

**RESUME**  
**OF**  
**EDWIN L. LITTENEKER**

**SUMMARY**

Legal experience includes private, municipal, and association practice.

Teaching experience in Business Law, Business Ethics, Human Resource Management, Labor Relations, Speech Communications, Negotiation and Alternative Dispute Resolution.

Experience in alternative dispute settlement programs, including arbitration, mediation, meeting facilitation and dispute resolution skills training.

Service as a hearing officer in rule making, licensure, and contested cases under the Idaho Administrative Procedures Act and providing private hearing officer, complaint investigation and grievance resolution services.

Retired from the active practice of law, Senior status in the State of Idaho.

**LEGAL EXPERIENCE**

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|--------------------------------|---|
| January 1995 – October 2017    | Attorney at Law, Sole practitioner, Lewiston, Idaho. General practice with emphasis in litigation, local government, state and local administrative law, general business, and estate planning and probate.<br><br>Special Deputy Attorney General-Department of Transportation-Administrative License Suspensions, Department of Health and Welfare-Child Support and Paternity Establishment. |
| September 1988 - December 1994 | Brown & Litteneker, Attorney at Law, Partner, Lewiston, Idaho. General practice with emphasis in real estate, construction, domestic relations and employment law.  |
| October 1987 – September 1988  | Attorney at Law, Solo practitioner, Lewiston, Idaho. General practice with emphasis in real estate, labor relations and personnel law.  |

October 1983 – September 1987 City of Lewiston, Lewiston, Idaho, City Attorney. Contracted with the City Council. Responsibilities included all aspects of municipal law and specifically labor relations and personnel. Served as chief spokesman for the City in negotiations with three separate unions. Supervised misdemeanor prosecution and code enforcement.

Preparation of legal opinions at the request of the City Council and City staff. Preparation of ordinances, resolutions, contracts, deeds, leases, and easements as requested.

January 1982 – September 1983 City of Lewiston, Lewiston, Idaho, Assistant City Attorney. Reported to the city attorney, responsible for misdemeanor criminal prosecutions, including representing the city on motions and court and jury trials on misdemeanors and infractions. Responsible for planning and zoning and code enforcement.

June 1980 – December 1981 Idaho State Home Builders Association. Served as Staff Attorney and then Executive Director of the Idaho Home Builders Association. Association members included residential contractors and suppliers. Administrative officer of the Association and responsible for all association programs. As staff attorney responsibilities included practice before the Public Utilities Commission, prepare and present testimony before city councils and county commissions on land use and planning and zoning issues, lobbied on behalf of the Association in the Idaho legislature.

July 1978 – June 1980 Roos and Litteneker, Boise, Idaho. Attorney. General practice of law with emphasis in domestic relations, criminal and contract law. Contracted with the Ada County as Juvenile Public Defender.

### **APPROPRIATE DISPUTE RESOLUTION**

October 2017- December 2018 Special Education Dispute Resolution Coordinator. Idaho Department of Education. Administer IEP Team Meeting facilitation, Mediation, Complaint Investigation Due Process Hearing programs and processes.

January 1986 – August 1993

Executive Director of Idaho Arbitration Services (IAS). IAS provided arbitration and mediation services and training programs. Responsibilities included marketing of IAS services as well as conducting arbitration, mediations, and training programs. Business was sold.

August 1993 – October 2017

Mediation practice in personal injury, employment, domestic relations, business dissolution, special education, public policy, land use cases and Individual Education Plan team meeting facilitation.

Mediation panel membership, Federal Court, and Idaho Supreme Court Civil Mediator.

Certified Idaho Small Lawsuit Resolution Evaluator.

### **OTHER PROFESSIONAL EXPERIENCE**

December 1986 to October 2017

Hearing officer:

Department of Health & Welfare, Professional license and benefit cases.

Department of Law Enforcement, Professional license and Alcohol Beverage Control cases.

Department of Transportation, right of way and condemnation disputes.

Personnel Commission, Public employee discipline and termination cases.

Department of Education, IDEA Due Process Lead Hearing Officer, Complaint investigator, facilitator and mediator.

Nez Perce Tribe employment grievance hearings.

