

Robert L. Harris (ISB #7018)

[rharris@holdenlegal.com](mailto:rharris@holdenlegal.com)

Luke H. Marchant (ISB # 7944)

[lmarchant@holdenlegal.com](mailto:lmarchant@holdenlegal.com)

**HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.**

1000 Riverwalk Dr., Ste. 200

P.O. Box 50130

Idaho Falls, Idaho 83405

Telephone: (208) 523-0620

Facsimile: (208) 523-9518

*Attorneys for Kurt W. Bird & Janet E. Bird*

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

The IDAHO WATER RESOURCE BOARD,  
and the IDAHO DEPARTMENT OF FISH  
AND GAME,

Petitioners,

v.

THE IDAHO DEPARTMENT OF WATER  
RESOURCES,

Respondent.

v.

KURT W. BIRD and JANET E. BIRD,

Cross Petitioners.

Case No. CV01-20-9661

**BIRD'S OBJECTION TO THE  
RECORD LODGED WITH THE  
AGENCY**

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

Petitioners Kurt W. Bird and Janet E. Bird (collectively “Bird”), by and through their counsel of record, Holden, Kidwell, Hahn & Crapo, P.L.L.C., and pursuant to Rule 84(j)(1)(c) of the Idaho Rules of Civil Procedure and the *Notice of Lodging Agency Transcript and Record with the Agency* (July 21, 2020) (the “Notice”), hereby file this objection to the record lodged with the Idaho Department of Water Resources (“Department”), and requests that additional time be provided for Bird to review the agency record.

The *Notice* provides that a copy of the agency record and transcript are contained on one (1) DVD. However, counsel for Bird never received the DVD copy by mail sent to him in Idaho Falls. While the *Notice* does provide that a copy of the agency record and transcript can be picked up in Boise, on other appeal matters, most recently in the ESPA Ground Water Management Area appeal (Ada County Case No. CV 01-20-8068), the Department has mailed a DVD with the record to my office in Idaho Falls for review. Counsel for Bird assumed this same practice would continue in the instant matter. Today, counsel for Bird contacted Sean Costello about the DVD, and he indicated that he would have Kimberle English mail a copy of the DVD to me today. For that reason, Bird requests to have until August 24, 2020, to review the record and lodge any objections.

Dated this 4<sup>th</sup> day of August 2020.



---

Robert L. Harris  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>nd</sup> day of August 2020, I served a copy of the following described pleading or document on the parties listed below by the indicated method.

**Document Served:                    BIRD’S OBJECTION TO THE RECORD LODGED WITH THE AGENCY**

**Original to:**

Clerk of the District Court  
SNAKE RIVER BASIN ADJUDICATION  
P.O. Box 2707  
253 3<sup>rd</sup> Avenue North  
Twin Falls, Idaho 83303-2707  
Facsimile: (208) 736-2121

- Mail
- Hand Delivery
- Facsimile
- Courthouse Box
- Email

**Attorneys and/or Individuals Served:**

Garrick Baxter  
IDAHO DEPARTMENT OF WATER RESOURCES  
P.O. Box 83720  
322 E. Front Street, Ste. 648  
Boise, Idaho 83720-0098  
Facsimile: (208) 287-4800  
Email: [garrick.baxter@idwr.idaho.gov](mailto:garrick.baxter@idwr.idaho.gov)

- Mail
- Hand Delivery
- Facsimile
- Courthouse Box
- Email

Lawrence G. Wasden, *Attorney General*  
Darrell G. Early, *Deputy Attorney General*  
*Chief, Natural Resources Division*  
Michael C. Orr, *Deputy Attorney General*  
Ann Y. Vonde, *Deputy Attorney General*  
P.O. Box 83720  
Boise, ID 83720-0010  
Email: [michael.orr@ag.idaho.gov](mailto:michael.orr@ag.idaho.gov)  
[ann.vonde@ag.idaho.gov](mailto:ann.vonde@ag.idaho.gov)

- Mail
- Hand Delivery
- Facsimile
- Courthouse Box
- Email

Travis L. Thompson  
BARKER ROSHOLT & SIMPSON LLP  
163 Second Ave West  
P.O. Box 63  
Twin Falls, ID 83303-0063  
Email: [tl@idahowaters.com](mailto:tl@idahowaters.com)

- Mail
- Hand Delivery
- Facsimile
- Courthouse Box
- Email

Marie Callaway Kellner  
Matthew A. Nykiel  
IDAHO CONSERVATION LEAGUE  
P.O. Box 884  
Boise, ID 83701  
Email: [mkellner@idahoconservaiton.org](mailto:mkellner@idahoconservaiton.org)  
[mnykiel@idahoconservation.org](mailto:mnykiel@idahoconservation.org)

- Mail
- Hand Delivery
- Facsimile
- Courthouse Box
- Email

PURCELL RANCH PARTNERSHIP  
Kerry Purcell  
98 Purcell Land  
Leadore, ID 83464

- Mail
- Hand Delivery
- Facsimile
- Email

Kerry Purcell  
1774 Lee Creek Road  
Leadore, ID 83464

- Mail
- Hand Delivery
- Facsimile
- Email

Penny Jane Ogden-Edwards  
2330 S. 350 W.  
Perry, UT 84302

- Mail
- Hand Delivery
- Facsimile
- Email



---

Robert L. Harris  
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\RLH\20546-000 Bird, Janet & Kurt\001 Appeal\Record Objection.docx