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May 02, 2024

DEPARTMENT OF  
WATER RESOURCES

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*Attorney for Bonneville-Jefferson Ground Water District*

**STATE OF IDAHO**

**DEPARTMENT OF WATER RESOURCES**

IN THE MATTER OF THE DISTRIBUTION  
OF WATER TO VARIOUS WATER RIGHTS  
HELD BY AND 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  
CM-MP-2009-006  
CM-MP-2009-007

**BJGWD’S NOTICE OF MITIGATION  
IN RESPONSE TO APRIL 2024 AS-  
APPLIED ORDER (METHODOLOGY  
STEPS 1 – 3)**

The Bonneville Jefferson Ground Water District (hereafter “Bonneville-Jefferson”), acting for and on behalf of its respective members, through counsel, submits this notice to the Director of the Idaho Department of Water (hereafter “Director”) in response to the his *Final Order Regarding April 2024 Forecast Supply (Methodology Steps 1-3)* (hereafter “2024 April As-Applied Order”) issued April 18, 2024. The 2024 April As-Applied Order predicts a total in-season demand shortfall (hereafter “IDS”) of 74,100 acre-feet for the Surface Water Coalition (hereafter “SWC”).

Conclusions of Law No. 6 provides in relevant part that:

Junior ground water users holding consumptive water rights bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply must mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan. Junior ground water users mitigating for their proportionate share of the predicted April IDS with a secured volume of water pursuant to an approved mitigation plan must, to the satisfaction of the Director, secure their proportionate share for delivery to the injured members of the SWC on or before May 2, 2024.

2024 *As Applied Order*, pp. 5-6 (emphasis added).

Conclusions of Law No. 7 provides that:

If, on or before May 2, 2024, ground water users holding consumptive water rights bearing priority dates junior to March 31, 1954, within the Eastern Snake Plain Aquifer area of common ground water supply fail to establish, to the satisfaction of the Director, 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, the Director will issue an order curtailing the junior-priority ground water user. Junior ground water users who are mitigating with a secured volume of water are not required to assign the secured volume of water until after the Director issues a subsequent order requiring the assignment of the water.

*Id.* (emphasis added).

The Director's June 3, 2010, *Order Approving Mitigation Plan* permits the rental of storage water to mitigate the IDS of the SWC. Bonneville-Jefferson maintains that the proportionate share of the 2024 Demand Shortfall for IGWA is 66,102 ac-ft based on the reasons set forth in the set forth in the *Declaration of Sophia Sigstedt* filed May 2, 2024, in this matter. Bonneville-Jefferson's proportionate share of IGWA's proportionate share is 8,928 ac-ft. *Id.* at ¶ 12. Accordingly, Bonneville-Jefferson will mitigate this season by providing its proportionate share of the IDS from the leases attached hereafter as Exhibit "A".

In addition to delivering storage water to the SWC, Bonneville-Jefferson has and will continue to perform mitigation consistent with the activities it proposed in the *Petition for Approval of Bonneville-Jefferson Ground Water District's Conservation Mitigation Plan for the Surface Water Coalition* filed on December 19, 2023. Consistent with its individual plan,

Bonneville-Jefferson has already conducted 8,000 ac-ft, out of 9,000 ac-ft, of aquifer recharge within its District during the 2024 irrigation season. See Exhibit “B”. Its members will also conserve their pumping consistent with their historic pumping reductions. These activities combined with the delivery of an additional 8,928 ac-ft of storage water to SWC, will mitigate Bonneville-Jefferson’s members proportionate share of the calculated ISD predicted under the 2024 As-Applied Order.

For these reasons, Bonneville-Jefferson respectfully requests that the Director find the mitigation activities listed above to be satisfactory and refrain from curtailing any of its members’ ground water diversions during the 2024 irrigation season.

DATED: May 2, 2024

OLSEN TAGGART PLLC

/s/ *Skyler C. Johns*

SKYLER C. JOHNS

## CERTIFICATE OF SERVICE

I hereby certify that on this 2<sup>nd</sup> day of May 2024, I served the foregoing document on the persons below via email as indicated:

*/s/ Skyler C. Johns*

Director Mathew Weaver Garrick Baxter, Deputy Attorney General Sarah Tschohl, Paralegal Idaho Department of Water Resources 322 E. Front St. Boise, Idaho 83720-0098	<a href="mailto:Mat.weaver@idwr.idaho.gov">Mat.weaver@idwr.idaho.gov</a> <a href="mailto:garrick.baxter@idwr.idaho.gov">garrick.baxter@idwr.idaho.gov</a> <a href="mailto:sarah.tschohl@idwr.idaho.gov">sarah.tschohl@idwr.idaho.gov</a> <a href="mailto:file@idwr.idaho.gov">file@idwr.idaho.gov</a>
John K. Simpson Marten Law LLP P.O. Box 2139 Boise, Idaho 83701-2139 Travis L. Thompson Marten Law LLP 163 Second Ave. W. P.O. Box 63 Twin Falls, Idaho 83303-0063 Abby R. Bitzenburg Marten Law LLP 163 Second Ave. W. P.O. Box 63 Twin Falls, Idaho 83303-0063	<a href="mailto:jsimpson@martenlaw.com">jsimpson@martenlaw.com</a>  <a href="mailto:tthompson@martenlaw.com">tthompson@martenlaw.com</a>  <a href="mailto:abitzenburg@martenlaw.com">abitzenburg@martenlaw.com</a>
Dylan Anderson DYLAN ANDERSON LAW PO BOX 35 Rexburg, ID 83440	<a href="mailto:dylan@dylanandersonlaw.com">dylan@dylanandersonlaw.com</a>
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318	<a href="mailto:wkf@pmt.org">wkf@pmt.org</a>
Kathleen Marion Carr US DEPT. INTERIOR 960 Broadway Ste 400 Boise, ID 83706	<a href="mailto:kathleenmarion.carr@sol.doi.gov">kathleenmarion.carr@sol.doi.gov</a>

<p>David W. Gehlert  Natural Resources Section  Environment and Natural Resources Division  U.S. DEPARTMENT OF JUSTICE  999 18th St., South Terrace, Suite 370  Denver, CO 80202</p>	<p><a href="mailto:david.gehlert@usdoj.gov">david.gehlert@usdoj.gov</a></p>
<p>Matt Howard  US BUREAU OF RECLAMATION  1150 N Curtis Road  Boise, ID 83706-1234</p>	<p><a href="mailto:mhoward@usbr.gov">mhoward@usbr.gov</a></p>
<p>Sarah A Klahn  Maximillian C. Bricker  SOMACH SIMMONS &amp; DUNN  2033 11th Street, Ste 5  Boulder, Co 80302</p>	<p><a href="mailto:sklahn@somachlaw.com">sklahn@somachlaw.com</a>  <a href="mailto:mbricker@somachlaw.com">mbricker@somachlaw.com</a>  <a href="mailto:dthompson@somachlaw.com">dthompson@somachlaw.com</a></p>
<p>Rich Diehl  CITY OF POCATELLO  P.O. Box 4169  Pocatello, ID 83205</p>	<p><a href="mailto:rdiehl@pocatello.us">rdiehl@pocatello.us</a></p>
<p>Candice McHugh  Chris Bromley  MCHUGH BROMLEY, PLLC  380 South 4th Street, Suite 103  Boise, ID 83 702</p>	<p><a href="mailto:cbromley@mchughbromley.com">cbromley@mchughbromley.com</a>  <a href="mailto:cmchugh@mchughbromley.com">cmchugh@mchughbromley.com</a></p>
<p>Robert E. Williams  WILLIAMS, MESERVY, &amp; LOTH SPEICH, LLP  P.O. Box 168  Jerome, ID 83338</p>	<p><a href="mailto:rewilliams@wmlattys.com">rewilliams@wmlattys.com</a></p>
<p>Robert L. Harris  HOLDEN, KIDWELL, HAHN &amp; CRAPO, PLLC  P.O. Box 50130  Idaho Falls, ID 83405</p>	<p><a href="mailto:rharris@holdenlegal.com">rharris@holdenlegal.com</a></p>
<p>Randall D. Fife  City Attorney  CITY OF IDAHO FALLS  P.O. Box 50220  Idaho Falls, ID 83405</p>	<p><a href="mailto:rfife@idahofallsidaho.gov">rfife@idahofallsidaho.gov</a></p>

