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DEPARTMENT OF  
WATER RESOURCES

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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE MITIGATION  
PLAN FILED BY FALLS IRRIGATION  
DISTRICT FOR THE DISTRIBUTION OF  
WATER TO WATER RIGHTS HELD BY  
THE SURFACE WATER COALITION

Docket No. CM-MP-2024-002

**IGWA'S SUR-REPLY TO JOINT REPLY  
IN SUPPORT OF MOTION TO  
APPROVE STIPULATION REGARDING  
FALLS IRRIGATION DISTRICT'S RULE  
43 MITIGATION**

Idaho Ground Water Appropriators, Inc. ("IGWA"), through counsel, submits this sur-reply to the *Joint Reply in Support of Motion to Approve Stipulation Regarding Falls Irrigation District's Rule 43 Mitigation* ("Joint Reply") filed September 23, 2025, by the Surface Water Coalition ("SWC") and Falls Irrigation District ("FID"). This sur-reply addresses new arguments made in the Joint Reply that were not made in the *Joint Motion to Approve Stipulation Regarding Falls Irrigation District's Rule 43 Mitigation* ("Joint Motion") filed August 28, 2025.

The Joint Motion asserts that "Falls' operations historically have had no impact on the water available to SWC at the time of need as the return flows exceed any impact on the river that occurs due to the groundwater pumping." (Joint Mot., p. 2.) This assertion is predicated on the water budget formula set forth in the Stipulation between FID and the SWC attached to the Joint Motion, which relies on incidental recharge and canal discharge to offset the effects of groundwater use by FID. *Id.* at 3. On that basis, the Joint Motion requests that "IDWR recognize the Falls should not have any additional mitigation obligations so long as this water budget conclusion is maintained as stipulated by the SWC." *Id.* at 2.

IGWA objected to the Joint Motion for several reasons. (IGWA’s Br. in Opp. To Joint Mot. to Approve Stip. Re Falls Irr. District’s Rule 43 Mit. Plan.) Among other things, IGWA argued that allowing mitigation credit for incidental recharge and wastewater is contrary to law, that the water budget formula in the Stipulation does not actually mitigate the effects of groundwater use by FID, and that other groundwater rights that divert from the ESPA will be injured if the Stipulation is approved as a mitigation plan. *Id.*

In response, the Joint Reply presents a concession by the SWC that is not expressed in the Joint Motion or the Stipulation. Specifically, the SWC agrees to absorb the impacts of FID’s groundwater use in any administrative determination that may affect other groundwater users, stating that the Stipulation represents “an acknowledgment of a historical concession by SWC that it would not call for the future administration of Falls’ junior rights because of certain consideration provided at the time of the Falls Irrigation District project authorization,” that “SWC acknowledges that no other junior rights should be burdened with any calculated impacts from Falls’ pumping should administrative determine,” and that the SWC “is acquiescing to a reduction of injuring by that amount in exchange for the continued surface water irrigation and identified returns to the Snake River and/or storage delivery if necessary.” (Joint Reply, p. 3.)

In practice, this concession means that the impact of groundwater pumping by FID on flows on the Snake River—currently calculated by ESPAM version 2.2 as approximately 5,600 acre-feet<sup>1</sup>—must be deducted from all Demand Shortfall calculations under the Methodology Order, and from reach gain calculations under section 6.1 of the 2024 Stipulated Mitigation Plan approved by the *Amended Final Order Approving Stipulated Mitigation Plan* entered February 7, 2025, in Docket No. CM-MP-2024-003.

IGWA does not oppose the Stipulation being approved as a stipulated mitigation plan for FID so long as the SWC concession is properly documented in any order issued by IDWR approving the plan, by including the following or similar language:

- This mitigation plan is approved by stipulation of the Surface Water Coalition (SWC) pursuant to rule 43.03.o of the Rules for Conjunctive Management of Surface and Ground Water Resources. As a term of the stipulation, the SWC agreed to absorb the impacts of groundwater pumping by Falls Irrigation District (FID) on the water supplies of the SWC.

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<sup>1</sup> Decl. of Jaxon Higgs, ¶ 6 (Sep. 11, 2025).

- The impact of groundwater pumping by FID on the Near Blackfoot-Milner reach of the Snake River shall be deducted from Demand Shortfall calculations under the Methodology Order. The impact of groundwater pumping by FID shall be calculated using the current version of the Eastern Snake Plain Aquifer Model, without providing any offset for incidental recharge, groundwater loss, or wastewater flows from FID's canal system.
- The impact of groundwater pumping by FID on the Near Blackfoot-Milner reach of the Snake River shall be added to reach gain measurements under section 6.1 of the 2024 Stipulated Mitigation Plan approved in IDWR Docket No. CM-MP-2024-003. The impact of groundwater pumping by FID shall be calculated using the current version of the Eastern Snake Plain Aquifer Model, without providing any offset for incidental recharge, groundwater loss, or wastewater flows from FID's canal system,.
- This mitigation plan does not mitigate for the effects of groundwater pumping by FID under the Eastern Snake Plain Aquifer Ground Water Management Area, IDWR Docket No. AA-GWMA-2016-001, or in any other administrative proceeding besides the SWC delivery call, IDWR Docket No. CM-DC-2010-001.

RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of September, 2025.

RACINE OLSON, PLLP

By:   
Thomas J. Budge  
*Attorneys for IGWA*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of September, 2025, I cause the foregoing document to be served on the persons below via the method below:

  
Thomas J. Budge

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