

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

|                                     |                               |
|-------------------------------------|-------------------------------|
| IN THE MATTER OF APPLICATION FOR )  |                               |
| TRANSFER NO. 71522 IN THE NAME OF ) |                               |
| MIKE AND/OR DENISE MATTHEWS )       | <b>NOTICE OF</b>              |
| _____ )                             | <b>PROPOSED DEFAULT ORDER</b> |

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 September 14, 2004, Mike and Denise Matthews (applicant) filed Application for Transfer No. 71522 (application) with the department proposing to split water rights 45-212 and 45-300 on Howell Creek by drying up a 3.1 acre portion of the rights and moving the portion to other lands and developing a new diversion for the 3.1 acres on Howell Creek.
2. The application was subsequently protested by Norman Dayley.
3. On February 21, 2012, the department scheduled a pre-hearing conference in the matter to be held on March 6, 2012, in Albion, Idaho. The applicant did not appear at the pre-hearing conference.

**CONCLUSIONS OF LAW**

1. IDAPA Rule 37.01.01700 (Rule of Procedure 700) authorizes the department to issue a Notice of Proposed Default for Failure to Appear at a scheduled hearing.
2. The department should enter a Notice of Proposed Default for failure of Mike and/or Denise Matthews to appear at the March 6, 2012, pre-hearing conference scheduled in Albion, Idaho in connection with the above captioned matter.

**ORDER**

IT IS THEREFORE, HEREBY ORDERED that the department plans to enter a Default Order **SETTING ASIDE** Application for Transfer No. 71522 as provided in IDAPA Rule 37.01.01702 (Rule of Procedure 702).

Dated this 9<sup>th</sup> day of March, 2012.

  
\_\_\_\_\_  
ALLEN MERRITT  
Hearing Officer

## CERTIFICATE OF SERVICE

I hereby certify that on this 9<sup>th</sup> day of March, I mailed a true and correct copy, postage prepaid, of the foregoing **NOTICE OF PROPOSED DEFAULT ORDER** to the person(s) listed below:

### **Documents Served: Notice of Proposed Default Order with Cover Letter**

Denise Matthews  
PO Box 62  
Albion, ID 83311

***Certified Mail***

Norman E Dayley  
PO Box 165  
Albion, ID 83311

Donald Gunderson  
Water District 45F  
1047 E 1000 S  
Albion, ID 83311

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

Denise Buffington  
Administrative Assistant