<p>William A. Parsons  PARSONS SMITH &amp; STONE  P.O. Box 910  Burley, ID 83318</p>	<p><a href="mailto:wparsons@pmt.org">wparsons@pmt.org</a></p>
<p>Thomas J. Budge  Elisheva M. Patterson  RACINE OLSON, PLLP  201 E. Center St. / P.O. Box 1391  Pocatello, Idaho 83204</p>	<p><a href="mailto:tj@racineolson.com">tj@racineolson.com</a>  <a href="mailto:elisheva@racineolson.com">elisheva@racineolson.com</a></p>
<p>Michael A. Kirkham  City Attorney  CITY OF IDAHO FALLS  P.O. Box 50220  Idaho Falls, ID 83405</p>	<p><a href="mailto:mirkham@idahofallsidaho.gov">mirkham@idahofallsidaho.gov</a></p>
<p>Corey Skinner  IDWR-Southern Region  1341 Fillmore St., Ste. 200  Twin Falls, ID 83301-3033</p>	<p><a href="mailto:corey.skinner@idwr.idaho.gov">corey.skinner@idwr.idaho.gov</a></p>
<p>Craig Chandler  IDWR-Eastern Region  900 N. Skyline Drive, Ste. A  Idaho Falls, ID 83402</p>	<p><a href="mailto:craig.chandler@idwr.idaho.gov">craig.chandler@idwr.idaho.gov</a></p>
<p>Andrew J. Waldera  SAWTOOTH LAW OFFICES, PLLC  1101 W. River Street, Suite 110  Boise, ID 83702</p>	<p><a href="mailto:andy@sawtoothlaw.com">andy@sawtoothlaw.com</a></p>
<p>Jerry Rigby  RIGBY, ANDRUS &amp; RIGBY LAW, PLLC  P.O. Box 250  Rexburg, ID 83440</p>	<p><a href="mailto:jrigby@rex-law.com">jrigby@rex-law.com</a></p>

# EXHIBIT

A

## STORAGE WATER LEASE

This Storage Water Lease ("Lease") is entered into between New Sweden Irrigation District whose address is 2350 W 171h , Idaho 83402 ("Lessor"), and Idaho Ground Water Appropriators ("Leasee") % Bob Turner, 2498 Brandon Drive, Idaho Falls, ID 83402, a non-profit corporation.

### RECITALS

- A. Lessor has the right to use, lease, and assign storage water allocated and available to Lessor as a space holder in the Idaho Water District 1 reservoir system under Lessor's Storage Water Contracts with the United States Bureau of Reclamation ("Reclamation").
- B. Idaho Ground Water Appropriators desires to lease storage water to satisfy mitigation obligations determined by the Director of the Idaho Department of Water Resources ("Department") and related purposes, such as aquifer recharge and converting farmland from ground to surface water irrigation.
- C. Lessor desires to lease storage water to Idaho Ground Water Appropriators, and Idaho Ground Water Appropriators desires to lease storage water from Lessor, under the terms of this Lease.

### LEASE

1. **Storage Water Lease.** Lessor hereby leases to Idaho Ground Water Appropriators 5,000 acre-feet of storage water for 2024 only, at which Idaho Ground Water Appropriators is required to pay rent as follows at \$70.00 per acre-foot.
2. **Term.** The initial term of this Lease shall be for a period of one (1) year, commencing May 2, 2024, and ending October 31, 2024.
3. **Payment of Rent.** Idaho Ground Water Appropriators will pay the rent to Lessor on or before 60 days following receipt of the invoice.
4. **Administrative Fees.** Idaho Ground Water Appropriators will pay all administrative fees imposed by Water District 1 and the Idaho Water Resource Board.
5. **Use of Leased Water.**
  - 5.1 **Title assignment.** delivery, and use of leased storage water will be determined by Idaho Ground Water Appropriators and is subject to the final accounting for the year by the Watermaster of Water District 1 and any applicable Water District 1 Rental Pool Rules.



5.2 This Lease does not include any right to use storage water below Milner Dam.

5.3 The storage water available to Idaho Ground Water Appropriators under this Lease may be assigned and delivered by Idaho Ground Water Appropriators to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to November 1, 2024.

5.4 Any storage water not used or assigned by Idaho Ground Water Appropriators GWD by October 31, 2024, shall remain in the Lessor's Water District 1 storage account and then belong only to the Lessor.

5.5 Lessor understands that any storage water leased may be subject to the Water District 1 Rental Pool Rules.

**6. Representations by Lessor.** Lessor covenants and represents that:

6.1 It will provide to Idaho Ground Water Appropriators by October 31, 2024, all storage water leased under this Lease.

6.2 It is the true and lawful owner of the storage water and nothing restricts or precludes Lessor from entering into this Lease.

**7. Breach.** If either party defaults in the performance of its obligations under this Lease, and such default is not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at its option, may elect any or all of the following cumulative remedies:

(a) Terminate this Lease;

(b) Seek specific performance of this Lease;

**8. Assignment.** This Lease may not be assigned by Idaho Ground Water Appropriators without the express written consent of the Lessor, but the storage water leased by Idaho Ground Water Appropriators under this Lease may be assigned or otherwise made available to any other person or entity.

**9. Dispute Resolution.** Any substantial dispute between the parties shall be resolved by the following provisions.

9.1 Good Faith Negotiation. Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by negotiation.

9.2 Mediation. If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation by a mediator designated by mutual Lease of the parties. The mediation will be

held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

9.3 Litigation. Litigation is allowed between the parties only: (i) if the dispute is not resolved by mediation, (ii) to enforce a settlement Lease entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief does not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs.

9.4 Governing Law, Jurisdiction, and Venue. This Lease will be construed and interpreted by the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction, and agree that Bonneville County is the proper venue.

9.5 Exclusive Procedures. The procedures specified in section 11 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in sections 11.1 and 11.2 are pending.

10. Notices. All notices given pursuant to this Lease must be in writing and shall be sent in one of the following manners: (a) by certified mail, return receipt requested, postage prepaid; (b) by recognized overnight courier such as Federal Express; (c) by facsimile transmission; (d) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received on the earlier of actual receipt, three days after mailing for certified mail and regular mail, the next business day if given by fax, or the date the receiving party acknowledges receipt of email notice.

**ADDRESSES TO BE USED FOR NOTICES AND DELIVERY OF LEASE PAYMENTS SHALL BE AS FOLLOWS:**

Lessor: Mew Sweden Irrigation District  
**2350 W 17<sup>th</sup> S**  
Idaho Falls, ID 83402

Lessee: Idaho Ground Water Appropriators  
% Bob Turner  
2498 Brandon Drive  
Idaho Falls, ID 83402

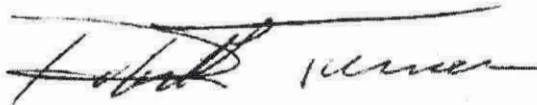
Copy to: Bob Turner, Executive  
Director  
[bob.igwa@gmail.com](mailto:bob.igwa@gmail.com)

Either party may change its designated address by providing written notice of such change to the other party.

11. **Binding Effect.** This Lease shall be binding upon the respective heirs, successors, and assigns of the parties.

DATED this 2nd day of May 2023.

**LESSEE:** \_\_\_\_\_



May 2, 2024

**Date**

Idaho Ground Water Appropriators  
Bob Turner – Executive Director

**LESSOR:** \_\_\_\_\_



May 2, 2024

**Date**

New Sweden Irrigation District  
2350 W 17<sup>th</sup> S  
Idaho Falls, ID 83402

## STORAGE WATER LEASE

This Storage Water Lease ("Lease") is entered into between Harrison Canal and Irrigation whose address is 1381 E 65 N, Idaho 83401 ("Lessor"), and Idaho Ground Water Appropriators ("Lessee") % Bob Turner, 2498 Brandon Drive, Idaho Falls, ID 83402, a non-profit corporation.

