



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

October 3, 2013

To: Applicant, Protestants, and Attorneys

**RE: Contested Application for Permit No. 63-23493 & Application for Transfer No. 78252
Hearing Notice, Information**

Dear Parties:

Enclosed is the hearing notice for the above contested Allen Ranch applications. Unfortunately, we were not able to honor the availability dates listed on several party's calendars due to the number of parties and the need to address the contested matters prior to the next irrigation season. Our agency's Rules of Procedure IDAPA 37.01.01.202.01 & 02 (Rule 202) Representation of Parties at Hearing in-part states:

Appearances and Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows:

- a. *Natural Person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, or family member, or by a friend if the person lacks full legal capacity to act for himself or herself.*
- b. *A partnership may be represented by a partner, duly authorized employee, or attorney.*
- c. *A corporation may be represented by an officer duly authorize employee or attorney.*
- d. *A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney.*

Representatives. The representatives of parties at hearing and no other persons or parties appear before the agency, are entitled to examine witnesses and make or argue motions.

Copies of the amended applications and a department explanatory memo are enclosed. The applications were amended along the lines suggested by the Department letter dated July 12, 2013. The applications remain protested. There is no need for anyone to respond to the Department regarding the amended applications at this time. Any comments or concerns can be addressed later in the application and protest process.

Sincerely,

John Westra, Manager
Western Regional Office

Enclosures

Hearing Notice and Prehearing Order

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

**IN THE MATTER OF APPLICATION FOR)
TRANSFER NO. 78252 AND APPLICATION)
FOR PERMIT NO. 65- 23493 IN THE NAME)
OF ALLEN RANCH LLP)
_____)**

**NOTICE OF HEARING,
AND PRE-HEARING ORDER**

NOTICE OF HEARING

On May 9, 2012, ALLEN RANCH LLP filed Application for Permit No. 65-23493 with the Idaho Department of Water Resources (Department). Allen Ranch LLP also filed Application for Transfer No. 78252 with the Department on May 29, 2012.

Public notice for the applications were made in the McCall, Idaho Star News on August 1 & 8, 2013. Timely protests for both applications were received from: Randy McClintick, Cris McClintick, Joyce and/or Glenn Ford, Sandra M. Chess, West Mountain Water Assn. Inc., James T. (Jim) Bunce, and West Mountain Properties LLC.

The Department has scheduled the matters for hearing on **Tuesday, December 10, through Thursday, December 11, 2013, beginning at 9:30 AM, at the IDAHO DEPARTMENT OF WATER RESOURCES - STATE OFFICE, CONFERENCE ROOMS C-D, 322 E FRONT ST BOISE, ID 83702.**

If you plan to offer exhibits for the record at the hearing, note that rule 606 of the Department's Rules of Procedure requires that a copy be provided to the presiding officer.

The presiding officer at the hearing will be Shelley Keen, whose mailing address is: Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., 6th Floor, Boise, ID 83720-0098.

The hearing will be held in accordance with the provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the Department, IDAPA 37.01.01, and Water Appropriation Rules 40 and 45. A copy of the code/rules may be obtained from the Department's website, www.idwr.idaho.gov, or upon request.

All parties appearing in the matter will have the opportunity to present information, examine witnesses, and provide argument on issues related to the contested application.

The hearing will be conducted in a facility that satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the conference, please notify the Department at least (10) days prior to the hearing. Inquiries about scheduling, hearing facilities, etc., should be directed to Rachel Sommer (208)334-2190.

Dated this 3rd day of October 2013



John Westra, Manager Western Region

ORDER AUTHORIZING DISCOVERY AND PRE-HEARING ORDER

On September 26, 2013, a Motion for Order Authorizing Discovery was received from Allen Ranches LLP. (Applicant), and on October 1, 2013, a similar motion was received from West Mountain Water Association Inc. (Protestant).

