

MAY 02 2022

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

\$50 fee

Received by JA

Receipt No. N039097

Date 4-27-22

APR 27 2022

IDWR / NORTH REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use for a water right permit

The Idaho Department of Water Resources will consider this form a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code, in which to complete development of a water right and file proof of beneficial use of water. There is a **FILING FEE of \$50.00** to be included with this form when filed with IDWR.

Permit no. 95-17231 Date proof is due August 01, 2022

Name(s) of permit holder(s) Fernan Estates Corporation

Mailing address P.O.Box 692 City Coeur D'Alene State ID Zip 83816

Telephone no. (208) 446-4762 Email rfbeseler@twc.com

Describe what work has been completed toward the development of this water right:

If no work has been completed, show "none".

Construction of: pressurized & gravity water distribution mains, 170K gallon steel reservoir, distribution system pumping & control system, full development of wells #4 & #6, the drilling of Well #7 & connection of 6 residential units to the water system was accomplished under License 95-9323. 10 additional residential connections to the distribution system in addition to well capacity & water quality testing of Well #7 has been accomplished under Permit 95-17321 issued 5/31/2017.

Costing \$ 105,000

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Connection of Well #7 to the water system & water service for up to 4 new residential building sites within the system's service area pends IDEQ approval. The necessary documentation for these improvements pend IDEQ approval. IDEQ's approval & associated construction work to connect Well #7 & develop service to the 4 residential units can not be completed by 05/01/2022. A time extension is to obtain IDEQ's approval and construct the associated system improvements.

Permit holder(s) request an extension for five (5) year(s).

[Signature]
PRESIDENT, FERNAN ESTATES CORP

Signature (If other than permit holder, Power of Attorney must be supplied)

April 27, 2022
Date

ACTION OF THE DEPARTMENT OF WATER RESOURCES

The Department has reviewed the explanation for delay and concludes the reason(s) for delay meets the requirements for approval of the Request for Extension of Time as provided by Section(s) 42-204 and/or 42-218, Idaho Code.

IT IS HEREBY ORDERED that the permit is **REINSTATED** with the priority date advanced to _____, 20____.

IT IS HEREBY ORDERED that the above request for extension of time is **APPROVED**, and the time within which to submit proof of beneficial use is extended to May 15, 2023.

Signed this 22nd day of June, 2022

[Signature]
Shelley W. Keen, Chief
Water Allocation Bureau



Governor Brad Little

Director Gary Spackman

June 28, 2022

FERNAN ESTATES CORP
PO BOX 692
COEUR D ALENE ID 83816-0692

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 95-17231

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit which extends the proof due date to **May 15, 2023**.

The Department granted this extension based on evidence of good cause. It is important that you work diligently toward the completion of the project during the development period allowed pursuant to Idaho Code § 42-204(3)(a).

The extension is a PRELIMINARY ORDER issued by the Department pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01). It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water right to maintain current ownership and address records on file with the Department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning this permit, please contact the State Office of the Department located in Boise at (208) 287-4800.

Sincerely,

Debbi Judd

Technical Records Specialist

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on **June 28, 2022** I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**PRELIMINARY ORDER APPROVING REQUEST FOR EXTENSION OF TIME**) to the person listed below:

RE: Preliminary Order in the Matter of Permit No. **95-17231**

**FERNAN ESTATES CORP
PO BOX 692
COEUR D ALENE ID 83816-0692**



**Debbi Judd
Technical Records Specialist**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Fernan Estates Corporation. P.O. Box 692, Coeur D'Alene, ID 83816

RECEIVED

JUN 09 2022

DEPARTMENT OF
WATER RESOURCES

Idaho Department of Water Resources
PO Box 83720
Boise, ID 83770-0098

05 June, 2022

Re: Permit 97-17231 - Fernan Estates - Request For Time Extension

Dear Sirs,

This is in response to your letter of May 10, 2022 requesting supporting documentation concerning government based delay in development of the permit.

Permit 97-17231 issued May 31, 2017 authorized three points of diversion. Two of the three permitted groundwater wells (Wells #4 and #6) have been brought into production and provide water to the Fernan Estates Corporation (FEC)'s water system. The third well, Well #7 had been drilled but not connected to the water system pending an assessment as to the overall benefit of connecting the well to the water system.

