

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT 96-9433 IN THE NAME)
OF THOMAS & MICHELE CLARK)

NOTICE OF PROPOSED DEFAULT ORDER

This matter having come before the Idaho Department of Water Resources ("Department"), the Department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On June 1, 2009 Thomas and Michele Clark submitted an Application for Permit to the Department, seeking to file water rights for Wildlife Storage.
2. On July 2, 2009 the Department received a Notice of Protest of the application from Charles Wells.
3. On July 13, 2015 Notices of a Pre-Hearing Conference were sent to both the applicant and protestant by certified mail.
3. On July 30, 2015 the Department held a Pre-Hearing Conference located at the Idaho Department of Lands office located at 2550 US-2, Sandpoint, Idaho.
4. The applicant and protestant failed to appear at the scheduled conference.

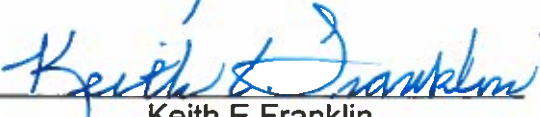
CONCLUSIONS OF LAW

1. IDAPA Rule 37.01.01.700 (Rule of Procedure 700) authorizes the Department to issue a Notice of Proposed Default Order for failure to appear to a conference, prehearing, hearing or request of information
2. The Department should enter a Notice of Proposed Default Order for failure of the applicant to appear in the above captioned matter.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the Department plans to enter a Default Order **DENYING** the application, as provided in IDAPA Rule 37.01.01.702 (Rule of Procedure 702).

Dated this 31 day of July, 2015.



Keith E Franklin
Program Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July, 2015, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, postage prepaid and properly addressed to the following:

Documents Served: Notice of Proposed Default Order
IDAPA RULE 37.01.01.700 FAILURE TO APPEAR

Thomas and Michele Clark
PO Box 1721
Sandpoint, ID 83864



Dianne Ball

- b. All applications or claims or appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; (7-1-93)
- c. All intermediate or interlocutory rulings of hearing officers or the agency head; (7-1-93)
- d. All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); (7-1-93)
- e. All offers of proof, however made; (7-1-93)
- f. All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties or persons not parties; (7-1-93)
- g. All evidentiary rulings on testimony, exhibits, or offers of proof; (7-1-93)
- h. All staff memoranda or data submitted in connection with the consideration of the proceeding; (7-1-93)
- i. A statement of matters officially noticed; and (7-1-93)
- j. All recommended orders, preliminary orders, final orders, and orders on reconsideration. (7-1-93)

651. RECORDING OF HEARINGS (RULE 651).

All hearings shall be recorded on audiotape or videotape at the agency's expense. The agency may provide for a transcript of the proceeding at its own expense. Any party may have a transcript prepared at its own expense. If the transcript prepared at the expense of a party is deemed by the presiding officer to be the official transcript of the hearing, the party shall furnish the agency a transcript without charge. (7-1-93)

652. -- 699. (RESERVED).

700. NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR OR RESPOND (RULE 700).

If an applicant or claimant or appellant, petitioner, protestant, complainant, or moving party fails to appear at the time and place set for hearing, or prehearing conference, on an application or claim or appeal, petition, complaint, or motion, or fails to respond to a written information inquiry, the presiding officer may serve upon all parties a notice of a proposed default order denying the application or claim or appeal, petition, complaint, or motion. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the applicant or claimant or appellant, petitioner, complainant or moving party to appear at the time and place set for hearing or prehearing conference, or to respond to the information inquiry. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. (4-5-00)

701. SEVEN DAYS TO CHALLENGE PROPOSED DEFAULT ORDER (RULE 701).

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. (7-1-93)

702. ISSUANCE OF DEFAULT ORDER (RULE 702).

The agency shall promptly issue a default order or withdraw the notice of proposed default order after expiration of the seven (7) days for the party to file a petition contesting the default order or receipt of a petition. If a default order is issued, all further proceedings necessary to complete the contested case shall be conducted without participation of the party in default (if the defaulting party is not a movant) or upon the results of the denial of the motion (if the defaulting party is a movant). All issues in the contested case shall be determined, including those affecting the defaulting party. Costs may be assessed against a defaulting party. (7-1-93)

703. -- 709. (RESERVED).

710. INTERLOCUTORY ORDERS (RULE 710).