IT IS HEREBY ORDERED the Motions for Order Authorizing Discovery have been **Granted**. Parties may engage in discovery as follows:

1. General discovery begins immediately and will end **November 19, 2013**.
 - All written discovery requests shall be served on or before **November 12, 2013**. Answers to written discovery must be served on the requesting party within fourteen (14) days of service of the request. All responses to discovery shall be served on or before discovery end.
2. All depositions shall be complete on or before **November 19, 2013**.
3. On or before **October 25, 2013**, each party must disclose to all other parties, in writing, the identity of all expert witnesses that will or may testify at the hearing. Expert witness reports, if prepared, must be submitted to all parties on or before **November 12, 2013**.
4. Witness lists shall be submitted to all parties on or before **November 27, 2013**.

IT IS FURTHER ORDERED that, on or before **November 27, 2013**, each party seeking to offer exhibits at the hearing must physically serve (in the actual physical possession of the person being served) on all other parties and the hearing officer copies of exhibits that may be offered at the hearing. Service of the proposed exhibits will be the method of providing copies of exhibits to the parties as required by Rule 606 of the Rules of Procedure. All parties shall review the proposed exhibits prior to the hearing, and come to the hearing prepared to discuss whether each of the proposed exhibits should be admitted into evidence.

Timelines in this order may be adjusted based on showing good cause.

Dated this 3rd day of October, 2013.



For: Shelley Keen, Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of October, 2013, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service certified mail with return receipt requested, postage prepaid and properly addressed to the following:



Rachel Sommer, Administrative Assistant

Documents Served: **Notice of Hearing and Prehearing Order
Order Authorizing Discovery and Pre-Hearing Order
Hearing Procedures for Applications
Map, Cover Letter, Amended Applications, and Memo**

