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JUN 20 2017

DEPARTMENT OF  
WATER RESOURCES

Michael C. Dempsey and Curran C. Dempsey  
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*Personal Representatives for Estate of Carmela G. Dempsey,  
and Trustees for Curran D. Dempsey Disclaimer Trust*

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

IN THE MATTER OF SYLTE'S PETITION	)	Docket No. P-DR-2017-001
FOR DECLARATORY RULING	)	
REGARDING DISTRIBUTION OF WATER	)	<b>DEMPSEY TRUST/ESTATE'S</b>
TO WATER RIGHT NO. 95-0734	)	<b>PETITION REQUESTING</b>
	)	<b>DEFAULT ORDER NOT BE</b>
	)	<b>ENTERED</b>

The Curran D. Dempsey Disclaimer Trust, by and through its trustees Michael C. Dempsey and Curran C. Dempsey, and the Estate of Carmela G. Dempsey, by and through its personal representatives, Michael C. Dempsey and Curran C. Dempsey, Petitioner herein, hereby file this *Dempsey Trust/Estate's Petition Requesting Default Order Not be Entered*; pursuant to IDAPA 37.01.01.701. The Petitioner asserts as follows:

On May 22, 2017, Hearing Officer Shelley Keen held a prehearing conference in the above-entitled matter in Coeur d'Alene, Idaho. I, Michael Dempsey, planned to attend the hearing for the Dempsey Trust/Estate, but my wife Nancy had a mental health emergency the day before, which situation did not fully resolve until the weekend of June 3-4, 2017, with the assistance of her local psychiatrist. Fortunately, my brother Curran Dempsey attended a portion of the hearing and make an appearance on behalf of the Dempsey Trust/Estate.

My wife's condition fluctuates during the year, where she can go several weeks in a perfectly normal and functional state, and then relapses for a period of weeks into a condition where she experiences extreme anxiety and has difficulty leaving the house. This last episode is one of the worst I can recall, and created great pressure on me to assist her, and the need to take time off from my full-time job as hearing examiner with Spokane County to be with her at home.

I operate a 2-person office in my job as hearing examiner, and on May 25, 2017, my wonderful staff assistant of seven (7) years left my office to take a promotion in another County department. For the past several weeks I have functioned without a staff assistant, which has put added pressure on me at work, along with the situation at home described above. I will probably not have the position filled until mid-July.

On May 26, 2017, the hearing officer issued the *Order Regarding Intervention; Order Requiring Submittal of Information* ("Order"). I took this order seriously; although at first I was unsure whether the order applied to the Dempsey Trust/Estate, because the Order created an exception for parties represented by counsel at the prehearing conference, my brother and I are both attorneys, and we appeared for the Dempsey Trust/Estate in our representative capacities. However, we decided we needed to fill out the form and send it in. I have attached a copy of the email I sent to my brother Curran on May 31, 2017, to which I attached a copy of the form required by the Order, and in which I recommended how the form should be filled out. I talked to Curran on the telephone after the email was sent, and Curran concurred with my email on how we should complete the form.

I believed that I completed the form as described in the email and timely mailed it in to the Idaho Department of Water Resources ("Department") in Coeur d'Alene at the address listed in the form, before June 5, 2017; and put away my file until I received information on further proceedings in this matter. On Monday, June 19, 2017, a manila envelope sent by certified mail was delivered to my home; which contained copies of the various orders issued by the hearing officer in the above-entitled matter, including the Notice of Proposed Default Order dated June 14, 2017. I was shocked to read that the hearing officer did not receive a completed form from the Dempsey Trust/Estate, and assumed that this was a mistake.

I checked my files and was surprised to find an unused envelope addressed to the Department in Coeur d'Alene, with my name and address listed for the return address and an unused stamp affixed to the right upper corner. I also found the form which the hearing officer had sent on May 26, 2017. I am still having trouble convincing myself that I did not send the form in, which was my decided intent.

I am a very careful and responsible person in legal matters, and I can say that in over 26 years of practicing law as an attorney have not missed a procedural deadline. I took meticulous care in preparing the petition to intervene submitted by the Dempsey Trust/Estate, including providing more detail than other intervenors on the basis for seeking intervention and my email address.

Based on my uncommon personal circumstances, which I believe caused my inadvertent failure to submit the form by June 5, 2017, I request the hearing officer to exercise his sound discretion and find good cause for my failure to timely submit the form.

