

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 36-8242 IN THE)
NAME OF WENDELL CEMETERY)
DISTRICT)

VOID ORDER WITHDRAWAL

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes and orders:

FINDINGS OF FACT

1. On April 10, 1984, the Department received application for permit 36-8242 ("application") in the name of Wendell Cemetery District ("applicant"), to appropriate 0.20 cubic feet per second of ground water for irrigation of 10 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, Township 7 South, Range 15 East, B.M.
2. The Department held processing of the application due to litigation of the Swan Falls issue in the Snake River Basin.
3. On May 4, 1990, the Department mailed notice to the applicant requesting information about development in order to continue processing the application pursuant to the Swan Falls agreement. The applicant did not respond.
4. On June 7, 1990, the Department mailed a second notice requesting the applicant provide the information within fifteen (15) days or withdraw the application. Failure to submit the requested information within the specified time frame would be cause for the Department to void the application.
5. On August 13, 1990, the Department issued an order voiding application for permit 36-8242 ("order voiding the application") and notified the applicant that if they disagreed with the order, they must request a hearing within 15 days of receipt of the order.
6. On August 23, 1990, the Department received a letter from the applicant requesting a hearing on the order voiding the application and explaining that the well had been in use since 1984.
7. On September 4, 1990, the Department responded to the applicant telling them that the Department would consider rescinding the order voiding the application and may approve the application upon receiving evidence confirming commencement and beneficial use of water from the well for the purposes described on application 36-8242. The applicant did not respond.
8. On October 22, 1990, the Department sent a letter requesting the information again and

reminding the applicant that the order voiding the application would remain in effect. A hearing has not been held to address the applicant's appeal of the order voiding the application.

9. On January 23, 2012, after discussions with the applicant, the Department received the information originally requested on May 24, 1990, and confirming the diversion and use of water from the well beginning in 1986.

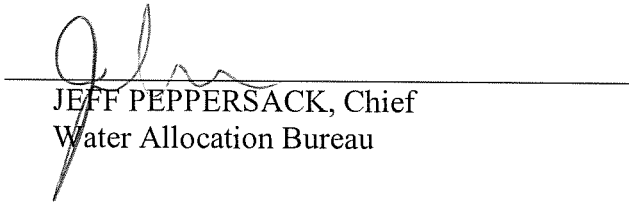
CONCLUSIONS OF LAW

1. The applicant's appeal of the order voiding the application is still pending because the Department did not hold a hearing to address the appeal.
2. A hearing is no longer necessary because the applicant has submitted the requested information.
3. The applicant has provided sufficient evidence to support diversion and beneficial use of water as described in application 36-8242.
4. The order voiding application for permit 36-8242 should be withdrawn.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that the Order Voiding Application for Permit No. 36-8242 in the name of Wendell Cemetery District is **WITHDRAWN**.

DATED this 24 day of January, 2012.



JEFF PEPPERSACK, Chief
Water Allocation Bureau