

LAWRENCE G. WASDEN
ATTORNEY GENERAL

DARRELL G. EARLY
Chief of Natural Resources Division

GARRICK L. BAXTER, ISB No. 6301
MARK CECCHINI-BEAVER, ISB No. 9297
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 287-4800
Facsimile: (208) 287-6700
garrick.baxter@idwr.idaho.gov
mark.cecchini-beaver@idwr.idaho.gov

Attorneys for Respondent

**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.

Case No. CV30-21-0304

**RESPONSE TO OBJECTION; ORDER
SETTLING THE AGENCY
TRANSCRIPT AND RECORD**

IN THE MATTER OF APPLICATION
FOR TRANSFER NO. 84441 IN THE
NAME OF BRUCE AND GLENDA
MCCONNELL

TO: THE DISTRICT COURT AND THE PARTIES OF RECORD

On February 2, 2022, the Idaho Department of Water Resources (“Department”) served its *Notice of Lodging the Agency Transcript and Record with the Agency* (“Notice”) in this matter pursuant to I.R.C.P 84(j). The *Notice* gave the parties fourteen (14) days from the date of the *Notice* to file any objection to the agency transcript and record. On February 16, 2022, Bruce and Glenda McConnell filed *McConnell Objection to Agency Record* (“McConnell Objection”).

RESPONSE TO OBJECTION


The McConnell Objection states that the *Declaration of Bryce Contor* should be excluded from the agency record. McConnell Obj. to R. at 3. The objection is based upon the hearing officer’s *Order Denying Petition to Re-Open Hearing and Petition for Site Visit* and the Director’s subsequent *Order on Exceptions; Final Order Approving Transfer*. *Id.* at 2. After reviewing both the June 21, 2021 *Order Denying Petition to Re-Open Hearing and Petition for Site Visit* and the November 2, 2021 *Order on Exceptions; Final Order Approving Transfer*, the Director reaffirms that the evidence presented in the June 1, 2021 *Declaration of Bryce Contor* was not admitted into the administrative contested case record and finds the exclusion of the *Declaration of Bryce Contor* from the agency record to be appropriate and reasonable.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that, upon the exclusion of the June 1, 2021 *Declaration of Bryce Contor* from the agency record, the agency transcript and record are now deemed settled pursuant to I.R.C.P. 84(j).

IT IS FURTHER ORDERED that, pursuant to I.R.C.P. 84(j), the McConnell Objection and this Order shall be included in the agency record on the petition for judicial review. The Department shall provide the parties with a copy of the settled agency transcript and record.

DATED this 17th day of February 2022.



GARY SPACKMAN

Director

Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of February 2022, I caused to be served a true and correct copy of the foregoing *Response to Objection; Order Settling the Agency Transcript and Record* by iCourt e-filing to:

Robert L. Harris, ISB No. 7018
Luke H. Marchant, ISB No. 7944
HOLDEN, KIDWELL, HAHN
& CRAPO, P.L.L.C.
P.O. Box 50130
Idaho Falls, ID 83405
rharris@holdenlegal.com
efiling@holdenlegal.com

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- iCourt E-File and Serve

Attorneys for Petitioners James Whittaker and Whittaker Two Dot Ranch LLC

Chris M Bromley, ISB No. 6530
Candice McHugh, ISB No. 5908
McHUGH BROMLEY, PLLC
380 S. 4th St., Ste. 103
Boise, ID 83702
cbromley@mchughbromley.com
cmchugh@mchughbromley.com

- U.S. Mail, postage prepaid
- Hand Delivery
- Overnight Mail
- Facsimile
- iCourt E-File and Serve

Attorneys for Bruce and Glenda McConnell



MARK CECCHINI-BEAVER
Deputy Attorney General
Idaho Department of Water Resources