

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

**IN THE MATTER OF APPLICATION)
FOR PERMIT NO.77-14283 IN THE)
NAME OF CARL SMID)
_____)**

**DEFAULT ORDER
DISMISSING PROTEST**

FINDINGS OF FACT

1. On May 30, 2005 Carl Smid filed Application for Permit No. 77-14283 with the Idaho Department of Water Resources (IDWR) for power beneficial use. Public notice was published on April 2 & 9, 2008 in the Idaho County Free Press Newspaper. The application was protested US Department of Interior Bureau of Land Management (BLM).
2. The protest by BLM was based on the application listing a place of use tract located on prohibited Federal public lands—Township 24N, Range 03E, Section 13, SW1/4 of SE1/4.
3. On October 10, 2008, Carl Smid amended application for permit No. 77-14283 removing the place of use tract: Township 24N, Range 03E, Section 13, SW1/4 of SE1/4. The entire place of use was now on Smid private held lands.
4. On October 14, 2008 and November 19, 2008 application amendment information (packet) was sent to the BLM -Attention: Fred Price. On December 24, 2008, telephone voicemail messages were left on Mr. Price's telephone. No response.
5. A prehearing protest conference for the contested application was scheduled 10:00 AM, Friday, January 30, 2009 at the Idaho Department of Water Resources Western Regional Office, Boise, Idaho. Conference notices were sent to parties on January 5, 2009.
6. On January 30, 2009, 10:00 AM, Carl Smid, applicant, Norm Semanko, Attorney, and Charles Cuddy appeared at the conference. The BLM , protestant did not appear.
7. On February 3, 2009, IDWR sent out a Notice of Proposed Default Order to the BLM. A response deadline was February 10, 2009.
8. To date, IDWR has not received a response from the protestant.

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CONCLUSIONS OF LAW

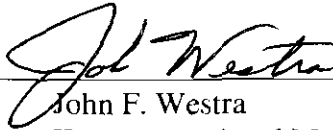
Pursuant to IDAPA 37.01.01.700-702 (Rules 700-702), an applicant, petitioner, protestant who fails to appear or respond should be issued a Notice of Proposed Default Order. The party should be given 7 days to file a petition stating why the Default Order should not be entered.

BLM did not appear at the scheduled prehearing conference nor respond to written requests. The protest from the BLM against Application for Permit No. 77-14283 should be dismissed.

ORDER

IT IS HEREBY ORDERED the protest filed by Bureau of Land Management (BLM) is **DISMISSED** against Application for Permit No. 77-14383 under the name of Carl Smid.

Dated this 11th day of February, 2009



John F. Westra
Western Regional Manager

CERIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2009, I served a copy of the foregoing Default Order by depositing the same in the United States mail, postage prepaid, addressed to the following:

Jean Hershey

Default Order- Application for Permit #77-14283
Permit Approval #77-14283

Bureau of Land Management
Attn: Fred Price
1387 S Vinnell Way
Boise ID 83709

Norman Semanko, Attorney
Rose Law Group Barton
6223 Discovery Way Ste 200
Boise ID 83713

Carl Smid
HC 69 Box 950
Riggins ID 83549

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