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DEPARTMENT OF  
WATER RESOURCES

April 30, 2024

**VIA U.S. MAIL AND EMAIL**

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Water District 01  
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**Re: SWC Delivery Call / Notice of Mitigation Water (*Final Order Regarding April 2023 Forecast Supply (Steps 1-3)*)**

Dear Craig:

I am writing on behalf of the Falls Irrigation District (“Falls” or “District”) in reference to the Director’s April 18, 2024 *Final Order Regarding April 2024 Forecast Supply* (“April Order”). In that order the Director noted that affected junior ground water right holders must establish “that they can mitigate for their proportionate share of the predicted April IDS of 74,100 acre-feet in accordance with an approved mitigation plan.” See April Order at 6. Further, the April Order identifies that consumptive water rights bearing priority dates junior to March 31, 1954 must establish said mitigation.

Given that Falls has both surface(natural flow and storage) and groundwater use within the District and in the name of the District, it is unclear whether it may utilize said rights as mitigation without filing a “approved mitigation plan?” Further, Prior to Falls being developed the federal government undertook an extensive study to determine the potential impact of operations on existing water rights. The conclusion of those studies were that Falls’ operations(diversion of surface and groundwater)would have no hydrologic impact. Hence, it is unclear to Falls whether and why the April Order would apply to Falls’ water rights.

Notwithstanding the above statements, to Falls’ knowledge, the Director has not yet identified Falls’ proportionate share with respect to certain junior priority ground water rights held by Falls. Hence, Falls is unclear on how to respond to ensure compliance with the April Order. In light of these circumstances and the uncertainty as to the potential mitigation offered by other parties, including IGWA, Falls intends to file a mitigation plan with the Department. Further, unlike other groundwater entities, Falls has storage in the upper Snake Basin. Falls has contacted the SWC and SWC has consented to accept direct storage water delivery as 2024 mitigation given the immediate proximity of Falls’ service area and alleged impact to the Snake River, the priority of Falls groundwater rights and the historical development and conservation measures of the District.



## MARTEN LAW

Falls hereby provides notice of available mitigation water and requests that you confirm to the Director that the proportionate share of Falls' 2024 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 the upper Snake storage system is currently under flood control operations. Hence, there should be little question as to the availability of storage to fill any such assignment.

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. Additionally, Falls has confirmed with SWC members that should Falls owe mitigation at the time of need, given Falls' unique circumstances, SWC will accept a direct storage delivery. This agreement is similar to the Jenco Acres situation a few years ago.

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

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cc: Shawn Tischendorf, Falls Irrigation District  
Director Mat Weaver