BEFORE THE DEPARTMENT OF WATER RESOURCES

FOR THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO. 78356[1] (SHEKINAH INDUSTRIES); APPLICATION FOR TRANSFER NO. 78355[2] (ORCHARD RANCH); APPLICATION FOR PERMIT NO. 63-32499 (MAYFIELD TOWNSITE); APPLICATION FOR PERMIT NO. 61-12095 (NEVID-CORDER); APPLICATION FOR PERMIT NO. 61-12096 (NEVID); APPLICATION FOR PERMIT NO. 63-32703 (ORCHARD RANCH); APPLICATION FOR PERMIT NO. 61-12256 (INTERMOUNTAIN SEWER AND WATER); APPLICATION FOR PERMIT NO. 63-33344 (ARK PROPERTIES-MAYFIELD TOWNSITE)	)	**DEFAULT ORDER**

This matter having come before the Director ("Director") of the Idaho Department of Water Resources ("Department"), the Director makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On April 8, 2013, the Department served all parties to this matter, including protestant City of Pocatello ("Pocatello"), a *Notice of Hearing*. The notice contained a certificate of mailing showing the parties were duly served. The notice scheduled a hearing to begin on April 17, 2013.

2. The hearing in the above captioned matter began on April 17, 2013 and concluded on April 18, 2013 in Boise, Idaho.

3. Pocatello failed to appear at the hearing.

[1] Transfer no. 78356 was renumbered from Transfer no. 73811.
[2] Transfer no. 78355 was renumbered from Transfer no. 73834.

4. On May 29, 2013, the Department served a *Notice of Proposed Default Order* upon Pocatello for failure to appear at the hearing.

5. On June 4, 2013, the Department received the *City of Pocatello's Response to Notice of Default*. Pocatello indicated it would like to remain an active party on the grounds that it has an interest in the issues being addressed through the hearing proceedings.

6. No explanation was given for Pocatello's failure to attend the hearing.

CONCLUSIONS OF LAW

1. IDAPA Rule 37.01.01.700 (Rule of Procedure 700) authorizes the Department to issue a Notice of Proposed Default Order for failure to appear at the time and place set for the hearing.

2. IDAPA Rule 37.01.01.701 (Rule of Procedure 701) requires the petition requesting that default not be entered "must state the grounds why the petitioning party believes that default should not be entered."

3. Pocatello was duly notified of the schedule of hearing proceedings but did not attempt to designate a representative, resolve the scheduling conflict with the hearing officer, or provide a reasonable explanation for the protestant's absence in response to the Notice of Proposed Default Order. Pocatello's response to the notice of default failed to explain why it did not attend the hearing.

4. The Director concludes that a Default Order should be issued.

ORDER

IT IS THEREFORE, HEREBY ORDERED that protestant *City of Pocatello's Response to Notice of Default* is in default, and that the protestant is **dismissed** as a party in the contested case.

Dated this 31st day of July, 2013.

GARY SPACKMAN
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of July, 2013, a true and correct copy of the document described below was served by placing the same in the United States mail, certified with return receipt, postage prepaid and properly addressed to the following:

Document(s) Served: NOTICE OF PROPOSED DEFAULT ORDER

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BOISE ID 83709

MICHAEL CREAMER
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TWIN FALLS ID 83301

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GARDEN CITY ID 83714

CRAIG HAYNES
G3 LLC
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Deborah J. Gibson

Deborah J. Gibson
Assistant to the Director