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MAY 13 2016

DEPARTMENT OF  
WATER RESOURCES

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*Attorneys for A&B Irrigation District*

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF )  
WATER TO VARIOUS WATER RIGHTS )  
HELD BY OR 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

Docket No. CM-MP-2015-003

**A&B IRRIGATION DISTRICT'S  
NOTICE OF COMMUNICATION  
TO WATER DISTRICT 01  
WATERMASTER / REQUEST FOR  
HEARING**

COMES NOW, A&B Irrigation District (hereafter referred to as "A&B" or "District"),  
by and through counsel of record, and hereby provides notice of its communication to the Water  
District 01 Watermaster as requested by the Director in the May 11, 2016 *Order Determining  
Deficiency in A&B Irrigation District's Notice of Mitigation*. Counsel emailed the attached letter  
(Ex. A) to Lyle Swank on May 13, 2016.

A&B requests the Director accept this notice as curing any deficiency in the *Notice of Mitigation* and remove A&B's affected groundwater rights from any curtailment order. Further, A&B requests a hearing on the Director's May 11, 2016 Order pursuant to Idaho Code § 42-1701A(3). Through the order the Director has created a new standard regarding mitigation that has not been previously applied to other affected junior ground water right holders.

DATED this 13th day of May, 2016.

**BARKER ROSHOLT & SIMPSON LLP**



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Travis L. Thompson

*Attorneys for A&B Irrigation District*

## CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of May, 2016, I served a true and correct copy of the foregoing *A&B Irrigation District's Notice of Communication to Water District 01 Watermaster / Request for Hearing* on the following by the method indicated:

<p>Director Gary Spackman c/o Deborah Gibson State of Idaho Dept of Water Resources 322 E Front St Boise, ID 83720-0098 *** service by electronic mail</p> <p>facsimile – 208-287-6700 <a href="mailto:gary.spackman@idwr.idaho.gov">gary.spackman@idwr.idaho.gov</a> <a href="mailto:deborah.gibson@idwr.idaho.gov">deborah.gibson@idwr.idaho.gov</a></p>	<p>Matt Howard U.S. Bureau of Reclamation 1150 N. Curtis Rd. Boise, ID 83706-1234</p> <p>*** service by electronic mail only</p> <p><a href="mailto:mhoward@pn.usbr.gov">mhoward@pn.usbr.gov</a> <a href="mailto:emcgarry@pn.usbr.gov">emcgarry@pn.usbr.gov</a></p>	<p>IDWR – Eastern Region 900 N. Skyline Dr., Suite A Idaho Falls, ID 83402-1718</p> <p>*** service by electronic mail only <a href="mailto:lyle.swank@idwr.idaho.gov">lyle.swank@idwr.idaho.gov</a></p>
<p>Randy Budge T.J. Budge Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only</p> <p><a href="mailto:rcb@racinelaw.net">rcb@racinelaw.net</a> <a href="mailto:tjb@racinelaw.net">tjb@racinelaw.net</a></p>	<p>Sarah A. Klahn Mitra Pemberton White &amp; Jankowski, LLP 511 Sixteenth Street, Suite 500 Denver, CO 80202</p> <p>*** service by electronic mail only facsimile – 303-825-5632 <a href="mailto:sarahk@white-jankowski.com">sarahk@white-jankowski.com</a> <a href="mailto:mitrap@white-jankowski.com">mitrap@white-jankowski.com</a></p>	<p>David Gehlert ENRD – DOJ 999 18<sup>th</sup> St. South Terrace, Suite 370 Denver, CO 80202</p> <p>*** service by electronic mail only <a href="mailto:david.gehlert@usdoj.gov">david.gehlert@usdoj.gov</a></p>
<p>A. Dean Tranmer City of Pocatello P.O. Box 4169 Pocatello, ID 83201 *** service by electronic mail only</p> <p>facsimile – 208-234-6297 <a href="mailto:dtranmer@pocatello.us">dtranmer@pocatello.us</a></p>	<p>William A. Parsons Parsons, Smith &amp; Stone LLP P.O. Box 910 Burley, ID 83318</p> <p>*** service by electronic mail only <a href="mailto:wparsons@pmt.org">wparsons@pmt.org</a></p>	<p>IDWR – Southern Region 1341 Fillmore St., Suite 200 Twin Falls, ID 83301-3380</p> <p>*** service by electronic mail only <a href="mailto:allen.merritt@idwr.idaho.gov">allen.merritt@idwr.idaho.gov</a> <a href="mailto:cindy.yenter@idwr.idaho.gov">cindy.yenter@idwr.idaho.gov</a></p>
<p>Michael C Creamer Jeffrey C. Fereday Givens Pursley 601 W Bannock St Ste 200 P.O. Box 2720 Boise, ID 83701-2720 *** service by electronic mail only <a href="mailto:mcc@givenspursley.com">mcc@givenspursley.com</a> <a href="mailto:jcf@givenspursley.com">jcf@givenspursley.com</a></p>	<p>Kathleen Carr US Dept Interior, Office of Solicitor Pacific Northwest Region, Boise 960 Broadway Ste 400 Boise, ID 83706 *** service by electronic mail only facsimile – 208-334-1918 <a href="mailto:kathleenmarion.carr@sol.doi.gov">kathleenmarion.carr@sol.doi.gov</a></p>	



Travis L. Thompson

# Exhibit A

*John A. Rosholt  
Albert P. Barker  
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*Travis L. Thompson*  
tlt@idahowaters.com

May 13, 2016

**VIA EMAIL ONLY**

Lyle Swank, Watermaster  
Water District 01  
900 N. Skyline Dr., Suite A  
Idaho Falls, Idaho 83402-1718

**Re: SWC Delivery Call / Notice of Mitigation Water (*Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation, May 11, 2016*)**

Dear Lyle:

I am writing on behalf of the A&B Irrigation District (A&B) in reference to the Director's May 11, 2016 *Order Determining Deficiency in A&B Irrigation District's Notice of Mitigation*. In the order the Director stated that A&B "must document that it has communicated to the watermaster its written commitment of 2,122 acre-feet of storage water to be deducted from A&B's 2016 storage allocation and to be controlled, assigned, and delivered by the watermaster to mitigate injury to other members of the SWC." *Order* at 4.

This letter communicates A&B's intent to have the watermaster confirm to the Director that 2,122 acre-feet of A&B's 2016 storage allocation will be available for assignment and delivery to mitigate for injury to the SWC members if necessary.

A&B has contested the Director's calculation of its "proportionate share" of the April forecasted injury and that matter is pending. Further, A&B reserves the right to challenge the Director's May 11, 2016 and request a hearing pursuant to Idaho law. By communicating this request A&B does not waive any rights it has with respect to the Director's actions. In addition, A&B reserves the right to enter into a stipulation with the SWC regarding the delivery call this year, which may or may not result in the assignment of the 2,122 acre-feet or a portion thereof. To that end, no actual assignment of the storage water should occur at this time, particularly if it not necessary due to a stipulation with SWC or otherwise.

Mr. Lyle Swank (WD01)  
May 13, 2016  
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This letter satisfies the Director's alleged deficiency in A&B's *Notice of Mitigation* and confirms that its ground water rights junior to February 2, 1989 are not subject to curtailment. If you have any questions or need further information please call me at 733-0700 or Dan Temple at 436-3152.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP

A handwritten signature in black ink, appearing to read 'Travis L. Thompson', with a stylized, cursive script.

Travis L. Thompson

cc: Dan Temple, A&B  
Director Gary Spackman