

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

**IN THE MATTER OF APPLICATION  
FOR PERMIT NO. 74-16187 IN THE  
NAME OF KURT W. BIRD AND JANET E.  
BIRD**

**ORDER EXTENDING DEADLINE TO  
ISSUE FINAL ORDER**

**BACKGROUND**

On January 9, 2020, the hearing officer issued a *Preliminary Order Approving Application* in this matter. On January 23, 2020, the applicants Kurt W. Bird and Janet E. Bird (“Bird”) filed *Applicant’s Petition for Reconsideration*. Also on January 23, 2020, the Idaho Water Resources Board (“IWRB”) and the Idaho Department of Fish and Game (“IDFG”) filed *IWRB’s & IDFG’s Joint Petition for Clarification or in the Alternative Reconsideration*. These petitions were granted, in part, resulting in an *Amended Preliminary Order Approving Application* (“Amended Preliminary Order”) issued February 6, 2020.

On February 20, 2020, IWRB and IDFG submitted *IWRB’s and IDFG’s Exceptions to Amended Preliminary Order Approving Application and Memorandum in Support* (“Agencies’ Exceptions”) to the Director. On March 5, 2020, Bird filed the *Applicant’s Response to Exceptions* (“Bird Response”) with the Department.

**ANALYSIS**

The Department’s Rule of Procedure 730.02.d requires the Director to issue a final order within fifty-six days of receipt of written briefs or oral argument regarding exceptions to a preliminary order, “whichever is later, unless waived by the parties or for good cause shown.” IDAPA 37.01.01.730.02.d. As described above, the last written brief regarding the exceptions was filed on March 5, 2020. The Director is required to issue a final order by April 30, 2020, unless “good cause” is shown to extend the deadline. *Id.*

Good cause exists to extend the deadline for the Director to issue a final order. The various exceptions and related briefing raise important legal and policy issues that require careful consideration and extensive legal research. Complicating this work, the Governor of the State of Idaho issued an *Order to Self-Isolate*<sup>1</sup> on March 25, 2020 (amended April 15, 2020) due to the COVID-19 virus, which, among other things, ordered all Idaho governmental agencies to cease nonessential operations at physical locations in the State of Idaho. Accordingly, the Director will extend the deadline for issuing a final order by three weeks to May 21, 2020.

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<sup>1</sup> For information related to the Order to Self-Isolate and its effect on governmental agencies see <https://coronavirus.idaho.gov/statewide-stay-home-order/>.

**ORDER**

IT IS HEREBY ORDERED that the deadline for the Director to issue a final order is EXTENDED to May 21, 2020.

Dated this 30<sup>th</sup> day of April 2020.

  
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Gary Spackman  
Director

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30<sup>th</sup> day of April 2020, I served a true and correct copy of the foregoing document on the following by the method(s) indicated below:

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