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Attorneys for Idaho Ground Water Appropriators, Inc. (IGWA)

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 REQUEST FOR
CLARIFICATION OF ORDER DENYING
IGWA’S MOTION TO VACATE OR
AMEND 2022 COMPLIANCE ORDER**

IN THE MATTER OF IGWA’S
SETTLEMENT AGREEMENT
MITIGATION PLAN

Idaho Ground Water Appropriators, Inc. (“IGWA”), by and through counsel, submits request for clarification of the Director’s *Order Denying IGWA’s Motion to Vacate or Amend 2022 Compliance Order* issued May 2, 2024.

First, please clarify whether the Director has ruled that the *Final Order Regarding Compliance with Approved Mitigation Plan*, issued September 8, 2022, and the *Amended Final Order Regarding Compliance with Approved Mitigation Plan*, issued April 24, 2023, determined that IGWA must use a five-year baseline to measure reductions in groundwater use, cite the portions of those orders that make that determination, and clarify whether that determination applies to the 2022 Performance Report only or if it includes subsequent performance reports.

Second, please clarify if the Director’s objection to IGWA’s “unilateral[]” change from a five-year baseline to a three-year baseline is based on IGWA’s retroactive application to the 2022 Performance Report, or whether the Director determines that IGWA cannot change the baseline used in future performance reports. If the Director claims IGWA cannot change the baseline in future performance reports, please cite the provisions of the 2016 Plan which precludes such a change or otherwise explain what prohibits IGWA from changing the baseline used in future performance reports.

Finally, please clarify whether the Director’s ruling that IGWA cannot change the baseline due to past performance (“IGWA created the 5-year baseline, and it has been used by IGWA, the SWC, and the Department for the past 7 years to measure actions taken by the ground water districts pursuant to the 2016 Mitigation Plan”), and the Director’s reliance on evidence of performance to determine that a five-year baseline is required, means the Director has deemed the 2016 Plan ambiguous. (*Order Denying IGWA’s Motion to Vacate or Amend 2022 Compliance Order*, p. 4.)

RESPECTFULLY SUBMITTED this 16th day of May, 2024.

RACINE OLSON, PLLP

By: 
Thomas J. Budge
Attorneys for IGWA

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May, 2024, I cause the foregoing document to be served on the persons below via email at the address shown:


Thomas J. Budge

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