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RECEIVED

SEP 22 2025

DEPT. OF WATER RESOURCES
SOUTHERN REGION

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

IN THE MATTER OF WATER RIGHTS OF
JERRY D. BINGHAM,
1675 W 400 N
BLACKFOOT, ID 83221-5051

WATER RIGHT NO. 35-12226, 35-2202B, 35-
2205E, 35-2266, 35-2269G, AND 35-2186D

Docket No. CM-MP-2025-003

NOTICE OF JOINT PROTEST

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 (the “Surface Water Coalition, “Coalition”, or “SWC”), by and through their attorneys
of record, file this *Notice of Joint Protest* to the approval of the above-numbered *Mitigation Plan*
filed by JERRY D. BINGHAM (the “Applicant”).

The Coalition is authorized to protest this plan pursuant to Rule 43 of the *Rules for
Conjunctive Management of Surface and Ground Water Resources* (IDAPA 37.03.11 et seq.), the

Department's Rules of Procedure (IDAPA 37.01.01 et seq.), and other applicable law. The Applicant's plan proposes to mitigate injury to the SWC's senior surface water rights.

The initial bases for protest are as follows:

1. The proposed Mitigation Plan does not adequately mitigate the injury caused by the identified ground water rights (except for water right #35-12226). Whether reducing pumping of 14.2% from some unidentified total annual volume is sufficient may not mitigate the injury caused to the SWC's senior surface water rights.

2. The proposed Mitigation Plan is unclear as to whether the Applicant proposes to only pump the identified 2024 volume for 2026 and beyond. Whether such totals, if proposed as a pumping cap, would be sufficient mitigation is unknown at this time. Further, information regarding the 2024 pumped volumes, and prior years, needs to be reviewed and verified.

3. The Mitigation Plan does not identify, with particularity, circumstances, or limitations on the availability of the water supply proposed to be used for mitigation or the effect that the proposed water use reductions will have on the Coalition's water supplies for their senior water rights.

4. The Mitigation Plan does not provide information on how the activities will provide replacement water, at the time and place required by the senior-priority water rights of the Coalition, sufficient to offset the depletive effect of the Applicant's ground water withdrawals on the water available in the Snake River at such time and place as necessary to satisfy the Coalition's senior water rights. *See* CM Rule 43.03.b.

5. The Mitigation Plan does not identify how injury to the Coalition's right to reasonable carryover storage will be mitigated.

6. In general, the Mitigation Plan is vague and ambiguous, does not provide adequate mitigation, furnishes no certainty that any mitigation water will be delivered to prevent injury, does not identify a reliable source of replacement water, could result in the diversion and use of ground water at a rate beyond the reasonably anticipated average rate of future natural recharge, and otherwise fails to adequately mitigate for injury caused by the Applicant's junior priority ground water rights.

7. For such other and further reasons as may be discovered.

DATED this 22nd day of September, 2025.

PARSONS BEHLE & LATIMER

PARSONS BEHLE & LATIMER

/S/ Travis L. Thompson

/S/ Norman M. Semanko

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of September, 2025, I served a copy of the foregoing
NOTICE OF JOINT PROTEST, by hand-delivery to the following:

Idaho Department of Water Resources
Southern Region
650 Addison Ave W, Ste 500
Twin Falls, Idaho 83301-5858

And by U.S. Mail and Email to:

Reed W. Larsen
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Via Email to:

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