

Robert L. Harris (ISB No. 7018)
rharris@holdenlegal.com
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
1000 Riverwalk Drive, Suite 200
P.O. Box 50130
Idaho Falls, ID 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518

Attorneys for Rohn R. and Lori A. Nelson

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

IN THE MATTER OF APPLICATIONS
FOR TRANSFER 86942 AND 86951 IN
THE NAME OF ROHN R. AND LORI A.
NELSON

**APPLICANT'S WITNESS
AND EXHIBIT LIST**

Rohn R. Nelson and Lori A. Nelson (collectively "Nelson" or "Applicant"), by and through their attorneys of record, Holden, Kidwell, Hahn & Crapo, P.L.L.C., pursuant to Hearing Officer Cefalo's *Notice of Hearing and Scheduling Order* dated January 25, 2023, hereby submit *Applicant's Witness and Exhibit List* (the "Scheduling Order") summarizing the witnesses that may testify at the hearing and the exhibits that may be offered as evidence by Nelson at the hearing scheduled for the above-entitled matter on May 23-24, 2023. The *Scheduling Order* assigned numbers 1-100 to Nelson.

WITNESSES

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

1. Rohn R. Nelson
2. Lori A. Nelson
3. John Nelson
4. Ronald E. Byers

5. Bryce Contor or Roger Warner from Rocky Mountain Environmental Associates, Inc.
6. Kirk Klemmer
7. Gene Bair
8. Phil Moulton
9. Fred Payne
10. David Graybill
11. Any of the protestants' witnesses

EXHIBITS

The following exhibits may be introduced at the hearing:

1. Rohn Nelson Idaho Water Rights Civil/Criminal Case Report
2. Referenced Attachments to Exhibit 1:
 - 2.1 Salmon Shop and Swap Ad
 - 2.2 Text from John Nelson – Images of Property
 - 2.3 IDWR Webpage Conditions of Use
 - 2.4 IDWR Overview of Water Rights
 - 2.5 Text to Byers – Expressing Purchase Interest
 - 2.6 Text from Byers – Record of Survey
 - 2.7 Texts from John Nelson – Description and Eight Videos
 - 2.8 Texts Handwritten Purchase Agreement
 - 2.9 Lemhi Title Co., Purchase Agreement
 - 2.10 Lemhi Title Co., ALTA Commitment for Title
 - 2.11 Addendum to Sales Agreement
 - 2.12 Lemhi Title Co., Wiring Instructions
 - 2.13 Lemhi Title Co., Signed Closing Documents
 - 2.14 David Graybill – Identifying Water Rights
 - 2.15 Email Graybill – Drawn Property Boundary
 - 2.16 Graybill Found Three Water Rights
 - 2.17 Notice of Change in WR Ownership & Supporting Documents
 - 2.18 IDWR Official Change in Water Right Ownership

- 2.19 IDWR Official Change in Water Right Ownership Reversed
- 2.20 Jarod Adamson – Claim File 74-2183A – Klemmer Error Letter
- 2.21 Email to Adamson Re; WR Purchase Options
- 2.22 Email from Adamson RE; WR Purchase Options
- 2.23 Water Rights Owned Ronald E. Byers
- 2.24 Water Right Owned by Rohn & Lori Nelson
- 2.25 Water Rights Owned by Kirk & Tina Klemmer
- 2.26 Claim File for WR 74-210B
- 2.27 Fish Propagation – WR 74-15842
- 2.28 Cindy Yenter Letter – Something’s Goofy about Wimpy 1
- 2.29 Cindy Yenter Letter – Two Users Not in Conformance
- 2.96 Text Message from Phil Moulton
- 2.126 James Cefalo – Byers’ Transfer Consent Request
- 2.234 From Robert Harris – Fred Snook – Objections to Expert Access
- 2.235 From Robert Harris to Fred Snook – Follow Up – Access for Expert Witness
- 2.246 From Fred Snook – Update to Allow Access – Phil Moulton Refusal...
- 2.256 From Fred Snook – Fred Payne – Refusal to Allow John Nelson...

