

**MARTEN LAW**

May 1, 2024

Via Email Only

Director Mat Weaver
Idaho Dept. of Water Resources
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RE: SWC Delivery Call / Notice of Mitigation Water (*Final Order Regarding April 2024 Forecast Supply (Steps 1-3)*)

Dear Director Weaver:

I am writing on behalf of our client the A&B Irrigation District (“A&B” or “District”) in response to the *Final Order Regarding April 2024 Forecast Supply* (“Order”) (April 18, 2024). This letter responds to the request for junior ground water right holders to establish how they will mitigate for their proportionate share of the predicted demand shortfall. *See Order* at 6, ¶ 7.

A&B has an approved mitigation plan regarding the above delivery call and order. The plan was stipulated to by the SWC last year and it was the District’s belief with that stipulation it would not have to send this annual letter. The District requests confirmation of this going forward.

I have conferred with manager Justin Temple and it is the District’s intent to continue to curtail the enlargement water rights (2,063 acres) for the 2024 irrigation season. The District will also deliver surface water to an additional 1,510.6 acres that could have been irrigated with some of the District’s ground water rights with an April 1, 1962 priority (water right nos. 36-15127A et al.). The District intends to continue to deliver surface water to lands formerly irrigated with groundwater, approximately 3,573.6 in total, with groundwater supplied to certain areas as needed for pipeline operations.

Based upon similar prior correspondence on this issue with IDWR it is my understanding that this notice will satisfy the request stated in the *Order*. However, to the extent that A&B needs to also show that it has 455 acre-feet of storage to deliver to TFCC, that water is expected to be available in its final storage allocation for the 2024 irrigation (American Falls and Palisades storage space). If necessary, that amount of storage can be assigned from A&B to TFCC through Water District 01. Please advise if you have any questions.

Director Mat Weaver

May 1, 2024

Page - 2

As to IDWR's calculation of the District's proportionate share it is unclear if the Department is assuming full groundwater delivery to those acres covered by water rights junior to 1954. As noted, the District is delivering surface water to 3,573.6 acres, so if that proportionate share is revised based upon that fact please advise as to any changes.

Finally, although the District disagrees with and reserves all rights concerning the *Order* initially allowing IGWA to choose to mitigate under its 2009 Storage Water Mitigation Plan, if IGWA does establish that it has 74,100 acre-feet, then A&B will no longer have any obligation for the 2024 irrigation season. *See Order* at 5-6, n. 8. It is the District's understanding this issue will be addressed at the May 3, 2024 status conference scheduled by the Director.

If you have any questions or need additional information, please contact me at (208) 733-0700.

Sincerely,



Travis Thompson
Partner

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cc: Justin Temple
Craig Chandler, Water District 01
Garrick Baxter