### RECITALS

- A. Lessor has the right to use, lease, and assign storage water allocated and available to Lessor as a space holder in the Idaho Water District 1 reservoir system under Lessor's Storage Water Contracts with the United States Bureau of Reclamation ("Reclamation").
- B. Idaho Ground Water Appropriators desires to lease storage water to satisfy mitigation obligations determined by the Director of the Idaho Department of Water Resources ("Department") and related purposes, such as aquifer recharge and converting farmland from ground to surface water irrigation.
- C. Lessor desires to lease storage water to Idaho Ground Water Appropriators, and Idaho Ground Water Appropriators desires to lease storage water from Lessor, under the terms of this Lease.

### LEASE

1. **Storage Water Lease.** Lessor hereby leases to Idaho Ground Water Appropriators 2,500 acre-feet of storage water for 2024 only, at which Idaho Ground Water Appropriators is required to pay rent as follows at \$65.00 per acre-foot.
2. **Term.** The initial term of this Lease shall be for a period of one (1) year, commencing May 2, 2024, and ending October 31, 2024.
3. **Payment of Rent.** Idaho Ground Water Appropriators will pay the rent to Lessor on or before 60 days following receipt of the invoice.
4. **Administrative Fees.** Idaho Ground Water Appropriators will pay all administrative fees imposed by Water District 1 and the Idaho Water Resource Board.
5. **Use of Leased Water.**
  - 5.1 The assignment, delivery, and use of leased storage water will be determined by Idaho Ground Water Appropriators and is subject to the final accounting for the year by the Watermaster of Water District 1 and any applicable Water District 1 Rental Pool Rules.

5.2 This Lease does not include any right to use storage water below Milner Dam.

5.3 The storage water available to Idaho Ground Water Appropriators under this Lease may be assigned and delivered by Idaho Ground Water Appropriators to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to November 1, 2024.

5.4 Any storage water not used or assigned by Idaho Ground Water Appropriators GWD by October 31, 2024, shall remain in the Lessor's Water District 1 storage account and then belong only to the Lessor.

5.5 Lessor understands that any storage water leased may be subject to the Water District 1 Rental Pool Rules.

**6. Representations by Lessor.** Lessor covenants and represents that:

6.1 It will provide to Idaho Ground Water Appropriators by October 31, 2024, all storage water leased under this Lease.

6.2 It is the true and lawful owner of the storage water and nothing restricts or precludes Lessor from entering into this Lease.

**7. Breach.** If either party defaults in the performance of its obligations under this Lease, and such default is not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at its option, may elect any or all of the following cumulative remedies:

(a) Terminate this Lease;

(b) Seek specific performance of this Lease;

**8. Assignment.** This Lease may not be assigned by Idaho Ground Water Appropriators without the express written consent of the Lessor, but the storage water leased by Idaho Ground Water Appropriators under this Lease may be assigned or otherwise made available to any other person or entity.

**9. Dispute Resolution.** Any substantial dispute between the parties shall be resolved by the following provisions.

9.1 Good Faith Negotiation. Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by negotiation.

9.2 Mediation. If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation by a mediator designated by mutual Lease of the parties. The mediation will be

held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

9.3 Litigation. Litigation is allowed between the parties only: (i) if the dispute is not resolved by mediation, (ii) to enforce a settlement Lease entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief does not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs.

9.4 Governing Law, Jurisdiction, and Venue. This Lease will be construed and interpreted by the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction, and agree that Bonneville County is the proper venue.

9.5 Exclusive Procedures. The procedures specified in section 11 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in sections 11.1 and 11.2 are pending.

**10. Notices.** All notices given pursuant to this Lease must be in writing and shall be sent in one of the following manners: (a) by certified mail, return receipt requested, postage prepaid; (b) by recognized overnight courier such as Federal Express; (c) by facsimile transmission; (d) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received on the earlier of actual receipt, three days after mailing for certified mail and regular mail, the next business day if given by fax, or the date the receiving party acknowledges receipt of email notice.

**ADDRESSES TO BE USED FOR NOTICES AND DELIVERY OF LEASE PAYMENTS SHALL BE AS FOLLOWS:**

Lessor: Harrison Canal and Irrigation  
1381 E 65 N  
Idaho Falls, ID  
83401

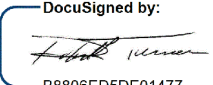
Leasee: Idaho Ground Water Appropriators  
% Bob Turner  
2498 Brandon Drive  
Idaho Falls, ID 83402

Copy to: Bob Turner, Executive  
Director  
[bob.igwa@gmail.com](mailto:bob.igwa@gmail.com)

Either party may change its designated address by providing written notice of such change to the other party.

11. **Binding Effect.** This Lease shall be binding upon the respective heirs, successors, and assigns of the parties.

DATED this 2nd day of May 2023.

**LESSEE:**  DocuSigned by: 5/2/2024  
B8806ED5DE01477... \_\_\_\_\_  
**Date**

Idaho Ground Water Appropriators  
Bob Turner – Executive Director

**LESSOR:**  DocuSigned by: 5/2/2024  
C95B0DBD777C4B1... \_\_\_\_\_  
**Date**

Harrison Canal and Irrigation  
1381 E 65 N  
Idaho Falls, ID 83401

## STORAGE WATER LEASE

This Storage Water Lease (“Lease”) is entered into between Idaho Irrigation District whose address is 496 E 14th St, Idaho 83404 (“Lessor”), and Idaho Ground Water Appropriators (“Lessee”) % Bob Turner, 2498 Brandon Drive, Idaho Falls, ID 83402, a non-profit corporation.

### RECITALS

- A. Lessor has the right to use, lease, and assign storage water allocated and available to Lessor as a space holder in the Idaho Water District 1 reservoir system under Lessor’s Storage Water Contracts with the United States Bureau of Reclamation (“Reclamation”).
- B. Idaho Ground Water Appropriators desires to lease storage water to satisfy mitigation obligations determined by the Director of the Idaho Department of Water Resources (“Department”) and related purposes, such as aquifer recharge and converting farmland from ground to surface water irrigation.
- C. Lessor desires to lease storage water to Idaho Ground Water Appropriators, and Idaho Ground Water Appropriators desires to lease storage water from Lessor, under the terms of this Lease.

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5. **Use of Leased Water.**
  - 5.1 The assignment, delivery, and use of leased storage water will be determined by Idaho Ground Water Appropriators and is subject to the final accounting for the year by the Watermaster of Water District 1 and any applicable Water District 1 Rental Pool Rules.



5.2 This Lease does not include any right to use storage water below Milner Dam.

5.3 The storage water available to Idaho Ground Water Appropriators under this Lease may be assigned and delivered by Idaho Ground Water Appropriators to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to November 1, 2024.

5.4 Any storage water not used or assigned by Idaho Ground Water Appropriators GWD by October 31, 2024, shall remain in the Lessor's Water District 1 storage account and then belong only to the Lessor.

5.5 Lessor understands that any storage water leased may be subject to the Water District 1 Rental Pool Rules.

**6. Representations by Lessor.** Lessor covenants and represents that:

6.1 It will provide to Idaho Ground Water Appropriators by October 31, 2024, all storage water leased under this Lease.

6.2 It is the true and lawful owner of the storage water and nothing restricts or precludes Lessor from entering into this Lease.

**7. Breach.** If either party defaults in the performance of its obligations under this Lease, and such default is not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at its option, may elect any or all of the following cumulative remedies:

(a) Terminate this Lease;

(b) Seek specific performance of this Lease;

**8. Assignment.** This Lease may not be assigned by Idaho Ground Water Appropriators without the express written consent of the Lessor, but the storage water leased by Idaho Ground Water Appropriators under this Lease may be assigned or otherwise made available to any other person or entity.

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held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

9.3 Litigation. Litigation is allowed between the parties only: (i) if the dispute is not resolved by mediation, (ii) to enforce a settlement Lease entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief does not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs.

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9.5 Exclusive Procedures. The procedures specified in section 11 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in sections 11.1 and 11.2 are pending.

