

**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

IN THE MATTER OF IGWA’S SETTLEMENT  
AGREEMENT MITIGATION PLAN

Docket No. CM-MP-2016-001

**NOTICE OF SECOND  
CONTINUED SCHEDULING  
CONFERENCE**

**ORDER SETTING DEADLINES**

**BACKGROUND**

On August 2, 2023, the Director of the Idaho Department of Water Resources issued his *Final Order Regarding IGWA’s 2022 Mitigation Plan Compliance* (“2022 Compliance Order”). On August 16, 2023, 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 filed *Surface Water Coalition’s Petition for Reconsideration and Request for Hearing* (“SWC’s Petition”) with the Department. Pursuant to Idaho Code § 42-1701A(3), the *SWC’s Petition* requested a hearing on the *2022 Compliance Order*. *SWC’s Petition* at 6.

On September 6, 2023, the Director issued an *Order Granting Request for Hearing; Notice of Scheduling Conference*. On November 7, 2023, an initial scheduling conference was held by the Director and continued to December 12, 2023.

On December 12, 2023, the Director issued an order appointing Roger S. Burdick as the independent hearing officer in this matter and held a continued scheduling conference. During the December 12, 2023 continued scheduling conference, Hearing Officer Burdick appeared and identified a potential conflict of interest. Hearing Officer Burdick gave the parties 7 days to notify the Department of whether or not they object to his appointment as Hearing Officer due to the potential conflict. Hearing Officer Burdick directed the parties to delineate their proposed issues for hearing by simultaneously submitting proposed issue statements within 7 days (December 19, 2023) and responding to the initial issue statements within an additional 7 days (December 26, 2023). The Hearing Officer continued the scheduling conference to December 28, 2023.

## NOTICE OF SECOND CONTINUED SCHEDULING CONFERENCE

Hearing Officer Burdick hereby notifies the parties that a second continued scheduling conference in this matter will be held on **December 28, 2023, at 9:00 a.m. (MST)**, at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Rooms 602C–D, Boise, Idaho.

The parties to the matter must be represented at the scheduling conference in person or by video conference. The purpose of the conference is to schedule a hearing on the Department's *2022 Compliance Order*.

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=m8a80a5ad354b8550692b834bcb121e99>.

To join the conference via telephone, please dial 1(415) 655-0001 (US Toll) and enter the following meeting access code when prompted: 2633 272 0842.

The conference will be held in accordance with the provisions of Chapters 2 and 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, or email [sarah.tschohl@idwr.idaho.gov](mailto:sarah.tschohl@idwr.idaho.gov).

## ORDER

IT IS HEREBY ORDERED that December 19, 2023, is the deadline for all parties to notify the Department whether they wish to raise an issue with Hearing Officer Burdick's alleged conflict of interest that was disclosed on the record during the December 12, 2023 continued scheduling conference. The parties shall indicate whether they wish to raise an issue with the alleged conflict of interest by including the matter docket number in the subject line of an email outlining their position addressed to Sarah Tschohl at [sarah.tschohl@idwr.idaho.gov](mailto:sarah.tschohl@idwr.idaho.gov).

IT IS FURTHER ORDERED that all parties are to file with the Department a written statement of proposed issues for hearing by December 19, 2023. All parties are to file a response to the statements of proposed issues by December 26, 2023.

DATED this 14th day of December 2023.

A handwritten signature in black ink, appearing to read "R. Burdick", is written above a horizontal line. The signature is stylized and cursive.

ROGER S. BURDICK  
Hearing Officer

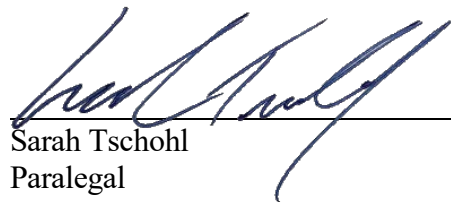
## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of December 2023, the above and foregoing, was served by the method indicated below, and addressed to the following:

