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DEPARTMENT OF  
WATER RESOURCES

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**STATE OF IDAHO**

**DEPARTMENT OF WATER RESOURCES**

MADISON GROUND WATER DISTRICT AND HENRY'S FORK

IN THE MATTER OF ~~MAGIC VALLEY~~  
GROUND WATER DISTRICT'S STORAGE  
WATER MITIGATION PLAN FOR THE  
SURFACE WATER COALITION

Docket No. CM-MP-2023- 001

~~Docket No. CM-DC-2010-001~~

IN THE MATTER OF THE DISTRIBUTION OF  
WATER TO VARIOUS WATER RIGHTS HELD BY  
AND 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

**Petition for Approval of  
Madison Ground Water District and  
Henry's Fork Ground Water District's  
Storage Water Mitigation Plan  
for the Surface Water Coalition**

Madison Ground Water District and Henry's Fork Groundwater District ("Petitioners"), by and through counsel, hereby petition the Director of the Idaho Department of Water Resources ("Department") pursuant to rules 2.14, 102, and 300 of the rules of procedure of the Department for an order approving the mitigation plan set forth below pursuant to rule 43 of the Rules of Conjunctive Management of Surface and Ground Water Resources ("CM Rules").

**1. Petitioners**

In accordance with CM Rule 43.01.a, the names and mailing addresses of Petitioners and their legal counsel are:

Henry's Fork Ground Water District  
P.O. Box 15  
St. Anthony, ID 83445

Madison Ground Water District  
P.O. Box 457  
Rexburg, ID 83440

Legal counsel:  
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## **2. Water Rights Benefitting From Plan**

In accordance with CM Rule 43.01.b, this mitigation plan benefits natural flow and storage water rights held by or on behalf of Twin Falls Canal Company, North Side Canal Company, A&B Irrigation District, American Falls Reservoir District #2, Burley Irrigation District, Milner Irrigation District, and Minidoka Irrigation District (collectively the "Surface Water Coalition" or "SWC").

## **3. Plan Description**

In accordance with CM Rule 43.01.c, this plan will allow Petitioners to both deliver storage water from certain reservoirs in the Water District 1 reservoir system to SWC members as well as recharge water in the upper area of the Eastern Snake River Aquifer in lieu of curtailment of groundwater rights held by Petitioners' patrons under the SWC delivery call, IDWR Docket No. CM-DC-2010-001.

The Director currently administers water rights under the SWC delivery call pursuant to the *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* ("Sixth Methodology Order"). This mitigation plan applies to any water right curtailment order issued under the SWC delivery call, whether issued pursuant to the Sixth Methodology Order or any other Department order.

Any time a curtailment order is issued, the Eastern Snake Plain Aquifer Model ("ESPAM") will be used to calculate the amount of water that will accrue to the SWC from curtailment of groundwater rights held by Petitioners' patrons. Any time a curtailment order is issued or planned to be issued under the SWC delivery call, the Director will either (a) use ESPAM to calculate the amount of water that will accrue to the SWC from curtailment of groundwater rights held by Petitioners' patrons, or (b) provide the Department's ESPAM files to

Petitioners' consultant and allow them adequate time to perform the calculation.

To provide mitigation under this plan, Petitioners will continue to provide the same amount of mitigation as they have previously provided in their agreed upon share of the IGWA mitigation, pursuant to the 2015 settlement agreement with SWC, and which Petitioners understand to be more than mitigates Petitioners pumping impacts to SWC. Said mitigation is described as follows:

- (1) Annual delivery of 1,500 acre feet of storage water delivered or assigned to the SWC to offset the amount of water the SWC would receive from curtailment of water rights held by Petitioners' patrons, and
- (2) Recharge (on an average annual basis) of 3,000 acre feet of water in the Henry's Fork basin.  
(hereinafter collectively referred to as "Petitioners Mitigation")

Notwithstanding Petitioners Mitigation to be provided herein, should Petitioners Mitigation be insufficient to fully mitigate SWC for Petitioners pumping, Petitioners will secure and assign the storage to SWC members or will recharge such further amounts of acre feet on the schedule required by the Director under the Sixth Methodology Order or otherwise.

Petitioners may utilize storage to offset all or part of the volume of water the SWC would receive from curtailment of water rights held by Petitioners' patrons. If Petitioners secure and deliver less storage than is required to fully offset the amount of water the SWC would receive from curtailment, Petitioners' may be subject to curtailment to make up the shortfall, unless Petitioners provide mitigation under another approved mitigation plan.

For example, if the Director predicts an In-Season Demand Shortfall and calculates a March 1, 1970, curtailment date under Step 2 of the Sixth Methodology Order, and if the transient ESPAM simulation used to calculate the March 1, 1970, curtailment date shows that curtailment of Petitioners' patrons will cause "x" acre-feet of water to accrue to the Near Blackfoot to Neeley reach between May 1 and September 30 of the current year, Petitioners may secure storage water to avoid curtailment under Step 4 of the Sixth Methodology Order. Likewise, Petitioners may secure and deliver storage water to avoid curtailment under Step 6, Step 8, and Step 9 of the Sixth Methodology Order.

The Director has previously approved two mitigation plans for the SWC that are functionally identical to this mitigation plan. The *Order Approving Mitigation Plan* issued June 3, 2010, in IDWR Docket No. CM-MP-2009-007 authorizes Idaho Ground Water Appropriators, Inc. to secure and deliver or assign storage water to the SWC as mitigation. The *Final Order Approving Mitigation Plan* issued December 16, 2015, in IDWR Docket No. CM-MP-2015-003 authorizes A&B Irrigation District to deliver or assign storage water to the SWC as mitigation.


**Request for Relief**

Petitioners respectfully requests that the Director:

1. Promptly publish notice and, if necessary, hold a hearing regarding this mitigation plan pursuant to CM Rule 43.02; and
2. Enter an order approving this mitigation plan upon such terms and conditions as may be reasonable and necessary to comply with CM Rule 43.

RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of December, 2023.

RIGBY, ANDRUS & RIGBY LAW, PLLC

By:   
Jerry R. Rigby  
*Attorneys for HFGWD & MGWD*

## CERTIFICATE OF SERVICE

I hereby certify that on this 18<sup>th</sup> day of December, 2023, I served the foregoing document on the persons below via email or as otherwise indicated:

  
\_\_\_\_\_  
Jerry R. Rigby

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