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APR 13 2012
DEPARTMENT OF
WATER RESOURCES

Shelley W Keen
Hearing Officer
Idaho Department of Water Resources
322 East Front Street
Boise, ID 83720

RE: Second Request to Postpone the May hearing for protested Application for Permit 65-23451 & Application for Transfer 77121.

Dear Mr. Keen;

In response to your request for comments or suggestions to the postponement of the hearing for the above referenced applications, we respectfully submit the following;

We oppose the request due to the fact that Allen is requesting to expand his water right and relocate his approved POD upstream from our property on Rock Creek and upstream from the approved point of diversion for West Mountain Water Association under Permit 65-13088 and water right *65-3111A (*pending correction to match the historical POD as documented in the records of IDWR), which supplies water to both of our lots. This water is a crucial need in the event of a fire (or fire danger), among other domestic uses.

Allen claims that the proposed "upper" diversion is historical, it is not. Both applications will result in physical changes to the existing water right 65-3111X. This is documented by the public records filed with IDWR and by local residents and landowners. The proposed "upper" diversion is not measured or monitored by IDWR. The proposed "upper" diversion is not needed for stockwater. Allen does not have legal access to the proposed "upper" diversion from the landowner, as falsely stated in his applications. Allen is of the opinion that he owns the water and can do what he chooses and divert from where he chooses. His words when we met were; "I am J R Allen and I OWN this water" and "I will shut the entire creek off if I choose."

Allen began diverting a substantial amount of water from the unauthorized "upper" diversion in 2010, which caused Rock Creek (aka Richard Creek) to run at a mere trickle, causing injury to existing water rights. Employees of IDWR Western Region were made aware of this and did nothing to enforce compliance, (evidence will be submitted for consideration at the hearing as proof of this statement and to demonstrate unfair bias in favor of Allen by employees of IDWR Western Region).

IDWR allowed Allen to divert water from the unauthorized "upper" diversion until November 20, 2011, for the purpose of stockwater, which was not a justified beneficial use. Other water sources are available for stock at the same place of use. I would like to make it very clear that the "other" water sources available, does not include Cascade Reservoir. The cattle should be kept out of the reservoir, but they are not, even when the water is diverted from the proposed "upper" diversion. (This will also be documented in our hearing exhibits). As a result of IDWR's approval for Temporary Water Appropriation, Allen was ultimately allowed to divert the water until January 13, 2012. The diversion was removed, only after two notices from IDWR were mailed to Allen ordering him to stop the diversion, which were initiated due to complaints filed, not because of appropriate monitoring. This is

confirmation that Allen abuses the appropriation of water under Idaho Statutes and therefore, any leniency extended to Allen by IDWR cannot be justified.

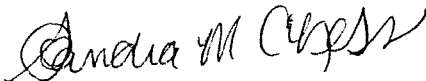
Based on the fact that these applications will result in a physical change in the existing water right, Allen's lack of compliance and IDWR's lack of enforcement, it is not reasonable to allow any further delays in this matter.

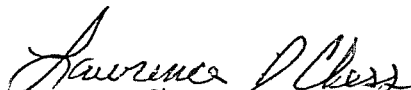
Combining the hearing for Allen's application for transfer 77121 and permit 65-23451, with West Mountain Water Association's application 77209 and Ford's application 65-23457, will not allow sufficient time for all matters to be heard. The parties that will suffer due to the limited time constraints will most likely be West Mountain Water users and the Fords.

We have gone to extreme efforts, taken time off from our work and incurred expenses to prepare for the hearings scheduled for May 8th and 9th. If J R Allen is out of the country, Secretary of Allen Ranch LLLP, John K Allen, should appear in his place.

Please respond with your decision at the earliest date possible to allow sufficient time to deliver exhibits due on or before April 24, 2012. Please respond via email to schess123@msn.com; lschess123@msn.com and to waterhelp@hotmail.com and/or a telephone response to 208-863-8769 and 208-850-8933.

Sincerely,


Sandra Chess


Lawrence Chess

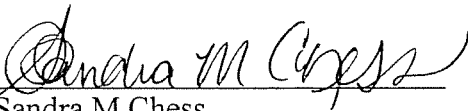
CC: see attached list of names and certification of mailing

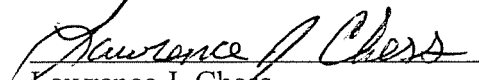
CERTIFICATE OF SERVICE

I HERBY CERTIFY that I serves a true and correct copy of the following described document on the persons listed on the attached Consolidated Mailing Names & Addresses, by mailing in the United States mail, first class, with the correct postage affixed thereto on this 12th day of April, 2012.

Document Served: **Response to Second Request to Postpone the May hearing for protested Application for Permit 65-23451 & Application for Transfer 77121.**

See attached exhibit A, which is attached to and made a part hereof.


Sandra M Chess


Lawrence J. Chess

CONSOLIDATED MAILING NAMES & ADDRESSES

Application for Transfer # 77121 –Allen Ranch LLP
Application for Permit #65-23451—Allen Ranch LLP
Application for Transfer # 77209—West Mtn. Water Assoc.
Application for Permit #65-23457--Ford

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Consolidated Names/Addresses

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