ALLEN RANCH LLP
ATTN: JR ALLEN
2624 S INGLENOOK PL
MERIDIAN, ID 83642

CHARLES HONSINGER
HONSINGER LAW PLLC
PO BOX 517
BOISE ID 83701

BRUCE M SMITH
MOORE SMITH BUXTON & TURCKE
950 W BANNOCK ST STE 520
BOISE, ID 83702

JOYCE & GLENN FORD
569 BRENDA LN
CASCADE, ID 83611

CRIS A MC CLINTICK
PO BOX 7
OROVADA, NV 89425

JAMES T (JIM) BUNCE
PO BOX 890
CASCADE, ID 83611

RANDY MC CLINTICK
PO BOX 7
OROVADA, NV 89425

SANDRA M CHESS
1200 LIZASO AVE
BOISE, ID 83709

WEST MOUNTAIN WATER ASSN INC
C/O KRIS COTTER
PO BOX 388
CASCADE ID 83611

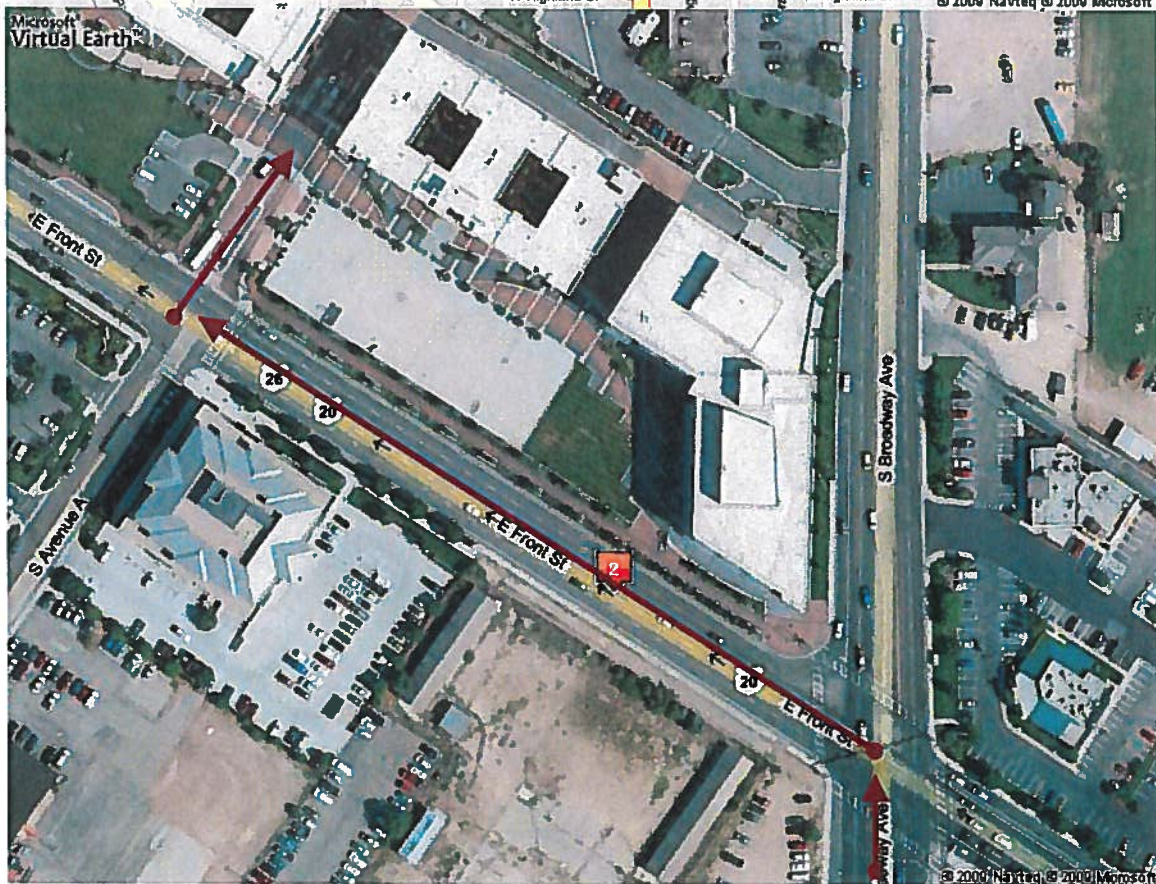
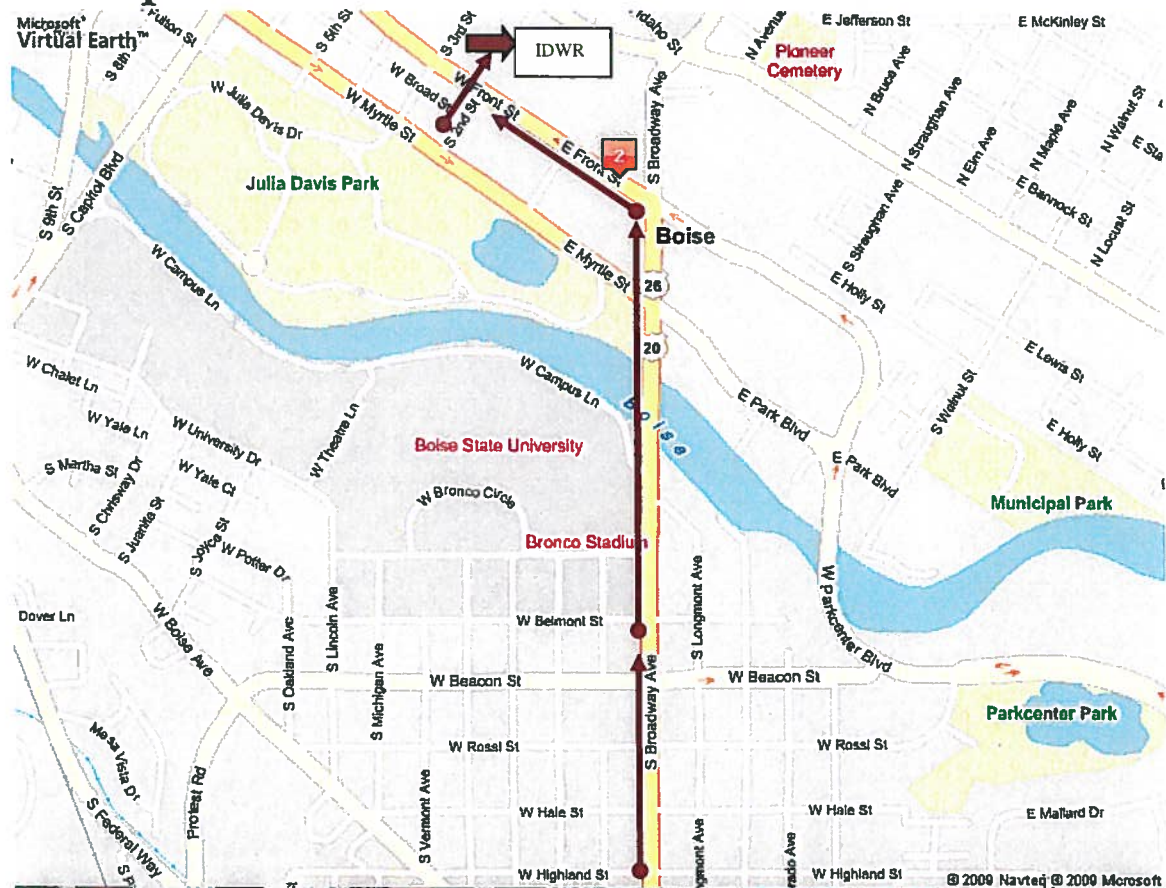
GARY HENKEL—Interested Party