The FEC concluded that it would be beneficial to connect Well #7 to its water system after conducting a pump test in March 2021. The purpose of this test was to validate the well's production capacity and associated water quality. TO Engineers under contact with the FEC, subsequently prepared engineering plans to connect Well #7 to the FEC water system. These plans were submitted to the Idaho Department of Environmental Quality (IDEQ) on October 19, 2021 for their review and approval. FEC's intent was to obtain IDEQ's approval and then perform the construction work necessary to connect Well #7 to the water system before August 01, 2022.

The FEC met with IDEQ representatives on March 23, 2022 to ascertain the status of the Well #7 engineering plans in addition to other draft documents that had been submitted in the summer of 2021 for IDEQ's review and approval. IDEQ had not yet conducted its review of the Well #7 engineering plan submission at the time of that meeting. IDEQ indicated that they would be conducting their review in the near future. IDEQ has not approved nor provided review comments on the submitted Well #7 engineering plans as of the date of this letter.

The FEC is unable to enter into a contract and then perform the construction work necessary to connect Well #7 to the water system without IDEQ's approval of the submitted plans. It would also be extremely difficult at this point in time for the FEC to

contract for and complete the construction work within the limited time remaining before August 01, 2022 due to local construction market conditions.

Please let me know if you require additional information in order to approve our request for a time extension to Permit 97-17231.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Richard Beseler', with a long horizontal flourish extending to the right.

Richard Beseler
President
Fernan Estates Corporation
rfbeseler@twc.com
208.446.4762



Engineering Review Transmittal Form

Consultant/Engineer: Review this revised transmittal and complete all sections applicable to this project submittal. Return a completed form with each submittal made to DEQ for review. Failure to include this fully completed form may result in a delay of project review.

Submittal date

Project title

City County Zip code

Water purveyor Will serve? Yes NA

Sewer purveyor Will serve? Yes NA

Consulting firm

Engineer Engineer's email

Owner/developer

Contact name

Owner's address

City State Zip code

Phone Owner's email

Review type

Submittal description

Project types:

Wastewater

Drinking water

Solid waste/landfill

Reuse (municipal) (WRU-M)

Meeting Minutes

Subject: Status of Fernan Estates Corporation (FEC) Water System Submittals and POU Application

Date: March 23, 2022

Location: IDEQ Offices, Coeur D'Alene, ID

Time: 1300-1445

Attendees:

Jim Williamson - IDEQ
Emma Woolbridge - IDEQ
Leslie Abrams-Rayner - Gem State Water
Richard Beseler - Fernan Estates
Tim Potter - Fernan Estates
Larry Hall - Fernan Estates

Background: FEC had submitted a draft PER, O&M Manual, Financial and Managerial Check and Well #7 design for IDEQ's review and approval. Many of these submittals had been with IDEQ since last Fall with no indication on their review and approval status. The FEC has been developing the information required by IDEQ to submit the required POU information in the installed RO systems. The FEC also had a number of questions concerning the POU Application submission process.

Listed below is a summary of the topic discussed at the meeting.

Preliminary Engineering Report

- IDEQ had only started their review of the document. They were going to closely look at the historical water use information contained in the report to determine if there are sufficient historical water usage data points to support the Average Daily Demand (ADD) and Peak Hour Demand (PHD) figures used in the report. These figures are used to determine the number of equivalent residential units (ERUs) the water system can support.
- The PER notes supporting more than fifteen ERUs. Emma noted that this represents an expansion of the water system. As such a Facility Plan for the water system is now required. Much of the information contained in the draft PER and O&M Manual could likely be used in the requested Facility Plan. The Facility Plan must be stamped by a license PE. Therefore the FEC will need to contract with TO Engineering for the development of the plan. FEC could request a copy of a facility plan from IDEQ under a formal records request to IDEQ. Leslie was going to review their records for an example of one that may be applicable to the FEC water system.
- Emma noted that a Facility Plan addresses the water systems current and planned operations and configuration for the next twenty year period. Emma also noted that

once a Facility Plan has been completed periodic review and approval by IDEQ is not required. An updated Facility Plan is required if the water system is modifying their water system.

