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DEPARTMENT OF  
WATER RESOURCES

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*Attorneys for A&B Irrigation District*

**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 MITIGATION**

COMES NOW, A&B Irrigation District (hereafter referred to as "A&B" or "District"),  
by and through counsel of record, and hereby provides its notice of mitigation in response to the  
Director's request in the *Final Order Regarding April 2016 Forecast Supply (Methodology Steps  
1 – 3)* ("April Order") issued on April 19, 2016. A&B reserves all rights with respect to the  
Director's calculations and ordered mitigation. *See A&B Irrigation District's Petition for  
Reconsideration / Request for Hearing Re: April 2016 As Applied Order.*

## **2016 MITIGATION ACTIONS**

A&B filed and received approval of its mitigation plan for the Surface Water Coalition delivery call last year. *See Final Order Approving Mitigation Plan* (Dec. 16, 2015). A&B provides notice to the Director of the following mitigation actions for 2016:

### **1) CREP**

A&B landowners enrolled 98 acres into the federal conservation reserve enhancement program (CREP). IDWR estimated that ceasing groundwater withdrawals for these lands results in a response of 103 acre-feet to the Near Blackfoot to Minidoka reaches of the Snake River. *See March 29, 2016 Post Audit Memo (Rangen Call) (Jennifer Sukow)*. The Director should consider and account for this mitigation action in regards to A&B's "proportionate share" of the predicted in-season demand shortfall to TFCC.

### **2) Prior Conversion Lands**

As detailed in its mitigation plan, A&B previously converted 1,378 acres under senior water right 36-2080 from a groundwater to a surface water supply. *See Ex. A* (lands colored "green" and identified as "mid 1990s conversion"). IDWR estimated that ceasing groundwater withdrawals and delivering surface water to these lands results in a response of 1,409 acre-feet to the Near Blackfoot to Minidoka reaches of the Snake River. *See March 29, 2016 Post Audit Memo (Rangen Call) (Jennifer Sukow)*. The Director should consider and account for this mitigation action in regards to A&B's "proportionate share" of the predicted in-season demand shortfall to TFCC.

### **3) Additional Pumping Plant #2 Conversion Lands**

As detailed in the mitigation plan, A&B noted its intention to convert an additional 1,478.5 acres to a surface water supply to be served by the new Unit A Pumping Plant #2 Project

when it had available water. *See Mitigation Plan* at 3. The new pipeline project is complete and A&B is capable of and will deliver surface water to these lands for the 2016 irrigation season. *See Ex. A* (lands colored “blue” identified as “soft conversions”). In addition, A&B has the ability to temporarily deliver surface water to an additional 535.1 acres irrigated with groundwater. *See Ex. A* (colored “tan” and identified as “intermittent soft conversions”). A&B will likely be able to deliver surface water to all or part of these lands in the shoulder months (or parts thereof) of April, May, September, and October. A&B does not have the information yet to determine what the estimated response of these conversions will be on the Near Blackfoot to Minidoka reaches of the Snake River. With the attached map IDWR should be able to run ESPAM 2.1 and make initial estimates. Further, A&B will supply the necessary information regarding surface water deliveries to these lands during the 2016 irrigation season. The Director should consider and account for this mitigation action in regards to A&B’s “proportionate share” of the predicted in-season demand shortfall to TFCC.

#### **4) Storage Water**

To the extent the above mitigation actions do not cover A&B’s “proportionate share” of the predicted demand shortfall to TFCC, A&B has available storage water from its own space in American Falls and Palisades Reservoirs, as well as access to the Water District 01 Rental Pool, and likely some portion of the storage water provided to the SWC by IGWA, the Processors, and the Cities. Accordingly, A&B has available storage water to deliver for mitigation purposes.

### **CONCLUSION**

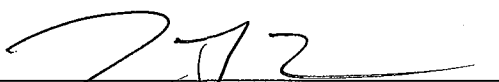
A&B is undertaking various mitigation actions in 2016 to mitigate for its “proportionate share” of the predicted in-season demand shortfall to TFCC. A&B requests the Director to account for the predicted responses to the Near Blackfoot to Minidoka reaches of the Snake

River resulting from these actions and adjust the "proportionate share" determination accordingly.

