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December 22, 2016

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DEPARTMENT OF  
WATER RESOURCES

VIA EMAIL & U.S. MAIL

Director Gary Spackman  
Idaho Department of Water Resources  
322 E. Front St.  
Boise, Idaho 83702-7374

**Re: A&B Irrigation District Mitigation / SWC Delivery Call / CM-DC-2010-001  
& CM-MP-2015-003 / Response to December 20, 2016 Order**

Dear Director Spackman:

I am writing on behalf of our client the A&B Irrigation District ("A&B" or "District") in response to the *Final Order Denying A&B Irrigation District's Petition for Reconsideration* (December 20, 2016).

As previously noted, the District delivered groundwater to 62,939.9 acres in 2016. The District had sufficient senior water rights (pre-February 8, 1989) to cover the acres that received groundwater this year. As such, A&B did not deliver groundwater pursuant to its enlargement water rights (36-15127B et al.) that are subject to the recent Step 9 curtailment order. Although we recognize that the in-season and reasonable carryover injuries are separate, the District disagrees with the assessment that it has a mitigation obligation for the non-use of those junior priority groundwater rights that are subject to curtailment. The District reserves the right to so challenge any future curtailment order.

Regardless, A&B has an approved mitigation in place in response to the SWC delivery call. See *Final Order Approving Mitigation Plan* (December 15, 2016). The District delivered surface water to approximately 3,572 acres in 2016 instead of groundwater. The conversion activity is approved by your prior order. It appears that you have not accounted for the conversion of the 1,509 groundwater right acres beyond the 2,063 acres covered by the enlargement water rights (that were not used). The District did pump twenty-one (21) acre-feet of groundwater into the new pipeline to address a pressure emergency in the late summer. However, the 1,509 acres of converted acres more than mitigates for this minimal pumping. As

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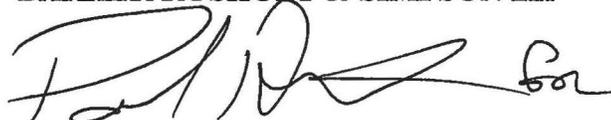
you may be aware this was the first irrigation season that the District operated the new pumping plant and pipeline. Accordingly, if the District's calculations need to be adjusted that can be addressed.

Finally, as noted in the amended mitigation plan that was approved last year, the District holds storage water rights in American Falls and Palisades Reservoirs. The District can supply the necessary mitigation water to satisfy any reasonable carryover shortfall that may exist after taking into account the mitigation actions identified above.

If this information does not satisfy your December 20, 2016 order, please advise and the District will provide the necessary information.

Sincerely,

**BARKER ROSHOLT & SIMPSON LLP**



Travis L. Thompson

cc: (via email only)  
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Randy Budge / T.J. Budge  
Sarah Klahn / Mitra Pemberton  
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