

Why I am objecting to Application 65-23481,

Motion to File Late Notice of Claim.

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

SEP - 4 2012

By _____ Clerk
_____ Deputy Clerk

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1030
9/4/12
1:30
pm

I am objecting to J. R. Allen being issued a Water Right and/or a P.O.D. at elevation 5302 feet on rock Creek. He has been given permission to divert water at this unauthorized P.O.D. for the last two years. His friends at the IDWR have given him all the help, advice, protection, time, and unreasonable prejudice that one can imagine.

Allen abandoned the **ONLY Water Right and P.O.D., 65-3111X**, that the Allen Ranch had and used at Elevation 4880 feet in Rock Creek. He abandoned the ditch from this P.O.D. because he did NOT want to maintain it like D.K. Allen and E.K. Allen did for over fifty years, that I am sure of.

He needs water to irrigate, so he went up stream in Rock Creek to Elevation 5302 feet and started using the POD that his grandfather, D.K. Allen, used in the 1930's and stopped using shortly thereafter. The POD was not used for many years and was not re-adjudicated in the Snake River Basin Adjudication. The POD was not authorized when J.R. Allen moved to it and it is NOT authorized now.

Allen took more and more water from what he calls "his upper diversion". There are about eight other water right users below his upper diversion. One of those water users is West Mountain Water Association, Inc. There are sixty four water users in West Mountain Water Association, Inc.

On the weekend of the 4th of July, 2010 there was only a trickle of water below 5302 Ft. in Rock Creek. All of Rock Creek was diverted into Allen's ditch at 5302Ft.

Someone, probably an authorized user with a water right, removed most of the upper diversion. This started all the present unrest on Rock Creek.

As of August 19, 2012, Allen has blocked Richard Creek at Elevation 5302 Ft. to much less flow than normal for this time of year.

Allen and his attorney, Bruce Smith, call this unauthorized upper diversion a DAM. This dam is composed of well-placed logs and rocks. In prior years they have placed an orange tarp.

Allen and his attorney, Bruce Smith, are not honest and cannot be trusted to do what they are ordered to do or what they agree too. Example, remove their dam" in the creek" and turn the diversion off when ordered to.

They did not tell the truth when they filed for 65-23451 when they stated that they **had permission** from Mr. Jividen to operate on his property. Jividen's letter to be found in Protest File in IDWR's file. They were not honest when they declared that there would not be any physical changes to the operating procedures.

Allen was very misleading on November 18, 2010 when he told Steve Lester and Angie Grimm that West Mountain Water takes their water from Little Rock Creek and that he furnishes water year around to the subdivision. He does not have year around water right and cannot furnish water in a 1 ½ surface run plastic pipe at 20 ° below zero. Allen Ranches claim to Water Right 65-3111X and Civil Case 39576 specifically states, dated November 17, 1988, under remarks, **that NO NON-IRRIGATION uses are asked for.**

Both Rock Creek and Little Rock Creek have always flowed naturally across Allen's Ranch. Diverting water from Rock Creek into Little Rock Creek would not provide any more water for cattle. It would make irrigating the north pasture easier, just a little dishonesty.

Allen and Bruce Smith are asking for year-around water for 600 head of cattle. 600 head would make a feed lot out of **83 acres of pasture and a sewer** out of the south end of Cascade Lake. Nearly all of his cattle drink directly from the lake. Please see my document titled "Conformation of Observation" dated March 4, 2011.

Allen's application, 65-23481, is for year-around cattle water. He moved the cattle in on June 17, 2012 and usually moves them out in October or November. The purpose for year around water is to keep the water flow in Rock Creek low. Another vendetta.

Allen's application 65-23481 for extended irrigation season is contrary to his applications 65-23451 and 65-77121 where he claimed that he could not gain access to elevation 5302 Ft. until May. In most past years his pasture has been frozen and under snow and his cattle are long gone by the end of November.

The IDWR water right profile report for E.K. Allen, dated July 19, 1999, states **"This right shall provide no more than .02 cfs per acre"**.

I don't care if Allen uses his **unauthorized**, lower POD, but any use there should be reduced from any other of his POD's.

At this time he has dug channels though out his pasture from Rock Creek to irrigate farther south. Is there a Point of Diversion and are these channels measured?

How many application numbers can the IDWR give to Allen for **water Right and/or POD** at the **same location**?

Allen operates and lives on vendetta, arrogance, and vulgar accusations, and threats! Ask any folks along the banks of Rock Creek or protestor's to applications 65-23451, 77121 and/or 65-23481.

Someone other than Allen **must** control where and how much water he gets out of Rock Creek.

Finally, your Honor, if you find in my favor, I respectfully request that your decision is with prejudice.

A handwritten signature in cursive script that reads "Jim Bunce".

Jim Bunce

Water Master

West Mountain Water Association, Inc.

May 4, 2011

Conformation of Observation

This is a list of name of persons that own property or frequent property near the Allen Ranch on West Mountain, on the west side of Cascade Reservoir.

I have observed that for many years there has been no fence or any other effort to keep the cattle out of Cascade Reservoir. I have observed many cattle drinking water from the reservoir and defecating, at the same time, for many years.

Name	Address	Phone#	Date Signed
GAYLEN L. MOORE	535 W. MOUNTAIN RD	642-4862	5-8-2011
James T. Benson	29 Issy Ln. Cascade	382-4288	5-8-2011
Paul Behn	27 Issy Lane	608-5580	5-15-2011
GARY SAWERWIND	586 Tee Pee	859-0726	15 MAY 2011
JACK WHITE	642 Tee Pee Rd	454-1767	15 MAY 2011
BROCK WAGNER	28 Pats LN	559-8230	15 MAY 2011
Victoria Glond	28 Pats LN	559-8229	5-15-11
Tim Hawley	551 Noland Rd	250-8245	5-15-11
Tressa Young	517 Henglow Rd	880-4525	5-21-11
Todd Young	517 Henglow	461-4207	5-21-11
Kaymond Cummings	19 Richards Creek	208-672-0581	5-21-11
Andrey M. Vozna	7 Richards Creek	362-7276	5-21-11
Robert L. Mink	556 Noland	850-0371	5/22/11
Mary J. Jorbs	556 Noland	850-0371	5/22/11
Harold Kuehls	33 Duffey	861-8242	5/22/11
Frank R. Ralston		341-0800	5-25-11
Jane E. Winkler		382-3926	5-28-11
Math R.		315-0092	5-28-11
Michael R. Pin	489 W. Mtn Rd.	382-3926	5-28-11
Tom Cross	484 Henglow	880-3654	5-28-11
Lanaine Drew	484 Henglow	382-4076	5-28-11
B. Stang	515 Henglow	949-274-6602	5-28-11
Linda Shaul	515 Henglow	714-337-6530	5-28-11
Joshua Majors	515 Henglow	208-857-3653	5-28-11
Jacob Majors	515 Henglow	208-703-8024	5-28-11
DARRELL TAYLOR	29 DUFFY LN	208-697-2741	5-28-11
Sara Taylor	29 DUFFY LN	208-697-2880	5-28-11
Ron Filler	Box 174 Cascade	208-870-3323	6-1-11
A. O'Neil	569 BRENDA DR CASCADE	208-866-7838	6-1-11
Shirley Ford	569 BRENDA DR CASCADE	208-830-6133	6-1-11
Daphne Phillips	578 Hatch Rd	208-866-3845	6-7-11
Renee Phillips	578 Hatch Rd	866-3453	6-4-11

May 4, 2011

Conformation of Observation

[illegible]