SHELLEY KEEN- Hearing Officer

WEST MOUNTAIN PROPERTIES LLC
DWIGHT JIVIDEN
413 CABARTON RD
CASCADE, ID 83611

Hearing Notice and Prehearing Order

Idaho Department of Water Resources – State Office



MEMORANDUM

TO: Files

FROM: Steve Lester 

DATE: September 30, 2013

RE: Amending Allen Ranch Applications 78252 and 65-23493

Attorney Bruce Smith visited Western Region today to amend these applications on behalf of his client, Allen Ranch LLP. The revisions addressed items discussed in the department letter dated July 12, 2013.

We discussed the items in detail to identify specific changes the applicant would agree to make. At that point, I made the revisions on the original applications. Mr. Smith endorsed the revisions by initialing and dating the forms. Therefore, these are the applicant's changes, not the department's changes.

Application 78252

The purpose of the transfer is to add points of diversion to the decreed diversion point. The decreed point of diversion plus the Upper Allen Ditch and Lower Allen Ditch points of diversion were retained in the application, but instream stockwater points of diversion were deleted. The decreed point of diversion had been omitted in the original application map. It was added to the map today.

References to Little Rock Creek and stockwater were deleted. The application map was modified to reflect these changes.

Land ownership for the Upper Allen Ditch was clarified: landowner West Mtn. Properties, access based on historical permission. The U.S. Forest Service is not involved.

Application 65-23493

Instream stockwater points of diversion were added to match other information already in the original application. The place of use was corrected to agree with the place of use in the other application. Senior irrigation right 65-3111X was noted in item 9. The same land ownership information for the Upper Allen Ditch was clarified.

Reductions to applications typically do not warrant additional legal notices. Such is the case here. However, the protestants will be notified by the department in this matter.

AMENDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. 65-23493Boys 9/30/13

1. Name of applicant(s) Allen Ranch LLP Phone (208) 866-4370
Name connector (check one) ☐ and ☐ or ☐ and/or

Mailing address: 2624 S. Inglenook Place City MeridianState ID _____ Zip 83642 Email: _____2. Source of water supply Rock Creek/Little Rock Creek which is a tributary of Payette River North Fork

3. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
13N	03E	03		NW	SW		Valley	Rock Creek/ ~~Little Rock Ck~~	
13N	03E	03		SE	NE		Valley	Rock Creek/ ~~Little Rock Ck~~	
<u>13N</u>	<u>03E</u>	<u>03</u>		<u>SW</u>	<u>NE</u>		<u>Valley</u>	<u>Little Rock Ck</u>	<u>intstream begin</u>
<u>13N</u>	<u>03E</u>	<u>03</u>		<u>NE</u>	<u>NE</u>		<u>Valley</u>	<u>Little Rock Ck</u>	<u>intstream end</u>

4. Water will be used for the following purposes:

Amount 2.7 for Irrigation purposes from 10/16 to 11/30 (both dates inclusive)
(cfs or acre-feet per year)Amount 2.7 for Irrigation purposes from 03/15 to 04/14 (both dates inclusive)
(cfs or acre-feet per year)Amount .14 for Stockwater purposes from 05/15 to 11/30 (both dates inclusive)
(cfs or acre-feet per year)Amount .14 for Stockwater purposes from 01/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per year)5. Total quantity to be appropriated is (a) 2.7 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. See attached description

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11.

