

Boise Office
1101 W. River St.
Suite 110
Boise, Idaho 83702
Tel. (208) 629-7447

Challis Office
1261 E. Main Ave.
P.O. Box 36
Challis, Idaho 83226
Tel. (208) 879-4488

Twin Falls Office
213 Canyon Crest Drive
Suite 200
Twin Falls, Idaho 83301
Tel. (208) 969-9585

Fax (all offices)
(208) 629-7559



SAWTOOTH LAW OFFICES, PLLC

David P. Claiborne

S. Bryce Farris

Evan T. Roth

Andrew J. Waldera

Brian A. Faria

Thomas M. Larsen

Patxi Larrocea-Phillips

Andrea H. Nielsen

Daniel V. Steenson

Katie L. Vandenberg-Van Vliet

James R. Bennetts *(retired)*

Tuesday, March 10, 2026

Eagle Sewer District
c/o Stephanie J. Bonney
MSBT Law
7699 W. Riverside Drive
Boise, Idaho 83714

Via Email: sjb@msbtlaw.com

Re: Recycled Water Discharge and Use Agreement (between Eagle Sewer District and Farmers Union Ditch Company, Ltd.)

Dear Stephanie:

I write you regarding the above referenced agreement between Eagle Sewer District (“District”) and Farmers Union Ditch Company, Ltd. (“Company”), dated October 28, 2024. As you are likely aware, there was significant Company Board turnover resulting from its Annual Meeting held on January 10, 2026. I write in follow-up to an in-person meeting that I understand took place between the District Board and the Company Board on February 19, 2026, at the District’s office. One of the topics of discussion included the Company’s potential buy-out of the agreement (at least in concept). Other questions have also arisen within the Company Board that are raised below.

1. Potential Recycled Water Discharge and Use Agreement Buy-Out

While this topic was broached in concept, the District did not have any firm numbers at its fingertips during the February 19 meeting. It is my understanding that the District is willing to consider potential buy-out of the agreement addressing at least two financial considerations: (a) Company reimbursement of District expenditures incurred to date directly attributable to planning and design work related to piping Class A Recycled Water to the Farmers Union Canal (“Canal”); and (b) any additional incremental costs incurred by routing the Class A Recycled Water to an alternative reuse location (e.g., Pioneer Irrigation District’s Phyllis Canal, or some other destination).

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The Company requests that the District run these numbers to ground and provide them to the Company for its review and consideration. In doing so, the Company requests that the financial accounting be sufficiently detailed (itemized) and supported by corroborating documentation so that the expenses can be easily understood and verified.

2. Disconnection of the Dry Creek Spill

From the outset, the Company has raised concerns over its Dry Creek spill from the Canal and the District's proposals for addressing the same as part of the DEQ Reuse Permit process. On the one hand, the Company has consistently reiterated its ongoing need to use the spill for Canal water level regulation and maintenance purposes. On the other hand, and if past experience in the context of the prior Boise City recycled water discharge proposal is any indication, DEQ will require the disconnect of spill structure use while Class A Recycled Water is discharged to the Canal. This begs the question of what the District's solution is for accommodating ongoing Company Dry Creek spill use and disconnecting the same for DEQ regulatory purposes?

As Company personnel have informed the District in the past, while it is true that the spill is primarily used during the first 2-3 weeks of the irrigation season to regulate and trim Canal flows diverted from the Boise River—essentially to achieve a level operating condition, Company use of the spill also occurs throughout the irrigation season as needed. The Company is concerned that this “as needed” during irrigation season use of the Dry Creek spill is not properly characterized in the District's DEQ application materials. For example, Section 7.5 of the District's *Preliminary Technical Report* supporting the reuse permit application states that the District requests a permit discharge commencement date of “May 1st when the spillway is no longer in use.” As noted above, there is no cessation of spillway use during the irrigation season; rather, the spillway is used when needed to mitigate Canal flow upsets (e.g., thunderstorm-related inflows, windstorm debris-caused bottlenecks, and other unexpected circumstances).

The Company would appreciate an update on what the District's engineering proposals are to accommodate ongoing Company use of the spill when Company use of the spill is needed. The spill is integral to Company operations and its use cannot be avoided.

3. Non-Irrigation Season Discharge

While the Company is cognizant of the District's initial interest in the potential for year-round discharge to the Canal, the Company does not see that possibility as being viable any longer given the Canal seepage experiment performed during the close of the 2025 irrigation season. As you may know, prior to ending Boise River diversions for the year, the Company diverted approximately 10 cfs from the river for roughly 10 days in October 2025 to mimic ~ 8 cfs of discharge continuing in the Canal at the District's proposed point of discharge (the intersection of the Canal and Highway 55).

The expectation was that the ~ 8 cfs of flow would seep within a relatively short distance downstream of the proposed Class A Recycled Water discharge point given known sandy and gravelly sections of the Canal downstream. To everyone's surprise, the water did not entirely seep.

Instead, a significant portion of the flow (anecdotally more than half of the flow) made it to the tail of the Canal west of Can-Ada Road in Star flowing downstream into Lanktree Gulch.

This flow perpetuation raises at least two issues (one for sure, and one likely): (a) the Company cannot accommodate off-season recycled water discharge spanning the remainder of the Canal corridor because the water presence will interfere with routine Company Canal channel off season maintenance (as well as the typical off-season construction of improvements by others— e.g., bridge crossings, utility crossings, other installations); and (b) potential regulatory discharge disconnect requirements/concerns similar to the Dry Creek spill situation.

In light of the foregoing, the Company disagrees with the possibility of year-round Canal discharge.

4. End Water User Educational Plans

As you are likely aware, Company Board turnover was largely attributable to water quality concerns involving emerging contaminants of concern (e.g., PFAs, PFOs, pharmaceuticals and other consumer products). These, in addition to other existing Class A Recycled Water regulatory constituents (e.g., increases in Phosphorus and Nitrogen), seemingly implicate the end user notification and education requirements of the Recycled Water Rules (IDAPA 58.01.17).

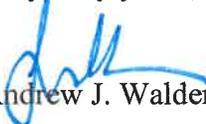
The Company would appreciate the District sharing how it intends to notify and educate end users of the Canal water downstream of the point of Class A Recycled Water discharge to the Canal because the Company, itself, is not the end user of the water.

5. Compliance With all Applicable Laws and Regulations

Obviously, the District's proposed Class A Recycled Water discharge is a highly regulated activity. Because the District has taken the lead on the DEQ permitting process and the Company is to this point largely unaware of application status and agency discussions, please provide an update on: (a) current application status; (b) anticipated DEQ timelines for draft permit issuance for District review; (c) anticipated DEQ timelines for draft permit release for public comment; and (d) whether DEQ has raised any preliminary regulatory issues of concern with the proposed discharge and any District responses addressing any agency concerns to date.

Thank you in advance for your attention to this matter. If you have any questions, please feel free to contact me directly via email (andy@sawtoothlaw.com) or phone (208-629-7447).

Very truly yours,



Andrew J. Waldera