SECOND ADDENDUM TO SETTLEMENT AGREEMENT

This Second Addendum dated December 14th, 2016 ("Second Addendum") augments the Settlement Agreement Entered Into June 30, 2015, Between Participating Members of the Surface Water Coalition and Participating Members of Idaho Ground Water Appropriateors, Inc. ("IGWA"), the Addendum Agreement between the same entered into October 19, 2015 ("First Addendum"), and the Agreement between A&B Irrigation District and participating members of IGWA dated October 7, 2016. The foregoing agreements are referred to collectively herein as the "Settlement Agreement," and the parties thereto are referred to collectively herein as the "Parties."

RECITALS

A. WHEREAS, on March 9, 2016 the Surface Water Coalition and IGWA submitted to the Idaho Department of Water Resources ("Department") the Surface Water Coalition and IGWA's Stipulated Mitigation Plan and Request for Order ("Request for Order"); and

B. WHEREAS, the parties included as an attachment to the Request for Order a proposed "Final Order" for the purpose of Department approval of the Settlement Agreement as a mitigation plan under rule 43 of the Rules for Conjunctive Management of Surface and Ground Water Resources ("CMR"); and

C. WHEREAS, the proposed Final Order contained provisions to address, clarify and resolve certain issues relating to the Settlement Agreement; and

D. WHEREAS, on May 2, 2016 the Director entered a Final Order Approving Stipulated Mitigation Plan ("Director's Final Order") approving the Settlement Agreement as a CMR 43 mitigation plan; and

E. WHEREAS, the Director's Final Order did not include certain provisions set forth in the Parties' proposed Final Order; and

F. WHEREAS, the Parties now set forth and incorporate into the Settlement Agreement to the provisions set forth in this Second Addendum.

COVENANTS

NOW THEREFORE, in consideration of the above recitals and the mutual agreements contained herein, the parties to the Settlement Agreement agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are an integral part of this Second Addendum and are fully incorporated herein by this reference.
2. **Implementation of Settlement Agreement.** The Parties will work cooperatively in implementing the terms of the Settlement Agreement, to wit: Sections 3.a (Consumptive Use Volume Reduction), 3.e (Ground Water Level Goal and Benchmarks), 3.m (Steering Committee), and 4.a (Adaptive Water Management) as follows:

a. Section 3.a (Consumptive Use Volume Reduction):
   
   i. Prior to April 1 annually the Districts will submit to the Steering Committee their groundwater diversion and recharge data for the prior irrigation season and their proposed actions to be taken for the upcoming irrigation season, together with supporting information compiled by the Districts' consultants.

b. Section 3.e (Ground Water Level Goal and Benchmarks):
   
   i. The Parties and their consultants will work with the Department to collect, process, archive and submit sentinel well data to the Steering Committee within 30 days of collection.

   ii. The Parties and their consultants will use the *Technique For Calculating Groundwater Level Index and Determining Compliance with Settlement* ("Calculation Technique") to determine if the groundwater level benchmarks and goal are met by June 1 of the year identified. This information shall be provided for use by the Steering Committee. Following experience with the Calculation Technique the technical working group may recommend amendments for approval by the Steering Committee.

   iii. The Parties will request the Department to verify each District’s annual diversion volume, and other diversion reduction data (recharge, CREP, conversions, end-gun removals, etc.) to confirm the accuracy of the data. The Department’s analysis shall be provided to the Steering Committee no later than July 1 for the previous irrigation season.

   iv. Any District may elect to report to the Department and request enforcement against any individual member of that District that is not in compliance with any mitigation plan or activity implemented by the District. Such members will not be protected under the Settlement Agreement. It is the Parties' intent that the Director will evaluate the breach and, if a breach is found to exist, provide notice of violation and opportunity to cure to the breaching member. If the member fails to cure the breach the Parties will request the Director to issue an order.
against the breaching member requiring action to cure the breach or be subject to immediate curtailment as provided under CMR 40.05.

c. Section 3.m (Steering Committee):

i. The Steering Committee will review the technical information supplied by the Department together with technical reports compiled by the Parties' consultants.

ii. If, based on the information reported and available, the Surface Water Coalition and IGWA find that the Long Term Practices as set forth in paragraph 3 of the Agreement have been performed but the groundwater level benchmarks or goal set forth in 3.e.ii have not been met, the Steering Committee shall recommend additional actions to be undertaken by the Districts pursuant to 3.m.iii of the Settlement Agreement. If the Surface Water Coalition and IGWA do not agree upon additional actions prior to March 1 of the following year, the Steering Committee will request that the Director issue an order requiring additional actions to be undertaken by the Districts to achieve the benchmarks or goal not met.

