

Keen, Shelley

From: Keen, Shelley
Sent: Friday, December 06, 2013 5:09 PM
To: 'Bruce M. Smith'
Cc: 'randymcclintick@yahoo.com'; 'schess123@msn.com'; 'ibcascade@hotmail.com'; 'djividen@frontiernet.net'
Subject: Correspondence regarding JR Allen Hearing
Attachments: Notice from Dwight Jividen.pdf

Parties in the Allen Ranch matter,

I've attached some email correspondence between myself and Mr. Jividen concerning a procedural question.

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947

From: Bruce M. Smith [<mailto:BMS@msbtlaw.com>]
Sent: Friday, December 06, 2013 4:35 PM
To: Keen, Shelley
Subject: Letter of today regarding JR Allen Hearing

Shelley—I noted in your letter of today that you had received a notice that Mr Jividen would not be present for the hearing to represent West Mountain Properties LLC. I did not receive that notice. Could you please send me a copy of the message for my records. Thanks. Bruce

Bruce M. Smith
Moore Smith Buxton & Turcke, Chtd.
950 W. Bannock Street, Suite 520
Boise, ID 83702
Telephone: (208)331-1800
Facsimile: (208)331-1202

Keen, Shelley

From: Keen, Shelley
Sent: Wednesday, December 04, 2013 2:24 PM
To: 'djividen@frontiernet.net'
Subject: RE: Water

Mr. Jividen,

The protestants are required to attend the hearing concerning Allen Ranch's applications. Please arrange for an attorney to represent West Mountain Properties LLC at the hearing. A more formal notice concerning the need for an attorney will be sent to you shortly.

If a party does not appear, IDWR may move to dismiss the party from the proceedings pursuant to Rules 700-702 of IDWR's Rules of Procedure. (See below.)

Sincerely,

Shelley Keen
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947

700.NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR OR RESPOND (RULE 700).

If an applicant or claimant or appellant, petitioner, protestant, complainant, or moving party fails to appear at the time and place set for hearing, or prehearing conference, on an application or claim or appeal, petition, complaint, or motion, or fails to respond to a written information inquiry, the presiding officer may serve upon all parties a notice of a proposed default order denying the application or claim or appeal, petition, complaint, or motion. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the applicant or claimant or appellant, petitioner, complainant or moving party to appear at the time and place set for hearing or prehearing conference, or to respond to the information inquiry. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. (4-5-00)

701.SEVEN DAYS TO CHALLENGE PROPOSED DEFAULT ORDER (RULE 701).

Within seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered.

702.ISSUANCE OF DEFAULT ORDER (RULE 702).

The agency shall promptly issue a default order or withdraw the notice of proposed default order after expiration of the seven (7) days for the party to file a petition contesting the default order or receipt of a petition. If a default order is issued, all further proceedings necessary to complete the contested case shall be conducted without participation of the party in default (if the defaulting party is not a movant) or upon the results of the denial of the motion (if the defaulting party is a movant). All issues in the contested case shall be determined, including those affecting the defaulting party. Costs may be assessed against a defaulting party.

From: Dwight Jividen [<mailto:djividen@frontiernet.net>]
Sent: Tuesday, December 03, 2013 8:16 AM
To: Keen, Shelley
Subject: Water

Shelly,

I'm told you are the hearing officer for the West Mountain water wars. That is applications of the Allen ranch vs most of his neighbors.

I am a member of West Mountain Properties LLC, owner of the land where we don't want the water diverted.

Unfortunately, I am going in for a medical procedure at the time of the hearings.

Is there a way I can register my protest at the hearing without being there?

Thanks for your help

Dwight Jividen

Member of West Mountain Properties LLC

Hersley, Jean

From: Dwight Jividen [djividen@frontiernet.net]
Sent: Wednesday, December 04, 2013 8:13 AM
To: Hersley, Jean
Subject: Water

Jean,
Regarding the West Mountain Water Wars with Allen Ranch.
I'm on Sandy Chess' side.

I'm a member of West Mountain Properties LLC, the owner of the land where this diversion takes place. We don't want this diversion on our land. And we don't want to deprive the west mountain cabin people of their water.

BUT – I'm going for a hernia operation on the 11th, so I won't be able to attend the hearing.

I sent the written protest & \$25, what do I do to make it stick at the hearing?
Thanks
Dwight Jividen