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Attorneys for Plaintiff

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI**

THE IDAHO DEPARTMENT OF
WATER RESOURCES,

Plaintiff,

vs.

FLOYD JAMES WHITTAKER and
JORDAN WHITTAKER, as individuals;
WHITTAKER TWO DOT RANCH, LLC,
an Idaho limited liability company; and
WHITTAKER TWO DOT LAND, LLC,
an Idaho limited liability company,

Defendants.

Case No. CV30-22-0169

**MOTION FOR MANDATORY
PRELIMINARY INJUNCTION**


Plaintiff, the Idaho Department of Water Resources, through its counsel of record,
hereby moves the Court to issue, after hearing, a mandatory preliminary injunction pursuant

to I.R.C.P. 65 requiring Defendants Floyd James Whittaker and Jordan Whittaker, as individuals, Whittaker Two Dot Ranch, LLC, an Idaho limited liability company, and Whittaker Two Dot Land, LLC, an Idaho limited liability company, to remove or modify the current In-stream Headgate at the Whittaker Diversion on Stroud Creek and replace it with a suitable, open-top check structure determined suitable by the Director, at a location approved by the Department, as well as install suitable controlling works and measuring devices to the satisfaction of the Director, at locations approved by the Department, at or near the diversion points authorized by water right 74-157, in accordance with Idaho Code § 42-701.

This motion is supported by and is made upon the grounds and for the reasons set forth in Plaintiff's concurrently filed Complaint, Memorandum in Support of Plaintiff's Motion for Mandatory Preliminary Injunction, Affidavit of David T. Graybill, Affidavit of Merritt D. Udy, Declaration of Bruce McConnell, and Declaration of Lacey B. Rammell-O'Brien.

Pursuant to I.R.C.P. 7(b)(3)(D), Plaintiff hereby requests oral argument on its Motion for Mandatory Preliminary Injunction.

Dated the 15th day of July 2022.


LACEY RAMMELL-O'BRIEN
Deputy Attorney General
Idaho Department of Water Resources