iii. If, based on the information reported and available, the Steering Committee finds any breach of the Long Term Practices as set forth in paragraph 3 of the Agreement, the Steering Committee shall give ninety (90) days written notice of the breach to the breaching party specifying the actions that must be taken to cure such breach. If the breaching party refuses or fails to take such actions to cure the breach, the Steering Committee shall report the breach to the Director with all supporting information, with a copy provided to the breaching party. If the Director determines based on all available information that a breach exists which has not been cured, the Steering Committee will request that the Director issue an order specifying actions that must be taken by the breaching party to cure the breach or be subject to immediate curtailment pursuant to CM Rule 40.05.

iv. If the Surface Water Coalition and IGWA do not agree that a breach has occurred or cannot agree upon actions that must be taken by the breaching party to cure the breach, the Steering Committee will report the same to the Director and request that the Director evaluate all available information, determine if a breach has occurred, and issue an order specifying actions that must be taken by the breaching party to cure the breach or be subject to curtailment.

v. The Steering Committee will submit a report to the Parties and the Department prior to May 1 annually reporting on: (a) progress on implementation and achieving the benchmarks and goals of the
Settlement Agreement, (b) performance of the Long Term Practices set forth in paragraph 3 of the Settlement Agreement, (c) the status and resolution of any breaches, and (d) adaptive water management measures recommended and implemented pursuant to paragraph 4 of the Settlement Agreement.

d. Section 4 (Adaptive Water Management Measures):

i. The intent of the Adaptive Management Provision is to provide a forum for the Parties to resolve implementation issues without a party seeking an enforcement order from the Department or a district court. The terms of the Settlement Agreement and the Director’s Final Order approving the same as a mitigation plan control and satisfy any mitigation obligations imposed by the Methodology Order on the Parties to the Settlement Agreement.

3. Binding Effect. This Second Addendum shall bind and inure to the benefit of the respective successors of the Parties.

4. Entire Agreement. This Second Addendum and the Settlement Agreement set forth all understandings between the Parties. There are no other understandings, covenants, promises, agreements, conditions, either oral or written between the Parties other than those contained herein and in the Agreement between A&B and IGWA dated October 7, 2015. The Parties expressly reserve all rights not settled by this Agreement. The parties further reserve all remedies, including the right to judicial action, to enforce the terms of the Settlement Agreement and this Second Addendum.

5. Effect of Headings. Headings appearing in this Agreement are inserted for convenience and reference and shall not be construed as interpretations of the text.

The Parties have executed this Agreement on the date following their respective signatures.
SURFACE WATER COALITION:
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Minidoka Irrigation District

SECOND ADDENDUM TO SETTLEMENT AGREEMENT
AMERICAN FALLS RESERVOIR DISTRICT NO. 2

Ellis Gooch 1-3-17
Ellis Gooch Date
President

SECOND ADDENDUM TO SETTLEMENT AGREEMENT
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MILNER IRRIGATION DISTRICT

Scott Breeding  12/14/16
Chairman  Date

SECOND ADDENDUM TO SETTLEMENT AGREEMENT
MINIDOKA IRRIGATION DISTRICT

Frank Hunt                Date
Chairman

SECOND ADDENDUM TO SETTLEMENT AGREEMENT
NORTH SIDE CANAL COMPANY

John Beukers 12-16-16
Chairman  

SECOND ADDENDUM TO SETTLEMENT AGREEMENT
TWIN FALLS CANAL COMPANY

Dan Shewmaker 12-13-16
Chairman

SECOND ADDENDUM TO SETTLEMENT AGREEMENT
IDAHO GROUND WATER APPROPRIATORS, INC.:

Tim Deeg 12/14/16
President

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ABERDEEN-AMERICAN FALLS GROUND WATER DISTRICT

Nick Behrend 12-14-16
Chairman Date

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JEFFERSON CLARK GROUND WATER DISTRICT

Kirk Jacobs  
Chairman  
Date  

SECOND ADDENDUM TO SETTLEMENT AGREEMENT
MADISON GROUND WATER DISTRICT

Jason Webster Date
Chairman

SECOND ADDENDUM TO SETTLEMENT AGREEMENT
SECOND ADDENDUM TO SETTLEMENT AGREEMENT
NORTH SNAKE GROUND WATER DISTRICT

[Signature] 12/4/16
Lynn Carlquist
Date
Chairman
SECOND ADDENDUM TO SETTLEMENT AGREEMENT