**10. Notices.** All notices given pursuant to this Lease must be in writing and shall be sent in one of the following manners: (a) by certified mail, return receipt requested, postage prepaid; (b) by recognized overnight courier such as Federal Express; (c) by facsimile transmission; (d) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received on the earlier of actual receipt, three days after mailing for certified mail and regular mail, the next business day if given by fax, or the date the receiving party acknowledges receipt of email notice.

**ADDRESSES TO BE USED FOR NOTICES AND DELIVERY OF LEASE PAYMENTS SHALL BE AS FOLLOWS:**

Lessor: Idaho Irrigation District  
496 E 14th St,  
Idaho Falls, ID 83404

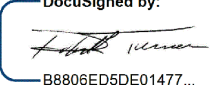
Lessee: Idaho Ground Water Appropriators  
% Bob Turner  
2498 Brandon Drive  
Idaho Falls, ID 83402

Copy to: Bob Turner, Executive  
Director  
[bob.igwa@gmail.com](mailto:bob.igwa@gmail.com)

Either party may change its designated address by providing written notice of such change to the other party.

11. **Binding Effect.** This Lease shall be binding upon the respective heirs, successors, and assigns of the parties.

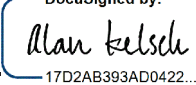
DATED this 2nd day of May 2023.

LESSEE:  DocuSigned by: 5/2/2024  
B8806ED5DE01477...  

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Date

Idaho Ground Water Appropriators  
Bob Turner – Executive Director

LESSOR:  DocuSigned by: 5/2/2024  
17D2AB393AD0422...  

---

Date

Idaho Irrigation District  
496 E 14th St,  
Idaho Falls, ID 83404

## STORAGE WATER LEASE

This Storage Water Lease ("Lease") is entered into between Enterprize Canal Company whose address is 4861 N 44th E, Idaho 83401 ("Lessor"), and Idaho Ground Water Appropriators ("Lessee") % Bob Turner, 2498 Brandon Drive, Idaho Falls, ID 83402, a non-profit corporation.

### RECITALS

- A. Lessor has the right to use, lease, and assign storage water allocated and available to Lessor as a space holder in the Idaho Water District 1 reservoir system under Lessor's Storage Water Contracts with the United States Bureau of Reclamation ("Reclamation").
- B. Idaho Ground Water Appropriators desires to lease storage water to satisfy mitigation obligations determined by the Director of the Idaho Department of Water Resources ("Department") and related purposes, such as aquifer recharge and converting farmland from ground to surface water irrigation.
- C. Lessor desires to lease storage water to Idaho Ground Water Appropriators, and Idaho Ground Water Appropriators desires to lease storage water from Lessor, under the terms of this Lease.

### LEASE

1. **Storage Water Lease.** Lessor hereby leases to Idaho Ground Water Appropriators 5,000 acre-feet of storage water for 2024 only, at which Idaho Ground Water Appropriators is required to pay rent as follows at \$70.00 per acre-foot.
2. **Term.** The initial term of this Lease shall be for a period of one (1) year, commencing May 2, 2024, and ending October 31, 2024.
3. **Payment of Rent.** Idaho Ground Water Appropriators will pay the rent to Lessor on or before 60 days following receipt of the invoice.
4. **Administrative Fees.** Idaho Ground Water Appropriators will pay all administrative fees imposed by Water District 1 and the Idaho Water Resource Board.
5. **Use of Leased Water.**
  - 5.1 The assignment, delivery, and use of leased storage water will be determined by Idaho Ground Water Appropriators and is subject to the final accounting for the year by the Watermaster of Water District 1 and any applicable Water District 1 Rental Pool Rules.

5.2 This Lease does not include any right to use storage water below Milner Dam.

5.3 The storage water available to Idaho Ground Water Appropriators under this Lease may be assigned and delivered by Idaho Ground Water Appropriators to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to November 1, 2024.

5.4 Any storage water not used or assigned by Idaho Ground Water Appropriators GWD by October 31, 2024, shall remain in the Lessor's Water District 1 storage account and then belong only to the Lessor.

5.5 Lessor understands that any storage water leased may be subject to the Water District 1 Rental Pool Rules.

**6. Representations by Lessor.** Lessor covenants and represents that:

6.1 It will provide to Idaho Ground Water Appropriators by October 31, 2024, all storage water leased under this Lease.

6.2 It is the true and lawful owner of the storage water and nothing restricts or precludes Lessor from entering into this Lease.

**7. Breach.** If either party defaults in the performance of its obligations under this Lease, and such default is not cured within thirty (30) days after receipt of written notice thereof, the non-breaching party, at its option, may elect any or all of the following cumulative remedies:

(a) Terminate this Lease;

(b) Seek specific performance of this Lease;

**8. Assignment.** This Lease may not be assigned by Idaho Ground Water Appropriators without the express written consent of the Lessor, but the storage water leased by Idaho Ground Water Appropriators under this Lease may be assigned or otherwise made available to any other person or entity.

**9. Dispute Resolution.** Any substantial dispute between the parties shall be resolved by the following provisions.

9.1 Good Faith Negotiation. Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by negotiation.

9.2 Mediation. If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation by a mediator designated by mutual Lease of the parties. The mediation will be

held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

9.3 Litigation. Litigation is allowed between the parties only: (i) if the dispute is not resolved by mediation, (ii) to enforce a settlement Lease entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief does not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs.

9.4 Governing Law, Jurisdiction, and Venue. This Lease will be construed and interpreted by the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction, and agree that Bonneville County is the proper venue.

9.5 Exclusive Procedures. The procedures specified in section 11 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in sections 11.1 and 11.2 are pending.

**10. Notices.** All notices given pursuant to this Lease must be in writing and shall be sent in one of the following manners: (a) by certified mail, return receipt requested, postage prepaid; (b) by recognized overnight courier such as Federal Express; (c) by facsimile transmission; (d) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received on the earlier of actual receipt, three days after mailing for certified mail and regular mail, the next business day if given by fax, or the date the receiving party acknowledges receipt of email notice.

**ADDRESSES TO BE USED FOR NOTICES AND DELIVERY OF LEASE PAYMENTS SHALL BE AS FOLLOWS:**

Lessor: Enterprize Canal Company  
4861 N 44th E  
Idaho Falls, ID 83401

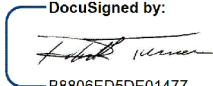
Leasee: Idaho Ground Water Appropriators  
% Bob Turner  
2498 Brandon Drive  
Idaho Falls, ID 83402

Copy to: Bob Turner, Executive  
Director  
[bob.igwa@gmail.com](mailto:bob.igwa@gmail.com)

Either party may change its designated address by providing written notice of such change to the other party.

11. **Binding Effect.** This Lease shall be binding upon the respective heirs, successors, and assigns of the parties.

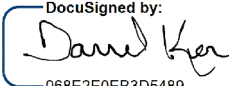
DATED this 2nd day of May 2023.

LESSEE:  5/2/2024  
DocuSigned by:  
B8806ED5DE01477...

---

**Date**

Idaho Ground Water Appropriators  
Bob Turner – Executive Director

LESSOR:  5/2/2024  
DocuSigned by:  
068E2E0EB3D5489...

---

**Date**

Enterprize Canal Company  
4861 N 44th E  
Idaho Falls, ID 83401

# EXHIBIT

## B





IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: [easterninfo@idwr.idaho.gov](mailto:easterninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Mathew Weaver

April 4, 2024

BONNEVILLE JEFFERSON GROUND WATER DISTRICT  
PO BOX 51121  
IDAHO FALLS ID 83405-1121

RE: Application for Temporary Approval of Water Use: TP-1-118

Dear Applicant:

Your application for temporary water appropriation has been approved and is enclosed. The approval authorizes the temporary use of water and does not grant trespass or other activity on public land or on private property.

Please review the **conditions of approval on page 2 of the Application for Temporary Approval form** to understand the limitations associated with the temporary use of water.

This temporary approval **expires on** . The expiration date cannot be extended under this temporary approval.

If you have any questions, please feel free to contact this office, and any of our agents will be able to assist you.

If you require additional information regarding this matter, please call me at (208) 497-3793 or email me at [Christina.Henman@idwr.idaho.gov](mailto:Christina.Henman@idwr.idaho.gov) .