Idaho Board of Medicine Medical Malpractice Prehearing Screening Panel Chair

August 1983 – December 2005

Adjunct faculty: Lewis-Clark State College, Lewiston, Idaho. Instructor in Business Law, Wills, Estates & Trusts, Labor Relations, with emphasis in

negotiation. Human Resource Management. & Business Ethics. Designed and taught On-line Business Law Classes. Designed and taught Weekend Business Law classes. Introductory speech & speech communications.

June 2000 – October 2017

Prepare presentation materials & conduct training programs in workplace issues including discrimination, harassment and drug and alcohol policy implementation; IDEA special education issues; Facilitation of IDEA-IEP team meetings; training elected and appointed government officials; organizational decision making, mental health professionals ethics and not for profit board of director training.

August 2014-December 2017

University of Idaho College of Law-Adjunct Instructor-Negotiation and Alternative Dispute Resolution.

### **EDUCATION**

J.D. University of Idaho College of Law. 1978

B.A. University of Idaho 1974 Cum Laude, Political Science.  
Speech and sociology minor areas of study.

### **CONTACT INFORMATION**

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3-16-2020

This is a letter of recommendation on behalf of Edwin Litteneker who I understand has applied to serve as a hearing officer for the Division of Environmental Quality, Idaho Department of Health and Welfare.

Ed served as the Dispute Resolution Coordinator, Division of Special Education for 15 months after his retirement from the active practice of law. In that capacity, he was responsible for the supervision of the SDE, Dispute Resolution Contractors, including the Hearing Officers and Complaint Investigators. Since he left the employment of the SDE, Ed has contracted with the SDE as a Dispute Resolution Contractor including conducting complaint investigations and Requests for Due Process Hearings. He has also facilitated IEP Team Meetings and conducted mediations addressing issues of the provision of special education as required by state and federal law.

Though I cannot write this recommendation letter as a state employee, I can whole heartedly endorse Ed, the quality and completeness of his work is thorough and addresses the issues raised.

Please favorably consider his application to provide Hearing Officer services for the Division of Environmental Quality. If you have any questions, please call on me.

Jeff Brandt  
Dispute Resolution Coordinator  
Special Education  
State of Idaho

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208-332-6914

**RECEIVED**  
SEP 08 2016  
DEQ Hearings Coordinator  
DOCKET NO. \_\_\_\_\_

BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

STATE OF IDAHO

IN THE MATTER OF FINAL § 401 WATER )  
QUALITY CERTIFICATION MEADOW CREEK )  
SIDING SNYDER CREEK; NWW-2016-077 )

Docket No. 0102-16-01

\_\_\_\_\_  
DICK MARTINDALE,  
Petitioner )

**ORDER DISMISSING  
A CONTESTED CASE**

v. )

IDAHO DEPARTMENT OF ENVIRONMENTAL )  
QUALITY, )  
Respondent. )

and )  
UNION PACIFIC RAILROAD COMPANY, )  
Intervenor. )  
\_\_\_\_\_ )

This is an Order permitting the Withdrawal of a Petition To Initiate a Contested Case and resolving request to Intervene.

On July 26, 2016 Dick Martindale filed a Petition to Initiate a Contested Case with the Board of Environmental Quality captioned Final § 401 Water Quality Certification Meadow Creek Siding Snyder Creek NWW-2016-077.

The Union Pacific Railroad Company (UPRR) Petitioned to Intervene on August 15, 2016. UPRR is the project proponent concerning the construction of the Meadow Creek Siding Project. UPRR's Petition to Intervene was granted by an Order of the Presiding Officer on August 23, 2016.

The Department of Environmental Quality filed its response to the Petition for a Contested Case on August 22, 2016.

A variety of Petitions to Intervene were filed by individuals pro se claiming to have a direct and substantial interest in the contested case as property owners adjacent to the proposed UPRR Meadow Creek Siding or in the immediate vicinity of the proposed Meadow Creek Siding. Petitions to Intervene were filed by Linda Corson, Barbara Nagel, Fred Gabourie and Sharon Gabourie, Denis and Cindy Johnson, Edward Adamchak, Lawrence Keister, Brad Lowther and Ginger Collins. There has been no ruling thus far on the Petitions to Intervene.

Mr. Martindale is entitled to file a Notice of Withdrawal and has properly served all of the parties with a copy of the Withdrawal of the Petition for a Contested Case pursuant to IDAPA 58.01.23.304.

The Withdrawal of the Petition for a Contested Case is granted and the Petition for a Contested Case is hereby dismissed.