For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No

e. If well is already drilled, when? _____; drilling firm _____;

Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Description of proposed uses (if irrigation only, go to item 8):

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. 600 head cattle

c. Municipal; show name of municipality or the applicant's qualifications as a municipal provider. _____

d. Domestic; show number of households _____

e. Other; describe fully. _____

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MAY 09 2012

WATER RESOURCES
WESTERN REGION

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JUN 26 2012

ORIGINAL¹

8. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	03E	3	23	21	8	31	~~21~~				~~8~~				~~31~~				83
13N	03E	3	S	S	S	S	~~21~~				~~8~~				~~31~~				

Total number of acres to be irrigated: 83

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? 65-3111X

10. a. Who owns the property at the point of diversion? Applicant + WEST MTN. PROPERTIES
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: HISTORICAL PERMISSION
11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Diversion for irrigation and stockwater use.

12. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year).
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Bruce M. Smith, Attorney for J.R. Allen

Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)

For Department Use:

Received by RS Date 5-9-12 Time 11:08 AM Preliminary check by _____

Fee \$ 330- Received by RS Receipt No. W040161 Date 5-9-12

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APPLICATION FOR PERMIT – ALLEN RANCH LLP

6a. Existing upper diversion dam in Rock Creek and gravity flow ditch (aka Little Rock Creek) for irrigation and stockwater. Instream stockwater year round for Little Rock Creek. Lower diversion point from Rock Creek for irrigation and stockwater.

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JUN 26 2012

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No.

78252
77961

MINIMUM REQUIREMENTS CHECKLIST
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

AMENDED

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule, Part 2A reports and additional Part 2B forms are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

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MAY 29 2012

WATER RESOURCES
WESTERN REGION

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

Yes N/A

* Means the item is always required and must be included with the application.

- ☒ * Completed Application for Transfer of Water Right form, Part 1.
- ☒ * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative.
- ☒ * Application for Transfer Part 2A. Attach a Part 2A report describing each water right in the transfer as currently recorded.
- ☐ ☐ Complete and attach an Application for Transfer Part 2B for each water right for which only a portion is proposed to be changed through this transfer application.
- ☒ * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s).
- ☒ * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.)

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- ☐ ☐ #1 If the applicant is a business, partnership, organization, or association, and not currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.)
- ☐ ☐ #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner. Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☐ #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Additional fee(s) required for water right ownership changes; see fee schedule.
- ☐ ☐ #3 Documentation of authority to make the change if the applicant is not the water right owner.
- ☐ ☐ #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.)
- ☐ ☐ #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at <http://www.idwr.idaho.gov/WaterManagement/WaterRights/WaterRightTransfers/resources.htm>.
- ☐ ☐ #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.)
- ☒ * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.)
- ☐ ☐ #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use.
- ☐ ☐ #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) Additional fee required for proposed changes to nature of use; see fee schedule.
- ☐ ☐ #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.)
- ☐ ☐ #9 Other. Please describe: _____

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 78252
77961APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

Pgm 9/30/13

Name of Applicant(s) Alien Ranch LLLP

Phone

Mailing address 2624 S. Inglenook Place, Meridian, ID 83642

Email

AMENDED

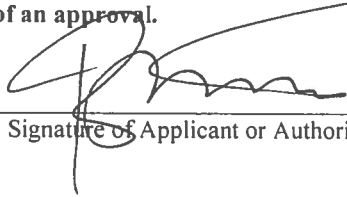
- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No RepresentativeName of Representative Bruce M. SmithPhone 331-1800/631-3702 (cell)Mailing address 950 West Bannock Street, Suite 520, Boise, ID 83702Email bms@msbtlaw.com

- ☐ Send all correspondence for this application to the representative and not to the applicant.
- OR
- ☒ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR
- ☒ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

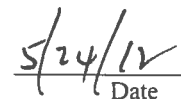
I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.