Sincerely,

Christina Henman  
Administrative Asst. I.

Enclosure(s) Receipt

cc: CRAIG CHANDLER, Water District 01.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TEMPORARY APPROVAL OF WATER USE

For a use not intended to become an established water right and not to exceed one (1) year in duration in accordance with Idaho Code § 42-202A.

Name of applicant Bonneville Jefferson Ground Water District Phone (208) 521-4700  
Mailing address PO Box 51121 City Idaho Falls  
State ID \_\_\_\_\_ Zip 83402 Email brad@bjgwdistrict.com

1. Source of water Snake River tributary to Snake River  
2. Location of point(s) of diversion. If more than two, attach a Point of Diversion/Place of Use Supplement.

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County	Source	Local name or tag #
<u>04N</u>	<u>40E</u>	<u>27</u>			<u>NW</u>	<u>SW</u>	<u>Jefferson</u>	<u>Snake River</u>	<u>Harrison CC</u>
<u>04N</u>	<u>40E</u>	<u>29</u>			<u>NE</u>	<u>NW</u>	<u>Jefferson</u>	<u>Snake River</u>	<u>Rudy CC</u>

3. Location of place of use. If more rows are needed, attach a Point of Diversion/Place of Use Supplement.

TWP	RGE	SEC	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
			<u>Various farms in ground water district.</u>																	

4. Proposed use of water:  
a.  Prevention of flood damage  Ground water recharge  Ground water or surface water remediation  
 Other (Limited to a diverted volume of 5 acre-feet.) Describe: \_\_\_\_\_  
b. Attach a detailed description of how the proposal will accomplish the intended objective, such as prevention of flood damage.

5. Amount of water. Complete all three:  
a. Maximum rate of diversion: 75 cfs; or \_\_\_\_\_ gpm.  
b. Maximum daily volume: 150 AF; or \_\_\_\_\_ gallons.  
c. Maximum volume over the duration of the request: 6000 AF; or \_\_\_\_\_ gallons.  
6. Duration of diversion: from April 1, 2024 (month-day) to October 31, 2024 (month-day).

7. Describe proposed diverting works: Harrison/Rudy CC  
8. a. Who owns the property at the requested point of diversion? Harrison/Rudy CC  
b. Who owns the facilities that will convey water to the place of use? Harrison/Rudy CC  
c. Who owns the land to be irrigated or place of use? Bonneville Jefferson Ground Water District patrons  
d. If any of the items above is owned by a person or entity other than the applicant, describe the arrangement allowing access and attach written evidence of the arrangement. Members of ground water district / recharge agreements (attached)  
9. Attach an 8 1/2" x 11" map identifying the water source, point(s) of diversion, place(s) of use and conveyance system.

I hereby acknowledge that I assume all risk of the diversion and use of the water under this approval. I certify this is a temporary use and is not intended to become an established water right.

Signature of Applicant: Brad Butters (Signature) Title, if any: Manager Date: 4/3/2024

Received by: JRC Date: 4/4/2024 Time: \_\_\_\_\_  
\$50.00 fee received by: CH # E049909 Date: 3/26/2024  
Watermaster comments received? yes - standard recharge conditions Date: \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources ("Department") has examined this application for temporary approval to use water under the provisions of Idaho Code § 42-202A and has determined that:

     A. The application for temporary approval should be denied because \_\_\_\_\_  
\_\_\_\_\_

- B. The application for temporary approval should be approved, since
  1. The temporary approval can be properly administered.
  2. Other water sources are not readily available.
  3. The approval is in the public interest.
  4. The approval will not injure known public values associated with the water source or any known water rights.
  5. If the temporary approval is within a water district, the Department has sought and considered the recommendations of the watermaster.

This application is therefore hereby:

     A. DENIED

B. APPROVED, subject to the following conditions:

1. Diversion and use of water under this approval is subject to all valid existing water rights.
2. The applicant assumes all risk of the use of the water under this approval.
3. This approval authorizes a maximum diversion volume of 6,000 AF and a maximum diversion rate of 75 cfs.
4. This approval does not grant a right-of-way across the land of another.
5. The Department may cancel or reduce the rate of flow or volume authorized by this approval. For example, the Department may cancel or reduce this approval if it concludes the water use is injuring other water rights or adversely affecting fish, wildlife or other public values.
6. The applicant shall not divert water when downstream minimum flow water rights are not being satisfied.
7. This approval does not create a continuing right to use water.
8. A temporary approval for ground water recharge or prevention of flood damage shall be an opportunistic use of surplus water and shall not interfere with the filling of surface water reservoirs.
9. For a temporary approval authorizing ground water recharge or ground water or surface water remediation, the applicant shall measure and record the weekly quantity of water diverted and report the diversion data to the Department upon request.
10. This temporary approval is not an authorization for the described water use to be used as mitigation or credit for any other purpose.

11. Other: Diversion under this approval is limited to times when the flow at the Snake River near Minidoka gage (#13081500) exceeds 2,700 cfs and excess

12. This approval expires on October 31, 2024 water is spilling past Milner Dam

Signed this 4<sup>th</sup> day of April, 2024.

[Signature]  
For the Department

## GROUND WATER RECHARGE LEASE AGREEMENT

**Recharge Partner:** **Rudy Canal Company**  
c/o Dan Ferguson

**Recharge Organizer:** **Bonneville Jefferson Ground Water District**  
Brad Buttars  
PO Box 51121  
Idaho Falls, ID 83402 Phone:  
208-521-2700  
Brad@bjgwdistrict@gmail.com

**Year: 2024**

This Ground Water Recharge Lease Agreement (“Agreement”) is entered into effective April 1, 2024, between the Recharge Partner and the Recharge Organizer identified above. Recharge Partner and the Recharge Organizer are referred to herein individually as a “party” and collectively as the “parties.”

### RECITALS

A. The Recharge Organizer desires to recharge the Eastern Snake Plain Aquifer (ESPA) in order to enhance ground water levels and reach gain flows.

B. Recharge Partner owns a surface water canal system and related facilities that may be used to conduct managed ground water recharge of the ESPA, and Recharge Partner desires to conduct recharge for the Recharge Organizer pursuant to the terms and conditions of this Agreement.

### AGREEMENT

In consideration of the terms and conditions of this Agreement, and for other good and valuable consideration, the parties agree as follows:

1. **Term.** The term of this Agreement is the 2024 calendar year.

2. **Recharge Water.** Recharge Partner agrees to recharge to the ESPA the following amounts of water (the “Recharge Water”) on behalf of the Recharge Organizer:

2.1 **Recharge Organizer Natural Flow.** All water available to be diverted for recharge purposes under natural flow water rights or temporary permits owned by the Recharge Organizer.

2.2 **Recharge Organizer Natural Flow.** 1,500 acre-feet of recharge water acquired by the Recharge Organizer and assigned to Recharge Partner.

2.3 **Recharge Partner Water.** Not less than 0 or more than 0 acre-feet of natural flow owned by Recharge Partner.

**Recharge Site.** Recharge Partner will deliver the Recharge Water to one or more recharge sites via Recharge Partner’s canal system.

3. **Qualified Recharge.** Recharge Partner will recharge the Recharge Water in accordance with the recharge policy attached hereto as Appendix A.

4. **Recharge Fee.** The Recharge Organizer will pay to Recharge Partner the following amounts for water recharged to the ESPA under this Agreement:

4.1 **\$8.80 per AF** for water supplied by the Recharge Organizer under natural flow water rights, or temporary permits assigned to Recharge Partner by the Recharge Organizer.

5. **Payment of Recharge Fee.** The Recharge Organizer will pay to Recharge Partner a payment of **\$8.80** per acre foot recharged. The Recharge Organizer will pay the recharge fee within 30 days after Recharge Partner reports the total amount of water recharged pursuant to section 4 of this Agreement.

6. **Administrative Fees.** Recharge Organizer will pay all fees assessed by Water District 1.

7. **Ownership of Recharge Benefits.** The Recharge Organizer shall own all benefits or credits generated through recharge conducted under this Agreement.

8. **Dispute Resolution.** Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

8.1 **Good Faith Negotiation.** Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by good faith negotiation.

