

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

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 79938 IN THE)
NAME OF BOYD BURNETT)

**NOTICE OF PROPOSED
DEFAULT ORDER**

On March 30, 2015, Boyd Burnett filed Application for Transfer No. 79938 with the Idaho Department of Water Resources (“Department”), proposing to change the point of diversion for water rights 34-14167 and 34-14169. The Department published notice of the application on April 16 and 23, 2015. Protests were filed by Nathan Carpenter, Reuben Babcock and Russell Babcock. Nathan Carpenter and Reuben Babcock withdrew their protests through a stipulated agreement with Boyd Burnett on October 17, 2016.

Boyd Burnett and Russell Babcock asked the Department to conduct an administrative hearing to decide the contested case. On January 19, 2017, the Department sent a Notice of Hearing to the parties, notifying them that the hearing would be held on February 22, 201[7]. The Notice of Hearing contained a minor error (listing the year 2016 instead of 2017). However, Russell Babcock was aware of the February 22, 2017 hearing date and contacted the Department multiple times in the weeks prior to the hearing with questions about the hearing process. Mr. Babcock did not appear at the hearing. One hour before the hearing was scheduled to begin, Mr. Babcock notified the Department that he would not attend, but did not provide any reason for his absence.

Rule 700 of the Department’s Rules of Procedure (IDAPA 37.01.01) states: “If an applicant . . . fails to appear at the time and place set for hearing, or prehearing conference . . . the presiding officer may serve upon all parties a notice of a proposed default order denying the application”

Rule 701 of the Departments Rules of Procedure (IDAPA 37.01.01) states: “Within seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered.”

PROPOSED DEFAULT ORDER

Because Russell Babcock failed to appear at the time and place set for hearing, the Department proposes issuing the following default order: **IT IS HEREBY ORDERED** that Russell Babcock is dismissed as a party to this contested case.

RIGHT TO CHALLENGE

Pursuant to IDAPA 37.01.01.701, Protestant Russell Babcock has seven days after the service of this *Notice of Proposed Default Order* to file a written petition requesting that a default order not be entered. The petition must state the grounds why Mr. Babcock believes that default should not be entered.

Dated this 24 day of February, 2017.



CINDY YENTER
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of February, 2017, a true and correct copy of the above and foregoing document described below was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Notice of Proposed Default Order

Boyd Burnett
3219 N 3400 W
Moore, ID 83255

Russell Babcock
3428 W 3120 N
Moore, ID 83255



Sharla Cox
Administrative Assistant