Signature of Applicant or Authorized Representative



Print Name and Title if applicable



Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it **Part 1A.2**. ~~Correct the historical error in the recorded point of diversion.~~ The upper and lower points listed on the next page and shown on the map have historically been used to irrigate the land. ~~Stockwater for 600 head.~~

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JUN 26 2012

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
☒ All or Part	65-3111X	2.70cfs	Irrigation/ ~~Stockwater~~	04/15 to 10/15	Rock Creek/ ~~Little Rock Creek~~
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	
☐				to	

Total authorized under rights 2.70 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed _____ cubic feet per second and/or _____ acre-feet per annum.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
		NW	SW		3	13N	03E	Valley	Rock Creek/ ~~Little Rock Crk~~	~~Richard Creek/Reek Cr~~
		SE	NE		3	13N	03E	Valley	Rock Creek/ ~~Little Rock Crk~~	~~Richard Creek/Reek Cr~~
		~~SW~~	~~NE~~		~~3~~	~~13N~~	~~03E~~	~~Valley~~	~~Reek Creek/Little Reek Crk~~	~~Richard Creek/Reek Cr~~
		~~NE~~	~~NE~~		~~3~~	~~13N~~	~~03E~~	~~Valley~~	~~Rock Creek/Little Reek Crk~~	~~Richard Creek/Reek Cr~~
		NW	SE		3	13N	03E	Valley	Rock Creek/ ~~Little Reek Crk~~	~~Richard Creek/Reek Cr~~

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☒ No changes to place of use are proposed-the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres (for irrigation use) _____

SCANNED

JUN 26 2012

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future: _____

Gravity flow ditches, can install headgates & measuring devices in certain locations if needed.

- b. Who owns the property at the point(s) of diversion? ~~United States Forest Service~~/West Mountain Properties/Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

WEST Mtn. Properties (NWSW point)
historical permission

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: N/A

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer:

N/A

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:

None.

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- | | | |
|--------------------------|-------------------------------------|---|
| ☐ | ☒ | undergone a period of five or more consecutive years of non-use, |
| ☐ | ☒ | currently leased to the Water Supply Bank, |
| ☐ | ☒ | currently used in a mitigation plan limiting the use of water under the right, or |
| ☐ | ☒ | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe: _____

SCANNED

JUN 26 2012

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1 of the application, attach a **Part 2A** report obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/> , Water Right Transfers, Step 1.
Insert Part 2A reports into the application following Part 1.

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- ☐ Complete and attach one copy of Part 2B for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable. Additional copies of the **Part 2B** form can be obtained from any Department office or from the Department's website @ <http://www.idwr.idaho.gov/>, Water Right Transfers, Step 3, or Water Right Forms, Changes in Use. Insert completed Part 2B forms into the application following Part 2A of the same water right.

Right Number: _____

[illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

[illegible]

Total Acres (for irrigation use) _____

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JUN 26 2012

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 65-3111X

WATER RIGHT NUMBER: 65-3111X

Part 2 A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	E K ALLEN RANCH LTD PARTNERSHIP PO BOX 474 CASCADE, ID 83611 (208)382-4122

Priority Date: 06/01/1894

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	NORTH FORK PAYETTE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15 to 10/15	2.700 CFS	
	<u>Total Diversion:</u>	2.700 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	NW1/4SE1/4	Sec. 3, Twp 13N, Rge 03E, B.M.
VALLEY County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13N	03E	3	23.0	21.0	8.0	31.0													83.0
			L 8	L 7															

Total Acres: 83

Conditions of Approval:

1. SOURCE IS ALSO KNOWN AS RICHARD CREEK.
SOURCE IS ALSO KNOWN AS ROCK CREEK.
2. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
3. THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT FIELD HEADGATE.