8.2 **Mediation.** If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation by a mediator designated by mutual agreement of the parties. The mediation will be held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

8.3 **Litigation.** Litigation is allowed between the parties only (i) if the dispute is not resolved by mediation, (ii) for the purpose of enforcing a settlement agreement entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief shall not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs from the non-prevailing party.

8.4 **Governing Law, Jurisdiction, and Venue.** This Agreement will be construed and interpreted in accordance with the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction and agree that Bonneville County is the proper venue.

8.5 **Exclusive Procedures.** The procedures specified in this section 10 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in section 10.1 and 10.2 are pending.

9. **Force Majeure.** Neither the Recharge Organizer nor Recharge Partner is liable for failure to perform the party's obligations if such failure is because of Acts of God (including fire, flood, earthquake, storm, or other natural disaster), war, invasion, acts of foreign enemies, rebellion, insurrection, military or usurped power or confiscation, or terrorist activities, or the like.

10. **Miscellaneous.**

**10.1 Notices.** All notices given pursuant to this Agreement must be in writing and shall be sent in one of the following manners: (1) by certified mail, return receipt requested, postage prepaid; (2) by recognized overnight courier such as Federal Express; or (3) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received earlier of actual receipt, three days after mailing for certified mail and regular mail, or the date the receiving party acknowledges receipt of email notice.

**10.2 Merger.** This Agreement supersedes all other written or verbal agreements between the parties concerning the subject matter hereof. Neither the Recharge Organizer nor Recharge Partner shall be bound by any understanding, agreement, promise, representation, or stipulation, express or implied, not specifically contained herein.

**10.3 Successors.** This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their successors and assigns.

**10.4 Counterparts.** This Agreement may be executed in any number of counterparts for all the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.


**10.5 Electronic Signatures.** Digital or scanned signatures transmitted shall be valid and effective to bind the party so signing.

**10.6 Essence of Time.** Time is of the essence in this Agreement.

COUNTERPART SIGNATURE PAGE

**RECHARGE PARTNER:**

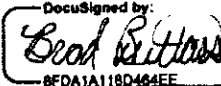
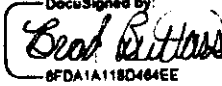
**Rudy Canal Company**

By:  4/3/2024  
Printed Name: Dan Ferguson Date  
Title: \_\_\_\_\_

COUNTERPART SIGNATURE PAGE

**Bonneville Jefferson Ground Water District**

**GROUND WATER RECHARGE ORGANIZER**

By:    
Printed Name: Brad Butters Date  
Title: Manager

**Certificate Of Completion**

Envelope Id: A7593983492F4838A6D5F8E9FE2DFE6B

Status: Completed

Subject: Complete with DocuSign: Rudy CC Natural Flow BJDWD Recharge Agreement 1500 AF -20240402.pdf

Source Envelope:

Document Pages: 5

Signatures: 3

Envelope Originator:

Certificate Pages: 5

Initials: 0

Bob Turner

AutoNav: Enabled

bob.igwa1@gmail.com

EnvelopeId Stamping: Enabled

IP Address: 162.249.29.50

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

**Record Tracking**

Status: Original

Holder: Bob Turner

Location: DocuSign

4/3/2024 9:15:33 AM

bob.igwa1@gmail.com

**Signer Events**

Brad Butters

brad@bjgwdistrict.com

Security Level: Email, Account Authentication (None)

**Signature**



Signature Adoption: Drawn on Device

Using IP Address: 174.230.196.103

Signed using mobile

**Timestamp**

Sent: 4/3/2024 9:18:26 AM

Resent: 4/3/2024 9:27:27 AM

Resent: 4/3/2024 9:44:00 AM

Viewed: 4/3/2024 12:25:42 PM

Signed: 4/3/2024 12:26:56 PM

**Electronic Record and Signature Disclosure:**

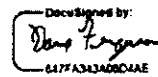
Accepted: 4/3/2024 12:25:42 PM

ID: 944836b7-9f43-4c42-9513-b10114b381e6

Dany Ferguson

fergfarm@gmail.com

Security Level: Email, Account Authentication (None)



Signature Adoption: Drawn on Device

Using IP Address: 38.43.31.174

Signed using mobile

Sent: 4/3/2024 9:18:26 AM

Viewed: 4/3/2024 2:53:44 PM

Signed: 4/3/2024 2:55:11 PM

**Electronic Record and Signature Disclosure:**

Accepted: 4/3/2024 2:53:44 PM

ID: 2a8e3d4b-8900-4514-9ecb-0e5d6a7d5cdb

**In Person Signer Events**

**Signature**

**Timestamp**

**Editor Delivery Events**

**Status**

**Timestamp**

**Agent Delivery Events**

**Status**

**Timestamp**

**Intermediary Delivery Events**

**Status**

**Timestamp**

**Certified Delivery Events**

**Status**

**Timestamp**

**Carbon Copy Events**

**Status**

**Timestamp**

**Witness Events**

**Signature**

**Timestamp**

**Notary Events**

**Signature**

**Timestamp**

**Envelope Summary Events**

**Status**

**Timestamps**

Envelope Sent

Hashed/Encrypted

4/3/2024 9:18:26 AM

Envelope Updated

Security Checked

4/3/2024 9:27:26 AM

Envelope Updated

Security Checked

4/3/2024 9:43:59 AM



## GROUND WATER RECHARGE LEASE AGREEMENT

**Recharge Partner:** **Harrison Canal**  
**Company c/o Stan Hawkins - Vice President**  
linnhawkins@prodigy.net  
208-313-5995

**Recharge Organizer:** **Bonneville Jefferson Ground Water District**  
PO Box 51121  
Idaho Falls, ID 83402  
Phone: 208-521-2700  
Brad@bjgwdistrict.com

**Year: 2024**

This Ground Water Recharge Lease Agreement (“Agreement”) is entered into effective April 1, 2024, between the Recharge Partner and the Recharge Organizer identified above. Recharge Partner and the Recharge Organizer are referred to herein individually as a “party” and collectively as the “parties.”

### RECITALS

A. The Recharge Organizer desires to recharge the Eastern Snake Plain Aquifer (ESPA) in order to enhance ground water levels and reach gain flows.

B. Recharge Partner owns a surface water canal system and related facilities that may be used to conduct managed ground water recharge of the ESPA, and Recharge Partner desires to conduct recharge for the Recharge Organizer pursuant to the terms and conditions of this Agreement.

### AGREEMENT

In consideration of the terms and conditions of this Agreement, and for other good and valuable consideration, the parties agree as follows:

1. **Term.** The term of this Agreement is the 2024 calendar year.
2. **Recharge Water.** Recharge Partner agrees to recharge to the ESPA the following amounts of water (the “Recharge Water”) on behalf of the Recharge Organizer:
  - 2.1 **Recharge Organizer Natural Flow.** All water available to be diverted for recharge purposes under natural flow water rights or temporary permits owned by the Recharge Organizer.
  - 2.2 **Recharge Organizer Natural Flow.** 3,500 acre-feet of recharge water acquired by the Recharge Organizer and assigned to Recharge Partner.
  - 2.3 **Recharge Partner Water.** Not less than 0 or more than 0 acre-feet of natural flow owned by Recharge Partner.

**Recharge Site.** Recharge Partner will deliver the Recharge Water to one or more recharge sites via Recharge Partner’s canal system.

3. **Qualified Recharge.** Recharge Partner will recharge the Recharge Water in accordance with the recharge policy attached hereto as Appendix A.

4. **Recharge Fee.** The Recharge Organizer will pay to Recharge Partner the following amounts for water recharged to the ESPA under this Agreement:

4.1 **\$8.80 per AF** for water supplied by the Recharge Organizer under natural flow water rights, or temporary permits assigned to Recharge Partner by the Recharge Organizer.

5. **Payment of Recharge Fee.** The Recharge Organizer will pay to Recharge Partner a payment of **\$8.80** per acre foot recharged. The Recharge Organizer will pay the recharge fee within 30 days after Recharge Partner reports the total amount of water recharged pursuant to section 4 of this Agreement.

