

BEFORE THE DEPARTMENT OF WATER RESOURCES
FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER NO. 78356 ¹ (SHEKINAH	)	
INDUSTRIES); APPLICATION FOR	)	
TRANSFER NO. 78355 ² (ORCHARD	)	
RANCH); APPLICATION FOR PERMIT	)	
NO. 63-32499 (MAYFIELD TOWNSITE);	)	
APPLICATION FOR PERMIT NO.	)	DEFAULT ORDER
61-12095 (NEVID-CORDER);	)	
APPLICATION FOR PERMIT NO.	)	
61-12096 (NEVID); APPLICATION FOR	)	
PERMIT NO. 63-32703 (ORCHARD	)	
RANCH); APPLICATION FOR PERMIT	)	
NO. 61-12256 (INTERMOUNTAIN	)	
SEWER AND WATER); APPLICATION	)	
FOR PERMIT NO. 63-33344 (ARK	)	
PROPERTIES-MAYFIELD TOWNSITE)	)	
_____	)	

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

FINDINGS OF FACT

1. On April 8, 2013, the Department served all parties to this matter, including protestant City of Pocatello ("Pocatello"), a *Notice of Hearing*. The notice contained a certificate of mailing showing the parties were duly served. The notice scheduled a hearing to begin on April 17, 2013.
2. The hearing in the above captioned matter began on April 17, 2013 and concluded on April 18, 2013 in Boise, Idaho.
3. Pocatello failed to appear at the hearing.

¹ Transfer no. 78356 was renumbered from Transfer no. 73811.

² Transfer no. 78355 was renumbered from Transfer no. 73834.

4. On May 29, 2013, the Department served a *Notice of Proposed Default Order* upon Pocatello for failure to appear at the hearing.

5. On June 4, 2013, the Department received the *City of Pocatello's Response to Notice of Default*. Pocatello indicated it would like to remain an active party on the grounds that it has an interest in the issues being addressed through the hearing proceedings.

6. No explanation was given for Pocatello's failure to attend the hearing.

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 at the time and place set for the hearing.

2. IDAPA Rule 37.01.01.701 (Rule of Procedure 701) requires the petition requesting that default not be entered "must state the grounds why the petitioning party believes that default should not be entered."

3. Pocatello was duly notified of the schedule of hearing proceedings but did not attempt to designate a representative, resolve the scheduling conflict with the hearing officer, or provide a reasonable explanation for the protestant's absence in response to the Notice of Proposed Default Order. Pocatello's response to the notice of default failed to explain why it did not attend the hearing.

4. The Director concludes that a Default Order should be issued.

ORDER

IT IS THEREFORE, HEREBY ORDERED that protestant *City of Pocatello's Response to Notice of Default* is in default, and that the protestant is **dismissed** as a party in the contested case.

Dated this 31st day of July, 2013.


GARY SPACKMAN
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July, 2013, a true and correct copy of the document described below was served by placing the same in the United States mail, certified with return receipt, postage prepaid and properly addressed to the following:

Document(s) Served: NOTICE OF PROPOSED DEFAULT ORDER

MICHAEL PRESTON
SHEKINAH INDUSTRIES INC
420 BITTERROOT DR
BOISE ID 83709

SPF WATER ENGINEERING
300 E MALLARD DR STE 350
BOISE ID 83706

MICHAEL CREAMER
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720

TONYA D BOLSHAW
PO BOX 16022
BOISE ID 83715

ERICK POWELL
BROCKWAY ENGINEERING
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

DANA QUINNEY
SCOTT QUINNEY
160 S PRONGHORN
BOISE ID 83716

JOHN K SIMPSON
BARKER ROSHOLT & SIMPSON LLP
PO BOX 2139
BOISE ID 83701-2139

NORMAN M SEMANKO
ATTORNEY AT LAW
PO BOX 1256
BOISE ID 83701-1256

BRUCE SMITH
MOORE SMITH
950 W BANNOCK STE 520
BOISE ID 83702

TIM CONRADS
75 S PRONGHORN RD
BOISE ID 83716

CLEVELAND CORDER LLC
622 20 E LN
GARDEN CITY ID 83714

DEL KOHTZ
IDAHO WATER COMPANY
1135 VALLEY RD S
EDEN ID 83325

CRAIG HAYNES
G3 LLC
2136 E LEW ANDOWSKI LN
BOISE, ID 83716

INTERMOUNTAIN SEWER AND
WATER CORP
C/O GREG JOHNSON
1710 S WELLS AVE STE 110
MERIDIAN ID 83680

MARY FRISCH
155 S PRONGHORN DR
BOISE ID 83716

GRIFFIN HERREN
719 DESERT WIND RD
BOISE ID 83716

DARLA BATEMAN
404 E INDIAN CREEK RD
BOISE ID 83716

WENDY TIPPETTS
999 N SLATER CREEK
MAYFIELD ID 83716

LORI ATKINS
602 E MIKE'S PL
BOISE ID 83716

ED VAN GROUW
5089 S DEBONAIR LN
MERIDIAN ID 83642

JOHN WESTRA
IDWR WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705-5082

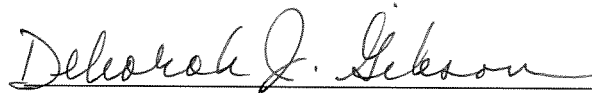
WAYNE SHEPHERD
DIRECTOR OF PUBLIC WORKS
CITY OF MOUNTAIN HOME
PO BOX 10
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BROWN FARMS LLC
ATTN CLIFFORD BROWN ESQ
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1516 W HAYS ST
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IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707

ROBERT MAYNARD
ERIKA MALMAN
PERKINS COIE LLP
PO BOX 737
BOISE ID 83701-0737

CITY OF POCA TELLO
C/O JOSEPHINE BEEMAN
BEEMAN & ASSOCIATES
409 W JEFFERSON ST
BOISE ID 83702

A handwritten signature in cursive script, reading "Deborah J. Gibson", written in dark ink over a horizontal line.

Deborah J. Gibson
Assistant to the Director