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DEPARTMENT OF  
WATER RESOURCES

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**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

Docket No. CM-MP-2016-001

**IGWA’s Statement of  
Proposed Issues**

IN THE MATTER OF IGWA’S  
SETTLEMENT AGREEMENT  
MITIGATION PLAN

Idaho Ground Water Appropriators, Inc. (“IGWA”), acting on behalf of North Snake Ground Water District, Carey Valley Ground Water District, Magic Valley Ground Water District, Aberdeen-American Falls Area Ground Water District, Jefferson-Clark Ground Water District, Madison Ground Water District, and Henry’s Fork Ground Water District, submits this statement of proposed issues pursuant to the *Notice of Second Continued Scheduling Conference; Order Setting Deadlines* issued December 14, 2023, in this matter.


**Proposed Issues**

1. Are there genuine issues of material fact that require an evidentiary hearing, or can the *Surface Water Coalition’s Petition for Reconsideration* filed August 16, 2023, in IDWR Docket No. CM-MP-2016-001, be decided as a matter of law?

2. Has the Director issued an order in IDWR Docket No. CM-MP-2009-007 that vacates or otherwise terminates the *Order Approving Mitigation Plan* issued June 3, 2010, in IDWR Docket No. CM-MP-2009-007, which approved IGWA's *Mitigation Plan for the Surface Water Coalition Delivery Call* filed November 9, 2009 ("Storage Water Mitigation Plan").
3. If the Director has not vacated or otherwise terminated his order approving the Storage Water Mitigation Plan in IDWR Docket No. CM-MP-2009-007, can IGWA provide mitigation to the SWC in accordance with the Storage Water Mitigation Plan?
4. Does the plain language of *Surface Water Coalition's and IGWA's Stipulated Mitigation Plan and Request for Order* filed March 9, 2016, the *Final Order Approving Stipulated Mitigation Plan* issued May 2, 2016, *Surface Water Coalition's and IGWA's Stipulated Amended Mitigation Plan and Request for Order* filed February 7, 2017, or the *Final Order Approving Amendment to Stipulated Mitigation Plan* issued May 9, 2017, in IDWR Docket No. CM-MP-2016-001, terminate IGWA's ability to provide mitigation to the SWC in accordance with the Storage Water Mitigation Plan?
5. Given the plain language of conditions "a" and "b" on page five of the *Final Order Approving Amendment to Stipulated Mitigation Plan* issued May 9, 2017, in IDWR Docket No. CM-MP-2016-001, did the Director abuse his discretion when he declined to impose a remedy for alleged non-compliance with the subject mitigation plan ("Settlement Agreement Mitigation Plan") in 2022?
6. Did the Director act in accordance with the Conjunctive Management Rules in determining in the *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* on April 21, 2023, that "IGWA has two approved mitigation plans. If IGWA is in compliance with mitigation plan CM-MP-2016-001, IGWA does not need to establish that it can mitigate for its proportionate share of the predicted DS [Demand Shortfall]. If IGWA seeks to provide mitigation by delivery of storage water as approved in mitigation plan CM-MP-2009-007, IGWA's proportionate share of the predicted DS of 75,198 acre-feet is 63,645 acre-feet"?

RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of December, 2023.

RACINE OLSON, PLLP

By:   
Thomas J. Budge  
Attorneys for IGWA

## CERTIFICATE OF SERVICE

I hereby certify that on this 19<sup>th</sup> day of December, 2023, I served the foregoing document on the persons below via email or as otherwise indicated:

  
Thomas J. Budge

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