

RECEIVED

JUN 23 2016

DEPARTMENT OF
WATER RESOURCES

Fritz X. Haemmerle (ISB No. 3862)
HAEMMERLE LAW, PLLC
P.O. Box 1800
Hailey, ID 83333
Telephone: (208) 578-0520
Facsimile: (208) 578-0564
fxh@haemlaw.com

Attorneys for Nelson Mackay Ranch, L.L.C.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF ROTATION
CREDIT IN WATER DISTRICT 34,
BIG LOST RIVER BASIN

AMENDED WITNESS AND
EXHIBIT LIST; NOTICE OF
SERVICE OF EXHIBITS

PLEASE TAKE NOTICE that Nelson Mackay Ranch, L.L.C., et al.¹ will call some or all of the witnesses listed on Amended Exhibit 1 and produce some or all of the Exhibits listed in Amended Exhibit 2.

Attached with this Notice are the Exhibits which the Nelson Mackay Ranch, LLC protestant *et al* will or may produce at the hearing (DVD).

DATED this 23 day of June, 2016.

HAEMMERLE LAW, P.L.L.C.


FRITZ X. HAEMMERLE

¹ Nelson Mackay Ranch, LLC et al includes Bell Smith, LLC; Byron Pehrson, Lanna Pehrson, Terry Pehrson, and Loy Pehrson; Harry J. and Beverly Crawford; Jennie M. and Orville E. Smith; John and Patrick Powers; Magee Family Trust; Mojanet J. and Deborah D. Broadie; Nelson Mackay Ranch, LLC; Notch Butte Farms, LLC; Peggy and Randy D. Pehrson; and Wight Enterprises, LLC.

CERTIFICATE OF SERVICE

I hereby certify that on the 23 day of June, 2016, I have caused to be presented the foregoing to the Department of Water Resources and Participants and will send notification of such filing to the following e-mail addresses and/or Post Office Boxes by United State Mail:

Original:

Gary Spackman
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
deborah.gibson@idwr.idaho.gov

Bell Smith, LLC
Byron Pehrson, Lanna Pehrson,
Terry Pehrson, and Loy Pehrson
Harry J. and Beverly Crawford
Jennie M. and Orville E. Smith
John and Patrick Powers
Magee Family Trust
Mojanet J. and Deborah D. Broadie
Nelson Mackay Ranch, LLC
Notch Butte Farms, LLC
Peggy and Randy D. Pehrson
Wight Enterprises, LLC
Represented by:
Fritz X. Haemmerle
Haemmerle Law, PLLC
P.O. Box 1800
Hailey, Idaho 83333
fxh@haemlaw.com

Big Lost River Irrigation District
Represented by:
W. Kent Fletcher
Fletcher Law Offices
P.O. Box 248
Burley, Idaho 83318
wkf@pmt.ort

Marshal Todd Perkes
2790 N 3325 W
Moore, Idaho 83255

Melvin Marx Hintze, PE
Darla Ann Hintze

4372 W. Houston Road
Mackay, Idaho 83251
marxhintz@hintze.net

Mike Telford
Telford Lands, LLC
1450 W. Highway 24
Paul, Idaho 83347-8666

Mitchell D. Sorensen
3871 W. 2500 N.
Moore, Idaho 83255

Seth Beal
2827 N. 3375 W.
Moore, Idaho 83255

Young Harvey Walker
2338 N. 2930 W.
Arco, Idaho 83213



Fritz X. Haemmerle

Exhibit 1 (AMENDED WITNESS LIST)

1. Stephen Martin (Bell Smith, LLC)
2. Byron Pehrson
3. Lanna Pehrson
4. Terry Pehrson
5. Loy Pehrson
6. Harry J. Crawford
7. Beverly Crawford
8. Jennie M. Smith
9. Orville E. Smith
10. John Powers
11. Patrick Powers
12. Magee Family Trust
13. Mojanet J. Broadie
14. Deborah D. Broadie
15. Randy Nelson (Nelson Mackay Ranch, LLC)
16. John Lezamiz (for Notch Butte Farms, LLC; Last Ranch, LLC, and the John Lezamiz Family Limited Partnership)
17. Peggy Pehrson
18. Randy D. Pehrson
19. Gary Wright (Wight Enterprises, LLC)
20. Representative of Big Lost River Irrigation District
21. Marshal Todd Perkes
22. Melvin Marx Hintze, PE
23. Darla Ann Hintze
24. Mike Telford (Telford Lands, LLC)
25. Mitchell D. Sorensen
26. Seth Beal
27. Young Harvey Walker
28. Witnesses identified by IDWR
29. Tim Luke
30. Matt Weaver
31. Lewene Clark

Exhibit 2 (AMENDED EXHIBIT LIST)

