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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
Docket No. CM-DC-2010-001

**AFA'S RESPONSE AND
OPPOSITION TO UVGWD'S
PETITION TO INTERVENE FOR
LIMITED PURPOSE**

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and through its undersigned counsel, pursuant to IDAPA 37.01.01.354, to oppose the May 24, 2024, *Petition to Intervene for Limited Purpose* ("Petition") filed by Henry's Fork Ground Water District, Jefferson Clark Ground Water District, and Madison Ground Water District (collectively, "UVGWD").

The Director should deny the *Petition* because the UVGWD have not demonstrated any legal interest that can be impacted by AFA's *Motion for Reconsideration*, which pertains to AFA's (and only AFA's) compliance with the *2016 Plan*. Based on objective facts, there can be no genuine dispute that the UVGWD are actively abandoning the *2016 Plan* in favor of the *2009 Plan* and/or proposed mitigation plans pending approval before

Justice Schroeder,¹ and have publicly expressed their intention to operate under the *2009 Plan* in 2024. *See IGWA's Notice of Storage Water Leases* (Docket No. CM-DC-2010-001, May 17, 2024). Unless and until the UVGWD commit to complying with the terms of the *2016 Plan*, or the Director adopts Chief Justice Burdick's summary judgment order² and invalidates the *2009 Plan* giving the UVGWD no choice but to operate under the *2016 Plan*, the UVGWD have no direct and substantial interest in this matter nor AFA's *Motion for Reconsideration*.

Further, under IDAPA 37.01.01.352, the *Petition* is not "timely" because the UVGWD did not seek intervention prior to the hearings that have already occurred in this matter, including the hearing before former Chief Justice Burdick that took place on March 14-15, 2024. The *Petition* does not state a good cause for the delay. Accordingly, the Director must deny the *Petition* under IDAPA 37.01.01.353.02.

Respectfully submitted this 24th day of May 2024.

SOMACH SIMMONS & DUNN, P.C.



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¹ *See* IDWR Docket Nos. CM-MP-2023-001 (Madison and Henry's Fork) and CM-MP-2023-003 (Jefferson Clark).

² *Order on Motions for Summary Judgment* (Docket No. CM-MP-2016-001, Mar. 12, 2024).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of May 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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