- Rick noted that Well #4 was replaced in August 2021 due to a failing pump and that the well output is now 34 GPM versus the 12 GPM as noted in the PER. This increase would reduce the reservoir equalization storage requirement. IDEQ requested additional documentation concerning the well pump replacement. (Post Meeting Note - Information on the well pump replacement provided by United Crown was emailed to Emma Wooldridge at IDEQ on 3/24/22. Emma acknowledged receipt via email and noted that the information would be included in their file for the PER.)
- IDEQ was to review the draft PER and provide comments. Emma noted that the PER review effort and the other submittals were high priority for IDEQ but would likely have comments back in a month.
- Leslie suggested that if there are any technical questions that could easily be resolved with emails to Scott at TO Engineers for responses as a means to speed up the review and response process. Leslie noted that she understood that IDEQ would still require formal responses to their review questions for their records.

Well #7 Design

- Emma acknowledged that they had the submittal for review.
- FEC requested a prompt review of this submittal so that we could work on getting the associated contractor scheduled for the work.
- Emma noted that they could possibly give preliminary approval for the drawing so that we could schedule the contract if there were no major comments concerning the design. This would allow FEC to schedule a contractor but not the authority to execute the work pending final approval of the design.

Financial and Managerial Checklist

- Emma noted that she had not seen this submittal.
- The FEC will follow up with Leslie with Gem State. (Post Meeting Note - A draft of the completed checklist was sent to Leslie for review and requested that she forward it onto IDEQ if there were no open items on the list. Rick sent an email to Leslie on 3/24/22 requesting she review her email records for the checklist and forward it to IDEQ if it had not already been sent.)

Will Serve Letter

- Larry noted that the FEC has been waiting since last summer for approval of the various submittals so that it can issue a will serve letter to the parcels below the Fernan Estates First Addition development. The approval of the PER which demonstrates the capacity of the system to support the seventeen connections currently on the water system in addition to the three planned housing units in the lot below is required.

- Emma acknowledged that the review of the submittals was high priority work for IDEQ.
- (Post meeting note - It was unclear whether a completed and approved Facility Plan would also be required in order for IDEQ to give the FEC approval to issue a will serve letter.)

POU Application

- Jim Williamson with IDEQ also attended the meeting to discuss the requirement and current status of the POU applications as a means to address the arsenic in the water system.
- Larry noted that the arsenic contamination at the well head was not a constant issue. The ROs have been tested and showed they were operating properly. Water tests from faucets not served by ROs have shown below EPA threshold levels of contamination.
- Jim Williamson noted that although the water system may periodically produce water that is below EPA threshold levels the variability of when the wells exceed the EPA threshold requires the system to provide a treatment system. If the POU process can not be implemented the FEC will be required to install a centralized treatment plant.
- Jim Williamson had reviewed the draft POU/POE Monitoring and Management Plan. Jim recommended that the plan be revised to reflect more of a policy document for FEC on the management of the POU systems. Such statements as "IDEQ requires.." should be changed to the "FEC requires..." for example. The FEC should also review the enforcement method and associated remedy if a water customer does not comply with the requirements under the POU management plan. The plan should also detail the process for ongoing education and outreach to customers.
- We discussed the development and assembly of the POU Application packages. Jim noted that the application can be submitted before all items are completed. Example: Documentation on the alarm systems that will be installed / utilized on each unit can be provided in the application package rather than waiting until the units are actually installed. Description of the proposed maintenance contract can be included in the package submission rather than waiting until the FEC has put a contract in place. Rick noted that the FEC has nine different installed systems and was working to assemble the packages for submission in the next four to six weeks.
- Leslie noted that her office could assist in providing the water chemistry information required on the forms.
- An annual report will be required for the operation and maintenance of the POU systems. The annual report should include information on sampling, maintenance records, logs, contracts and agreements.
- The FEC can replace POU systems in kind (same make and model) once IDEQ provides their initial approval of the unit without prior approval of IDEQ. Installation of a new make or model unit not previously used by the FEC will require IDEQ approval prior to installation.

