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*Attorneys for the Applicant Sally Johnson*

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR  
TRANSFER OF WATER RIGHT NO. 78362  
(FORMERLY TRANSFER NO. 77970) IN  
THE NAME OF SALLY JOHNSON

**APPLICANT SALLY JOHNSON'S  
WITNESS AND EXHIBIT LIST**

SALLY JOHNSON, (hereinafter the "Applicant"), by and through her attorneys of record, Holden, Kidwell, Hahn & Crapo, PLLC, pursuant to Hearing Officer Cefalo's *Notice of Hearing and Order Setting Deadlines* dated January 18, 2013, hereby submits *Applicant Sally Johnson's Witness and Exhibit List* summarizing the witnesses that may testify at the hearing and the exhibits that may be offered as evidence at the hearing scheduled on the above matter for March 6-7, 2013.

**WITNESSES**

The following lay witnesses may be called by the Applicant to testify at the hearing:

1. Sally Johnson
2. Walter H. Johnson
3. Shane Rosenkrance
4. Roger Totten
5. Keith Hill

6. Diane Hatmaker
7. Carol Donahue
8. Shawn Donahue
9. Any of the Nielsen Ditch water users who have signed the petition marked as Exhibit 401.
10. The Protestants (Dwight Simmons, Jake Johnson (Churndasher Ranch), and Logan Williams).
11. Any of the Protestants' witnesses.

The following expert witnesses may testify at the hearing:

1. Randall (Randy) G. Johnson, P.E., Forsgren Associates, Rexburg, Idaho.

### **EXHIBITS**

The following exhibits may be introduced at the hearing. We have grouped categories of documents into different "hundreds" to aid in review of the documents. All of the Applicant's exhibits are labeled with an "A" followed by the following numbers:

#### **WATER RIGHTS DOCUMENTS**

100. Application for Transfer of Water Right No. 78362 (renumbered from 77970) (already part of IDWR's documents)
101. Sally Johnson et al. Water Rights Summary (prepared by Robert L. Harris)
102. Water Right Report for Water Right No. 34-55B (Water Right already delivered through the Nielsen Ditch)
103. Water Right Report for Water Right No. 34-25 (Water Right already delivered through the Nielsen Ditch)
104. Nielsen Point of Diversion Water Rights Summary (prepared by Robert L. Harris)

#### **MAPS**

200. Map 1 (prepared by Robert L. Harris)

201. Map 2 (prepared by Robert L. Harris)
202. Map 3 (prepared by Robert L. Harris)
203. Transfer Map 1 (prepared by IDWR)
204. Transfer Map 2 (prepared by IDWR)
205. Transfer Map 3 (prepared by IDWR)

Counsel for the Applicant may also project map using GIS software, which produced Maps 1-3, at the hearing to identify locations, water rights, diversions, etc. Maps 1-3 are representative of the viewpoints that may be projected.

## **PICTURES**

300. Photograph: Nielsen Ditch Headgate-back view
301. Photograph: Nielsen Ditch Headgate-front view
302. Photograph: Below Headgate
303. Photograph: Moving down ditch
304. Photograph: Beaver dam in ditch (½ mile down)
305. Photograph: Flooded over area
306. Photograph: Moving down ditch.
307. Photograph: Another beaver dam 100 ft down from first beaver dam
308. Photograph: Overflow
309. Photograph: Scott & G Greenwell division fence
310. Photograph: Limbs across ditch
311. Photograph: More limbs
312. Photograph: Straw bales used to try and hold water in banks
313. Photograph: Moss on limbs
314. Photograph: Sally Johnson bridge
315. Photograph: East end of Sally Johnson bridge
316. Photograph: Sally Johnson land and bridge
317. Photograph: Moving down ditch
318. Photograph: Straw bale in ditch

