

John K. Simpson, ISB #4242
MARTEN LAW LLP
101 S. Capitol Blvd., Suite 305
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
Email: jsimpson@martenlaw.com

Attorneys for Falls 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

**FALLS IRRIGATION DISTRICT'S
NOTICE OF COMMUNICATION TO
WATER DISTRICT 01
WATERMASTER**

COMES NOW, Falls Irrigation District (“Falls” or “District”), by and through counsel of record, and hereby provides notice of its communication to the Water District 01 Watermaster regarding compliance with the Director’s *Final Order Regarding April 2023 Forecast Supply (Methodology Steps 1-3)* wherein the Director required affected junior ground water right holders to establish “that they can mitigate for their proportionate share of the predicted DS of 75,200 acre-feet in accordance with an approved mitigation plan” on or before May 5, 2023. *See* April As Applied Order at 6. Counsel mailed and emailed the letter to Watermaster Tony Olenichak on May 5, 2023. *See* Ex. A.

Notwithstanding this notice Falls reserves all rights with respect to the calculated proportionate share of the predicted injury and reserves the right to participate in the hearing on the April As Applied Order on that issue set for June 6-10, 2023.

Dated this 5th day of May, 2023.

MARTEN LAW LLP

/s/ John K. Simpson
John K. Simpson

Attorneys for Falls Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May, 2023, I served a true and correct copy of the foregoing on the following by the method indicated:

<p>Director Gary Spackman Garrick Baxter Sarah Tschohl State of Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 *** service by electronic mail</p> <p>gary.spackman@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov</p>	<p>Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234 *** service by electronic mail only</p> <p>mhoward@usbr.gov</p>	<p>Tony Olenichak IDWR – Eastern Region 900 N. Skyline Dr., Ste. A Idaho Falls, ID 83402-1718 *** service by electronic mail only</p> <p>Tony.olenichak@idwr.idaho.gov</p>
<p>T.J. Budge Elisheva Patterson Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only</p> <p>tj@racineolson.com elisheva@racineolson.com</p>	<p>Sarah A. Klahn Somach Simmons & Dunn 2033 11th St., Ste. 5 Boulder, CO 80302 *** service by electronic mail only</p> <p>sklahn@somachlaw.com dthompson@somachlaw.com</p>	<p>David Gehlert ENRD – DOJ 999 18th St. South Terrace, Ste. 370 Denver, CO 80202 *** service by electronic mail only</p> <p>david.gehlert@usdoj.gov</p>
<p>Rich Diehl City of Pocatello P.O. Box 4169 Pocatello, ID 83201 *** service by electronic mail only</p> <p>rdiehl@pocatello.us</p>	<p>William A. Parsons Parsons, Smith & Stone LLP P.O. Box 910 Burley, ID 83318 *** service by electronic mail only</p> <p>wparsons@pmt.org</p>	<p>Corey Skinner IDWR – Southern Region 650 Addison Ave W, Ste. 500 Twin Falls, ID 83301-5858 *** service by electronic mail only</p> <p>corey.skinner@idwr.idaho.gov</p>
<p>W. Kent Fletcher Fletcher Law Offices P.O. Box 248 Burley, ID 83318 *** service by electronic mail only</p> <p>wkf@pmt.org</p>	<p>Kathleen Carr U.S. Dept. Interior, Office of Solicitor Pacific Northwest Region, Boise 960 Broadway, Ste. 400 Boise, ID 83706 *** service by electronic mail only</p> <p>kathleenmarion.carr@sol.doi.gov</p>	<p>Candice McHugh Chris M. Bromley McHugh Bromley, PLLC 380 South 4th Street, Ste. 103 Boise, ID 83702 *** service by electronic mail only</p> <p>cbromley@mchughbromley.com cmchugh@mchughbromley.com</p>

<p>Robert E. Williams Williams, Meservy & Lothspeich, LLP P.O. Box 168 Jerome, ID 83338 *** service by electronic mail only</p> <p>rewilliams@wmlattys.com</p>	<p>Robert L. Harris Holden, Kidwell, Hahn & Crapo, PLLC P.O. Box 50130 Idaho Falls, ID 83405 *** service by electronic mail only</p> <p>rharris@holdenlegal.com</p>	<p>Randall D. Fife City Attorney, City of Idaho Falls P.O. Box 50220 Idaho Falls, ID 83405 *** service by electronic mail only</p> <p>rfife@idahofallsidaho.gov</p>
<p>Skyler Johns Steven Taggart Nathan Olsen Olsen Taggart PLLC P.O. Box 3005 Idaho Falls, ID 83403 *** service by electronic mail only</p> <p>sjohns@olsentaggart.com staggart@olsentaggart.com nolsen@olsentaggart.com</p>	<p>Dylan Anderson Dylan Anderson Law PLLC P.O. Box 35 Rexburg, ID 83440 *** service by electronic mail only</p> <p>dylan@dylanandersonlaw.com</p>	

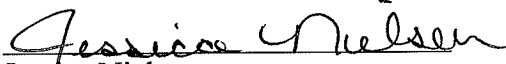

 Jessica Nielsen
 Assistant for John K. Simpson

Exhibit A



MARTEN LAW

May 5, 2023

VIA U.S. MAIL AND EMAIL

Tony Olenichak, Watermaster
Water District 01
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718
Tony.olenickak@idwr.idaho.gov

**Re: SWC Delivery Call / Notice of Mitigation Water (Final Order
Regarding April 2023 Forecast Supply (Steps 1-3))**

Dear Tony:

I am writing on behalf of the Falls Irrigation District (“Falls” or “District”) in reference to the Director’s April 21, 2023 *Final Order Regarding April 2023 Forecast Supply* (“April Order”). In that order the Director noted that affected junior ground water right holders must establish “that they can mitigation for their proportionate share of the predicted demand shortfall of 75,200 acre-feet in accordance with an approved mitigation plan.” See April Order at 6. To Falls’ knowledge, the Director has not yet identified Falls’ proportionate share with respect to certain junior priority ground water rights held by Falls.

Falls is reserving the right to participate in the hearing on the Director’s calculation of its “proportionate share” of the April forecasted injury and that matter is set to be heard June 6-10, 2023. Falls reserves all rights with respect to this issue and by communicating this notice does not waive any of those rights with respect to the Director’s order. Whether the District’s proportionate share will change is unknown at this time.

Notwithstanding, Falls hereby provides notice of available mitigation water and requests that you confirm to the Director that the proportionate share of Falls’ 2023 storage allocation will be available for assignment and delivery to mitigate injury to TFCC as predicted in the April Order if necessary. As you may be aware Falls carried over 13,722 acre-feet in its Palisades Reservoir space from 2022, and its American Falls Reservoir space is currently filling in 2023.

Regardless of the final allocation, it is believed that Falls has sufficient storage to deliver to injured Coalition members, including TFCC, for mitigation purposes if required.



MARTEN LAW

Falls believes this letter satisfies the Director's April Order. If you have any questions please call me at (208) 336-0700.

Sincerely,

/s/ John Simpson

John Simpson
Partner

Direct: (208) 999-5903
Email: jsimpson@martenlaw.com

cc: Sean Tischendorf, Falls Irrigation District