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Ground Water District*

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA**

A&B IRRIGATION DISTRICT

Petitioner,

vs.

IDAHO DEPARTMENT OF WATER
RESOURCES, and MATHEW WEAVER,
in his capacity as Director of the Idaho
Department of Water Resources,

Respondents,

and

AMERICAN FALLS-ABERDEEN GROUND
WATER DISTRICT, IDAHO GROUND
WATER APPROPRIATORS, INC., CITY OF
BLISS, CITY OF BURLEY, CITY OF
CAREY, CITY OF DECLO, CITY OF
DIETRICH, CITY OF GOODING, CITY OF
HAZELTON, CITY OF HEYBURN, CITY OF
JEROME, CITY OF PAUL, CITY OF
RICHFIELD, CITY OF RUPERT, CITY OF
SHOSHONE, AND CITY OF WENDELL,

Intervenors.

Case No. CV34-26-00462
IDWR Docket No. CM-DC-2010-001

**AMERICAN FALLS-ABERDEEN
GROUND WATER DISTRICT'S
OBJECTION TO AGENCY RECORD**

IN THE MATTER OF DISTRIBUTION OF
WATER TO VARIOUS WATER RIGHTS
HELD BY AND FOR THE BENEFIT OF
A&B IRRIGATION DISTRICT,
AMERICAN FALLS RESERVOIR
DISTRICT NO. 2, BURLEY IRRIGATION
DISTRICT, MILNER IRRIGATION
DISTRICT, MINIDOKA IRRIGATION
DISTRICT, NORTH SIDE CANAL
COMPANY, AND TWIN FALLS CANAL
COMPANY.

COMES NOW American Falls-Aberdeen Ground Water District (“AFA”), by and through its counsel of record, pursuant to I.R.C.P. 84(j) and the *Procedural Order* dated May 14, 2026, and hereby objects to the *Agency Record on Appeal* lodged by the Idaho Department of Water Resources (“Department”) in the captioned case on May 21, 2026. Specifically, as described below, AFA requests that the Department add ten (10) documents to the record that AFA cited in briefing in the administrative contested case proceedings below.

The Department included many documents in the record that were filed in the Department’s docket for the Surface Water Coalition (“SWC”) Delivery Call many years prior to the commencement of the instant case in 2025. Based on a discussion with Department counsel, AFA understands that the Department included these documents (which extend as far back as 2008) in the record because the Hearing Officer took official notice of all documents cited in the parties’ summary judgment briefs, which were filed between November 18, 2025, and December 16, 2025. *See* R. 2810.

However, it appears that four (4) documents cited in AFA’s *Motion to Reconsider Order Granting Hearing and Vacate Hearing or, Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling; Brief in Support* (Nov. 18, 2025) (“*AFA Motion*”) and AFA’s *Reply in Support of Motion to Reconsider Order Granting Hearing and Vacate Hearing or,*

Alternatively, to Clarify the Scope of Hearing; Request for Expedited Ruling (Dec. 12, 2025)

(“*AFA Reply*”) that the Hearing Officer also took judicial notice of were omitted from the record.

Accordingly, AFA requests that the following documents from the SWC Delivery Call matter be added to the record:

Document	Location of Citation
1. <i>Order Denying Cities’ Motion for Clarification and Reconsideration</i> (Sep. 25, 2023)	<i>AFA Motion</i> at 6 n.4 (R. 2443)
2. <i>Order Denying IGWA’s Petition for Review</i> (Aug. 23, 2023)	<i>AFA Motion</i> at 6 n.7 (R. 2443)
3. <i>Joint Motion for Order Approving 2025 Stipulation</i> (Jul. 24, 2025)	<i>AFA Reply</i> at 8 (R. 2734)
4. <i>Order Approving 2025 Stipulation as Compliance with Approved Mitigation Plan</i> (Jul. 25, 2025)	<i>AFA Reply</i> at 8 (R. 2734)

Additionally, six (6) other documents from the SWC Delivery Call matter that AFA cited in its *Response to A&B Irrigation District’s Exceptions to Preliminary Order* (Feb. 5, 2026) (“*AFA Response*”) appear to have been omitted from the record. While the Director did not take official notice of all such documents cited in the parties’ briefing like the Hearing Officer did, these documents should be added to the record for the reasons stated by the Hearing Officer—they provide important historical context for a delivery call that is over two decades in the making. *See* R. 2810. Further, many of these documents were also cited in the *Notice of Compliance with Order to Provide Staff Memo* (Dec. 30, 2025). Finally, the documents aided the Department in resolving the contested case matter on *res judicata* grounds because they demonstrate that A&B Irrigation District had previously litigated the issues. They may similarly aid the district court in resolving the issues on appeal.

Accordingly, AFA requests that the following documents also be added to the record:

Document	Location of Citation
1. <i>Groundwater Expert Report – 2023 Methodology</i> (May 30, 2023) ¹	<i>AFA Response</i> at 9 (R. 2873)
2. <i>A&B Irrigation District’s Notice of Mitigation</i> (May 2, 2016)	<i>AFA Response</i> at 9 (R. 2873)
3. <i>Order Determining Deficiency in A&B Irrigation District’s Notice of Mitigation</i> (May 11, 2016)	<i>AFA Response</i> at 10 (R. 2874)
4. <i>Order Granting A&B’s Requests to Withdraw Request for Hearings Re: Credit for Aquifer Enhancement Activities and Standard of Mitigation</i> (Sep. 2, 2016)	<i>AFA Response</i> at 10 (R. 2874)
5. <i>IGWA’s Request for Mitigation Credit for Aquifer Enhancement Activities (2024)</i> (May 2, 2024)	<i>AFA Response</i> at 10 (R. 2874)
6. <i>Final Order Denying IGWA’s Request for Mitigation Credit for Aquifer Enhancement Activities (2024)</i> (May 15, 2024)	<i>AFA Response</i> at 10 (R. 2874)

In conclusion, AFA respectfully requests that the ten (10) documents identified above be added to the agency record to ensure the district court has a complete record when conducting judicial review of the Department’s *Final Order Denying A&B Irrigation District’s Exceptions to Preliminary Order* (Apr. 17, 2026).

DATED this 4th day of June, 2026.

SOMACH SIMMONS & DUNN, P.C.



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*Attorneys for American Falls-Aberdeen
Ground Water District*

¹ This is the one document of the group that is not listed on the Department’s webpage for the Surface Water Coalition Delivery Call. However, as noted in the *AFA Response* at 9 n.6 (R. 2873), the document is located in the *Settled Agency Hearing Record on Appeal* at 1208-31, *City of Idaho Falls v. IDWR*, Case No. CV01-23-13238 (4th Jud. Dist., Ada Cnty., Sep. 28, 2023), which is available at <https://idwr.idaho.gov/wp-content/uploads/sites/2/legal/CV01-23-13238/CV01-23-13238-20230928-Settled-Agency-Record-on-Appeal.pdf> (last visited June 2, 2026).

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of June, 2026, I served the foregoing document on the persons below via iCourt as indicated:

iCourt e-filing	
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