3. Referenced Audio Recording Attachments to Exhibit 1:

- 3.1 Ronald E. Byers 1 on 5.27.22
- 3.2 Ronald E. Byers voicemail 05.30.22
- 3.3 Ronald E. Byers 2 on 6.1.22
- 3.4 Ronald E. Byers 3 on 6.6.22
- 3.5 Ronald E. Byers 4 on 6.6.22
- 3.6 Ronald E. Byers voicemail 06.06.22
- 3.7 Ronald E. Byers 5 on 6.7.22
- 3.8 Phil Moulton 08.07.22
- 3.9 Kirk Klemmer 08.07.22
- 3.10 Fred Payne 08.08.22
- 3.11 Ronald E. Byers 08.08.22 1
- 3.12 Ronald E. Byers 08.08.22 2
- 3.13 Fred Payne 08.10.22

4. Transfer Overall Summary Map
5. Transfer Map 1
6. ORIGINAL Water Right 74-210B Map Before Reversal
7. ORIGINAL Water Right 74-2183A Map Before Reversal
8. Nelson Water Right 74-16256 IDWR Map
9. WR 74-210 Historical Split Summary
10. WR 74-734 Historical Split Summary
11. WR 74-2183 Historical Split Summary
12. Lemhi Decree Wimpey Creek 74-210 & 734
13. Lemhi Decree Wimpey Creek 74-2183
14. UPDATED Klemmer Water Right 74-210B IDWR Map
15. UPDATED Klemmer Water Right 74-2183A IDWR Map
16. Bair Water Right 74-210E IDWR Map
17. Survey of Nelson Parcel
18. Applicants Final Expert Report from Rocky Mountain Environmental Associates, Inc.
19. Attachments to Final Expert Report from Rocky Mountain Environmental Associates, Inc.
20. Byers Transfer Consent Signed
21. Bair Protest
22. Klemmer Protest
23. Moulton Protest
24. Payne Protest
25. Bair Discovery Responses
26. Klemmer Discovery Responses
27. Moulton Discovery Responses
28. Payne Discovery Responses
29. Payne Discovery Responses Interrogatory 8 Corrected
30. Gibson Water Right 74-2183B Map
31. Koncz Water Right 74-2183C Map

VIDEO/PHOTOS

50. Video John Nelson (IMG_7029)
51. Video John Nelson (IMG_7030)

- 52. Video John Nelson (IMG_7031)
- 53. Video John Nelson (IMG_7032)
- 54. Video John Nelson (IMG_7046)
- 55. Video John Nelson (IMG_7047)
- 56. Video John Nelson (IMG_7048)
- 57. Video John Nelson (IMG_7049)
- 58. Photo Rohn Nelson of Property (IMG-7034)
- 59. Photo Lori Nelson of Fish Screen
- 60. Photo Lori Nelson of Fish Screen
- 61. Photo Fence (IMG_7976)
- 62. Photo Fence (IMG_7977)

Nelson also hereby provides notice that their counsel may use ArcMap, a GIS mapping program, and/or Google Earth for illustrative purposes to aid Nelson's description of various features that are relevant to the issues to be addressed at the hearing.

Nelson reserves the right to submit additional exhibits, such as those necessary for rebuttal of any witnesses or exhibits, and to use any official documents that are included within IDWR's files for the water rights identified at the hearing on this matter.

DATED this 9th day of May, 2023.



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

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of May, 2023, I served a true and correct copy of the following described pleading or document on the attorneys and/or individuals listed below by the method(s) indicated.

DOCUMENT SERVED: APPLICANT WITNESS AND EXHIBIT LIST

EMAIL TO: **James Cefalo**
Hearing Officer, Idaho Department of Water Resources
900 North Skyline Dr., Ste. A
Idaho Falls, ID 83402-1718
James.Cefalo@idwr.idaho.gov

ATTORNEYS AND/OR INDIVIDUALS SERVED:

Fred Snook
Snook Law Office
44 Cemetery Lane
Snook Events Center, Ste. 12
Salmon, ID 83467
fsnook@custertel.net

- ☐ Mail
- ☐ Hand Delivery
- ☐ Facsimile
- ☒ Email

Chip Giles
Giles Law Group
P O Box 444
Salmon, ID 83467
chip@gileslaw.org

- ☐ Mail
- ☐ Hand Delivery
- ☐ Facsimile
- ☒ Email



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