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**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

**PETITIONERS' RESPONSE TO
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, the Idaho Water Resource Board and the Idaho Department Fish and Game, by and through their attorneys of record, hereby respond to *Bird's Objection to the Record Lodged With the Agency* (“*Bird's Objection*”), filed in this matter on August 4, 2020.

Bird's Objection does not actually raise any objections to the record lodged with the Idaho Department of Water Resources (“Department”), but rather “requests to have until August 24, 2020, to review the record and lodge any objections.” *Bird's Objection* at 2. The Petitioners therefore submit that the *Bird's Objection* is not in fact an objection to record but rather a motion requesting affirmative relief: a request to extend by twenty (20) days the time for the Birds to file objections to the record lodged with the Department.

The Petitioners do not object to the Birds’ request for an extension of the time for the Birds to file objections to the record lodged with the Department. The Petitioners point out, however, that extending the time for the Birds to file objections to the record lodged with the Department would presumably require extending the remainder of the schedule as well. This is because the existing schedule was established by the *Procedural Order Governing Judicial Review of Final Order of Director of Idaho Department of Water Resources* (June 23, 2020) (“*Procedural Order*”), and the *Order Granting Motion for Extension and Resetting Oral Argument* (July 6, 2020) (“*Order Granting Extension*”). Under these two orders and Rule 84 of the Idaho Rules of Civil Procedure, the time period for each successive filing or event is triggered by the date of the preceding filing or event. *Procedural Order* at 3-4; *Order Granting Extension* at 1-2; I.R.C.P. 84(j)-(q). Thus, the date for filing objections to the record lodged with Department ultimately determines subsequent filing dates, such as the dates for the filing of the settled record and transcript with this Court and the filing of briefs. *Id.*

The Petitioners therefore request that any order granting the Birds' request for an extension of the time to file objections to the record lodged with the Department will also clarify the effect that such an extension will have upon the remainder of the schedule as established by the *Procedural Order* and the *Order Granting Extension*.

Respectfully submitted this 5th day of August 2020.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of August 2020, I caused the original of the foregoing to be filed with the Court, and true and correct copies to be served on the parties, by the methods indicated:

1. Original to:

CLERK OF THE DISTRICT COURT SNAKE RIVER BASIN ADJUDICATION 253 3rd AVENUE NORTH PO BOX 2707 TWIN FALLS, ID 83303-2707	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Facsimile 208-736-2121
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2. Copies to the following:

GARRICK BAXTER IDAHO DEPARTMENT OF WATER RESOURCES 322 E. FRONT STREET, SUITE 648 BOISE, ID 83720-0098	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Hand Delivery (Attn: Kimberle English) <input checked="" type="checkbox"/> Email: garrick.baxter@idwr.idaho.gov
ROBERT L HARRIS HOLDEN, KIDWELL, HAHN & CRAPO PLLC 1000 RIVERWALK DR., STE 200 P.O. BOX 50130 IDAHO FALLS, ID 83405	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email: rharris@holdenlegal.com
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