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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
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

IN THE MATTER OF IGWA'S SETTLEMENT
AGREEMENT MITIGATION PLAN

COMES NOW American Falls-Aberdeen Ground Water District ("AFAGWD"), by and through its undersigned counsel, pursuant to IDAPA 37.01.01.220.03 and the *Order Authorizing Discovery; Scheduling Order; Order Suspending IDAPA 37.01.01.354; Notice of Prehearing Conference and Hearing* ("Scheduling Order") dated December 29, 2023, and hereby moves the Hearing Officer to enter partial summary judgment in the captioned matter that Idaho Ground Water District's (IGWA) *2009 Mitigation Plan* cannot be used to cure the ground water district's ("GWD") 2022 breach of the *2016 Mitigation Plan*.

AFAGWD requests that the Hearing Officer grant this *Motion for Partial Summary Judgment* (“Motion”) because “there is no genuine dispute as to any material fact,” so AFAGWD “is entitled to judgment as a matter of law.” I.R.C.P. 56(a). Filed concurrently herewith in support of this *Motion* are AFAGWD’s *Memorandum in Support of Motion for Partial Summary Judgment*, and *Affidavit of Maximilian C. Bricker in Support of Municipal Providers’ Motion for Partial Summary Judgment*.

WHEREFORE, AFAGWD pray the Hearing Office enter an order as follows:

that operations under the *2009 Mitigation Plan* will not cure offending GWDs’ breach of the *2016 Mitigation Plan*, and that the offending GWDs will not be protected by the *2009 Mitigation Plan*—or any other plan—in response to a curtailment order so long as they are in breach of the *2016 Mitigation Plan*.

Respectfully submitted this 12th day of February 2024.

SOMACH SIMMONS & DUNN, P.C.



Sarah A. Klahn, ISB # 7928
Maximilian C. Bricker, ISB #12283

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of February 2024, I caused a true and correct copy of the foregoing document to be filed and served on the persons below via email:

Hearing Officer Roger S. Burdick Director Mat Weaver Garrick Baxter Idaho Department of Water Resources 322 E Front St. Boise, ID 83720-0098	Mathew.Weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov file@idwr.idaho.gov roburd47@gmail.com
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