6. **Administrative Fees.** Recharge Organizer will pay all fees assessed by Water District 1.

7. **Ownership of Recharge Benefits.** The Recharge Organizer shall own all benefits or credits generated through recharge conducted under this Agreement.

8. **Dispute Resolution.** Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

8.1 **Good Faith Negotiation.** Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by good faith negotiation.

8.2 **Mediation.** If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation by a mediator designated by mutual agreement of the parties. The mediation will be held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

8.3 **Litigation.** Litigation is allowed between the parties only (i) if the dispute is not resolved by mediation, (ii) for the purpose of enforcing a settlement agreement entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief shall not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs from the non-prevailing party.

8.4 **Governing Law, Jurisdiction, and Venue.** This Agreement will be construed and interpreted in accordance with the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction and agree that Bonneville County is the proper venue.

8.5 **Exclusive Procedures.** The procedures specified in this section 10 are the exclusive procedures for the resolution of disputes between the parties. All applicable statutes of limitation shall be tolled while the negotiation and mediation procedures specified in section 10.1 and 10.2 are pending.

9. **Force Majeure.** Neither the Recharge Organizer nor Recharge Partner is liable for failure to perform the party's obligations if such failure is because of Acts of God (including fire, flood, earthquake, storm, or other natural disaster), war, invasion, acts of foreign enemies, rebellion, insurrection, military or usurped power or confiscation, or terrorist activities, or the like.

10. **Miscellaneous.**

**10.1 Notices.** All notices given pursuant to this Agreement must be in writing and shall be sent in one of the following manners: (1) by certified mail, return receipt requested, postage prepaid; (2) by recognized overnight courier such as Federal Express; or (3) by email if the receiving party acknowledges receipt of the emailed notice. Notices shall be deemed received earlier of actual receipt, three days after mailing for certified mail and regular mail, or the date the receiving party acknowledges receipt of email notice.

**10.2 Merger.** This Agreement supersedes all other written or verbal agreements between the parties concerning the subject matter hereof. Neither the Recharge Organizer nor Recharge Partner shall be bound by any understanding, agreement, promise, representation, or stipulation, express or implied, not specifically contained herein.

**10.3 Successors.** This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their successors and assigns.

**10.4 Counterparts.** This Agreement may be executed in any number of counterparts for all the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.

**10.5 Electronic Signatures.** Digital or scanned signatures transmitted shall be valid and effective to bind the party so signing.

**10.6 Essence of Time.** Time is of the essence in this Agreement.

COUNTERPART SIGNATURE PAGE

**RECHARGE PARTNER:**

**Harrison Canal Company**

DocuSigned by: Stan Hawkins 4/3/2024  
By: C9580080777CA81  
Printed Name: Stan Hawkins Date  
Title: Vice President

COUNTERPART SIGNATURE PAGE

**Bonneville Jefferson Ground Water District**

**GROUND WATER RECHARGE ORGANIZER**

DocuSigned by: Brad Buttars 4/3/2024  
By: 8FDA1A118D484EE  
Printed Name: Brad Buttars Date  
Title: Manager



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: [easterninfo@idwr.idaho.gov](mailto:easterninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

Governor Brad Little

Director Mathew Weaver

April 25, 2024

BONNEVILLE JEFFERSON GROUND WATER DISTRICT  
PO BOX 51121  
IDAHO FALLS ID 83405-1121

RE: Amended Application for Temporary Approval of Water Use: TP-1-122

Dear Applicant:

Your amended application for temporary water appropriation has been approved and is enclosed. The approval authorizes the temporary use of water and does not grant trespass or other activity on public land or on private property.

Please review the **conditions of approval on page 2 of the Application for Temporary Approval form** to understand the limitations associated with the temporary use of water.

This temporary approval **expires on October 31, 2024**. The expiration date cannot be extended under this temporary approval.

If you have any questions, please feel free to contact this office, and any of our agents will be able to assist you.

If you require additional information regarding this matter, please call me at (208) 497-3793 or email me at [Christina.Henman@idwr.idaho.gov](mailto:Christina.Henman@idwr.idaho.gov).

Sincerely,

Christina Henman  
Administrative Asst. I.

Enclosure(s) Receipt

cc: CRAIG CHANDLER, Water District 01.

**AMENDED**

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**APPLICATION FOR TEMPORARY APPROVAL OF WATER USE**

For a use not intended to become an established water right and not to exceed one (1) year in duration in accordance with Idaho Code § 42-202A.

Name of applicant Bonneville Jefferson Ground Water District Phone (208) 521-2700  
Mailing address P.O. Box 51121 City Idaho Falls  
State Idaho Zip 83405 Email brad@bigwdistrict.com

1. Source of water Snake River tributary to Snake River  
2. Location of point(s) of diversion. If more than two, attach a Point of Diversion/Place of Use Supplement.

TWP	RGE	SEC	GOVT LOT	1/4	1/4	1/4	County	Source	Local name or tag #
04N	40E	29			NE	NW	Jefferson	Snake river	Rudy Canal Co

3. Location of place of use. If more rows are needed, attach a Point of Diversion/Place of Use Supplement.

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

4. Proposed use of water:  
a.  Prevention of flood damage  Ground water recharge  Ground water or surface water remediation  
 Other (Limited to a diverted volume of 5 acre-feet.) Describe: \_\_\_\_\_

b. Attach a detailed description of how the proposal will accomplish the intended objective, such as prevention of flood damage.

5. Amount of water. Complete all three:  
a. Maximum rate of diversion: 75 cfs; or \_\_\_\_\_ gpm.  
b. Maximum daily volume: 150 AF; or \_\_\_\_\_ gallons.  
c. Maximum volume over the duration of the request: 3000 AF; or \_\_\_\_\_ gallons.

6. Duration of diversion: from April 1, 2024 (month-day) to October 31, 2024 (month-day).

7. Describe proposed diverting works: Rudy Canal Co.

8. a. Who owns the property at the requested point of diversion? Rudy Canal Co.  
b. Who owns the facilities that will convey water to the place of use? Rudy Canal Co.  
c. Who owns the land to be irrigated or place of use? Bonneville Jefferson Ground Water District Patrons  
d. If any of the items above is owned by a person or entity other than the applicant, describe the arrangement allowing access and attach written evidence of the arrangement. Members of ground water district/ Recharge agreements (attached)

9. Attach an 8 1/2" x 11" map identifying the water source, point(s) of diversion, place(s) of use and conveyance system.

I hereby acknowledge that I assume all risk of the diversion and use of the water under this approval. I certify this is a temporary use and is not intended to become an established water right.

See email \_\_\_\_\_ Manager \_\_\_\_\_ 4/23/2024  
Signature of Applicant Title, if any Date

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_  
\$50.00 fee received by \_\_\_\_\_ # \_\_\_\_\_ Date \_\_\_\_\_  
Watermaster comments received? \_\_\_\_\_ Date \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources ("Department") has examined this application for temporary approval to use water under the provisions of Idaho Code § 42-202A and has determined that:

A. The application for temporary approval should be denied because \_\_\_\_\_  
\_\_\_\_\_

- B. The application for temporary approval should be approved, since
  1. The temporary approval can be properly administered.
  2. Other water sources are not readily available.
  3. The approval is in the public interest.
  4. The approval will not injure known public values associated with the water source or any known water rights.
  5. If the temporary approval is within a water district, the Department has sought and considered the recommendations of the watermaster.

This application is therefore hereby:

A. DENIED

- B. APPROVED, subject to the following conditions:
  1. Diversion and use of water under this approval is subject to all valid existing water rights.
  2. The applicant assumes all risk of the use of the water under this approval.
  3. This approval authorizes a maximum diversion volume of 3000 AF and a maximum diversion rate of 75 cfs.
  4. This approval does not grant a right-of-way across the land of another.
  5. The Department may cancel or reduce the rate of flow or volume authorized by this approval. For example, the Department may cancel or reduce this approval if it concludes the water use is injuring other water rights or adversely affecting fish, wildlife or other public values.
  6. The applicant shall not divert water when downstream minimum flow water rights are not being satisfied.
  7. This approval does not create a continuing right to use water.
  8. A temporary approval for ground water recharge or prevention of flood damage shall be an opportunistic use of surplus water and shall not interfere with the filling of surface water reservoirs.
  9. For a temporary approval authorizing ground water recharge or ground water or surface water remediation, the applicant shall measure and record the weekly quantity of water diverted and report the diversion data to the Department upon request.
  10. This temporary approval is not an authorization for the described water use to be used as mitigation or credit for any other purpose.
  11. Other: Diversion under this approval is limited to times when the flow at the Snake River near Minidoka gage (#13081500) exceeds 2,700 cfs and excess
  12. This approval expires on October 31, 2024 water is spilling past Milner Dam

Signed this 25<sup>th</sup> day of April, 2024.

