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DEPARTMENT OF
WATER RESOURCES

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

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-DC-2010-001

**A&B IRRIGATION DISTRICT'S
PETITION FOR RECONSIDERATION
OF FINAL ORDER ESTABLISHING
REASONABLE CARRYOVER (Step 9)**

COMES NOW, A&B Irrigation District (hereafter referred to as "A&B" or "District"),
by and through counsel of record, and hereby requests reconsideration of the Director's *Final
Order Establishing 2016 Reasonable Carryover (Methodology Step 9)* ("RC Order") issued on
November 29, 2016. The petition is filed pursuant to Idaho Code § 67-5246 and the
Department's rules of procedure (IDAPA 37.01.740.02).

BACKGROUND

The Director issued the *RC Order* implementing Step 9 of the SWC conjunctive administration methodology on November 29, 2016. The Director determined there was a reasonable carryover injury to TFCC in the amount of 39,500 acre-feet. *RC Order* at 6. The Director further identified A&B's "proportionate share" of the injury to be "2,122 AF." *RC Order* at 6, n. 12.

PETITION FOR RECONSIDERATION

A&B requests reconsideration of the Director's determination that A&B has an obligation related to the reasonable carryover injury finding. It is A&B's position that it has no obligation for injury caused by its junior priority ground water rights (water right nos. 36-15127B, 36-15193B, 36-15194B, 36-15195B, and 36-15196B) subject to the *RC Order* since the District did not exercise those water rights during the 2016 irrigation season.

A&B's counsel advised the Director on June 14, 2016 that it had sufficient senior water rights to cover the acreage it was delivering groundwater to during the 2016 irrigation season (62,939.9 acres). *See Travis L. Thompson June 14, 2016 Letter to Director Spackman*. Since A&B was not exercising its junior groundwater rights subject to the *April As Applied Order* (with a February 9, 1989 curtailment priority date), it requested the Director to remove the water rights from the curtailment list.

By letter of June 30, 2016, the Director confirmed that A&B "will not have a mitigation obligation for this year if A&B Irrigation District curtails the enlargement ground water rights and if the priority date for curtailment for 2016 remains junior to A&B Irrigation District's other ground water rights." *See Director Gary Spackman June 30, 2016 Letter to Travis Thompson*.

Both criteria identified by the Director in June 30th letter are still satisfied in regards to

the carryover injury identified in the *RC Order*. First, A&B did not exercise its junior ground water rights in 2016. Second, the *RC Order* establishes a curtailment priority date of June 20, 1989. *See RC Order* at 6. As such, A&B does not have a mitigation obligation for the reasonable carryover injury identified in the *RC Order*.

Consequently, A&B respectfully requests the Director to reconsider the finding that “A&B must establish to the satisfaction of the Director its ability to mitigate for its proportionate share of the reasonable carryover shortfall, which is 2,122 AF.” As explained above, A&B does not have a mitigation obligation for the use of any water rights junior to June 20, 1989.

DATED this 1st day of December, 2016.

BARKER ROSHOLT & SIMPSON LLP



Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2016, I served a true and correct copy of the foregoing *A&B Irrigation District's Petition for Reconsideration of Final Order Establishing 2016 Reasonable Carryover* on the following by the method indicated:

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