



**MARTEN LAW**

May 30, 2024

**Via Email Only**

Director Mat Weaver  
Idaho Dept. of Water Resources  
P.O. Box 83720  
Boise, Idaho 83720-0098  
[mat.weaver@idwr.idaho.gov](mailto:mat.weaver@idwr.idaho.gov)  
[file@idwr.idaho.gov](mailto:file@idwr.idaho.gov)

**RE: SWC Delivery Call / Follow Up Notice of Mitigation Water in  
Response to Garrick Baxter Request**

Dear Director Weaver:

I am writing on behalf of our client the A&B Irrigation District (“A&B” or “District”) in response to Garrick Baxter’s request (phone conversation and email) concerning A&B’s ability to provide storage water to any injured Coalition member during the 2024 irrigation season.

First, A&B has been provided no notice that its May 1, 2024 *Notice of Mitigation Water* was deficient until yesterday when Mr. Baxter called me. Although the notice was in front of IDWR for over three weeks, it was apparently deemed insufficient as of yesterday afternoon, a day before the curtailment notice will be issued. Apparently A&B’s water rights will be included in a curtailment list if it does not comply with Mr. Baxter’s request.

A&B has previously provided notice of its ability to deliver storage water without any issues with the Department. Apparently now IDWR is requesting A&B to submit a lease form and associated unrefundable fees to Water District 01 to confirm its prior notice. Please see the attached lease form and check that is being transmitted to WD1 today. *See Ex. A.* The District could have sent this to Water District 1 earlier had IDWR provided A&B with a formal order or proper notice.

I have conferred with manager Justin Temple and the District is delivering surface water to 3,573.6 acres that are covered by various junior priority ground water rights (36-15192 through 36-15127B), as well as a portion of water right 36-15127A (1,378.1 acres). This leaves 508.3 acres under water right 36-15127A and 26 acres under 36-16749 that may need to be covered by a storage water delivery to TFCC for mitigation purposes. A&B has submitted the attached lease for 62 acre-feet to cover the proportionate share

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of the April 2024 in-season demand shortfall as calculated in the table sent to me by Garrick Baxter (0.115 acre-feet per acre).

Finally, although the District disagrees with and reserves all rights concerning the *April Steps 1-3 Order* initially allowing IGWA to choose to mitigate under its 2009 Storage Water Mitigation Plan, if IGWA does establish that it has 74,100 acre-feet, then A&B will no longer have any obligation for the 2024 irrigation season. *See Order* at 5-6, n. 8. Moreover, even if the Director allows the Districts to partially mitigate under the 2009 Plan, A&B is relying upon the Director's representation that the potential curtailment date has changed to February 16, 1970. *See Amended Order Determining Deficiency in Notices of Secured Water* (May 28, 2024) (original order identifying the changed curtailment date was issued on May 10, 2024).

Finally, A&B reserves all rights concerning the Department's changed position on A&B's notice of mitigation as well as any potential curtailment notice, including the right to request a hearing pursuant to Idaho Code § 42-1701A(3).

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

Sincerely,



Travis Thompson  
Partner

Direct: (208) 735-2227  
Email: [tthompson@martenlaw.com](mailto:tthompson@martenlaw.com)

Enc.

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

# Exhibit

# A

WATER DISTRICT #1 RENTAL POOL - PRIVATE LEASE AGREEMENT

A+B Irrigation District (lessor) agrees to lease 62 acre-feet of storage to  
Twin Falls Canal Company (lessee) for the 2024 irrigation season at a price of  
\$ 0 according to the rules and regulations contained in the Water District #1 Rental Pool Procedures.

Description of Lease:

Name of River or Stream from which lease is diverted: Twin Falls South Side Division  
Canal or Pump Name and location: \_\_\_\_\_  
Place of Use description: \_\_\_\_\_  
Water Right Appurtenant to Lands: \_\_\_\_\_

An Idaho Water Resources Board surcharge (10% of the purchase price) plus a \$1.30 per acre-foot administrative fee must be received by Water District #1 prior to the approval of the storage lease).

If the reservoir storage system fails to fill in the season following the year leased, the lessor's storage allocation shall be reduced by the amount leased to offset any impacts to other spaceholders' storage accruals according to the approved Water District #1 Rental Pool Procedures pursuant to Idaho Code Section 42-1765. The lessor understands the net effect of this rule is to make an amount of the lessor's space (equal to the amount leased) last-to-fill in the reservoir system for the irrigation season following the lease.

If the lease is for irrigation purposes, the Applicant, by checking this box, certifies that the use of this leased storage water complies with the moratorium on new consumptive uses as outlined in Rental Pool Procedure 3.4. Failure to meet the conditions contained in Rental Pool Procedure 3.4 may be grounds for denying the application.

If the leased storage is diverted by a diversion outside the area regulated by Water District #1, the applicant, by signing this agreement agrees to report to the Watermaster of the water district containing the diversion, the daily amounts of leased storage diverted during the year. The Watermaster of that district, according to Rental Pool Procedure 4.3.107, must then report to the Water District #1 Watermaster the daily rental diverted by November 30<sup>th</sup>. Failure to report the daily rental diversion may result in the rental not being delivered in Water District #1's final rental delivery records.

[Signature]  
Lessor Signature

5/30/24  
Date

Manager A+B Irrigation  
Title, Canal Company

[Signature]  
Lessee Signature

5/30/24  
Date

Manager Twin Falls Canal Co.  
Canal Company or Diversion Name

=====  
(official use only)

Date Lease Accepted by Watermaster: \_\_\_\_\_

Watermaster Signature: \_\_\_\_\_

A&B IRRIGATION DISTRICT  
GENERAL FUND  
P.O. BOX 675  
Rupert, ID 83350  
208-436-3152

D.L. EVANS BANK  
318 S Onelda  
Rupert, ID 83360  
9235871241

12473

5/30/2024

PAY TO THE ORDER OF WATER DISTRICT 01

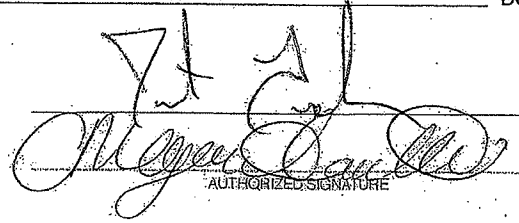
\$ \*\*80.60

Eighty and 60/100\*\*\*\*\*

DOLLAR

WATER DISTRICT 01  
900 N SKYLINE DR. SUITE A  
IDAHO FALLS ID 83402

MEMO



AUTHORIZED SIGNATURE

⑈012473⑈ ⑆124103582⑆ 94 00645 7⑈

A&B IRRIGATION DISTRICT GENERAL FUND

12473

WATER DISTRICT 01

5/30/2024

Date Type Reference  
5/30/2024 Bill

Original Amt.  
80.60

Balance Due  
80.60

Discount

Payment  
80.60

Check Amount

80.60

DL Evans-General Fu

80.60