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DEPARTMENT OF
WATER RESOURCES

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Attorney for Falls Irrigation District

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

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

CM-MP-2024-002

**JOINT RESPONSE TO IGWA'S SUR-
REPLY**

COME NOW, Falls Irrigation District (“Falls” or “District”), by and through its counsel of record, IdaH20, PLLC, and American Falls Reservoir District #2, A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (collectively “Surface Water Coalition,” “SWC,” or “Coalition”) by and through their respective undersigned counsel of record at Parsons Behle & Latimer, and hereby submit this joint response to *IGWA’s Sur-Reply to Joint Reply in Support of Motion to Approve Stipulation Regarding Falls Irrigation District’s Rule 43 Mitigation Plan (“Sur-Reply”)* filed on September 30, 2025.

RESPONSE

Falls and the Coalition dispute IGWA's mischaracterization of their *Joint Reply* filed on September 23, 2025. The parties stipulated to the mitigation plan pursuant to certain terms and conditions, but not pursuant to the proposed terms IGWA sets out in the *Sur-Reply*. The Coalition would accept Falls' mitigation as its calculated "proportionate share" of an injury determination made by IDWR for purposes of the delivery call. IGWA misreads the stipulation and asks IDWR to approve the stipulated plan on terms not agreed to by the Coalition and Falls. For example, the stipulation as to Falls' projected injury does not equate to the calculated impact of pumping on the Snake River (Near Blackfoot to Milner reach) as argued by IGWA. *See Sur-Reply* at 3. IDWR does not require groundwater users to mitigate for their steady-state impact on the reach, otherwise the Ground Water Districts would be required to provide over 1,000,000 acre-feet of mitigation. Therefore, IGWA's attempt to condition Falls' mitigation plan and have IDWR deduct over 5,500 acre-feet from any calculated injury should be rejected outright.

Moreover, nothing in the Falls' mitigation plan has anything to do with the *2024 Stipulated Plan* entered into between the Coalition and various groundwater districts. IGWA asks IDWR to add Falls pumping impact to the reach gain measurements set forth in section 6.1 of that plan in attempt to reduce the groundwater districts' obligations under that plan. IGWA does not represent those individual districts that signed that plan and its attempt to rewrite that agreement, as a non-signatory third party, through its present argument is irrelevant to the present proceeding.

Finally, how IDWR considers and implements the various mitigation plans that have been approved is not relevant or before this Hearing Officer. The Coalition and Falls have requested IDWR to approve the mitigation plan pursuant to the joint motion. How the Director

considers Falls' proposed plan together with approved plans for purposes of future injury determinations is beyond the scope of this proceeding.

The Coalition and Falls respectfully request the Hearing Officer reject the arguments offered by IGWA in the *Sur-Reply* and approve the joint motion.

DATED this 1st day of October, 2025.

IdaH20, PLLC

/s/ John K. Simpson

John K. Simpson
Attorney for Falls Irrigation District

PARSONS BEHLE & LATIMER

/s/ Travis L. Thompson

Travis L. Thompson
Attorneys for A&B Irr. Dist. et al.

PARSONS BEHLE & LATIMER

/s/ Norman M. Semanko

Norman M. Semanko
Attorneys for AFRD#2 and Minidoka Irr. Dist.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2025, the above and foregoing **JOINT RESPONSE TO IGWA’S SUR-REPLY** was sent to the following by the method indicated:

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