

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 74-7346 IN THE NAME)
OF KURT OR JANET BIRD)

**PRELIMINARY ORDER VOIDING
APPLICATION FOR PERMIT**

This matter having come before the Department of Water Resources (Department) as a result of an application to appropriate water, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On May 15, 1992, the Director of the Department of Water Resources issued a *Moratorium Order* enjoining the processing of most applications to appropriate surface water sources within the Salmon and Clearwater River Basins. On April 30, 1993, the Director issued an *Amended Moratorium Order* (Salmon – Clearwater Moratorium), again enjoining the processing of most applications to appropriate water in the Salmon and Clearwater River Basins.

2. On April 25, 1994, Kurt or Janet Bird (applicant) applied to the Department for a permit (application) to appropriate 0.80 cubic feet per second of water from Waste Water, tributary to Texas Creek within the SE¼SE¼, Sec. 15, Township 15 North, Range 26 East, B. M., for irrigation.

3. On November 9, 2005, the Department rescinded the Salmon – Clearwater Moratorium order.

4. On November 21, 2005, the Department sent the applicant a letter notifying him that the Salmon – Clearwater Moratorium had been rescinded. The letter also granted the applicant thirty days to notify the Department in writing that he has a continuing interest in the application. Otherwise, the letter stated, the Department would void the application pursuant to Idaho Code § 42-204.

5. The Department has not received a response to the letter mailed on November 21, 2005.

6. Idaho Code § 42-204 says, in pertinent part:

If upon such examination the application is found defective, it shall be the duty of the department of water resources to return the same for correction or to correspond with the applicant to obtain the needed information or amendments. If the application is returned to the applicant or the department shall request additional information and the applicant fails to return the corrected application or to supply the needed information within

thirty (30) days, the department may void the record of said application and notify the applicant of such action.

CONCLUSIONS OF LAW

1. Idaho Code § 42-204 authorizes the Department to void an application if the applicant fails to supply requested information within 30 days.
2. More than 30 days have passed since the Department requested additional information from the applicant to support the application.
3. The Department should void the application as provided in Idaho Code § 42-204.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 74-7346 in the name of Kurt or Janet Bird is **VOIDED** and the issuance of a permit is **REFUSED**.

Dated this 15th day of March, 2006.



Lyle Swank