

Maline, Denise

From: Cefalo, James
Sent: Tuesday, June 14, 2016 1:24 PM
To: Gary Slette
Cc: Maline, Denise; Cliff Jensen; Suzanne Jensen; Robin Moore; Spackman, Gary; Merritt, Allen
Subject: RE: Scarrow Prehearing Conference

Gary,

No need for a formal motion. I'm pretty flexible on pre-hearing dates. I didn't realize you represented both protestants. Let's go ahead and move the pre-hearing conference to a day that works for you, Brockway and Scarrow. I've included Denise on this email so she can work the parties to find a better date.

James

From: Gary Slette [mailto:gslette@rsidaholaw.com]
Sent: Tuesday, June 14, 2016 12:58 PM
To: Cefalo, James
Cc: Maline, Denise; Cliff Jensen; Suzanne Jensen; Robin Moore; Spackman, Gary; Merritt, Allen
Subject: RE: Scarrow Prehearing Conference

Dear Mr. Cefalo,

My clients, Mr. Jensen and Birch Creek Trout, Inc., are the two protestants in this matter. They were expressly afforded the opportunity to respond to the IDWR with available dates up through and including June 13. Please see Allen Merritt's letter dated June 2, 2016, which was signed by Denise Maline on his behalf. I met with my clients on Tuesday, June 7th, and was out of the office from Wednesday until Sunday attending our daughter's college graduation in Oregon. I timely corresponded with Ms. Maline by email on June 13 to advise her of a viable date in July for the prehearing conference, the timing of which was due in large part to Dr. Brockway's suggestion that we should meet to review information in advance of the prehearing conference. That information has not yet been prepared by him, so I wanted to make certain that my clients and I had sufficient time in which to review it. I'm not certain why Ms. Maline stated in her email below that she acted because she hadn't heard from my clients by June 10, when the Merritt letter had expressly advised my clients that they had until June 13 to respond. I have prepared and will file a formal motion to vacate the prehearing conference date because my clients are entitled to be represented by legal counsel at all phases of this matter, including the prehearing conference. I have spoken with them this morning, and they have indicated that they want me to be in attendance in order to be able to gather information firsthand about the applicant's proposal. Judging by the agenda items expressly articulated in Mr. Merritt's letter, the prehearing conference is of vital importance to my clients and me in this proceeding.

Yours truly,

Gary D. Slette

From: Cefalo, James [mailto:James.Cefalo@idwr.idaho.gov]
Sent: Tuesday, June 14, 2016 10:52 AM
To: Gary Slette
Cc: Maline, Denise
Subject: RE: Scarrow Prehearing Conference

Gary,

Thank you for notifying me about your conflict. Because there is another protestant in the matter, I think we should move forward with the pre-hearing conference on June 30th. I don't plan on scheduling the hearing or any discovery/disclosure deadlines at the conference. We can handle scheduling in a telephone status conference at a later date. I intend to use the pre-hearing conference to allow the applicant to give additional details about the proposed project. Mr. Jensen can attend and gather some additional information about the proposal. It will also provide a forum for the applicant to meet with the other protestant.

I am glad to hear that you are working with Brockway Engineering to evaluate informal settlement ideas. Your discussions with Brockway can take place before the conference. There will also be time after the conference to continue informal settlement discussions. We can go ahead and schedule a telephone status conference for the week of July 25th. Scarrow can provide an update on your discussions at that time and we can set the hearing date during that meeting.

Thanks,

James Cefalo

From: Gary Slette [<mailto:gslette@rsidaholaw.com>]
Sent: Tuesday, June 14, 2016 10:01 AM
To: Cefalo, James
Subject: FW: Scarrow Prehearing Conference

Mr. Cefalo,

Please see below. I wanted to make certain you were informed of this as quickly as possible.

Regards,

Gary D. Slette

From: Gary Slette
Sent: Tuesday, June 14, 2016 9:08 AM
To: 'Maline, Denise'
Cc: Robin Moore
Subject: RE: Scarrow Prehearing Conference

Denise,

I will not be in town on June 30. Our son arrives home from England on Wednesday, the 29th, and we leave for our cabin for the long weekend on the morning of the 30th. Would you please ask Mr. Cefalo if he would graciously accommodate our requested pre-hearing conference date, particularly because we have agreed to work with Dr. Brockway to determine if there is a solution outside of the formalities of the hearing process. I will prepare and send you a Notice of Appearance.

Regards,

Gary D. Slette

From: Maline, Denise [<mailto:Denise.Maline@idwr.idaho.gov>]
Sent: Tuesday, June 14, 2016 8:43 AM

To: Gary Slette
Subject: RE: Scarrow Prehearing Conference

Good morning Mr. Slette,

I wanted to touch base with you on this matter. As of last Friday, June 10th, the department had not heard back from Mr. Jensen, related my June 2nd letter regarding scheduling a pre-hearing conference. Since we had not heard from Mr. Jensen, the department moved forward with scheduling a pre-hearing conference, to be held on June 30th. The Notice of Pre-hearing Conference was mailed yesterday morning and Mr. Jensen should be receiving his copy soon. I have also attached a copy for your reference.

James Cefalo, Regional Manager at our Idaho Falls office, will be conducting the conference. I have forwarded your message to him, and he can decide how to proceed, etc.

Although you had spoken to Allen, it was not relayed to me that you were representing Mr. Jensen. My apologies for the confusion. On that note, would you please send me a Notice of Appearance, to ensure you are included in all future correspondence.

Please let me know if you have any questions. We'll keep in touch.

Thank you,

Denise

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From: Gary Slette [<mailto:gslette@rsidaholaw.com>]

Sent: Monday, June 13, 2016 2:22 PM

To: Maline, Denise

Cc: Cliff Jensen; Suzanne Jensen; Robin Moore; Charles E. Brockway; Skinner, Corey; Evan Robertson

Subject: Scarrow Prehearing Conference

Dear Denise,

I will be representing Cliff and Suzanne Jensen with regard to their protests of the Scarrow applications. After I met with the Jensens last week, I spoke with Dr. Brockway regarding the applications. He expressed his desire to provide us with additional information regarding the applications which he felt might affect my clients' protests. The Jensens and I look forward to sitting down with Dr. Brockway to determine if their concerns can be adequately addressed. In order to afford us adequate time to do that, I would request that the prehearing conference be scheduled during the week of July 25.

As I related to Allen Merritt in a phone call last week, the Jensens are not getting their full quantity of water delivered under their existing water right at this location, and they are looking at making a call on the resource. I am hopeful that the information provided by Dr. Brockway will address their concerns in order to avoid that.

Please contact me if you have any questions or comments.

Regards,

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