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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 Docket No. CM-MP-2015-003 **A&B IRRIGATION DISTRICT'S NOTICE OF COMMUNICATION TO WATER DISTRICT 01 WATERMASTER / REQUEST FOR HEARING**

COMES NOW, A&B Irrigation District (hereafter referred to as "A&B" or "District"), by and through counsel of record, and hereby provides notice of its communication to the Water District 01 Watermaster as requested by the Director in the May 11, 2016 *Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation.* Counsel emailed the attached letter (Ex. A) to Lyle Swank on May 13, 2016.

A&B requests the Director accept this notice as curing any deficiency in the *Notice of Mitigation* and remove A&B's affected groundwater rights from any curtailment order. Further, A&B requests a hearing on the Director's May 11, 2016 Order pursuant to Idaho Code § 42-1701A(3). Through the order the Director has created a new standard regarding mitigation that has not been previously applied to other affected junior ground water right holders.

DATED this 13th day of May, 2016.

BARKER ROSHOLT & SIMPSON LLP

Travis L. Thompson

Attorneys for A&B Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of May, 2016, I served a true and correct copy of the foregoing *A&B Irrigation District's Notice of Communication to Water District 01 Watermaster / Request for Hearing* on the following by the method indicated:

Director Gary Spackman c/o Deborah Gibson State of Idaho Dept of Water Resources 322 E Front St Boise, ID 83720-0098 *** service by electronic mail facsimile – 208-287-6700 gary.spackman@idwr.idaho.gov deborah.gibson@idwr.idaho.gov	Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only mhoward@pn.usbr.gov emcgarry@pn.usbr.gov	IDWR – Eastern Region 900 N. Skyline Dr., Suite A Idaho Falls, ID 83402-1718 *** service by electronic mail only lyle.swank@idwr.idaho.gov
Randy Budge T.J. Budge Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only rcb@racinelaw.net tjb@racinelaw.net	Sarah A. Klahn Mitra Pemberton White & Jankowski, LLP 511 Sixteenth Street, Suite 500 Denver, CO 80202 *** service by electronic mail only facsimile – 303-825-5632 sarahk@white-jankowski.com mitrap@white-jankowski.com	David Gehlert ENRD – DOJ 999 18th St. South Terrace, Suite 370 Denver, CO 80202 *** service by electronic mail only david.gehlert@usdoj.gov
A. Dean Tranmer City of Pocatello P.O. Box 4169 Pocatello, ID 83201 *** service by electronic mail only facsimile – 208-234-6297 dtranmer@pocatello.us	William A. Parsons Parsons, Smith & Stone LLP P.O. Box 910 Burley, ID 83318 *** service by electronic mail only wparsons@pmt.org	IDWR – Southern Region 1341 Fillmore St., Suite 200 Twin Falls, ID 83301-3380 *** service by electronic mail only allen.merritt@idwr.idaho.gov cindy.yenter@idwr.idaho.gov
Michael C Creamer Jeffrey C. Fereday Givens Pursley 601 W Bannock St Ste 200 P.O. Box 2720 Boise, ID 83701-2720 *** service by electronic mail only mcc@givenspursley.com jcf@givenspursley.com	Kathleen Carr US Dept Interior, Office of Solicitor Pacific Northwest Region, Boise 960 Broadway Ste 400 Boise, ID 83706 *** service by electronic mail only facsimile – 208-334-1918 kathleenmarion.carr@sol.doi.gov	

Travis L. Thompson

Exhibit
A

John A. Rosholt
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May 13, 2016

VIA EMAIL ONLY

Lyle Swank, Watermaster
Water District 01
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718

Re: SWC Delivery Call / Notice of Mitigation Water (*Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation*, May 11, 2016)

Dear Lyle:

I am writing on behalf of the A&B Irrigation District (A&B) in reference to the Director's May 11, 2016 *Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation*. In the order the Director stated that A&B "must document that it has communicated to the watermaster its written commitment of 2,122 acre-feet of storage water to be deducted from A&B's 2016 storage allocation and to be controlled, assigned, and delivered by the watermaster to mitigate injury to other members of the SWC." *Order* at 4.

This letter communicates A&B's intent to have the watermaster confirm to the Director that 2,122 acre-feet of A&B's 2016 storage allocation will be available for assignment and delivery to mitigate for injury to the SWC members if necessary.

A&B has contested the Director's calculation of its "proportionate share" of the April forecasted injury and that matter is pending. Further, A&B reserves the right to challenge the Director's May 11, 2016 and request a hearing pursuant to Idaho law. By communicating this request A&B does not waive any rights it has with respect to the Director's actions. In addition, A&B reserves the right to enter into a stipulation with the SWC regarding the delivery call this year, which may or may not result in the assignment of the 2,122 acre-feet or a portion thereof. To that end, no actual assignment of the storage water should occur at this time, particularly if it not necessary due to a stipulation with SWC or otherwise.

This letter satisfies the Director's alleged deficiency in A&B's *Notice of Mitigation* and confirms that its ground water rights junior to February 2, 1989 are not subject to curtailment. If you have any questions or need further information please call me at 733-0700 or Dan Temple at 436-3152.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP

Travis L. Thompson

cc: Dan Temple, A&B
Director Gary Spackman