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Attorneys for Defendants

**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,

v.

LAURENT COMTE, an individual; and
PANTHERC, LLC, an Idaho limited
liability company,

Defendants.

**DEFENDANTS' MOTION TO
CONTINUE THE OCTOBER 27, 2023
EVIDENTIARY HEARING AND
SHORTEN TIME**

Case No. CV30-23-0191
Judge Stevan H. Thompson

Defendants Laurent Comte (“Comte”) and PantherC, LLC (“PantherC”) (collectively, “Defendants”) move the Court to continue the evidentiary hearing scheduled for tomorrow, October 27, 2023, pursuant to the Court’s inherent powers and Idaho Rule of Civil Procedure 7(b)(3).

Because of the recent rainstorm and snowstorm that enveloped central Idaho on October 25th and 26th, United States Environmental Protection Agency (“EPA”) representatives informed Defendants today that despite their best efforts to travel through the storm, they were unable to make it to the PantherC farm visit today and requested that the visit be rescheduled. Plaintiff’s representatives also elected not to attend the farm visit because of the snowstorm and because they felt “it would be more appropriate to spend the time responding to the settlement proposal” provided by Defendants yesterday. Defendants welcome meeting with the government agencies to resolve the issue and agree to rescheduling of a farm visit, and based on the National Weather Service, it looks like there is more favorable weather in the coming days for that to happen.

In the Court’s order for tomorrow’s evidentiary hearing, the Court notes that the hearing tomorrow will be held “in the event the parties do not resolve the matter, at least for this winter, . . .” Defendants understood that to mean the Court intentionally scheduled the hearing to occur *after the farm visit*, so that the parties could confer and discuss settlement and potentially avoid the need for the Court’s consideration of an injunction. Because the farm visit has been continued for now, Defendants believe for all involved, including the Court, it would be beneficial to move the hearing date until after the farm visit can occur and so the parties can continue to discuss settlement.

To be clear, Defendants are genuinely interested in resolving this matter, and as this Court knows, the goal for today’s farm visit was to get the parties’ experts onsite to discuss avenues of

settlement after Defendants' experts were able to visit the farm. Notably, Defendants' experts were ready for the farm visit today. Their experts drove for five hours on slick snow-covered roads to attend the farm visit, and were notified this morning of the cancellation because of understandable circumstances caused by difficult weather.

Defendants approached Plaintiff about stipulating to a continuance of the hearing, but Plaintiff declined. The Court should have no concerns about continuing the hearing because Defendants are already under a Cease and Desist Order issued by Plaintiff, and there is no allegation in the record that Defendants violated that Order. The Court therefore should continue tomorrow's hearing until after the farm visit, which we anticipate will occur within the coming 7-10 days.

Ordinarily, motions must be filed at least 14 days before the hearing, with a response due 7 days before the hearing, and a reply 2 days before the hearing. Idaho R. Civ. P. 7(b)(3)(A), –(B), and –(C). However, “[a]ny exception to the time limits in this rule may be granted by the court **for good cause shown**. If time does not permit a hearing or response on a motion to extend or shorten time, the court may rule without opportunity for response or hearing.” Idaho R. Civ. P. 7(b)(3)(H) (emphasis added).

Here, this motion is based on the cancellation of the farm visit caused by circumstances beyond the control of anyone—the weather. Given the injunction hearing date, there is good cause to grant the motion to shorten time and hear the motion on October 27, 2023, at 9:00 a.m.

Dated this 26th day of October 2023.

/s/ Robert L. Harris

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

DENTONS DURHAM JONES PINEGAR P.C.

/s/ Bradley R. Cahoon

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served this 26th day of October 2023, via Idaho

District Court electronic filing system upon the following people:

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