- 319. Photograph: Trees hanging
- 320. Photograph: More trees (dog in the trees)
- 321. Photograph: Moving down ditch
- 322. Photograph: Moving down ditch
- 323. Photograph: Moving down ditch
- 324. Photograph: Moving down ditch
- 325. Photograph: Moving down ditch
- 326. Photograph: Moving down ditch
- 327. Photograph: Moss hanging on limbs
- 328. Photograph: Moving down ditch
- 329. Photograph: Another bale of straw in ditch
- 330. Photograph: Moving down ditch
- 331. Photograph: Moving down ditch
- 332. Photograph: Large Willows
- 333. Photograph: Toby's hole
- 334. Photograph: Straw bales at Toby's hole
- 335. Photograph: Toby's hole
- 336. Photograph: Moving down ditch
- 337. Photograph: Price Place Ranch
- 338. Photograph: Intake for Sally's pivot
- 339. Photograph: Intake for Sally's pivot tucked back in the bank
- 340. Photograph: Split for Mt. Springs and Donahue Ranch (on left)
- 341. Photograph: Close up of back side of weir for Mt. Springs & Donahue Ranch
- 342. Photograph: Intake for one of Donahue's pivots
- 343. Photograph: Willows growing
- 344. Photograph: Willow growth along bank
- 345. Photograph: Looking west at flooding area
- 346. Photograph: Many trees above where Big Lost River historically breaks

347. Photograph: Looking downstream below where Big Lost River historically breaks (fewer trees)
348. Photograph: Picture of about a mile above where the Big Lost River historically breaks

#### **OTHER EXHIBITS**

400. Statement from Shane Rosenkrance (included in transfer application)
401. Signed statement from Nielsen Ditch Water Users (this includes one with some signatures, and a blank form. We will supplement this exhibit with additional signed exhibits as we receive them).
402. Curriculum vitae (CV) of Randy Johnsen, P.E., Forsgren Associates
403. Recommendation of Watermaster (Roger Totten) (this is already in IDWR's files)
404. Idaho Repository Case History involving matters with Walter H. Johnson (introduced for purpose of explaining memory loss that may occur during his testimony).

The Applicant reserves the right to submit additional exhibits necessary for rebuttal of the Protestants' witnesses or exhibits, to supplement this list with completed signed petitions (the template of which has been provided) and other exhibits, and to use any official notice documents that are included within IDWR's files.

DATED this 8<sup>th</sup> day of February, 2013.

  
Robert L. Harris, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C

## CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the following described pleading or document on the parties listed below by hand delivery, email, mail, or by facsimile, with the correct postage thereon, on this 8th day of February, 2013.

**DOCUMENT SERVED: APPLICANT SALLY JOHNSON'S WITNESS AND EXHIBIT LIST**

### ATTORNEYS AND/OR INDIVIDUALS SERVED:

|                                     |                                                              |
|-------------------------------------|--------------------------------------------------------------|
| Idaho Department of Water Resources | ( ) <i>First Class Mail</i>                                  |
| James Cefalo                        | ( <input checked="" type="checkbox"/> ) <i>Hand Delivery</i> |
| 900 North Skyline Drive, Suite A    | ( ) <i>Facsimile</i>                                         |
| Idaho Falls, ID 83402-1718          | ( ) <i>Overnight Mail</i>                                    |
|                                     | ( ) <i>Email</i>                                             |

|                       |                                                                 |
|-----------------------|-----------------------------------------------------------------|
| Jake Johnson          | ( <input checked="" type="checkbox"/> ) <i>First Class Mail</i> |
| Churndasher Ranch     | ( ) <i>Hand Delivery</i>                                        |
| 5366 Fish Hatchery Rd | ( ) <i>Facsimile</i>                                            |
| Mackay, ID 83251      | ( ) <i>Overnight Mail</i>                                       |
|                       | ( ) <i>Email</i>                                                |

|                  |                                                                 |
|------------------|-----------------------------------------------------------------|
| Logan Williams   | ( <input checked="" type="checkbox"/> ) <i>First Class Mail</i> |
| PO Box 96        | ( ) <i>Hand Delivery</i>                                        |
| Mackay, ID 83251 | ( ) <i>Facsimile</i>                                            |
|                  | ( ) <i>Overnight Mail</i>                                       |
|                  | ( ) <i>Email</i>                                                |

|                       |                                                                 |
|-----------------------|-----------------------------------------------------------------|
| Dwight Simmons        | ( <input checked="" type="checkbox"/> ) <i>First Class Mail</i> |
| 5457 Fish Hatchery Rd | ( ) <i>Hand Delivery</i>                                        |
| Mackay, ID 83251      | ( ) <i>Facsimile</i>                                            |
|                       | ( ) <i>Overnight Mail</i>                                       |
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