

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

RECEIVED

SEP 01 2011

WATER RESOURCES
WESTERN REGION

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 permit #65-23451, in the name of Allen Ranch LLLP, including changes to water right #65-03111X and Point of Diversion Transfer Application #77121

I protest the change in the point of diversion for water right #65-03111X to the "Upper Allen" diversion, specifically described as T13N, R03E, S3, NE QQQ, NW QQ, SW Q. Additionally; I protest the addition of the "Lower Allen" diversion point, described as T13N, R03E, S3, SW QQQ, SE QQ, NE Q, unless it will be approved as the only point of diversion from Rock Creek (aka Richard Creek), for water right #65-03111X or other rights as applied for of the same under a different water right number.

2. Name of protestant: Dwight Jividen for West Mountain Properties, LLC

3. Protestant's Representative for service (If different than protestant) None

4. Service mailing address: 413 Cabarton Road, Cascade ID 83611

5. Service telephone no. (208) 315-3034 Email Address: djividen@frontiernet.net

6. Basis of protest (including statement of facts and law upon which the protest is based)
(Additional pages may be attached to describe nature of the protest)

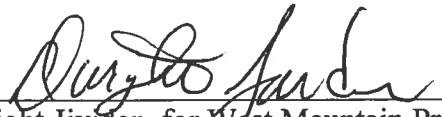
- The Applicant and/or the Applicant's Representative has misrepresented information to IDWR, including the erroneous assertion that I, Dwight Jividen, acting for West Mountain Properties LLC, have given permission for access to the "Upper Allen" diversion.
- Approval of the "Upper Allen" diversion point negatively impacts the water rights of others on the creek. There are several cabins below this diversion that take their water directly from the creek, and during the times that Allen has diverted the creek, these cabin's water runs dry. Another cabin has had its well run dry when Allen has diverted the creek.
- Approval of the "Upper Allen" diversion point will result in a negative effect on the aesthetic beauty of the creek, thereby reducing the value of the cabins and lots below that diversion point. I am a licensed Realtor in Idaho, working in Cascade, and know this to be fact.

- Approval of the "Upper Allen" diversion point may eliminate use of the stream for emergency fire protection

7. What would resolve your protest? Disapprove the entire application or approve only the Allen Ranch LLLP request for the addition of the "Lower Allen" diversion described as T13N, R03E, S3, SW QQQ, SE QQ, NE Q, to serve as the only point of diversion from Rock Creek (aka Richard Creek) for the applicant.

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 30th day of August, 2011.


Dwight Jividen, for West Mountain Properties LLC, Protestant

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.

FOR DEPARTMENT USE ONLY

Received by DB Date 9-1-2011 Time 11:00 a.m.

\$25.00 fee Received by DB # W039595 Date 9-1-2011

RECEIVED

AUG 30 2011

WATER RESOURCES
WESTERN REGION

August 29, 2011

State of Idaho
Department of Water Resources
2735 Airport way
Boise, ID 83705-5082

RE: Application for Permit # 65-23451
and Application for Transfer # 77121

In the referenced Application for Permit, above the applicant signature, the language in the permit states "I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval"

Paragraph 10 c. of the application states that "Access per verbal agreement with Dwight Jividen, Registered Agent."

I hereby unequivocally declare that I have not given any permission or made any agreement to applicant or Mr. Allen, verbal or otherwise, to access the applied for point of diversion.

Therefore, according to the language over the signature of the applicant, I request that this application be rejected.

Please note that there exist other reasons why this application should be denied, and if the application is not rejected immediately, I will pursue those avenues.

Thank you for your prompt attention to this matter.

Dwight Jividen
West Mountain Properties LLC
413 Cabarton Road
Cascade, ID 83611
djividen@frontiernet.net
208-382-0011
208-315-3034



MEMORANDUM

To: Transfer File 77121
From: Denise Buffington
Date: September 1, 2011
Subj: Protest fees for Allen Ranches LLC

IDWR received a Notice of Protest in the name of Dwight Jividen on September 1, 2011. The protest listed both of the Allen Ranch application numbers: Transfer 77121 & 65-23451, however the protestant only paid \$25.

I spoke to Mr. Jividen on September 1, 2011, to clarify if he intended to protest both applications, or just one. He indicated that he only wanted to protest the application involving the "change in point of diversion".

Per our discussion, the \$25 received was applied to the Transfer application 77121, and the application for permit number 65-23451 was crossed off of the protest form.

cc: Application for Permit 65-23451