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DEPARTMENT OF
WATER RESOURCES

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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 No. CM-MP-2016-001

**AMERICAN FALLS-ABERDEEN
GROUND WATER DISTRICT'S
PROPOSED STATEMENT OF
ISSUES**

IN THE MATTER OF IGWA'S
SETTLEMENT AGREEMENT MITIGATION
PLAN

In connection with the *Petition to Intervene* filed herewith, American Falls-Aberdeen Ground Water District ("AFAGWD") submits the following issues for hearing on the *Final Order Regarding IGWA's 2022 Mitigation Plan Compliance*:

1. May individual members of Idaho Ground Water Appropriators, Inc. ("IGWA") receive safe harbor from curtailment by complying with a separate mitigation plan(s) while being in non-compliance with the *Settlement Agreement* entered into June 30, 2015, between participating members of the

Surface Water Coalition and participating members of the Idaho Ground Water Appropriators, Inc. (“2015 SWC-IGWA Settlement Agreement”), and the *Final Order Approving Amendment to Stipulated Mitigation Plan* dated May 9, 2017 (“2017 Mitigation Order”)?

2. If the Director has not vacated or otherwise terminated the *2017 Mitigation Order*, may IGWA members forego compliance with *2017 Mitigation Order* and instead provide mitigation to the SWC in accordance with proposed mitigation plans currently pending before the Department?
3. Does the *2017 Mitigation Order* authorize the Department to allocate a portion of IGWA’s member-obligations under the *Order* through approval of *new* mitigation plans filed by some of the IGWA members?
4. Whether the *2017 Mitigation Order* incorporated by reference and/or necessity the 2015 SWC-IGWA Settlement Agreement (and addenda) as the terms of the Mitigation Order.
5. Whether IGWA waived arguments regarding the Director’s authority to interpret 2015 SWC-IGWA Settlement Agreement by seeking a stipulated mitigation plan that incorporated the Settlement Agreement as the basis for compliance.

AFAGWD requests that the Hearing Officer address the foregoing issues at the time of hearing.

DATED this 27th day of December 2023.

SOMACH SIMMONS & DUNN, P.C.



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*Attorneys for the American Falls-
Aberdeen Ground Water District*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of December, 2023, I caused a true and correct copy of the foregoing document to be filed and served on the persons below via email:

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