

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

**IN THE MATTER OF APPLICATION FOR)
PERMIT #63-12220 IN THE NAME OF) **PRELIMINARY ORDER**
AVEST LIMITED PARTNERSHIP) **VOIDING APPLICATION**
_____)**

FINDINGS OF FACT

1. On June 13, 1995, Avest Limited Partnership (Applicant) filed application for permit #63-12220 with the Idaho Department of Water Resources (IDWR) seeking ground water for irrigation beneficial use. The application was held.
2. In early 2008, IDWR again processed ground water applications in the Boise River Basin. Review of the application revealed the ground water source location was considered a direct tributary to the Boise River. The well source must have water bearing zone greater than 200 feet or injury to existing river water rights must be mitigated.
3. On May 29, 2008, IDWR sent the Applicant a letter requesting their intentions. On June 20, 2008, IDWR received a response stating the Applicant would be submitting a mitigation plan to mitigate injury to existing river water rights.
4. On October 7, 2008, IDWR sent the applicant a letter that set a deadline of January 1, 2010 for submittal of the mitigation plan.
5. To date, IDWR has not received the mitigation plan or response from the Applicant.

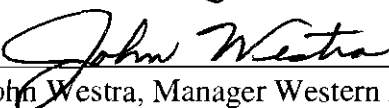
CONCLUSIONS OF LAW

1. Idaho Code (IC)§ 42-204 and the Rules and Regulations of IDWR state that if an applicant does not submit requested information to IDWR within thirty (30) days or set deadline, IDWR may void the application.
2. CCA Limited Partnership has failed or refused to provide IDWR the requested mitigation plan. The application should be voided.

ORDER

IT IS HEREBY ORDERED that Application for Permit #63-12220 in the name of Avest Limited Partnership is VOID.

Dated this 6th day of January, 2010



John Westra, Manager Western Region

CERTIFICATE OF SERVICE

I hereby certify that on Jan 7, 2010 I mailed a true and correct copy, postage prepaid of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

Sherry Bergman

Application for Permit 63-12220 void preliminary order, order explanatory, 05/29/08 & 10/07/08 letters

**Roger Allen
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