

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

IN THE MATTER OF APPLICATION)
FOR TRANSFER NOS. 72881 IN THE) **DEFAULT ORDER**
NAME OF THE CITY OF AMMON)

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. The following individuals filed protests or petitioned for intervention in the above matter: Sandi Brown, Fred Adams, Vaughn Adams, and James Adams ("protestants") and Mr. and Mrs. Dennis Kiser ("petitioners").
2. Sandi Brown, Fred Adams, Vaughn Adams, James Adams, and Mr. and Mrs. Dennis Kiser failed to appear at a hearing conducted on January 16, 2008, in Idaho Falls, Idaho.
2. On March 31, 2008, the Department served a Notice of Proposed Default Order upon Sandi Brown, Fred Adams, Vaughn Adams, James Adams, and Mr. and Mrs. Dennis Kiser.
3. On April 4, 2008, protestant Sandi Brown responded to the Notice of Default Order and explained that she could not attend the hearing because of an illness. She asked that she be allowed to continue as a protestant in the matter.
4. The protestants Fred Adams, Vaughn Adams, James Adams, and petitioners Mr. or Mrs. Dennis Kiser did not respond to the Notice of Proposed Default Order.

CONCLUSIONS OF LAW

1. IDAPA Rule 37.01.01702 (Rule of Procedure 702) authorizes the Department to issue a Default Order for failure to timely respond to the Notice of Proposed Default Order.
2. The Department should issue a Default Order on the parties that did not respond to the Notice of Proposed Default.

3. Sandi Brown showed good cause why she did not attend the hearing on January 16, 2008, and should remain as a party to the contested case. By being absent from the hearing, however, Sandi Brown lost the opportunity to testify or present evidence.

ORDER

IT IS HEREBY ORDERED that based upon the protestants' failure to appear at the time and place set for the hearing in the protested transfer application identified as 72881, that protestants Fred Adams, Vaughn Adams, James Adams, and petitioners Mr. and Mrs. Dennis Kiser are dismissed as parties to the contested case and will be of no further consideration before the Department.

IT IS FURTHER ORDERED that Sandi Brown remains a party to the contested case but is not entitled to present testimony or evidence unless the hearing officer subsequently orders that the record should be augmented.

Dated this 17th day of April, 2008.

A handwritten signature in black ink, reading "Gary Spackman", written over a horizontal line.

Gary Spackman
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of April, 2008, a true and correct copy of the above and foregoing document described below was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Default Order

SANDI BROWN
1791 S 52ND EAST
IDAHO FALLS ID 83401

MR. & MRS. DENNIS KISER
2797 S 45TH EAST
IDAHO FALLS ID 83406

BOYD ENDECOTT
1931 SOUTH 52ND EAST
IDAHO FALLS ID 83401

ROCKY MOUNTAIN
ENVIRONMENTAL
W ROGER WARNER
482 CONSTITUTION
IDAHO FALLS ID 83402

FRED ADAMS
624 S 52ND EAST
IDAHO FALLS ID 83401

CITY OF AMMON
2135 S AMMON RD
AMMON ID 83406

VAUGHN W ADAMS
706 S 52ND EAST
IDAHO FALLS ID 83401

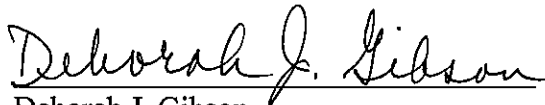
ROBERT L HARRIS
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405-0130

JAMES W ADAMS
648 S 52ND EAST
IDAHO FALLS ID 83401

IDWR – EASTERN REGION
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402-6105

NANCY PINNOCK
1896 S 52ND E
IDAHO FALLS ID 83401

MARY TAYLOR
4825 E 21ST SOUTH
IDAHO FALLS ID 83401


Deborah J. Gibson
Administrative Assistant
Water Allocations Bureau