water Collation ("SWC") and IGWA. Additionally, the Final Order approved the settlement agreement the parties filed with the Department on September 7, 2022, as an appropriate remedy for IGWA's 2021 breach.

On September 22, 2022, IGWA timely filed with the Department a *Petition for Reconsideration and Request for Hearing* ("Petition"). The Petition requests the Director amend the Final Order to "withdraw those parts . . . that adjudicate IGWA's contractual obligations under the Settlement Agreement . . ." Petition at 7. In the alternative, the Petition "requests a hearing to address the merits of the Director's decision." *Id.*

**APPLICABLE LAW**

Idaho Code § 42-1701A(3) provides in relevant part:

Unless the right to a hearing before the director . . . is otherwise provided by statute, any person aggrieved by any action of the director, including any decision, determination, order or other action . . . who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action.

## ANALYSIS AND CONCLUSIONS OF LAW

IGWA has not previously been afforded an opportunity for hearing on the Final Order. Therefore, the Director concludes he should grant IGWA's request for hearing in accordance with Idaho Code § 42-1701A(3). Because the Director is granting the request for hearing, IGWA's request for reconsideration is moot and will not be addressed in this order. The issues raised in the request for reconsideration can be raised at hearing or within briefing.

## NOTICE OF PREHEARING CONFERENCE

The Director hereby notifies the parties that a prehearing conference in this matter will be held on **November 10, 2022, at 10 a.m. (MST)**, at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Room 602C–D, Boise, Idaho. All parties to the matter must be represented at the prehearing conference in person or by video conference. The parties shall come prepared to identify the issues to be addressed at hearing or decided on briefing, and to establish a schedule.

To join the conference via computer or smartphone, please click the following Webex link, follow the prompts, and wait to be admitted by the meeting host:  
<https://idahogov.webex.com/idahogov/j.php?MTID=m76fe9d00b5c92782fa4b287a30145f64>.

To join the conference via telephone, please dial 1(415) 655-0001 (US Toll) and enter the following meeting access code when prompted: 2467 819 2382.

The prehearing conference will be held in accordance with the provisions of Chapter 17, Title 42, and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/370101.pdf>.

The conference will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations to attend, participate in, or understand the conference, please advise the Department no later than five (5) days before the conference. Inquiries for special accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, P.O. Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4815.

## ORDER

IT IS HEREBY ORDERED that IGWA's request for hearing is GRANTED.

Dated this 13<sup>th</sup> day of October 2022.


  
\_\_\_\_\_  
GARY SPACKMAN  
Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13<sup>th</sup> day of October 2022, the above and foregoing, was served by the method indicated below, and addressed to the following:

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<p>Randall C. Budge          Thomas J. Budge          RACINE OLSON          P.O. Box 1391          Pocatello, ID 83204-1391  <a href="mailto:randy@racineolson.com">randy@racineolson.com</a>  <a href="mailto:tj@racineolson.com">tj@racineolson.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid  <input checked="" type="checkbox"/> Email</p>
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