

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

IN THE MATTER OF APPLICATION)	
FOR PERMIT NO. 63-33063 IN THE)	DEFAULT ORDER
NAME OF JEAN BROBECK VANCE)	DISMISSING PROTEST
_____)	

This matter having come before the Department of Water Resources (Department) as a result of an Application for Permit, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On June 3, 2008, Jean Brobeck Vance filed application for permit #63-33063 with the Idaho Department of Water Resources (IDWR) seeking ground water for irrigation beneficial use. On January 20, 2009, Herbert H. Nitz filed a protest against the application.
2. On May 6, 2009, IDWR held a prehearing protest conference for the contested application for permit. Mr. Nitz appeared at the conference. A second prehearing protest conference was held at 9:30 AM, Wednesday, June 24, 2009 at the IDWR Western Regional Office. Conference notices were sent to the applicant and protestant on May 20, 2009. The applicant appeared at the set conference date and location. Mr. Nitz failed to appear at the conference.
3. On June 29, 2009, IDWR sent Mr. Nitz a *Notice of Proposed Default Order—Failure to Appear*. A response was to be received within 7 days after the June 29, 2009 certificate of service date.
4. To date, IDWR has not received a response from Herbert H. Nitz.

CONCLUSIONS OF LAW

1. Rules of Procedure IDAPA 37.01.01 Rule 702 states in part the agency shall promptly issue a default order following the 7 day petition expiration provided by the proposed default order notice.
2. Herbert H. Nitz has failed or refused to provide just cause why he failed to appear at the prehearing protest conference. The protest should be dismissed.

ORDER

IT IS HEREBY ORDERED that the protest filed with IDWR in the name of Herbert H. Nitz, contesting Application for Permit #63-33063, be **DISMISSED**.

Dated this 9th day of July, 2009.



JOHN WESTRA, MANAGER

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July, 2009, I mailed a true and correct copy, postage prepaid of the foregoing **DEFAULT ORDER DISMISSING PROTEST** to the person(s) listed below:

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

Denise Buffington
Administrative Assistant

Default Order Dismissing Protest -- Application for Permit # 63-33063

JEAN BROBECK VANCE
5370 S LOCUST GROVE RD
MERIDIAN ID 83642

HERBERT H NITZ
5445 S LOCUST GROVE RD
MERIDIAN ID 83642