I am very embarrassed by this situation, apologize to the hearing officer for the time and expense that the officer has gone to enter and issue the Notice of Proposed Default Order, and represent that with the assistance of my brother Curran there will be no more lapses of procedure by the Dempsey Trust/Estate. I would be happy to reimburse the Department for the expense of providing notice to me by certified mail.

I have attached the completed form that was required by the Order.

I swear under penalty of perjury that the foregoing statements are true and correct.

DATED this 20<sup>th</sup> day of June, 2017

Curran D. Dempsey Disclaimer Trust/  
Carmela G. Dempsey Estate

By Michael C. Dempsey  
Michael C. Dempsey, Trustee/Personal Representative

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 20, 2017, I served the original of the foregoing document by U.S. mail, postage prepaid to the following:

Shelley Keen, Hearing Officer  
Idaho Water Resources Department  
Northern Regional Office  
7600 Mineral Drive, Suite 100  
Coeur d'Alene, ID 83815-7763

DATED this 20<sup>th</sup> day of June, 2017

Michael C. Dempsey  
Michael C. Dempsey

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**Hearing officer orders on Sylte petition**

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**From :** dempseymc@comcast.net

Wed, May 31, 2017 10:29 AM

**Subject :** Hearing officer orders on Sylte petition 1 attachment**To :** ccdempsey@hotmail.com**Cc :** Mark Rosenblum <mrosenblum@eisenhowerlaw.com>

Curran,

Here are copies of the orders mailed to me by the hearing officer on the Sylte petition.

We need to fill in Items 1 and 4 of the document entitled "Form Required by May 26, 2017 Order". I would check the box on item 1 and list both of our email addresses for receiving service of documents. I would check box 4 that we don't want to designate a spokesperson and write in that you and I will represent the trust and the estate as co-trustees and co-personal reps.

**Let me know if you agree with me on how to fill in the form.**

The orders indicate that the estate/trust appeared and has been granted intervenor status, along with everyone else who timely filed a petition and appeared. I note that Gloria Poole filed a petition to intervene and has been granted intervenor status. **Did you talk to her on the weekend?**

**Do you know the date when the hearing has been set?** It is not set forth in the orders.

Mike

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645 KB

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Dempsey Trust/Estate  
Name: Michael C. Dempsey  
Address: 3224 S. Whipple Ave  
S. Kane Valley WA 99206  
email: dempsymc@comcast.net  
Tel. No.: (509) 979-5328

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF SYLTE'S PETITION  
FOR DECLARATORY RULING  
REGARDING DISTRIBUTION OF WATER  
TO WATER RIGHT NO. 95-0734

Docket No. P-DR-2017-001

FORM REQUIRED BY  
MAY 26, 2017, ORDER

In the May 26, 2017, *Order Regarding Intervention; Order Requiring Submittal of Information* the hearing officer of the Idaho Department of Water Resources ("Department") required the intervenors in this matter to who were present, but not represented by counsel at the May 22, 2017, prehearing conference, to fill out and submit this form to the hearing officer by U.S. mail or hand delivery to the Department's Northern Regional Office or State Office by June 5, 2017.

Check the box and fill in the blank for any of options 1 through 4 that apply to you:

1. ☒ I consent to email service of documents by the Department and other parties in this contested case. The valid email address at which I wish to receive service of documents is:

dempsymc@comcast.net

2. ☐ I wish to withdraw as a party to this matter pursuant to the Department's Rule of Procedure 204.

3. ☐ I hereby designate \_\_\_\_\_, who is another party granted intervenor status in this matter or an intervenor's attorney, as my spokesperson. I understand that, upon this designation, my petition to intervene will be subsumed into my designated spokesperson's petition to intervene, and I waive the right to independently conduct discovery, to call and examine witnesses, and to individually negotiate settlement. However, I will retain the right to personally testify and present evidence at the hearing, will be subject to cross-examination and discovery regarding my proposed individual testimony

and evidence, and will be bound by any settlement reached by my designated spokesperson.

4. ☒ I do not wish to designate a spokesperson, and I wish to represent myself in this matter. *My brother, Curran Dempsey, and I represent the Dempsey Trust/Estate*

Please file this form with the Department by either U.S. mail or hand delivery to one of the addresses shown below.

U.S. Mail

Idaho Department of Water Resources  
Attn: Kimi White  
P.O. Box 83720  
Boise, Idaho 83720-0098

Idaho Department of Water Resources  
Attn: Kimi White  
7600 Mineral Drive, Suite 100  
Coeur d'Alene, ID 83815-7763

DATED this 20<sup>th</sup> day of June 2017.

Michael C Dempsey  
Person filing document