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May 2, 2024

Director Mathew Weaver  
Idaho Department of Water Resources  
322 E Front St.  
Boise, ID 83720-0098

**Sent via email**  
**[Mathew.Weaver@idwr.idaho.gov](mailto:Mathew.Weaver@idwr.idaho.gov)**

Dear Director Weaver,

As you are acutely aware, due to the updated ESPAM 2.2 modeled impacts, each of the Ground Water Districts are now shown to have different impacts than originally anticipated and shared by the various ground water districts, whether the impacts are determined by the Steady-State methodology or the Transient-State methodology. Therefore, for 2024, because each Ground Water District should only be obligated to mitigate that portion of the impacts to Twin Falls Canal Company as determined by the current Methodology Order, Jefferson Clark Ground Water District (JCGWD) is responsible to mitigate its portion of the demand shortfall of the Methodology Order as well as its portion of the approximate 15KAF shortfall due for 2021 settlement. Furthermore, because the legislature has now broadened the area of impact beyond the original espa ground water area, JCGWD should once again not be obligated to provide mitigation water beyond its own impacts.

It is further JCGWD's understanding that it is able to mitigate pursuant to the findings of fact and conclusions of law set forth in that certain June 3, 2010 order approving the IGWA 2009 Aquifer Enhancement Plan which states that "rental of storage water and delivery of storage water and use of water pursuant to the mitigation plan is in compliance with Idaho law." Furthermore, the 2010 Order provides that the amount of storage water "shall be determined as set forth in the Methodology Order."

Finally, and most importantly the 2010 Order recognizes that providing storage water to SWC under the plan "will provide replacement water at the time and place required by the senior-priority water right." Why this is so important in this 2024 irrigation season is that according to the Transient-State modeling for 2024, and due to its location in the aquifer, JCGWD's pumping in 2024 is predicted to only impact Twin Falls Canal Company's water right by approximately 71

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acre feet. Therefore, due to this year's availability of storage water, providing storage water for any impacts caused by JCGWD directly to Twin Falls Canal Company will both provide replacement water supplies to the senior-priority water right and also maximize the beneficial use of water and promote conservation of water resources as concluded in the 2010 Order.

JCGWD's position is that it should only be required to provide mitigation which equals its individually modeled depletions as calculated following the current Methodology Order. It should not be required to provide mitigation in excess of those modeled depletions which are actually caused by other Ground Water Districts and other ground water pumpers. Because JCGWD's understanding is that not all of the various GWDs within IGWA may be willing to participate in providing the mitigation water under the present Methodology order, JCGWD believes it is necessary to send this letter setting forth its offer and authorization to provide the following share of the 2009 Mitigation Plan. In fact, this offer provides not only JCGWD's share of a steady-state allocation of its demand shortfall of 6,858 acre feet of storage water as determined by IGWA's hydrologists and which has been filed this day with IDWR, it also includes JCGWD's offer to add an additional 1,819 acre feet as its portion of the 15kaf due for the past year's ordered shortfall. Additionally, JCGWD shall continue to assign 52,614 acre feet of reductions for the 2024 season and will continue to dry up 3,500 acre feet worth of usage.

It is also important to note that the Director has previously approved A&B Irrigation District's mitigation plan which methodology is virtually identical to the offer being made by JCGWD, and it would be improper to allow A&B to mitigate for its proportionate share of the demand shortfall with storage while not allowing JCGWD to mitigate for its proportionate share with storage.

JCGWD is also attaching hereto, its signed contract for the storage necessary to comply with this offer as required by the 2010 Order.

JCGWD believes that it is important to let you know of its position even though IGWA as a group may not presently be in a position to make an offer as a group, JCGWD believes that continued discussions and negotiations with all parties under the GWMP is important to determine the long term resolutions of these important issues and therefore, JCGWD is willing to make the above offer this year only in order to more than account for its actual depletions to SWC.

Sincerely,



Jerry R. Rigby

JRR/md

JCGWD

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## **MULTIPLE ENTITY STORAGE WATER LEASE**

This Storage Water Lease ("Agreement") is entered into between Idaho Irrigation District, Snake River Valley Irrigation District, New Sweden Irrigation District, Snake River Storage, Enterprize Canal Co, Sunnyside Irrigation District, Harrison Canal and Irrigation Co (Lessor"), and BINGHAM GROUND WATER DISTRICT, whose address is P.O. Box 1268, Blackfoot, ID 83221 ("BGWD"). This Agreement replaces and supersedes all previous storage water lease agreements between the parties.

### **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 pursuant to Lessor's Storage Water Contracts with the United States Bureau of Reclamation ("Reclamation").
- B. BGWD desires to lease storage water to satisfy mitigation obligations prescribed in the 2015 SWC/IGWA Settlement Agreement, or as determined by the Director of the Idaho Department of Water Resources ("Department"), and other related purposes, such as aquifer recharge and implementing dual irrigation systems which can use either ground or surface water.
- C. The amount of storage water BGWD needs for mitigation and related purposes may vary from year to year and also may change during the irrigation season.
- D. Lessor desires to lease storage water to BGWD, and BGWD desires to lease storage water from Lessor, pursuant to the terms of this Agreement.

