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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.

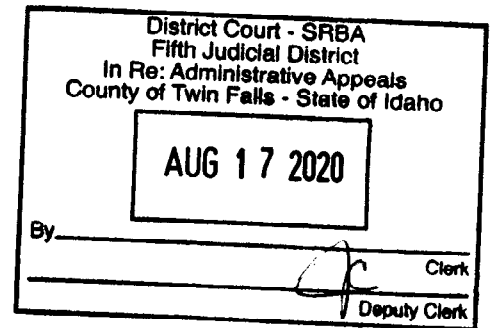
The IDAHO DEPARTMENT OF WATER
RESOURCES,

Respondent,

v.

KURT W. BIRD and JANET E. BIRD,
Cross-Petitioners.

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



Case No. CV01-20-09661

**ORDER SETTLING THE AGENCY
RECORD AND TRANSCRIPT**

On July 21, 2020, pursuant to I.R.C.P. 84(j), the Idaho Department of Water Resources (“Department”) served upon the parties in this matter a *Notice of Lodging Agency Transcript and Record with the Agency* (“Notice”). The Notice gave the parties fourteen (14) days from the date of the Notice to file any objections to the agency transcript or record.

On August 4, 2020, petitioners Idaho Water Resource Board (“IWRB”) and Idaho Department of Fish and Game (“IDFG”) filed *Petitioners’ Objection to the Record Lodged with the Agency* (“Petitioners’ Objection”). The Petitioners’ Objection asked that the record be amended as follows:

1. At the administrative hearing, the Petitioners objected to Exhibit 13 as offered by the Applicants with the exception of Figures 9, 10, and Attachment B. The Hearing Officer limited admission of Exhibit 13 to Figures 9 and 10, and Attachment B. *See Tr.*, Vol. I, pp. 79-83; Agency Record at 01169. Therefore, Petitioners requested the record as lodged with the Department be corrected so that “Bird Exhibit 13” consists of only Figures 9 and 10, and Attachment B;
2. The original protest filed by Lemhi Irrigation District was not lodged with the Department. The record should be corrected to include a copy of Lemhi Irrigation District’s protest in the “Agency Record PDF OCR” sub-directory; and
3. The document entitled “20200618_Notice of Appeal and Petition for Judicial Review of Final Order Approving Application” in the “Agency Record PDF OCR” sub-directory should be saved properly as a “.pdf” file.

The record at the time of filing with the District Court will reflect the changes requested by Petitioners.

On August 4, 2020, cross-petitioners Kurt W. Bird and Janet E. Bird filed *Bird’s Objection to the Record Lodged with the Agency* (“Bird Objection”). The Bird Objection asked the Department for an additional twenty (20) days to review the record lodged with the Department as their counsel had not received a mailed DVD copy and had not obtained a copy from the Department at its Boise office.

On August 5, 2020, petitioners IWRB and IDFG filed *Petitioners' Response to Bird's Objection to the Record Lodged with the Agency*. While IWRB and IDFG did not oppose the extension proposed by the Bird Objection, they asked the Department to clarify any effect an extension would have on the remainder of the schedule, as established by the District Court.

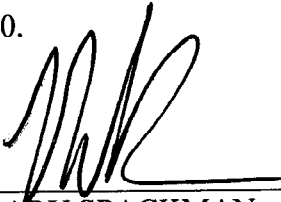
On August 12, 2020, counsel for the Department received notification from counsel for the Birds that he had reviewed the record provided to him by mail and had no objections to the record as filed with the Department on July 21, 2020.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that, timely objections to the agency record have been filed, and with the additions or changes described above, the agency record and transcript are deemed settled.

IT IS FURTHER ORDERED that, pursuant to I.R.C.P. 84(j), the objections filed by Idaho Water Resources Board and Idaho Fish and Game, and Kurt W. Bird and Janet E. Bird, along with this order, shall be included in the record on the petition for judicial review. The Department shall provide the parties with a copy of the agency record on one (1) DVD consistent with this order.

DATED this 17 day of August, 2020.



GARY SPACKMAN
Director
Idaho Department of Water Resources

FOR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of August 2020, I caused a true and correct copy of the foregoing *Order Settling the Agency Record and Transcript* to be filed with the District Court and served on the following parties by the indicated methods:

Original faxed and mailed to:

SRBA Court
253 3rd Avenue North
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- Overnight Mail
- Email

Penny Jane Ogden-Edwards
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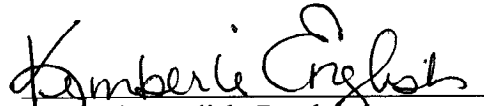
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Kimberle English, Paralegal