  
\_\_\_\_\_  
For the Department

## GROUND WATER RECHARGE LEASE AGREEMENT

**Recharge Partner:** Rudy Canal Company  
c/o Dan Ferguson

**Recharge Organizer:** Bonneville Jefferson Ground Water District  
Brad Butters  
PO Box 51121  
Idaho Falls, ID 83402 Phone:  
208-521-2700  
Brad@bjgwdistrict@gmail.com

**Year: 2024**

This Ground Water Recharge Lease Agreement ("Agreement") is entered into effective April 1, 2024, between the Recharge Partner and the Recharge Organizer identified above. Recharge Partner and the Recharge Organizer are referred to herein individually as a "party" and collectively as the "parties."

### RECITALS

A. The Recharge Organizer desires to recharge the Eastern Snake Plain Aquifer (ESPA) in order to enhance ground water levels and reach gain flows.

B. Recharge Partner owns a surface water canal system and related facilities that may be used to conduct managed ground water recharge of the ESPA, and Recharge Partner desires to conduct recharge for the Recharge Organizer pursuant to the terms and conditions of this Agreement.

### AGREEMENT

In consideration of the terms and conditions of this Agreement, and for other good and valuable consideration, the parties agree as follows:

1. **Term.** The term of this Agreement is the 2024 calendar year.
2. **Recharge Water.** Recharge Partner agrees to recharge to the ESPA the following amounts of water (the "Recharge Water") on behalf of the Recharge Organizer:
  - 2.1 **Recharge Organizer Natural Flow.** All water available to be diverted for recharge purposes under natural flow water rights or temporary permits owned by the Recharge Organizer.
  - 2.2 **Recharge Organizer Natural Flow.** 3000 acre-feet of recharge water acquired by the Recharge Organizer and assigned to Recharge Partner.
  - 2.3 **Recharge Partner Water.** Not less than 0 or more than 0 acre-feet of natural flow owned by Recharge Partner.

**Recharge Site.** Recharge Partner will deliver the Recharge Water to one or more recharge sites via Recharge Partner's canal system.

3. **Qualified Recharge.** Recharge Partner will recharge the Recharge Water in accordance with the recharge policy attached hereto as Appendix A.



4. **Recharge Fee.** The Recharge Organizer will pay to Recharge Partner the following amounts for water recharged to the ESPA under this Agreement:

4.1 **\$8.80 per AF** for water supplied by the Recharge Organizer under natural flow water rights, or temporary permits assigned to Recharge Partner by the Recharge Organizer.

5. **Payment of Recharge Fee.** The Recharge Organizer will pay to Recharge Partner a payment of **\$8.80 per acre foot recharged**. The Recharge Organizer will pay the recharge fee within 30 days after Recharge Partner reports the total amount of water recharged pursuant to section 4 of this Agreement.

6. **Administrative Fees.** Recharge Organizer will pay all fees assessed by Water District 1.

7. **Ownership of Recharge Benefits.** The Recharge Organizer shall own all benefits or credits generated through recharge conducted under this Agreement.

8. **Dispute Resolution.** Any substantial dispute between the parties shall be resolved in accordance with the following provisions.

8.1 **Good Faith Negotiation.** Upon written notice from one party to the other, authorized representatives of the parties will attempt in good faith to resolve the dispute by good faith negotiation.

8.2 **Mediation.** If the dispute cannot be resolved by good faith negotiation, either party may demand that the dispute be subjected to mediation by a mediator designated by mutual agreement of the parties. The mediation will be held in Bonneville County, Idaho, unless the parties mutually agree to a different location. Mediator costs will be split equally between the parties.

8.3 **Litigation.** Litigation is allowed between the parties only (i) if the dispute is not resolved by mediation, (ii) for the purpose of enforcing a settlement agreement entered into between the parties, or (iii) to seek temporary injunctive relief if a party deems such action necessary to avoid irreparable damage. The pursuit or granting of temporary injunctive relief shall not excuse the parties from participating in good faith negotiation and mediation as set forth above. The prevailing party in any litigation is entitled to recover reasonable attorney fees and costs from the non-prevailing party.

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COUNTERPART SIGNATURE PAGE

**RECHARGE PARTNER:**

**Rudy Canal Company**

DocuSigned by:  
*Dan Ferguson*  
817A1192048E

4/3/2024

By: \_\_\_\_\_  
Printed Name: Dan Ferguson Date \_\_\_\_\_  
Title: \_\_\_\_\_

COUNTERPART SIGNATURE PAGE

**Bonneville Jefferson Ground Water District**

**GROUND WATER RECHARGE ORGANIZER**

DocuSigned by:  
*Brad Butters*  
817A1192048E

DocuSigned by:  
*Brad Butters*  
817A1192048E

By: \_\_\_\_\_  
Printed Name: Brad Butters Date \_\_\_\_\_  
Title: Manager

**Certificate Of Completion**

Envelope Id: A7593983482F4838A6D6F8E9FE2DFE88

Status: Completed

Subject: Complete with DocuSign: Rudy CC Natural Flow B.J.G.W.D Recharge Agreement 1500 AF -20240402.pdf

Source Envelope:

Document Pages: 5

Certificate Pages: 5

AutoNav: Enabled

Envelope Stamping: Enabled

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Signatures: 3

Initials: 0

Envelope Originator:

Bob Turner

bob.jgwa1@gmail.com

IP Address: 182.249.28.60

**Record Tracking**

Status: Original

4/3/2024 9:15:33 AM

Holder: Bob Turner

bob.jgwa1@gmail.com

Location: DocuSign

**Signer Events**

Brad Butlers

brad@bjgwelaw.com

Security Level: Email, Account Authentication (None)

**Signature**



Signature Adoption: Drawn on Device

Using IP Address: 174.230.196.103

Signed using mobile

**Timestamp**

Sent: 4/3/2024 9:18:28 AM

Resent: 4/3/2024 9:27:27 AM

Resent: 4/3/2024 9:44:00 AM

Viewed: 4/3/2024 12:25:42 PM

Signed: 4/3/2024 12:28:58 PM

**Electronic Record and Signature Disclosure:**

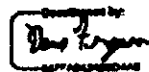
Accepted: 4/3/2024 12:25:42 PM

ID: 944636b7-9f43-4a42-9613-b10114b381e6

Dery Ferguson

fergarm@gmail.com

Security Level: Email, Account Authentication (None)



Signature Adoption: Drawn on Device

Using IP Address: 38.43.31.174

Signed using mobile

Sent: 4/3/2024 9:18:28 AM

Viewed: 4/3/2024 2:53:44 PM

Signed: 4/3/2024 2:55:11 PM

**Electronic Record and Signature Disclosure:**

Accepted: 4/3/2024 2:53:44 PM

ID: 2a8e3d4b-8900-4514-9ecb-0e5d6a7d5cd6

**In Person Signer Events**

Signature

Timestamp

**Editor Delivery Events**

Status

Timestamp

**Agent Delivery Events**

Status

Timestamp

**Intermediary Delivery Events**

Status

Timestamp

**Certified Delivery Events**

Status

Timestamp

**Carbon Copy Events**

Status

Timestamp

**Witness Events**

Signature

Timestamp

**Notary Events**

Signature

Timestamp

**Envelope Summary Events**

Envelope Sent

Envelope Updated

Envelope Updated

Status

Hashed/Encrypted

Security Checked

Security Checked

Timestamps

4/3/2024 9:18:28 AM

4/3/2024 9:27:28 AM

4/3/2024 9:43:59 AM