### **AGREEMENT**

1. **Storage Water Lease.** Lessor hereby leases to BGWD 26,712 acre-feet of storage water per year, at the price of \$40 per acre-foot, which BGWD is required to pay rent for whether or not BGWD uses the water.
2. **Term.** The initial term of this Agreement shall be for a period of five (5) years, commencing January 1, 2021, and ending December 31, 2025. Thereafter, this Agreement shall automatically renew for successive one-year terms, at an increase of \$1 per acre-foot annually, unless and until either party gives not less than sixty (60) days written notice to terminate this Agreement at the end of the original term or any renewal term.
3. **Payment of Rent.** BGWD will pay all Lease payments to Lessor in two installments, with the first one-half (1/2) paid on or before July 15<sup>th</sup> and the second one-half (1/2) paid on or before November 15<sup>th</sup> of each year.
4. **Administrative Fees.** BGWD will pay all administrative fees imposed by Water

District 1 and the Idaho Water Resource Board to complete the assignment of storage water leased from Lessor to BGWD.

**5. Delivery and Use of Leased Water.**

6.1 The assignment, delivery, and use of leased storage water will be determined by BGWD 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 Procedures.

6.2 This Agreement does not include any right to use storage water below Milner Dam.

6.3 The storage water available to BGWD under this Agreement may be assigned and delivered by BGWD to any other person or entity for the authorized uses of recharge, mitigation, irrigation, or other lawful use at any time up to December 1 of each year during the term(s) of this lease.

6.4 Lessor may elect to have the storage water obligation supplied by other storage water right holders.

6.5 In the event the Rental Pool Procedures are amended to recalculate the impacts from private leases resulting in additional impacts, Lessor may elect to renegotiate the rental price or other terms herein. If the parties fail to agree to new rental terms Lessor may elect to terminate this lease within 180 days written notice to BGWD.

6.6 Any storage water not used or assigned by BGWD by December 1 shall remain in Lessor's Water District 1 storage account and then belong only to Lessor.

6.7 Lessor understands that any storage water leased may be subject to a last-to-fill water right priority in the irrigation year following the lease pursuant to the Water District 1 Rental Pool Rules.

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

7.1 It will provide to BGWD all storage water leased under this Agreement.

7.2 It is the true and lawful owner of the Storage Water and that nothing restricts or precludes Lessor from entering into this Agreement.

**7. Breach. If either party defaults in the performance of its obligations under this Agreement, 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 Agreement;
- (b) Seek specific performance of this Agreement;

8. **Assignment**. This Agreement may not be assigned by BGWD without the express written consent of Lessor, but the storage water leased by BGWD under this Agreement 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 in accordance with 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 agreement of the parties. The mediation will be held in Bingham 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) 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 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 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 Bingham County is the proper venue.

9.5 **Exclusive Procedures**. The procedures specified in this section 9 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 9.1 and 9.2 are pending.

**10. Notices.** All notices given pursuant to this Agreement 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: Name: Idaho Irrigation District  
By: Alan D. Kelsch  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Lessor: Name: Snake River Valley Irrigation District  
By: Drew Jensen  
Address: 816 N 700 E  
Basalt, ID 83218  
Phone: (208) 357-3420 Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Lessor: Name: New Sweden Irrigation District  
By: Louis Thiel  
Address: 2350 W 17<sup>th</sup> S  
Idaho Falls, ID 83402  
Phone: (208) 523-0175 Fax: \_\_\_\_\_  
Email: \_\_\_\_\_



Lessor: Name: Snake River Storage  
By: Jenn. for Ellis  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Lessor: Name: Enterprize Canal Co  
By: Darrel Kerr  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Lessor: Name: Sunnydell Irrigation District  
By: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Lessor: Name: Harrison Canal and Irrigation Co

By: Craig Price

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: 208 709-2132 Fax: \_\_\_\_\_

Email: gprice81@icloud.com

BGWD: c/o Connie Christensen, Board Chairman  
BGWD  
P.O. Box 1268  
Blackfoot, ID 83221  
Phone: 208-608-9838

Email: conniec@binghamgroundwater.com

Copy to: Kirk Jacobs, Board Chairman  
Jefferson-Clark Ground Water District  
Address  
Phone:  
Email:

Carl Taylor, Board Chairman  
Bonneville-Jefferson Ground Water District  
Address  
Phone:  
Email:

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

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

DATED this 9 day of June, 2020.

