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Department of Water Resources
Eastern Region

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

IN THE MATTER OF APPLICATION
FOR TRANSFER NO. 76286
IN THE NAME OF
TELFORD LANDS, LLC

**RESPONSE TO MOTION TO
EXTEND HEARING DATE**

INTRODUCTION

Telford Lands, LLC, by and through their counsel of record, Robert L. Harris of Holden Kidwell Hahn & Crapo PLLC, hereby files this *Response to Motion to Extend Hearing Date* filed by the Protestants in the above referenced Application for Water Right Transfer No. 76286. For the reasons set forth below, the *Motion* should be denied. In the alternative, the rescheduled hearing date should be held no later than the last two weeks of April.

I. ARGUMENT

The Applicant submitted the above referenced Transfer Application on February 10, 2010, after which it was subsequently advertised pursuant to Idaho law. Numerous protests were filed, copies of which were provided to the Applicant. The Idaho Department of Water Resource thereafter sent a letter dated May 24, 2010, to the Applicant and the Protestants asking for availability dates in July, August, and September 2010. The Applicant timely provided the availability calendar to the Department indicating its availability dates.

Unfortunately, based upon what appeared to be coordinated responses by the Protestants, no dates were available in July, August and September for a pre-hearing conference. Therefore,

on June 11, 2010, the Department provided a follow up letter requesting availability dates for October and November. Based on those responses, a pre-hearing conference was set for October 20, 2010. At the pre-hearing conference, various matters were discussed, including hearing dates that would be acceptable to all parties. The parties ultimately determined that a hearing will be held on Thursday, February 10, 2011 in Arco. Therefore, the hearing was to be held exactly one year after the Application for Transfer was submitted to the Department of Water Resources.

In the mean time, the Applicant continues to be involved in a separate civil dispute with Reuben Babcock regarding a shared well, and therefore, has not had his full entitlement to provide water to his authorized place of use. The Applicant therefore has limited ability to irrigate his crops, which is one of the reasons for filing the transfer application.

Despite having an entire irrigation season in which to gather information and hire experts, the Protestants elected not to engage such experts or gather information until very recently. The obvious difficulty with delaying the hearing into the summer months is that a decision would likely not be issued by the Department on this Application for Transfer until sometime later in the irrigation season, which will result in additional hardship to Telford Lands LLC. *The Motion to Extend* is very conclusive in its language, and does not provide any indication or evidence as to what efforts the Protestants made to obtain information or hire an expert, and why there is now a sudden need to delay the hearing. Delaying the hearing will result in prejudice to the Applicant, and would be based upon a motion that provides no details as to the basis for the delay and the good faith basis for asking that the hearing be extended. Therefore, the Applicant opposes an extension of the hearing date, and request the hearing officer order the hearing to take place on February 10, 2011 as all the parties had previously agreed.

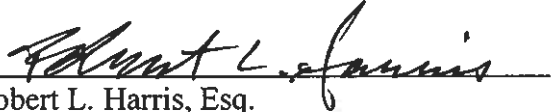
In the alternative, it would be anticipated that a hearing held in late April would result in a written decision within 60 days, which could theoretically provide Telford Lands LLC with a decision in time for the 2011 irrigation season in which, based upon the water supply, it could make a determination to whether or not to proceed immediately with drilling the well, or secure other methods of providing water to its authorized place of use. Additionally, the irrigation season generally begins on April 1st of each year, and a pump tests by the Protestants' experts could be performed on April 1st and shortly thereafter for the Protestants' expert to analyze. We will therefore propose that to the extent the *Motion to Extend* is granted, that the date be moved to no later than April 30, 2011. We believe this would provide the Protestants with ample time

in which Mr. Wood or any other expert they employ should be hired to perform the necessary tests and obtain the necessary data to present at a hearing. Obviously, we anticipate that any information prepared by Mr. Wood would be provided to the Applicant in accordance with our prior discovery requests at least two weeks prior to the hearing period.

II. CONCLUSION

For the forgoing reasons, the *Motion to Extend the Hearing Date* should be denied. If the *Motion* is granted, the hearing date should be held prior to April 30, 2011.

DATED this 12th day of January, 2011


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
Attorneys for the Applicant

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of January, 2011, I served a copy of the following described pleading or document on the parties listed below by mailing, with the correct postage thereon, a true and correct copy thereof.

DOCUMENT SERVED:

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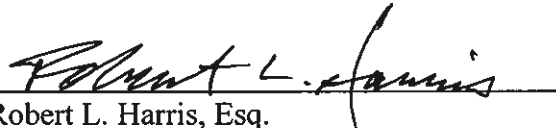
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