



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

September 30, 2021

AW HARDY FAMILY INVESTMENTS, LIMITED
197 W FARM SPRINGS LN
MIDWAY UT 84049-1272

RE: Application for Extension of Time to Avoid Forfeiture of Water Right No. 29-14147

Dear Applicant(s):

This correspondence is to inform you that the Extension of Time to Avoid Forfeiture approved on May 24, 2021, is not considered valid. Idaho Code §42-222(4)(a) requires that the Department provide public notice of the application for an extension of time before approval of the application. This public notice did not occur before the request was approved.

A legal notice of the application has been prepared and is scheduled for publication in the IDAHO STATE JOURNAL on 10/7/2021 and 10/14/2021. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Jean Hersley
Technical Records Specialist

c: Racine Olson

NOTICE OF APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE

A W HARDY FAMILY INVESTMENTS LTD, 197 W FARM SPRINGS LN, MIDWAY, UT 84049-1272, has filed an Extension of Time to Avoid Forfeiture for water right 29-14197, with a priority date of 10/28/1953 from groundwater in the amount of 0.29 cfs, and 65.2 af, for the irrigation of 16.3 acres. The right was decreed on 3/22/2004. The place of use of this right pertains to the Prairie Estates Subdivision, located approximately 2.3 miles north of E Chubbock Rd, between N Hiline Rd and I-15. The extension is requested to avoid the loss of the use of this right during the development of the irrigation systems for the subdivision.

For additional information concerning the property location, contact the State office at (208) 287-4800; or for a full description of the right, please see <http://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the proposed application must be filed with the director, Dept. Water Resources, State Office, 322 E Front St, PO Box 83720, Boise, ID, 83720 together with a protest fee of \$25.00 for each application on or before 10/25/2021. The protestant must also send a copy of the protest to the applicant.

Gary Spackman, Director

Published 10/06/2021 and 10/13/2021

Hersley, Jean

From: Hersley, Jean
Sent: Wednesday, September 29, 2021 3:15 PM
To: legalnotices@postregister.com
Subject: Legal Notice for Idaho State Journal
Attachments: Extension of Time Legal Notice_29-14197.docx

Please publish the attached legal notice in the Idaho State Journal on the dates indicated (once a week for two consecutive weekly issues. If you cannot publish the notice on the proposed dates, please contact me immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to the state office before 10/25/2021. Let me know if you have any questions. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

MEMORANDUM

Date: September 13, 2021

To: Water Right 29-14197

From: Dave Betts

Re: Pre-advertisement Review of Application for Extension of Time to Avoid Forfeiture

Background

AW Hardy Family Investments, Limited ("applicants") submitted an Application for Extensions of Time to Avoid Forfeiture of a Water Right ("application") on April 09, 2021. The application was signed by Steven L. Hardy, Manager.

Idaho Code § 42-222(4)(a) requires that the Department of Water Resources ("IDWR") "provide notice of the application for an extension [of time]." The original application was signed for approval on May 24, 2021, without to the required public notice. According to the statutory requirements, the original review of the application was incomplete. The signed approval on May 24, 2021, should not be considered as valid.

This review will include the required notice prior to making a decision whether to approve the application for an extension of time.

Validity of the Water Right

Water right 29-14197 was created through a transfer (Transfer No. 81297) that was approved in 2017. The transfer moved a 16.3-acre portion of water right no. 29-13892 to a new place of use ("POU") for the irrigation of properties pertaining to the Prairie Estates Subdivision. The water use authorized by the parent right (29-13892) appeared to be valid at the time that Transfer No. 81297 was approved.

Based on information provided by the applicants and a review of satellite imagery, water use at the authorized POU for this right (29-14197) has not occurred. Satellite imagery indicates that the most recent authorized use appears to have occurred in 2016, prior to the change in place of use as authorized by Transfer No. 81297. The applicants filed their application in 2021, which is prior to the end of the fifth year of non-use of their right. Water right no. 29-14197 appears to be valid.

Ownership

According to Bannock County tax parcel information, most of the parcels pertaining to the Prairie Estates Subdivision and the overlapping POU are currently owned by individuals and entities other than the applicants. Based on the evidence presented above regarding the use of the water right, it does not appear that water has been put to beneficial use within the Prairie Estates Subdivision. Because beneficial use within the authorized POU does not appear to have occurred, the owners of the overlapping tax parcels may not have an interest in the use of Water Right no. 29-14197. By publishing the required notice of the application, IDWR is providing the public and the owners of the tax parcels at the POU with an opportunity to address the application and any potential interest in the use of the right.