Subsequent to the withdrawal of the Petition for a Contested Case Fred Gabourie and Sharon Gabourie withdrew their Petition to Intervene on August 30, 2016. This Petition to Withdraw the Request to Intervene is granted. Edward Adamchak withdrew his Petition to Intervene on September 6, 2016. This Petition withdrawing the Request to Intervene is also granted.

All of the Intervenors appeared pro se without the assistance of counsel.

In Idaho pro se litigants are to be held at the same standard as attorneys. As the Presiding Officer I am not permitted to provide the potential pro se litigants with special treatment because the pro se litigants may not be familiar with all of the requirements of the DEQ's Rules of Administrative Procedure and the Attorney General Rules of the Administrative Procedure.

The expectation of a pro se litigant in the contested case setting is that they understand the proper form and content of pleadings to be presented to the Presiding Officer, participate appropriately in conducting discovery and are entitled to martial evidence and engage in cross examination at depositions or hearings as well as prepare written legal briefing and be familiar with administrative motion practice. This unfortunately can become a daunting task particularly given the potential complexity of the issues that may have been presented here.

The variety of issues raised by the pro se proposed intervenors are substantially similar if not identical to the issues raised by the Petitioner and the pro se intervenors participation in this matter would have made the administrative process more cumbersome particularly because each of the proposed intervenors would have been expected to attend and participate in discovery, motions hearings, telephone conferences and similar proceedings.

I was prepared to conditionally deny the Petitions to Intervene. However, the filing of the withdrawal of the Petition for a contested case by Mr. Martindale makes the Petitions to Intervene moot. Upon the dismissal of the Petition for a Contested Case based upon Mr. Martindale's withdrawal of the Petition, the pro se parties requesting intervention no longer have a direct and substantial interest in a contested case.

The Petitions to Intervene of Linda Corson, Barbara Nagel, Denis and Cindy Johnson, Lawrence Keister, Brad Lowther and Ginger Collins are hereby denied as being moot since there is no underlying contested case in which to Intervene.

IT IS THEREFORE ORDERED:

That the Petition for a Contested Case is hereby dismissed without prejudice.

The Petitions to Intervene of Gabourie and Adamchak are withdrawn and are hereby dismissed.

The remaining Petitions to Intervene are denied and hereby dismissed.

DATED this 8 day of September, 2016.



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Edwin L. Litteneker  
Presiding Officer

### Notice of a Preliminary Order

This is a Preliminary Order which become a final order of the Board unless reviewed by the Board pursuant to I.C. § 67-5245. This Preliminary Order can and will become final without further action of the Board unless any party appeals to the Board by filing with the Hearing Coordinator a Petition for Review of the Preliminary Order be within 14 days of the service date of this Preliminary Order any party may take exceptions to any part of this Preliminary Order by filing with the Hearing Coordinator a Petition for Review of the Preliminary Order unless this Preliminary Order will become a final order of the Board. The basis for review must be stated in the Petition. The Board may review the Preliminary Order on its own motion, see if any party files a Petition for Review of the Preliminary Order the Board shall allow all parties an opportunity to file briefs in support of or taking exceptions to the Preliminary Order and may schedule oral argument in the matter before issuing a final order. The Hearing Coordinator shall issue a notice setting out the briefing schedule and date and time for oral argument. The Board will issue a final order within 56 days of the receipt of written briefs or oral argument, whichever is later unless waiver extended by the parties or for good cause shown. The Board may hold additional hearings or may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

Pursuant to I.C. §§ 67-5270 and 67-5272, if this Preliminary Order becomes final any party aggrieved by the final order or order previously issued in this case may appeal the final order and all previously issued orders in this case to District Court by filing a Petition for Judicial Review in the County in which 1) a hearing was held, 2) the final agency action was taken, 3) the parties seeking review of the order resides or operates its principal place of business in Idaho or 4) the real or personal property that was subject to the agency action as located, e) the petition for judicial review must be filed within 28 days of this Preliminary Order becoming final.

I.C. § 67-5273, a petition for judicial review in district court does not stay the effectiveness or enforcement of the order under review. Motions for reconsideration of any preliminary order shall not be reconsidered, IDAPA 58.01.23.73o.



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Bonners Ferry ID 83805  
FIRST CLASS U.S. MAIL

Ginger Collins  
6168 Moyie River Road  
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Hearing Coordinator  
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