

OF THE STATE OF IDAHO

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 79943 IN THE)
NAME OF ALBION 12 INVESTMENTS, LLC)**

NOTICE OF PROPOSED DEFAULT ORDER

On March 30, 2015, Albion 12 Investments, LLC filed Application for Transfer No. 79943 with the Idaho Department of Water Resources (“department”). Protests against the application were filed by Norman L Smyer, Kevin Smyer, H Lee Jolley, Christopher J, King, Earl Lavell Warthen represented by Charlie Honsinger of Honsinger Law PLLC and James Wahlgren (who withdrew his protest on April 14, 2016).

Notices scheduling pre-hearing and status conferences were mailed to protestant H Lee Jolley for conferences held on October 1, 2015, November 5, 2015, July 7, 2016 and October 25, 2016. Mr. Jolley did participate in any of the prehearing or status conferences, either in person or by telephone. Mr. Jolley has never contacted the department to excuse himself from the conferences or to provide a reason for his failure to participate.

Rule 700 of the department's Rules of Procedure (IDAPA 37.01.01) allows the department to provide notice of a proposed default for any party who does not appear at a scheduled pre-hearing conference. Based upon the facts stated above, the Department hereby notifies protestant H Lee Jolley that a default order will be issued dismissing him as a party to the contested case because of his failure to appear at the times and places set for the various conferences held in this contested case.

PROPOSED DEFAULT ORDER

The following is the relevant portion of the proposed default order:

Based upon the protestant's failure to appear at the time and place set for the prehearing conference, IT IS HEREBY ORDERED that H. Lee Jolley is dismissed as a party to the contested case.

Dated this 28th day of October, 2016.


James Cefalo
Hearing Officer

RIGHT TO CHALLENGE

Pursuant to IDAPA 37.01.01.701, Protestant H. Lee Jolley has seven (7) days after the service of this *Notice of Proposed Default Order* to file a written petition requesting that a default order not be issued. Service is complete three days following the date of mailing this *Notice of Proposed Default Order* as set forth in the Certificate of Service. This petition must state the grounds why the protesting party believes that a default order should not be issued.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of October, 2016, a true and correct copy of the document(s) described above was served on the following by placing a copy of the same in the United States mail, certified, return receipts requested, postage prepaid and properly addressed to the following:

Albion 12 Investments LLC
Mike Merriman
7595 E McDonald Dr Ste 130
Scottsdale AS 85250-6081

Christopher J. King
940 S Hwy 77
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Albion ID 83311-0054

James Wahlgren
PO Box 73
Albion ID 83311-0073

H Lee Jolley
PO Box 21
Albion ID 83311-0021

Brockway Engineering PLLC
c/o Erick Powell
2016 N Washington St Ste 4
Twin Falls ID 83301-3082

Kevin Smyer
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Sharla Cox
Administrative Assistant