

07/2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 30 2011

WATER RESOURCES
WESTERN REGION

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, and 42-222, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested Application for Transfer No. 77209 in the name of West Mountain Water Assn. Inc.

2. Name of protestant Allen Ranch LLP

3. Protestant's Representative for service (If different than protestant)

Bruce M. Smith, Moore Smith Buxton & Turcke Chtd.

4. Service mailing address 950 W. Bannock St., Ste. 520, Boise, ID 83702

5. Service telephone no. (208) 331-1800 Email Address: bms@msbtlaw.com

6. Basis of protest (including statement of facts and law upon which the protest is based)

The applicant does not have legal access to divert its claimed water rights. The source of water is not Richards Creek, but comes from the protestant's irrigation ditch. The source should probably be identified as waste water. There are other details of the two water rights at issue which remain unclear and one, or both, water rights may not be valid in whole or in part.

(additional pages may be attached to describe nature of the protest)

7. What would resolve your protest? _____

There are a number of facts to be resolved before resolution would be possible.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 29th day of August, 20 11.

Protestant

Protestant's Representative

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by DB Date 8-30-2011 Time 11:00 a.m.
\$25.00 fee Receipted by DB # W039583 Date 8-30-2011

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW
950 W. BANNOCK STREET, SUITE 520; BOISE, ID 83702
TELEPHONE: (208) 331-1800 FAX: (208) 331-1202 www.msbtlaw.com

LOREN W. ANDERSON
STEPHANIE J. BONNEY*
SUSAN E. BUXTON*
PAUL J. FITZER
JILL S. HOLINKA
BRUCE M. SMITH
PAUL A. TURCKE†
CARL J. WITHROE»*

JOHN J. MCFADDEN *Of Counsel*
MICHAEL C. MOORE‡ *Of Counsel*

» Also admitted in California
* Also admitted in Oregon
† Also admitted in South Dakota
» Also admitted in Utah
‡ Also admitted in Washington

August 29, 2011

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082

RECEIVED

AUG 30 2011

WATER RESOURCES
WESTERN REGION

RE: Notice of Protest – Application for Transfer No. 77209

To Whom It May Concern::

Enclosed please find a Notice of Protest being filed on behalf of Allen Ranch LLP. Also enclosed is a check in the amount of \$25.00 which I understand to be the fee for filing the Protest. If you have any questions, please contact me at 331-1800.

Sincerely,

MOORE SMITH BUXTON & TURCKE, CHARTERED



Cathy Minyard
Legal Assistant to Bruce M. Smith

/cam
Enclosure(s)