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JAN 22 2015
Department of Water Resources
Eastern Region

Attorneys for the Protestants

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

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 79509 IN THE NAME OF DIRK PARKINSON	Protestants' Motion to Postpone Disclosure Deadline and to Continue Hearing
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Various protestants in the above-captioned matter, through counsel, Thomas J. Budge and Joseph G. Ballstaedt of Racine Olson Nye Budge & Bailey, chartered, hereby move the Department of Water Resources (the "Department") to issue an order that amends its Notice of Hearing and Disclosure Order by postponing the January 28, 2015 deadline to submit discovery and disclose witnesses, and to also continuing the hearing scheduled for February 12, 2015.

On August 18, 2014, Dirk Parkinson (the "Applicant") filed Application for Transfer No. 79509 with the Department. On October 28, 2014, the Applicant and various protestants (the "Protestants") attended a pre-hearing conference where the Department determined to hold a hearing to resolve this contested matter. On November 6, 2014, the Department issued its Notice of Hearing and Disclosure Order.

On January 21, 2015, the Protestants retained counsel to assist in this matter. At this time, the Protestants informed counsel that James Cefalo, the representative from the Department at the pre-conference hearing, originally set the formal hearing date for May, but the date was moved up because Dirk Parkinson protested and wanted it in January. The Protestants also informed counsel that the Applicant had told them that he

desired to resolve their protests without a formal hearing before the Department, that retaining counsel would not be necessary, and that he would contact them prior to the hearing to address their concerns. Based on these representations, the Protestants did not retain counsel or prepare discovery in anticipation for the hearing. When the Applicant did not communicate with the Protestants or otherwise seek to resolve this matter, and it became apparent that he did not intend to, the Protestants sought counsel in a timely manner.

Given the Applicant's representations to the Protestants, his failure to contact the Protestants as represented, the fact that numerous Protestants hold water rights that are hydraulically connected to the Applicant's water rights and may be injured by the proposed transfer, the desire of counsel to attempt to negotiate a cooperative settlement directly with the Applicant before committing to litigation, and the need for Protestants' counsel to have adequate time to prepare for the hearing, good cause exists to delay these proceedings. Therefore, the Protestants respectfully ask the Department, pursuant to its authority under IDAPA 37.01.01.513¹ and IDAPA 37.01.01.561,² to postpone the January 28, 2015 deadline to submit discovery and disclose witnesses, and to also continue the hearing scheduled for February 12, 2015. The Protestants request a minimum continuance of two months.

RESPECTFULLY SUBMITTED this 22nd day of January, 2015.

RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED

By: 

Thomas J. Budge
Joseph G. Ballstaedt

¹ "A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause." IDAPA 37.01.01.513.

² "The presiding officer may continue proceedings for further hearing." IDAPA 37.01.01.561.

CERTIFICATE OF MAILING

I certify that on this 22nd day of January, 2015, the foregoing document was served on the following persons in the manner indicated.



Signature of person mailing form

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