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Attorneys for James Whittaker and Whittaker Two Dot Ranch LLC

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR
TRANSFER 84441 IN THE NAME OF
BRUCE AND GLENDA MCCONNELL

**DECLARATION OF
BRYCE A. CONTOR**

I, Bryce A. Contor, state that the following is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

1. I am over the age of eighteen (18) and am competent to testify to the matters contained herein.
2. I am a Senior Hydrologist with Rocky Mountain Environmental Associates, Inc. I represent Protestants James Whittaker and Whittaker Two Dot Ranch LLC (collectively "Whittaker") in the above-entitled matter.
3. On June 1, 2021, I made a site visit to examine features associated with the Right Fork of Lee Creek and a historic ditch depicted on a 1970 Lemhi Adjudication Map in Scott King's report at Figure 12. Exhibit 1 at 17.

4. While on the site visit, I took the photographs with my iPhone 7 of certain features. I have not altered the photographs and provide the following information.
5. I examined the culverts near where the Section 30 confluence would have been located, a location labeled as “D” in my previous report on injury. Here is a photo of this elevated area between the channels:



6. At location D I observed three channel crossings. The east-most channel has no culvert. I followed it upstream to its origin, which is an area of diffuse springs and seeps east of Stroud Creek.
7. The center channel has a culvert and is conveying Stroud Creek flows.
8. The west channel also has a culvert and is conveying Right Fork of Lee Creek flows. From the Right Fork of Lee Creek culvert the creek flows north-northwest on the west side of a low topographic rise or ridge that separates it from Stroud Creek. Proceeding straight north

from a point approximately 30 feet north of the culvert I followed an old ditch remnant straight north that eventually turns very slightly to the north-northwest. Its trace was distinct and unambiguous to a point within about 100 or 150 feet of the McConnell property delineated with a fence, where I could not identify its continuation. Here is photograph of this ditch:



9. I walked upstream and found a place where the nature of Right Fork of Lee Creek went from meandering to straight. Where it began to be straight, there is a low berm

approximately 2 feet above water surface where the Right Fork or Lee Creek was straight and appeared be channelized. East of the berm, the topography was lower in elevation dropping to the southeast. The topography falls off to the southeast of this dike or berm. In the local topography of the drainage at this point, the low side is on the east where the Stroud Creek Channel is located. The dividing ridge or rise that separates Lee Creek and Stroud Creek is not as strong at this point as I remembered it being, though it is stronger both upstream and downstream. This is a photograph of the berm:



10. Based upon my experience, more investigation is warranted, but it appears that the Right Fork of Lee Creek was manipulated to move the channel further west, which moves it further away from Stroud Creek to the west of the berm that now exists.

I certify (or declare) under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct. Idaho Code § 9-1406; Idaho Rule of Civil Procedure 2.7.

June 1, 2021

Date



Bryce A. Contor

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2021, 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: DECLARATION OF BRYCE A. CONTOR

HAND DELIVERY

AND EMAIL TO: James Cefalo

Hearing Officer, Idaho Department of Water Resources
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