



Barker Rosholt  
& Simpson LLP

**Boise**

1010 W. Jefferson St. Suite 102  
Boise, Idaho 83702  
p. 208.336.0700  
f. 208.344.6034

**Attorneys**

Albert P. Barker  
John K. Simpson  
Travis L. Thompson  
Scott A. Magnuson  
*of counsel*  
Sarah W. Higer  
Michael A. Short  
John A. Rosholt  
*(1937-2019)*

**Albert P. Barker**

EMAIL: [apb@idahowaters.com](mailto:apb@idahowaters.com)

PHONE: 208.336.0700

WEB: [idahowaters.com](http://idahowaters.com)

August 26, 2021

***Via U.S. Mail and E-mail: [garrick.baxter@idwr.idaho.gov](mailto:garrick.baxter@idwr.idaho.gov)***

Garrick Baxter  
Idaho Department of Water Resources  
322 E. Front Street, Suite 648  
Boise, ID 83702-7371

**Re: Water Mitigation Coalition and Senior Water User Coalition Stipulation  
regarding Mitigation and Motion for Approval**

Dear Garrick:

I am writing in response to your email of Thursday, August 19, 2021, at the request of JR Simplot Company on behalf of the Water Mitigation Coalition. As you know, in 2007 an Agreement was reached between the Senior Water Users Coalition and the Water Mitigation Coalition. The Water Mitigation Coalition consists of group of ground water right holders comprised of J. R. Simplot Company, Basic American Foods, a division of Basic American Inc., and ConAgra Foods Packaged Foods Company, Inc., dba Lamb-Weston. The Agreement that was entered into with the Senior Water Users Coalition was intended to mitigate for injury to those senior water users' surface water rights. The Water Mitigation Coalition was the very first group to offer mitigation for potential injury to surface water users from ground water withdrawals long before even the delivery call was made by the Surface Water Coalition in 2010. The Senior Water Users' Coalition members include A&B Irrigation District, American Falls Reservoir District#2, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, Twin Falls Canal Company, North Side Canal Company, USBR (American Falls Reservoir), USBR (Jackson Lake Reservoir), USBR (Palisades Reservoir), Clear Springs Foods, Inc., (Snake River Farms) and Clear Springs Food, Inc. (Crystal Springs Farms). With inclusion of Clear Springs, the Senior Water Users Coalition is even broader than the Surface Water Coalition.

You attached to your email of August 19<sup>th</sup> a series of emails exchanged between you and Jo Beeman on behalf of the Water Mitigation Coalition in 2014, 7 years after the original submission of the plan. Ms. Beeman first submitted a request for the Department to process the Mitigation Plan and then she requested that the approval be paused while discussions went on between the Water Mitigation Coalition and Senior Water Users/Surface Water Coalition. It was

*Garrick Baxter*  
*August 26, 2021*  
*Page 2*

the impression of the Water Mitigation Coalition members that a subsequent request to reinstate processing of the Mitigation Plan had been made. However, the Water Mitigation Coalition cannot find a formal written request.

Accordingly, the Water Mitigation Coalition hereby requests that the Department begin processing its Mitigation Plan as soon as possible. It is important for the Department to be aware that, even though this plan was not formally approved by the Department, the Water Mitigation Coalition has been supplying the funds necessary to carry out the mitigation plan every year since 2007 without fail.

The Water Mitigation Coalition has consulted with the Surface Water Coalition and understands that the Surface Water Coalition supports the processing of the 2007 Mitigation Plan.

Your 2014 email to Jo Beeman asks for an identification of the water rights that will benefit from the Mitigation Plan, pursuant to Rule 43.01.b. The attached Mitigation Plan includes a list of all those rights for which the Mitigation Plan is intended to benefit. For ease of reference, that list is Exhibit A to the Plan and is attached hereto as a separate exhibit.

On behalf of Water Mitigation Coalition and the Surface Water Coalition, please process the Mitigation Plan at your earliest convenience.

Very truly yours,

**BARKER ROSHOLT & SIMPSON LLP**



Albert P. Barker

cc: Water Mitigation Coalition Members  
John Simpson  
Travis Thompson  
Kent Fletcher

APB/aje