**LESSEE:**

BINGHAM GROUND WATER DISTRICT

By: Connie Christensen  
Board Chairman

**LESSOR:**

IDAHO IRRIGATION DISTRICT

By: Alan D. Kelso  
Title:

**LESSOR:**

SNAKE RIVER VALLEY IRRIGATION DISTRICT

By: Bob Jensen Chairman  
Title:

**LESSOR:**

NEW SWEDEN IRRIGATION DISTRICT

By: Faris Huel  
Title: Chairman

**LESSOR:**

SNAKE RIVER STORAGE

By: [Signature]  
Title:

**LESSOR:**  
ENTERPRIZE CANAL CO

By:  
Title:

*[Handwritten signature]*  
*Director*

**LESSOR:**  
SUNNYDELL IRRIGATION DISTRICT

By:  
Title:

*[Handwritten signature]*  
*Vice President*

**LESSOR:**  
HARRISON CANAL AND IRRIGATION CO

By:  
Title:

*[Handwritten signature]* GREG PRICE  
*President*

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Canal	Committed
<b>IID</b>	<b>6,678</b>
<b>SRV</b>	<b>5,009</b>
<b>New Sweden</b>	<b>5,009</b>
<b>SRS</b>	<b>6,678</b>
<b>Enterprize</b>	<b>1,670</b>
<b>Sunnydell</b>	<b>334</b>
<b>Harrison</b>	<b>1,336</b>
<b>Total</b>	<b>26,712</b>

Canal	Leased (acre-feet)	Payment to Canals	WD01 Fees	IWRB Fees	Total
IDAHO IRRIGATION DISTRICT	6,678	\$ 267,120.00	\$ 8,681.40	\$ 26,712.00	\$ 302,513.40
SNAKE RIVER VALLEY IRRIGATION DISTRICT	5,009	\$ 200,360.00	\$ 6,511.70	\$ 20,036.00	\$ 226,907.70
NEW SWEDEN IRRIGATION DISTRICT	5,009	\$ 200,360.00	\$ 6,511.70	\$ 20,036.00	\$ 226,907.70
ENTERPRIZE CANAL CO LTD	1,670	\$ 66,800.00	\$ 2,171.00	\$ 6,680.00	\$ 75,651.00
SUNNYDELL	334	\$ 13,360.00	\$ 434.20	\$ 1,336.00	\$ 15,130.20
HARRISON CANAL & IRRIGATION CO	1,336	\$ 53,440.00	\$ 1,736.80	\$ 5,344.00	\$ 60,520.80
ABERDEEN SPRINGFIELD CANAL CO	-	\$ -	\$ -	\$ -	\$ -
BLACKFOOT IRRIGATION CO	500	\$ 20,000.00	\$ 650.00	\$ 2,000.00	\$ 22,650.00
CORBETT SLOUGH DITCH CO	750	\$ 30,000.00	\$ 975.00	\$ 3,000.00	\$ 33,975.00
PARSONS DITCH CO	100	\$ 4,000.00	\$ 130.00	\$ 400.00	\$ 4,530.00
PEOPLES CANAL & IRRIGATION CO	2,178	\$ 87,120.00	\$ 2,831.40	\$ 8,712.00	\$ 98,663.40
RIVERSIDE CANAL CO	50	\$ 2,000.00	\$ 65.00	\$ 200.00	\$ 2,265.00
THE UNITED CANAL CO	400	\$ 16,000.00	\$ 520.00	\$ 1,600.00	\$ 18,120.00
WATSON CANAL CO	50	\$ 2,000.00	\$ 65.00	\$ 200.00	\$ 2,265.00
WEARYRICK DITCH CO	150	\$ 6,000.00	\$ 195.00	\$ 600.00	\$ 6,795.00
CORBETT SLOUGH DITCH CO	400	\$ 16,000.00	\$ 520.00	\$ 1,600.00	\$ 18,120.00
PARSONS DITCH CO	20	\$ 800.00	\$ 26.00	\$ 80.00	\$ 906.00
PEOPLES CANAL & IRRIGATION CO	1,571	\$ 62,840.00	\$ 2,042.30	\$ 6,284.00	\$ 71,166.30
RIVERSIDE CANAL CO	30	\$ 1,200.00	\$ 39.00	\$ 120.00	\$ 1,359.00
THE UNITED CANAL CO	464	\$ 18,560.00	\$ 603.20	\$ 1,856.00	\$ 21,019.20
WEARYRICK DITCH CO	15	\$ 600.00	\$ 19.50	\$ 60.00	\$ 679.50
<b>Total</b>	<b>26,714</b>	<b>\$ 1,068,560.00</b>	<b>\$ 34,728.20</b>	<b>\$ 106,856.00</b>	<b>\$ 1,210,144.20</b>

District	Ac-Ft Leased	Payment to Canals	WD01 Fees	IWRB Fees	Total
Jefferson-Clark	13,375	\$ 535,000.00	\$ 17,387.50	\$ 53,500.00	\$ 605,887.50
Bonneville-Jefferson	4,745	\$ 189,800.00	\$ 6,168.50	\$ 18,980.00	\$ 214,948.50
Bingham	8,594	\$ 343,760.00	\$ 11,172.20	\$ 34,376.00	\$ 389,308.20
<b>Total</b>	<b>26,714</b>	<b>\$ 1,068,560.00</b>	<b>\$ 34,728.20</b>	<b>\$ 106,856.00</b>	<b>\$ 1,210,144.20</b>