

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
TRANSFER NO. 78376 IN THE NAME OF BRENT	)	PROPOSED DEFAULT ORDER
FUNK AND PROTEST IN THE NAME OF LOIS	)	
<u>WILLIS/ WILLIS FAMILY TRUST</u>	)	

The Director of the Department of Water Resources (Department), being charged with the duties of protecting vested water rights, enforcing specific statutes of the State of Idaho and the rules promulgated by the Department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On January 16, 2013, Brent and Chalet Funk (applicant) filed Application for Transfer No.78376 (application).
2. The application was advertised and timely protested by Lois Willis/Willis Family Trust c/o of Jaynalene Williams (protestant).
3. On April 11, 2013, the Department held a pre-hearing conference attended by the applicant and protestant. The parties agreed to formulate a stipulated agreement for settlement of the protest.
4. On April 18, 2013, the Department received a document titled "Stipulations to Withdraw Protest of Application for Transfer of Water Rights" (agreement). The agreement was signed by the applicant and protestant. The agreement indicates that all stipulations must be fulfilled to the satisfaction of the protestant before the protest will be withdrawn.
5. On April 29, 2013, the applicant contacted the Department indicating he had completed items called for in the agreement under his control.
6. In May of 2013, the applicant contacted the Department inquiring if the Department had received the protest withdrawal.
7. On June 3, 2013, the Department contacted Jaynalene Williams by phone and she indicated she would have her mother (Lois Willis) sign the protest withdrawal.
8. On June 10, 2013, the Department in an e-mail to Jaynalene Williams inquired about the protest withdrawal. Jaynalene Williams responded indicating she needed to get a document drafted to put in with signature of protest withdrawal.
9. On June 26, and again on July 8, 2013, the Department in an e-mail to Jaynalene Williams inquired about the protest withdrawal. No response has been received.
10. To date the Department has not received a written withdrawal of protest however has received an indication that one is forthcoming.

CONCLUSIONS OF LAW

1. IDAPA Rule 37.01.01700 (Rule of Procedure 700) authorizes the Department to issue a Notice of Proposed Default to a protestant for failure to respond to an inquiry by the Department.
2. The Department should enter a Notice of Proposed Default for failure of Lois Willis/Willis Family Trust to respond to a written request for information about the above captioned matter.
3. IDAPA Rule 37.01.01701 (Rule of Procedure 701) allows seven (7) days after the service of this notice in which Willis/Willis Family Trust (protestant) may file in written petition requesting that the default order not be entered. The petition must state the grounds why they believe the default order should not be entered.
4. IDAPA Rule 37.01.01702 (Rule of Procedure 702) provides that the Department shall promptly issue a default order or withdraw the notice of proposed default after the expiration of the seven (7) days for Willis/Willis Family Trust to file a petition contesting the default order.

ANALYSIS

The Department understands the agreement between the applicant and protestant has been substantially complied with and it is the intention of the protestant to withdraw the protest. Sufficient time has been provided for the protestant to submit a written withdrawal of protest. The Department is not aware of any other outstanding issues other than the withdrawal of protest that should be considered before final consideration of Transfer No. 78376.

PROPOSED DEFAULT ORDER

The following is a portion of the proposed default order:

Based upon the protestant's failure to respond to an inquiry of the Department it is ORDERED that Lois Willis/Willis Family Trust is in default and that the protest of Application for Transfer No. 78376 is SET ASIDE.

RIGHT TO CHALLENGE

Pursuant to IDAPA 37.01.01.701, Protestant Lois Willis/Willis Family Trust 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. The petition must state the grounds why the petitioning party believes that a default order should not be issued.

DATED this 12th day of July 2013.



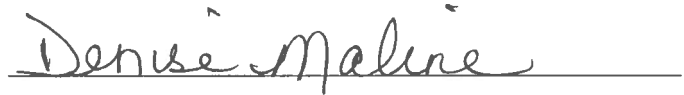
Allen Merritt
Southern Region Manager

CERTIFICATE OF MAILING

I hereby certify that on the 12th day of July, 2013, I mailed a true and correct copy, postage prepaid, of the attached **PROPOSED DEFAULT ORDER** to the following parties:

LOIS M WILLIS
WILLIS FAMILY TRUST
C/O JAYNALENE WILLIAMS
3554 S CROSSPOINT AVE
BOISE, ID 83706

BRENT FUNK
CHALET FUNK
2786 ROCK CREEK RD
HANSEN, ID 83334

A handwritten signature in cursive script, reading "Denise Maline", is written over a horizontal line.

Denise Maline
Administrative Assistant