1. IDWR Order Suspending Rotation Credits
2. Nelson Mackay Ranch, et al Brief and Objection
3. List of Participants with Partial Decrees
4. BWI 5 Notice of Intent to Participate Seth Beal (9/20/1999)
5. BWI 5 Motion for More Definite State (Sorenson, Beal and Walker) (12/17/1999)
6. BWI 5 Affidavit of Karl Dreyer (12/30/1999)
7. BWI 5 Proposed Order Requesting Supplemental Report on Basis of Recommendations (1/19/2000)
8. BWI 5 Proposed Order Setting Deadlines for IDWR to file Direct Testimony (1/20/2000)
9. BWI 5 State's Notice of Intent to Participate (1/25/2000)
10. BWI 5 Order Setting Mandatory Settlement Conference (2/16/2000)
11. BWI 5 2000 Supplemental Director's Report (3/27/2000)
12. BWI 5 Order Appointing Cushman as Settlement Facilitator (4/28/2000)
13. BWI 5 Settlement Conference Report (5/12/2000)
14. BWI 5 Minutes (5/23/2000)
15. BWI 5 Order to Show Cause (5/25/2000)
16. BWI 5 Trial Setting Order (6/13/2000)
17. BWI 5 Settlement Conference Report (9/15/2000)
18. BWI Order Requesting Dates (12/11/2000)
19. BWI 5 Available Dates Submitted by Sorenson, Walker and Beal (12/20/2000)
20. BWI 5 Minutes from Status Conference (1/16/2001)
21. BWI 5 Second Settlement Conference Report (2/20/2001)
22. BWI 5 Notice of Intent to Produce Evidence and Cross Sorenson, Walker & Beal (3/8/2001)
23. BWI 5 Witness List Sorenson, Walker and Beal (3/15/2001)
24. BWI 5 State of Idaho Witness List (3/15/2001)
25. BWI Witness List Sorenson., Walker and Beal (3/16/2001)
26. BWI 5 Pretrial Held (4/23/2001)
27. BWI 5 Order of Partial Decree for General Provisions (5/9/2001)
28. BWI 5 Certificate of Mailing, Notice of Appeal (6/18/2001)
29. BWI 5 Petition for Judicial Review, Sorenson, Walker and Beal (12/31/2002)
30. BLRID Position Statement (5/20/16) Supplemental BLRID Position Statement (6/3/2016)
31. Affidavit of John Lezamiz
32. 1999 Director's Report, Reporting Area 1, IDWR Basin 34
33. 1999 Supplemental Director's Report, Reporting Area 1, IDWR Basin 34
34. *State v. Nelson*, 131 Idaho 12, 951 P.2d 943 (1998)
35. IDAPA 37.03.12.040 (Rotation Credits)
36. Mackay et al. Motion in Limine
37. Current IDAPA 37.03-12.040
38. Statement of Gary Wight, Wight Enterprises, LLC
39. Statement of Harry and Beverly Crawford
40. Statement of Loy Pehrson
41. Statement of Lewene Clark, Personal Representative for Jennie Marie Smith Estate
42. Statement of Mojanet and Deborah Broadie

- 43. Statement of Randy and Peggy Pehrson
- 44. Statement of Randy Nelson
- 45. Deposition of Mathew Weaver (06/17/16)
- 46. Deposition of Timothy Luke (06/17/16)
- 47-50. Reserved for additional Mackay Exhibits
- 51-70. Reserved for IDWR Exhibits (See attached Exhibit List for IDWR Deposition)
- 71-90. Reserved of Participants Exhibits

**IN THE MATTER OF ROTATION CREDIT IN WATER DISTRICT 34,
BIG LOST RIVER BASIN**

**IDWR DEPOSITION EXHIBITS
Depositions of Mat Weaver and Tim Luke
June 17, 2016, at IDWR State Office**

NO.	EXHIBITS	DATE
1	1991 IWRRI Report, Ground Water Pumping Impacts Big Lost River	12/1991
2	2006 Rotation by User	10/15/2006
3	2007 Rotation by User	10/14/2007
4	2010 Rotation Sum	2010
5	2011 Rotation by User	10/16/2011
6	2011 Rotation Sum	2011
7	2012 Rotation Sum	2012
8	2013 Rotation Sum	2013
9	2014 Rotation by Canal	2014
10	2014 Rotation Sum by Canal User	2014
11	2014 WD 34 WM Well Readings	2014
12	2015 Rotation by Canal	2015
13	2015 Rotation by Canal excel spreadsheet	2015
14	2015 Rotation by Canal User	2015
15	2015 WD 34 WM Well Readings	2015
16	April 1, 1935 Big Lost Irrigation District Minutes	4/1/1934
17	Copies of documents from Mackay Dam File from 2006	2006
18	Excerpt from annual report of distribution of water of the Big Lost River Nov. 1, 1995 through October 31, 1996	11/1/1995– 10/31/1996
19	Howell Gage 1990-2015	1990-2015
20	Mackay Res USGS contents 1990-2015	1990-2015
21	Rotation Credit 2013	2013
22	WD34 2015 use with names	2015
23	WD34 2015 GW Usage	2015
24	WD34 2002 Operation Plan for Mackay Dam and Reservoir	2002
25	Preliminary Order Suspending Rotation Credit in Water District 34	4/29/2016
26	December 12, 2013, letter from Gary Spackman regarding WD 34 expectations for the 2014 irrigation season	12/12/2013
27	March 3, 2016, letter from Gary Spackman regarding notice of intent to suspend rotation credit	3/3/2016