

Robert L. Harris (ISB No. 7018)
Luke H. Marchant (ISB No. 7944)
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
P.O. Box 50130
1000 Riverwalk Drive, Suite 200
Idaho Falls, ID 83405
Telephone: (208) 523-0620
Facsimile: (208) 523-9518
Email: rharris@holdenlegal.com
lmarchant@holdenlegal.com
Court Service: efiling@holdenlegal.com

Attorneys for Petitioners

**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,

and

BRUCE and GLENDA MCCONNELL,

Intervenors.

Case No. CV30-21-0304

**MOTION TO RESET BRIEFING
SCHEDULE**

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

James Whittaker and Whittaker Two Dot Ranch LLC (collectively "Whittaker"), by and through their attorneys of record, Holden, Kidwell, Hahn & Crapo, P.L.L.C., in accordance with

the *Procedural Order* issued by the Court in this matter on December 2, 2021, and pursuant to I.R.C.P. Rule 84(o) and to I.A.R. 34 and 46, request that the Court issue an order resetting the briefing schedule in this matter. For the reasons set forth below and in the accompanying declaration, there is good cause for granting this motion.

The parties previously filed a joint motion requesting to change the briefing schedule and reschedule oral argument in this matter, primarily because the oral argument date had to be reset given the need for additional time to prepare the record on appeal. *Joint Motion to Reset Briefing Schedule and Oral Argument* (March 3, 2022). The motion was granted. See *Order Granting Joint Motion to Reset Briefing Schedule and Oral Argument* (March 8, 2022) (the “*Order*”). Under the *Order*, Petitioners’ opening brief is due on April 7, 2022, Respondent’s response brief and Intervenors’ response brief is due May 5, 2022, and any reply brief is due on May 26, 2022.

Since the *Order* was issued, counsel for Whittaker has experienced medical issues with his back that now requires an MRI on April 6th and doctor visits over the next two days. *Declaration in Support of Motion for Extension of Time for Filing Petitioners’ Brief* ¶5 (“*Harris Decl.*”). The issues relate to a prior surgery counsel had in June of 2021. Because of these necessary appointments, and out of an abundance of caution, Whittaker requests up to an additional 7 days to finalize *Petitioners’ Opening Brief*, which would change the briefing schedule for all briefs as follows: Petitioners’ brief due on or before April 14, 2022; Response briefs due on or before May 12, 2022; and Petitioners’ reply brief (if any) due on or before June 2, 2022. *Id.*

The revised briefing schedule provides due dates that are well in advance of the scheduled hearing date of June 16, 2022, at 1:30 p.m. and will not require a change to the oral

argument date (any reply brief under the revised schedule will still be due two weeks before the hearing date). *Id.* ¶6.

Counsel for Whittaker has contacted counsel for respondent and the intervenors by email to a briefing schedule set forth herein and such counsel have responded that they have no objection, provided that the hearing date of June 16, 2022 does not change. *Id.* ¶7. Because no change in hearing date is proposed, there is no objection to this motion.

Extending the time for filing of *Petitioners' Opening Brief* will not unduly delay the proceedings in this appeal or prejudice any party. Petitioners submit there is good cause to the grant this motion, and request that this Court grant the motion.

RESPECTFULLY SUBMITTED this 5th day of April, 2022.



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


CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of April, 2022, 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 indicated.

Document Served: MOTION TO RESET BRIEFING SCHEDULE

Attorneys and/or Individuals Served:

Garrick Baxter Mark Cecchini-Beaver Deputy Attorney General IDAHO DEPARTMENT OF WATER RESOURCES P. O. Box 83720 Boise, ID 83720-0098 garrick.baxter@idwr.idaho.gov mark.cecchini-beaver@idwr.idaho.gov	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> FedEx Delivery <input checked="" type="checkbox"/> iCourt
Chris M. Bromley MCHUGH BROMLEY PLLC 380 S. 4 th St., Ste. 103 Boise, ID 83702 cbromley@mchughbromley.com	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> FedEx Delivery <input checked="" type="checkbox"/> iCourt
Robert L. Harris HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C. 1000 Riverwalk Dr., Ste. 200 P.O. Box 50130 Idaho Falls, Idaho 83405 rharris@holdenlegal.com	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Facsimile <input type="checkbox"/> FedEx Delivery <input checked="" type="checkbox"/> iCourt



Robert L. Harris
 HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.
 Attorneys for the Petitioners