

RECEIVED

Nov 07, 2025

DEPARTMENT OF
WATER RESOURCES

Sarah A. Klahn, ISB #7928
Maximilian C. Bricker, ISB #12283
SOMACH SIMMONS & DUNN, P.C.
1155 Canyon Blvd., Suite 110
Boulder, CO 80302
sklahn@somachlaw.com
mbricker@somachlaw.com

*Attorneys for American Falls-Aberdeen
Ground Water 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

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

Docket No. CM-MP-2025-004

**AMERICAN FALLS-ABERDEEN
GROUND WATER DISTRICT'S
PROTEST TO BIG LOST RIVER
GROUND WATER DISTRICT'S CM
RULE 43 MITIGATION PLAN**

Exempt from filing fees under I.C. § 67-2301

COMES NOW American Falls-Aberdeen Ground Water District ("AFA"), by and
through its undersigned counsel, and, pursuant to IDAPA 37.01.01.210 and 37.03.11.043.02,
hereby files this *Protest* to the *Big Lost River Ground Water District's CM Rule 43 Mitigation
Plan* ("Mitigation Plan") dated September 24, 2025.

The initial grounds for AFA's *Protest* to Big Lost River Ground Water District's
("BLR") *Mitigation Plan* are as follows:

1. The *Mitigation Plan* does not comply with the provisions set forth in IDAPA

37.03.11.043.03 (“Rule 43.03”) because it will not provide sufficient replacement water supplies or other appropriate compensation, or otherwise prevent injury, to the Surface Water Coalition (“SWC”). *See* Rule 43.03.a-b. A non-compliant mitigation plan should be denied in the absence of a stipulation. *See* Rule 43.03.o.

2. The *Mitigation Plan* purports to adopt (with modifications) certain terms of the *2024 Stipulated Mitigation Plan* approved in IDWR Docket No. CM-MP-2024-003, but not others, which would allow BLR to reap the benefit of the agreement that AFA and others negotiated without bearing the full burden. Moreover, the *2024 Stipulated Mitigation Plan* allows BLR to become a party on equal terms as existing parties. Thus, approval of the *Mitigation Plan* would be inconsistent with the public interest and injurious to AFA’s members’ water rights. *See* Rule 43.03.j.

3. Other grounds that may become known in the course of litigation, which AFA reserves to raise.

Respectfully submitted this 7th day of November 2025.

SOMACH SIMMONS & DUNN, P.C.



Sarah A. Klahn, ISB #7928
Maximilian C. Bricker, ISB #12283

*Attorneys for American Falls-Aberdeen
Ground Water District*

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November 2025, I served the foregoing document on the persons below via email as indicated:

Mathew Weaver, Director Garrick Baxter, Deputy Attorney General Sarah Tschohl, Paralegal IDAHO DEPT. OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098	file@idwr.idaho.gov mathew.weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov
Robert L. Harris HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C. P.O. Box 50130 1000 Riverwalk Drive, Suite 200 Idaho Falls, ID 83405	rharris@holdenlegal.com



Sarah A. Klahn, ISB #7928