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*Attorneys for Bruce and Glenda McConnell*

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI**

JAMES WHITTAKER, an individual, and  
WHITTAKER TWO DOT RANCH LLC, an  
Idaho limited liability company,

Petitioners,

vs.

THE IDAHO DEPARTMENT OF WATER  
RESOURCES, an administrative agency of  
the State of Idaho,

Respondent,

and

BRUCE AND GLENDA MCCONNELL,

Intervenor.

Case No. CV30-21-304

**MCCONNELL OBJECTION TO  
AGENCY RECORD**

IN THE MATTER OF APPLICATION FOR  
TRANSFER 84441 IN THE NAME OF  
BRUCE AND GLENDA MCCONNELL

COME NOW Bruce and Glenda McConnell, by and through their attorneys of record, Chris M. Bromley and Candice M. McHugh, of the firm, McHugh Bromley PLLC, and pursuant to I.R.C.P. 84(j), object to inclusion of the *Declaration of Bryce Contor* (000216 – 000222) in the *Agency Record on Appeal*, lodged with the Court on February 2, 2022.

In his June 21, 2021 *Order Denying Petition to Re-Open Hearing and Petition for Site Visit* (000266 – 000270), Hearing Officer James Cefalo ruled: “The additional evidence presented in the *Petition [to Re-Open Hearing and Petition for Site Visit and Memorandum in Support]* and the *Declaration of Bryce Contor*] has not been admitted into the administrative record for this case and, therefore, cannot be considered by the hearing officer.” 000269 (emphasis added). In addition, Hearing Officer Cefalo ruled that the statements made in the *Petition to Re-Open Hearing and Petition for Site Visit and Memorandum in Support* that rely on the *Declaration of Bryce Contor* should not be considered. Those statements are contained starting in the third full paragraph on page 000226 (“After receiving the *Preliminary Order*, and considering whether the natural confluence could have been in Section 30 . . . .”) through the first full sentence on page 000227 (“Based on Mr. Contor’s view of the topography of the area, it appears that more investigation is warranted.”). Hearing Officer Cefalo’s decisions in this regard were affirmed by Director Gary Spackman. 000348 (“The time for offering evidence into the administrative record has passed. The record will not be re-opened, and approval of a site visit is denied.”).

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Based on the foregoing, the *Declaration of Bryce Contor* should be excluded from the settled Agency Record.

DATED this 16<sup>th</sup> day of February, 2022.



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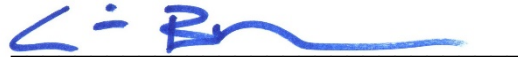
Chris M. Bromley  
McHugh Bromley, PLLC  
*Attorneys for Bruce and Glenda McConnell*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16<sup>th</sup> day of February, 2022, I served a true and correct copy of the foregoing document on the parties to this action via iCourt:

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