In the event A&B still has an outstanding obligation that is not mitigated for, A&B will have available storage water to provide to injured Coalition members if needed.<sup>1</sup> A&B requests the Director accept this *Notice of Mitigation* and remove A&B's affected groundwater rights from any curtailment order.

DATED this 20<sup>th</sup> day of May, 2016.

**BARKER ROSHOLT & SIMPSON LLP**

  
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Travis L. Thompson

*Attorneys for A&B Irrigation District*

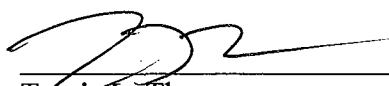
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<sup>1</sup> A&B also has the ability to enter into a stipulation with the Coalition for purposes of its 2016 mitigation obligation.

## CERTIFICATE OF SERVICE

I hereby certify that on this 1<sup>st</sup> day of May, 2016, I served a true and correct copy of the foregoing *A&B Irrigation District's Notice of Mitigation* on the following by the method indicated:

<p>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</p> <p>facsimile – 208-287-6700 <a href="mailto:gary.spackman@idwr.idaho.gov">gary.spackman@idwr.idaho.gov</a> <a href="mailto:deborah.gibson@idwr.idaho.gov">deborah.gibson@idwr.idaho.gov</a></p>	<p>Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only</p> <p><a href="mailto:mhoward@pn.usbr.gov">mhoward@pn.usbr.gov</a> <a href="mailto:emcgarry@pn.usbr.gov">emcgarry@pn.usbr.gov</a></p>	<p>IDWR – Eastern Region 900 N. Skyline Dr., Suite A Idaho Falls, ID 83402-1718 *** service by electronic mail only <a href="mailto:lyle.swank@idwr.idaho.gov">lyle.swank@idwr.idaho.gov</a></p>
<p>Randy Budge T.J. Budge Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only</p> <p><a href="mailto:rcb@racinelaw.net">rcb@racinelaw.net</a> <a href="mailto:tjb@racinelaw.net">tjb@racinelaw.net</a></p>	<p>Sarah A. Klahn Mitra Pemberton White &amp; Jankowski, LLP 511 Sixteenth Street, Suite 500 Denver, CO 80202 *** service by electronic mail only facsimile – 303-825-5632 <a href="mailto:sarahk@white-jankowski.com">sarahk@white-jankowski.com</a> <a href="mailto:mitrap@white-jankowski.com">mitrap@white-jankowski.com</a></p>	<p>David Gehlert ENRD – DOJ 999 18<sup>th</sup> St. South Terrace, Suite 370 Denver, CO 80202 *** service by electronic mail only <a href="mailto:david.gehlert@usdoj.gov">david.gehlert@usdoj.gov</a></p>
<p>A. Dean Tranmer City of Pocatello P.O. Box 4169 Pocatello, ID 83201 *** service by electronic mail only</p> <p>facsimile – 208-234-6297 <a href="mailto:dtranmer@pocatello.us">dtranmer@pocatello.us</a></p>	<p>William A. Parsons Parsons, Smith &amp; Stone LLP P.O. Box 910 Burley, ID 83318 *** service by electronic mail only</p> <p><a href="mailto:wparsons@pmt.org">wparsons@pmt.org</a></p>	<p>IDWR – Southern Region 1341 Fillmore St., Suite 200 Twin Falls, ID 83301-3380 *** service by electronic mail only <a href="mailto:allen.merriitt@idwr.idaho.gov">allen.merriitt@idwr.idaho.gov</a> <a href="mailto:cindy.yenter@idwr.idaho.gov">cindy.yenter@idwr.idaho.gov</a></p>
<p>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 <a href="mailto:mcc@givenspursley.com">mcc@givenspursley.com</a> <a href="mailto:jcf@givenspursley.com">jcf@givenspursley.com</a></p>	<p>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 <a href="mailto:kathleenmarion.carr@sol.doi.gov">kathleenmarion.carr@sol.doi.gov</a></p>	

  
Travis L. Thompson

# Exhibit A

# A&B Irrigation District



## A&B Irrigation District

- Mid 1990's Conversion - 1378 acres
- Intermittent Soft Conversions - 535.1 acres
- Soft Conversions - 1478.5 acres