

AMENDED NOTICE OF MITIGATION PLAN SUBMITTED BY FALLS IRRIGATION DISTRICT IN RESPONSE TO THE SURFACE WATER COALITION WATER DELIVERY CALL

Notice is hereby given that, on May 7, 2024, Falls Irrigation District (“FID”), through counsel John K. Simpson, PO Box 2139, Boise, ID 83701-2139, and on behalf of FID members, submitted the *Falls Irrigation District’s Rule 43 Mitigation Plan* (“*Mitigation Plan*” or “*Plan*”) to the Idaho Department of Water Resources (“Department”).

The *Plan* is intended to satisfy the mitigation obligations of FID for the Surface Water Coalition (“SWC”) Water Delivery Call administered by the Department and watermasters of state water districts who administer ground water rights within the Eastern Snake Plain Aquifer (“ESPA”). The SWC consists of irrigation water delivery entities that hold senior surface water rights diverted from the Snake River above Milner Dam. The SWC members include 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. FID represents members who hold ground water rights within a portion of the ESPA that are junior in priority to the SWC’s senior priority Snake River water rights.

FID proposes five ways to mitigate injury to the SWC members. First, FID states that “[a]pproximately 812 acres within the District are no longer irrigated with ground water diverted under junior priority ground water rights due to voluntary reduction in pumping, subdivisions being built, the interstate running through the well area, etc.” *Plan*, at 4. FID indicates that lands of certain patrons are not being irrigated and that certain lands around American Falls reservoir are no longer irrigated because the land has been lost to erosion. *Id.* Second, FID proposes to “reduce/eliminate” return flows and “recharge storage water not otherwise consumed.” *Id.* at 5. Third, FID “seeks credit” for the historical reductions taken as part of the 2015 SWC/IGWA settlement agreement and future reductions due to an Ageing Infrastructure Grant. *Id.* Fourth, FID states through “[r]eduction in wastewater (holding ponds)” it “may provide direct delivery of storage water to those materially injured members of the SWC.” *Id.* Finally, FID states that FID “holds rights to storage water in American Falls Reservoir” and proposes that “[a]vailable storage, if necessary, can be delivered to injured Coalition members to mitigate any shortfalls caused by the District’s junior priority ground water deliveries that are subject to curtailment.” *Id.* at 6.

The Department will process the *Plan* pursuant to the Department’s Conjunctive Management Rules (IDAPA 37.03.11). A complete copy of the *Mitigation Plan* is available for review at either the Department’s State Office in Boise, the Department’s Regional Offices in Twin Falls and Idaho Falls, or at the following website link: <https://idwr.idaho.gov/legal-actions/mitigation-plan-actions/SWC/fid/>.

The Department has not determined the adequacy of the *Mitigation Plan*. Any protest concerning approval of the *Mitigation Plan* must be filed with the Department, together with a protest fee of \$25, on or before **June 24, 2024**. Rule 53 of the Department’s Rules of Procedure (IDAPA 37.01.01.053) outlines how documents may be filed with the Department and when they are considered filed. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/370101.pdf>. The protest must include a certificate of service showing that a copy of the protest has been mailed or delivered personally to counsel for FID.

Mathew Weaver, Director

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