

BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT IN THE NAME OF)
SYRINGA WATER AND SEWER)
COMPANY, INC. # 95-9324)

FINAL 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 July 11, 2013, the Idaho Department of Water Resources ("Department") served a Notice of Pre-Hearing Conference on all parties to this matter by certified mail, including protestant Kootenai Environmental Alliance. The notice contained a certificate of mailing showing the party was duly served.
2. The notice scheduled a pre-hearing conference for July 30, 2013.
3. On July 30, 2013, beginning at 10:00 a.m., Program Manager for the Northern Region Keith Franklin conducted a pre-hearing conference for protested application for permit #95-9324. Protestant Kootenai Environmental Alliance did not appear at the conference.
4. Based upon these facts, the Department notifies protestant Kootenai Environmental Alliance that a default order will be issued dismissing them as a party to the contested case because of the failure of the protestant to appear at the time and place set for the pre-hearing conference pursuant to IDAPA 37.01.01.700.
5. On August 1, 2013, the department issued a Proposed Default Order Dismissing Kootenai Environmental Alliance as protestant because they failed to appear at the pre-hearing conference.
6. The protestant did not respond to the Proposed Default Order.

CONCLUSIONS OF LAW

1. IDAPA RULE 37.01.01702 (Rule of Procedure 702) authorizes the department to issue a Final Order for failure to timely respond to Proposed Default Orders.
2. The 7-day deadline for the protestant to file a written petition requesting that a Default Order(s) not be issued had passed.
3. Therefore, the department should issue a Final Default Order to Kootenai Environmental Alliance from further involvement in this matter.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Kootenai Environmental Alliance are in default and that their protest is **DISMISSED** and will not be further considered in the above captioned matter by the depart,

Dated this 28 day of August, 2013.


KEITH E. FRANKLIN
PROGRAM MANAGER



CERTIFICATE OF SERVICE

I FURTHER CERTIFY that on this 28th day of August, 2013, a true and correct copy of the document described below was served on the following by placing a copy of the same in the United States mail, as certified mail with return receipt requested, postage prepaid and properly addressed to the following:

Document(s) Served: Notice of Proposed Default Order

KOOTENAI ENVIRONMENTAL ALLIANCE
EXECUTIVE DIRECTOR
PO BOX 1598
COEUR D ALENE, ID 83816-1598



Dianne Ball
Administrative Assistant

- 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).

Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the agency may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review by reconsideration or appeal, but is not final on other issues. Unless an order contains or is accompanied by a document containing one (1) of the paragraphs set forth in Rules 720, 730 or 740 or a paragraph substantially similar, the order is interlocutory. The following orders are always interlocutory: orders initiating complaints or investigations; orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders compelling or refusing to compel discovery. Interlocutory orders may be reviewed by the officer issuing the order pursuant to Rules 711, 760, and 770. (7-1-93)