- Jim requested that the table included with the management plan also note the occupant name and points of service by the POU units in each residence in addition to the sampling point. This information in a table format would be sufficient. Any changes to this information is to be reported to IDEQ. (Post meeting note - It was unclear whether a change such as a new home owner would trigger a reporting requirement or whether such a change could just be included in the annual report.)
- FEC noted that it was still researching the alarms systems to be installed on the POU units. Jim noted that TDS based alarms were acceptable but the sensitivity should be coordinated with the POU that it is monitoring. The alarm notification should be apparent to the household occupants. I.e. If the POU unit is installed in the home's crawl space the alarm notification unit must be placed in occupied space so that it can be heard/ viewed by the occupants. FEC noted that most units are installed in cabinets under kitchen sinks. Jim suggested such installations be equipped with an audible alarm.
- Rick mentioned that the FEC intends to modify its CCRs to address the POU management and home owners responsibilities. This process will likely take the better part of a year. Jim reiterated that absent such documentation in the CCRs that the policy documents noted above would satisfy their requirements concerning the FEC's ownership and management of the POU's.

Cross Connection Control Program

- Jim reviewed the CCCP. He provided a marked up copy of his comments to date.
- Some of the comments on the POU management plan concerning developing a policy and enforcement provisions also apply to the CCCP.
- The CCCP should also include language that if occupants have or plan to install plumbing devices that could cause a cross connection that the FEC should approve such installation and include their presence and testing requirements in their management plan.
- The FEC is also required to conduct a periodic survey of devices to ensure its listing of devices requiring testing is up to date. Such information is typically reviewed when a Sanitary Survey is conducted of the water system by the State.

Water Rate Structure

- This was a topic discussed between FEC and Gem State Water separate from the topics covered with IDEQ.
- Gem State Water provided FEC a list of water rates employed by their various customers and "The Guide To Conducting a Rate Study for a Water System" developed by the Rural Community Assistance Partnership.
- The FEC needs to review its rate structure for non-HOA members that may be connected to the water system. It is also an opportunity to ensure the current water rate structure for HOA members is adequately covering all the cost of operating, maintaining and recapitalizing the water system.

Judd, Debbi

From: Rick Beseler <rbeseler@twc.com>
Sent: Wednesday, June 15, 2022 4:04 PM
To: Judd, Debbi
Cc: Sandi Marler; Chris Conley
Subject: Fwd: Fernan Estates Corporation Well #7 Pumping System
Attachments: IDEQ _ FEC_ Gem State Water Meeting Minutes - 3_23_2022.pdf; DEQ Transmittal Form_FEC Well #7 Plans_Copy.pdf; 200259_FEC Well #7 Plans_Signed_Copy.pdf

Debbi,

This is in reference to our telephone call on Monday of this week concerning the Fernan Estates Corporation's request for a time extension to its current water permit.

Below is the email documenting the Well #7 design submission to IDEQ for their review and approval per your request during our telephone call.

I have also attached a copy of the meeting minutes I generated concerning the status of the Well #7 design and other items submitted to IDEQ for their review and approval.

I requested an update on the submissions from Emma Wooldridge, our IDEQ review via email on 4/21/22 but did not receive a response. I sent her a follow up email yesterday morning again asking for an update. I will give her a day or so to reply.

Rick
2-08.446.4762

Begin forwarded message:

From: Scott McNee <smcnee@to-engineers.com>
Subject: Fernan Estates Corporation Well #7 Pumping System
Date: October 19, 2021 at 12:43:03 PM PDT
To: "croplansubmittal@deq.idaho.gov" <croplansubmittal@deq.idaho.gov>
Cc: Rick Beseler <rbeseler@twc.com>, Leslie Abrams-Rayner <leslie@gemstate-water.com>, William Richter <WRichter@to-engineers.com>, "Katy Baker-Casile (Katy.Baker-Casile@deq.idaho.gov)" <katy.baker-casile@deq.idaho.gov>, "anna.moody@deq.idaho.gov" <anna.moody@deq.idaho.gov>, "Jim.Williamson@deq.idaho.gov" <Jim.Williamson@deq.idaho.gov>

Good Afternoon:

Please see the attached Construction Plans submittal for the above referenced project. Please note, the PER, which discusses testing and pump sizing for this well, was submitted to DEQ on May 25, 2021.

Feel free to contact me with any questions.

Thank you.



SCOTT MCNEE, P.E. (ID, WA, OR) | *Project Manager*



T-O ENGINEERS

7950 N. Meadowlark Way | Suite A | Coeur d'Alene, Idaho 83815

O 208-762-3644 | C 208-661-2229

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