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Feb 12, 2024

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

**MOTION FOR SUMMARY JUDGMENT**

IN THE MATTER OF IGWA’S  
SETTLEMENT AGREEMENT  
MITIGATION PLAN

Idaho Ground Water Appropriators, Inc. (“IGWA”), by and through its counsel of record, hereby moves for summary judgment in the above-captioned matter pursuant to Rule 220.03 of the Rules of Procedure of the Idaho Department of Water Resources. IGWA requests summary judgment as follows:

1. In the absence of a stipulated remedy, the Director’s authority to enforce a breach of a mitigation plan is limited to water right administration in accordance with the prior appropriation doctrine.
2. The Director properly declined to curtail ground water districts who complied with IGWA’s Storage Water Plan in 2023 because (a) the Conjunctive Management Rules

allow junior priority water users to have multiple approved mitigation plans, and (b) IGWA's Storage Water Plan remains in effect.

3. If a breach of the 2016 Mitigation Plan occurred in 2022, it was not cured by the provision of mitigation under IGWA's Storage Water Plan in 2023.
4. If a breach of the 2016 Mitigation Plan occurred in 2022, the Director does not have authority to prescribe actions that must be taken to cure the breach, due to the lack of a stipulated remedy.

This motion is supported by the *Memorandum in Support of IGWA's Motion for Summary Judgment*, the *Declaration of Elisheva M. Patterson*, and the *Motion to Take Official Notice* filed concurrently herewith.

RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of February, 2024.

RACINE OLSON, PLLP

By: 

Thomas J. Budge  
*Attorneys for IGWA*

## CERTIFICATE OF SERVICE

I hereby certify that on this 12<sup>th</sup> day of February, 2024, I caused the foregoing document to be served on the persons below via email at the address shown:

  
Thomas J. Budge

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