Dates and Other Information:

Decreed Date: 10/31/2000
Water District Number: 65

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IDAHO SECRETARY OF STATE

Viewing Business Entity

Ben Ysursa, Secretary of State

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ALLEN RANCH, LLLP

2624 S INGLEBROOK PL
 MERIDIAN, ID 83642

Type of Business: LIMITED PARTNERSHIP

Status: CURRENT, ANREPT SENT 04 Apr 2012

State of Origin: IDAHO

Date of 17 Jun 1983

Origination/Authorization:

Current Registered Agent: J R ALLEN
 2624 S INGLENOK PL
 MERIDIAN, ID 83642

File Number: L373

Date of Last Annual Report: 14 Apr 2012

Original Filing:

Filed 17 Jun 1983 CERTIFICATE
 OF LP

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Amendments:

Amendment Filed 12 Aug 2005 AMENDED &
 RESTATED

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Amendment Filed 13 Nov 2007 NAME CHANGED
 TO ALLEN
 RANCH, LLLP

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Annual Reports:

Report for year 2012 ANNUAL REPORT

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Report for year 2011 ANNUAL
 REPORT

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Report for year 2010 ANNUAL REPORT

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Comments, questions or suggestions can be emailed to: sosinfo@sos.idaho.gov

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JUN 26 2012

EVH, h.7 2A

5/24/2012

No. L 373		Due no later than Jun 30, 2012		Annual Report Form				2. Registered Agent and Address (NO PO BOX)	
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE		1. Mailing Address: Correct in this box if needed. ALLEN RANCH, LLLP J.R. ALLEN 2624 S INGLEBROOK PL MERIDIAN ID 83642		J R ALLEN 2624 S INGLENOK PL MERIDIAN ID 83642					
				3. <u>New</u> Registered Agent Signature:*					
Office Held	Name	Street or PO Address		City	State	Country	Postal Code		
GENERAL PARTNER	J.R. ALLEN JR ALLEN CATTLE CO INC	2624 S INGLENOK PL		MERIDIAN	ID	USA	83642		
5. Organized Under the Laws of:		6. Annual Report must be signed.*							
ID L 373		Signature: Jr Allen				Date: 04/14/2012			
		Name (type or print): Jr Allen				Title: General Partner			
Processed 04/14/2012		* Electronically provided signatures are accepted as original signatures.							

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JUN 26 2012



PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the State of Idaho are referred to as applications for permit, and are for the development of new water rights. Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation reduce the quantity of water under existing water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the pre-hearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

HEARING

A hearing may be conducted according to Sections 42-1701A(1) and (2), Idaho Code and the department's Rules of Procedure. Copies of Idaho Code and the department's rules are available upon request or by accessing the department's website at: www.idwr.idaho.gov . The department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

The hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended or preliminary order. Parties can petition for reconsideration of a decision or file exceptions. A brief to support exceptions may request oral argument. Parties may seek judicial review of any final order issued by the Director.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the department no later than ten (10) days prior to the hearing.

PRE-HEARING CONFERENCE AND/OR HEARING PROCEDURE APPLICATION FOR TRANSFER

ISSUES

Applications for transfer are filed for the purpose of changing a point of diversion, purpose of use, period of use or nature of use of all or part of a licensed, decreed or statutory water right. Section 42-222, Idaho Code, identifies the following potential issues for the department to consider in connection with an application for transfer:

1. Will the proposed transfer reduce the quantity of water under existing water rights?
2. Will the proposed transfer constitute an enlargement in use of the original right?
3. Will the proposed transfer be contrary to the conservation of water resources within the State of Idaho?
4. Will the proposed transfer conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use and its potential effects on the public water source?
5. Will the proposed transfer adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?
6. If the proposed transfer is for a municipal use, is it necessary to provide reasonably anticipated future needs for a municipal service area and is the planning horizon consistent with Sections 42-222 and 42-202B, Idaho Code?
7. Will the proposed transfer change the nature of use from an agricultural use, and would such a change significantly affect the agricultural base of the local area?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 5, 6, and 7 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 4, if applicable, lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues to avoid unnecessary proof, identify documents, schedule discovery, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing, and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the prehearing conference for the purpose of scheduling a hearing. Parties will be expected to discuss their availability at the prehearing conference for the purpose of scheduling the hearing.

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