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DEPARTMENT OF
WATER RESOURCES

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF MAGIC VALLEY
GROUND WATER DISTRICT’S
MITIGATION PLAN FOR THE SURFACE
WATER COALITION

Docket No. CM-MP-2023-005

~~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
Magic Valley Ground Water District’s
Mitigation Plan for the
Surface Water Coalition**

Magic Valley Ground Water District (“Petitioner”), by and through counsel, hereby petitions 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. Petitioner

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

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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 Petitioner to avoid curtailment of its patrons’ water rights by providing to the SWC an amount of water equivalent to what the SWC would receive from curtailment 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.

The Eastern Snake Plain Aquifer Model (“ESPAM”) can be used to calculate the amount of water that will accrue to the SWC from curtailment of groundwater rights held by Petitioner’s patrons. Any time a curtailment order is issued or planned to be issued under the SWC delivery call, the Department will either (a) use ESPAM to calculate the amount of water that will accrue to the SWC from curtailment of groundwater rights held by Petitioner’s patrons, or (b) provide the Department’s ESPAM files to Petitioner and afford adequate time for a consultant of Petitioner to perform the calculation before curtailment takes effect.

Petitioner may offset all or part of the water the SWC would receive from curtailment of

Petitioner's patrons by (a) assigning or delivering to SWC members storage water from reservoirs in the Water District 1 reservoir system, (b) conducting managed aquifer recharge, (c) reducing groundwater use, (d) fallowing land that would otherwise be irrigated with groundwater, or (e) any combination thereof. Conducting managed acquire recharge, reducing groundwater use, and fallowing land are referred to collectively herein as "aquifer enhancement activities." The amount of water that will accrue to the SWC from aquifer enhancement activities will be calculated using ESPAM.

Mitigation provided by Petitioner under this plan may offset all or part of the volume of water the SWC would receive from curtailment of water rights held by Petitioner's patrons. If Petitioner provides less water to the SWC than is required to fully offset the amount of water the SWC would receive from curtailment, Petitioner's patrons may be subject to curtailment to make up the shortfall, unless Petitioner provides mitigation under another approved mitigation plan that fully mitigates material injury to the SWC.

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 Petitioner's patrons will cause 10,000 acre-feet of water to accrue to the Near Blackfoot to Neeley reach between May 1 and September 30 of the current year, and if ESPAM calculates that Petitioner's aquifer enhancement activities will increase flows in the Near Blackfoot to Neeley reach by 1,000 acre-feet between May 1 and September 30 of the current year, then Petitioner may secure and deliver 9,000 acre-feet of storage water to the SWC to avoid curtailment of its patrons' water rights under Steps 4, 6, 8 and 9 of the Sixth Methodology Order.

The Director has previously approved three mitigation plans that authorize junior-priority groundwater users avoid curtailment by conducting aquifer enhancement activities and delivering storage water to the SWC as mitigation. The *Order Approving Mitigation Plan* issued June 3, 2010, in IDWR Docket No. CM-MP-2009-007 authorizes Idaho Ground Water Appropriators, Inc. ("IGWA") to secure and deliver storage water to the SWC as mitigation, and the *Final Order Approving Mitigation Credits Regarding SWC Delivery Call* issued July 19, 2010, in IDWR Docket No. CM-MP-2009-006 authorizes IGWA to obtain mitigation credit for aquifer enhancement activities. 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 storage and conduct aquifer enhancement activities as mitigation.

4. Request for Relief

Petitioner 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 20th day of December, 2023.

RACINE OLSON, PLLP

By: 
Thomas J. Budge
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2023, I served the foregoing document on the persons below via email as indicated:


Thomas J. Budge

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