<p>John K. Simpson  MARTEN LAW LLP  P.O. Box 2139  Boise, ID 83701-2139  <a href="mailto:jsimpson@martenlaw.com">jsimpson@martenlaw.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid  <input checked="" type="checkbox"/> Email</p>
<p>Travis L. Thompson  MARTEN LAW LLP  P.O. Box 63  Twin Falls, ID 83303-0063  <a href="mailto:tthompson@martenlaw.com">tthompson@martenlaw.com</a>  <a href="mailto:jnielsen@martenlaw.com">jnielsen@martenlaw.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid  <input checked="" type="checkbox"/> Email</p>
<p>W. Kent Fletcher  FLETCHER LAW OFFICE  P.O. Box 248  Burley, ID 83318  <a href="mailto:wkf@pmt.org">wkf@pmt.org</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid  <input checked="" type="checkbox"/> Email</p>
<p>Thomas J. Budge  Elisheva M. Patterson  RACINE OLSON  P.O. Box 1391  Pocatello, ID 83204-1391  <a href="mailto:tj@racineolson.com">tj@racineolson.com</a>  <a href="mailto:elisheva@racineolson.com">elisheva@racineolson.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid  <input checked="" type="checkbox"/> Email</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  <a href="mailto:david.gehlert@usdoj.gov">david.gehlert@usdoj.gov</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid  <input checked="" type="checkbox"/> Email</p>
<p>Matt Howard  US Bureau of Reclamation  1150 N Curtis Road  Boise, ID 83706-1234  <a href="mailto:mhoward@usbr.gov">mhoward@usbr.gov</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid  <input checked="" type="checkbox"/> Email</p>
<p>Sarah A Klahn  Maximilian C. Bricker  SOMACH SIMMONS &amp; DUNN  1155 Canyon Blvd, Ste. 110  Boulder, CO 80302  <a href="mailto:sklahn@somachlaw.com">sklahn@somachlaw.com</a>  <a href="mailto:mbricker@somachlaw.com">mbricker@somachlaw.com</a>  <a href="mailto:dthompson@somachlaw.com">dthompson@somachlaw.com</a></p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid  <input checked="" type="checkbox"/> Email</p>

<p>Rich Diehl  City of Pocatello  P.O. Box 4169  Pocatello, ID 83205  <a href="mailto:rdiehl@pocatello.us">rdiehl@pocatello.us</a></p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
<p>Candice McHugh  Chris Bromley  MCHUGH BROMLEY, PLLC  380 South 4th Street, Suite 103  Boise, ID 83702  <a href="mailto:cmchugh@mchughbromley.com">cmchugh@mchughbromley.com</a>  <a href="mailto:cbromley@mchughbromley.com">cbromley@mchughbromley.com</a></p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
<p>Robert E. Williams  WILLIAMS, MESERVY, &amp; LOTHSPREICH, LLP  P.O. Box 168  Jerome, ID 83338  <a href="mailto:rewilliams@wmlattys.com">rewilliams@wmlattys.com</a></p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
<p>Robert L. Harris  HOLDEN, KIDWELL, HAHN &amp; CRAPO, PLLC  P.O. Box 50130  Idaho Falls, ID 83405  <a href="mailto:rharris@holdenlegal.com">rharris@holdenlegal.com</a></p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
<p>Randall D. Fife  City Attorney, City of Idaho Falls  P.O. Box 50220  Idaho Falls, ID 83405  <a href="mailto:rfife@idahofallsidaho.gov">rfife@idahofallsidaho.gov</a></p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
<p>Skyler C. Johns  Nathan M. Olsen  Steven L. Taggart  OLSEN TAGGART PLLC  P.O. 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></p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
<p>Dylan Anderson  DYLAN ANDERSON LAW PLLC  P.O. Box 35  Rexburg, Idaho 83440  <a href="mailto:dylan@dylanandersonlaw.com">dylan@dylanandersonlaw.com</a></p>	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
<p>COURTESY COPY TO:  Tony Olenichak  IDWR—Eastern Region  900 N. Skyline Drive, Ste. A  Idaho Falls, ID 83402  <a href="mailto:Tony.Olenichak@idwr.idaho.gov">Tony.Olenichak@idwr.idaho.gov</a></p>	<input checked="" type="checkbox"/> Email

<p>COURTESY COPY TO:  Corey Skinner  IDWR—Southern Region  1341 Fillmore St., Ste. 200  Twin Falls, ID 83301-3033  <a href="mailto:corey.skinner@idwr.idaho.gov">corey.skinner@idwr.idaho.gov</a></p>	<input checked="" type="checkbox"/> Email
<p>COURTESY COPY TO:  William A. Parsons  PARSONS, LOVELAND, SHIRLEY &amp;  LINDSTROM, LLP  P.O. Box 910  Burley, ID 83318  <a href="mailto:wparsons@pmt.org">wparsons@pmt.org</a>  <a href="mailto:wparsons@magicvalley.law">wparsons@magicvalley.law</a></p>	<input checked="" type="checkbox"/> Email



Sarah Tschohl  
Paralegal