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DEPT. OF WATER RESOURCES  
SOUTHERN REGION

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*Attorneys for American Falls Reservoir  
District #2 and Minidoka Irrigation District*

**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

IN THE MATTER OF THE MITIGATION PLAN  
OF BIG LOST RIVER GROUND WATER  
DISTRICT

**Docket No. CM-MP-2025-004**

**NOTICE OF JOINT PROTEST**

IN THE MATTER OF DISTRIBUTION OF  
WATER TO VARIOUS WATER RIGHTS HELD  
BY OR 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

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 "Coalition" "SWC" or "Protestants"), by and through their attorneys of record,  
hereby file this *Notice of Joint Protest* against the approval of the *Big Lost River Ground Water  
District's CM Rule 43 Mitigation Plan* ("Mitigation Plan") filed with the Idaho Department of

Water Resources (“Department”) by the BIG LOST RIVER GROUND WATER DISTRICT (the “District”) on September 24, 2025, pursuant to the provisions of Conjunctive Management Rule 43, IDWR Procedural Rule 300, and other applicable law.

The SWC is authorized to oppose the Mitigation Plan because the Plan attempts to mitigate injury to the Coalition’s senior surface water rights caused by the District’s members’ junior priority ground water rights.

The initial bases for SWC’s *Protest* are as follows:

1. The proposed Mitigation Plan attempts to use certain metrics from the *2024 Stipulated Mitigation Plan* (CM-MP-2024-003) without the Coalition’s agreement.
2. The Mitigation Plan does not identify, with particularity, any circumstances or limitations on the availability of the water supply proposed to be conserved for mitigation.
3. To the best of SWC’s knowledge, the District does not hold the right to use any storage water in the Upper Snake River Reservoir System. Accordingly, the District does not have any available storage to provide to SWC for direct delivery in any given year.
4. The District’s proposed activities, including reduced pumping and money for leasing storage water, are not defined with any particularity, including location and water rights involved. IDWR has no authority to authorize monetary compensation as mitigation unless the Coalition agrees to the proposal.
5. The Mitigation Plan does not identify that it will provide replacement water, at the time and place required by SWC’s senior priority surface water rights, sufficient to offset the depletive effect of the District’s ground water withdrawals on the Snake River at such time and place necessary to satisfy SWC’s senior priority water rights.
6. The Mitigation Plan contains no “contingency provisions to assure protection of the

senior-priority right in the event the mitigation water source becomes available” and therefore violates Rule 43.03.c.

7. The Mitigation Plan does not identify how injury to the Coalition’s right to reasonable carryover storage will be addressed.

8. The Mitigation Plan does not identify how it should be considered in relation to other approved and unapproved mitigation plans (i.e. IDWR’s implementation of the existing methodology order with respect to a multitude of mitigation plans and what share of any in-season demand shortfall and injury to reasonable carryover that the District should be held responsible for).

9. In general, the Mitigation Plan is vague and ambiguous, does not provide for adequate mitigation, furnishes no certainty that the mitigation water will be delivered to prevent injury, does not supply 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 District’s members’ junior priority ground water rights.

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

DATED this 3<sup>rd</sup> day of November, 2025.

PARSONS BEHLE & LATIMER



Travis L. Thompson  
Abby R. Bitzenburg

*Attorneys for A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, and Twin Falls Canal Company*

PARSONS BEHLE & LATIMER

/s/: Norman M. Semanko

Norman M. Semanko  
Garrett M. Kitamura

*Attorney for American Falls Reservoir District #2 & Minidoka Irrigation District*

## CERTIFICATE OF SERVICE

I hereby certify that on this 3<sup>rd</sup> day of November, 2025, I served a copy of the foregoing  
NOTICE OF 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:

Robert L. Harris  
P.O. Box 50130  
Idaho Falls, Idaho 83405  
[rharris@holdenlegal.com](mailto:rharris@holdenlegal.com)

Big Lost River Ground Water District  
159 N. Idaho Street, Suite 106  
P.O. Box 721  
Arco, Idaho 83213  
[blrgwe@atenet.net](mailto:blrgwe@atenet.net)



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Abby R. Bitzenburg

<p><b>Received by:</b> S. George <b>Receipt amt.</b> \$50.00 <b>Receipt No.</b> S040835 <b>Date</b> 11-3-2025</p>
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# Idaho Department of Water Resources Receipt

Receipt ID: S040835

Payment Amount \$50.00 Date Received 11/3/2025 Region SOUTHERN

Payment Type Charge Card

Payer NIELSEN, JESS; PARSONS BEHLE LATIMER

Comments NOTICE OF JOINT PROTEST FROM: TWIN FALLS CANAL CO &  
NORTH SIDE CANAL CO.  
FOR: MITIGATION PLAN OF BIG LOST RIVER GROUND WATER DIST.  
ORDERID: 74244176  
LOCAL REFID: pKcafSM0m06ggSkvMFnURQ==  
TOTAL PAID: \$52.25(FEEs: \$2.25)  
AUTH\_CODE: 00095Z  
REC DATE: 11/3/2025 03:44:32 PM MST

## Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$25.00	PROTESTS	64103	0229	21		1155
\$25.00	PROTESTS	64103	0229	21		1155



Signature Line (Department Representative)