

RECEIVED

FEB 11 2022

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES\$50 fee
Received by W
Recpt No. C111914
Date 2.11.22

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. 1-7128 Date proof is due June 01, 2022Name(s) of permit holder(s) Idaho Power CompanyMailing address 1221 W Idaho St, PO Box 70 City Boise State ID Zip 83707Telephone no. (208) 388-2602 Email kdavis2@idahopower.com

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

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

All work towards the development of this water right has been completed.

Costing \$ _____

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

Exceptionally dry hydrologic conditions and low stream flows since issuance of the Permit Approval Notice (May 6, 2021) have inhibited data collection to demonstrate full beneficial use of the water right during this short period. Additional time is needed in order to collect data that will adequately represent the full developed water right of 7,850 cfs.

Permit holder(s) request an extension for 10 4 year(s). Amended per email 2/15/2022Krista Davis

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

February 7, 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 June 1, 2026.

Signed this 22nd day of February, 2022

Shelley W. Keen
Shelley W. Keen, Chief
Water Allocation Bureau



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little
February 25, 2022

Director Gary Spackman

IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 1-7128

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 **June 01, 2026**.

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 § 42-218.

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

c: JOHN K SIMPSON – *via email*

CERTIFICATE OF SERVICE

I hereby certify that on **February 25, 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 persons listed below:

RE: Preliminary Order in the Matter of Permit No. **1-7128**

**IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070**

**JOHN K SIMPSON – *via email*
BARKER ROSHOLT & SIMPSON
PO BOX 2139
BOISE ID 83701-2139
jks@idahowaters.com**



**Debbi Judd
Technical Records Specialist**

From: [Davis, Kresta](#)
To: [Judd, Debbi](#)
Cc: [Blew, David](#)
Subject: RE: Request for Extension permit 1-7128
Date: Tuesday, February 15, 2022 4:21:30 PM

Thank you for the time this afternoon to discuss further. Please amend the company's request for extension from five year to four years for permit 1-7128.

Best,

Kresta Davis

WATER RESOURCES AND POLICY SENIOR MANAGER

Idaho Power | Water Resources and Policy

208-388-2602

Email kdavis2@idahopower.com

From: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>
Sent: Tuesday, February 15, 2022 2:31 PM
To: Davis, Kresta <KDavis2@idahopower.com>
Subject: [EXTERNAL]Request for Extension permit 1-7128

KEEP IDAHO POWER SECURE! External emails may request information or contain malicious links or attachments. Verify the sender before proceeding, and check for additional warning messages below.

Good afternoon,

The Department received your request for extension for permit 1-7128. The request asks for a 10 year extension. Permits are allowed up to 5 years for the initial development period and this permit has 1 year, which means you are allowed 4 more years for the initial development period. The Department typically approves extensions (other than the initial development period) for a 5 year maximum at a time. If the Department approves the request for 5 years, it may affect future extension requests. The Department encourages permit holders to avail themselves of all allowable time to develop a permit. If you would like to amend the request to 4 years instead of 5, please reply to this email stating your intention and I will amend the request for you. Please feel free to contact me should you have questions or concerns.

Thanks,
Debbi

Debbi Judd
Technical Records Specialist
debbi.judd@idwr.idaho.gov

Idaho Department of Water Resources
322 E Front St

RECEIVED

FEB 11 2022

DEPARTMENT OF
WATER RESOURCES

2/9/2022

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

Subject: Request for Extension of Time for Permit 1-7128

Enclosed please find a Request for Extension of Time for permit 1-7128 and a check for \$50 for the filing fee. Permit 1-7128 is for hydropower production at American Falls Dam. This permit was issued in May of 2021 and the proof is due on June 1, 2022. The American Falls project has been in existence for many years and the original application for this right was filed in 1996. The current drought has limited our ability to make proof of beneficial use on this right. In normal years, there would be adequate water to make proof of beneficial use. However, given the current storage in the Upper Snake Basin system, we are not sure there will be adequate flows next spring to collect data for this proof. As such, we are requesting additional time in the development period to complete this proof.

Thank you for your time and consideration of our extension request.

Sincerely,



Kresta Davis
Water Resources and Policy Senior Manager
KDavis2@idahopower.com
(208) 388-2602

enc

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.