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July 18, 2023

Angie Hansen, Water Rights Section Manager
Idaho Department of Water Resources

Submitted via Email: rulesinfo@idwr.idaho.gov

RE: IDAPA 37.03.08 – Surface Water Coalition’s Comments on the Water Appropriation Rules Final Strawman

Dear Ms. Hansen:

A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, North Side Canal Company, Twin Falls Canal Company American Falls Reservoir District #2, and Minidoka Irrigation District (collectively referred to as the “Surface Water Coalition” or “SWC”) appreciates the opportunity to submit comments related to this negotiated rulemaking. SWC provides the following comments on the Final Strawman of the Water Appropriations Rules (Strawman v. 2.0).

General Comments:

- SWC recommends consistent capitalization throughout the rules. For example, “Applicant” appears in both uppercase and lowercase throughout the rules.
- There are a few instances where the “new” Rule 040.04 is still identified as its previous number “Rule 040.05”. For example, at 040.03.d “For an unprotected Application or an Application for which all protests have been resolved, the Director will evaluate the Application, any information filed pursuant to Subsections 040.054...”; at 040.04.a. “The Director may require the Applicant to file any of the additional information described in Paragraphs 040.054.e. or 040.054.f...”; and at 040.04.c. “Unless the Director determines otherwise, information described in Paragraph 040.054.f. is required...” *See generally, Page 9 in Strawman v.2.0.*

Specific Comments:

- For Rule 010, Definitions, SWC recommends adding a definition for “Ground Water Management Area” by referencing Section 42-233b, Idaho Code, as follows:

The term “critical ground water area” has the meaning given for that term in Section 42-233a, Idaho Code. The term “ground water management area” has the meaning given for that term in Section 42-233b, Idaho Code.



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- For Rule 035.03.e.ii, SWC suggests changing this sentence as follows to help expedite municipal permit applications: “The “Municipal Water Right Application Checklist” is a form attachment available ~~from the Department~~ on the Department’s website.”
- Rule 045.03.f.iv should refer to “f.i through iii” instead of “g.i through iii” to read “The presumptions outlined in Subparagraphs 045.03.f.i. through iii. may be rebutted by....”

Thank you for the opportunity to provide these comments.

Sincerely,

Sarah W. Higer, on behalf of the Surface Water Coalition

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