

RECEIVED

OCT 05 2020

Form No. 204 Rev. 12/12

DEPARTMENT OF  
WATER RESOURCESSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

\$50 fee

Received by RDRecpt No. C100469Date 3/16/20

RECEIVED

SEP 22 2020

Department of Water Resources  
Eastern Region

## 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. 27-12276 Date proof is due September 1, 2020

Name(s) of permit holder(s) Itafos Conda LLC

Mailing address 3010 Conda Road City Soda Springs State ID Zip 83276

Telephone no. (208) 909-5298 Email Mark.Chapman@Itafos.com

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

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

Development completed to date consists of ponds and diversion ditches to route meteoric contact water from mining operations and is used to capture and store runoff water. Over the past years, ten ponds (7 through 10 are separate but connected with underdrains and can be viewed as one) have been constructed along with associated diversion ditches and have been sustainable in the collection and evaporation of water within the limit of the mitigation rate for the right to appropriate water.

Costing \$ N/A

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

The mitigation ponds are purposed to catch meteoric water that comes into contact with meade peak material and acts as evaporation basins to not allow discharging of contact water into the ground and surface waters. More time is needed to complete the work for the basin's intended use where current operations still has exposed areas with contact water runoff that are routed and captured in the established evaporation ponds. We're currently done mining the ore but those ponds are needed up until we are able to complete final reclamation which provides a cover for areas containing meade peak material. Those ponds are planned to be removed within the next 5 years.

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

ITAFOS CONDA LLC

by: Jan Broosh Manager  
Signature (If other than permit holder, Power of Attorney must be supplied)

Date 09/21/20

## 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 May 1, 20 15.

☒ **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 September 1, 20 25.

Signed this 20<sup>th</sup> day of November, 20 20

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

Mr. James Cefalo  
Attn: permit no 27-12276  
9/16/2020

RECEIVED  
SEP 22 2020  
Department of Water Resources  
Eastern Region

I am writing this letter in regard to the rights to appropriate water permit number 27-12276 which Proof of Beneficial Use was submitted earlier in September to Debbi Judd. This document was submitted in error as those ponds are still in use and intended to be in use for an additional 3-5 years up until we have completed reclamation of the areas containing meade peak material. The current diversion infrastructure is intended to divert meteoric water that has come into contact with those areas and route contact water into evaporation basins to not allow discharge into the ground and surface water. Current mining operations have gone longer than originally anticipated and those areas are not scheduled to be covered for a few additional years. We are done mining the ore, currently backfilling the pits, and final reclamation for the haul road and those backfilled areas are planned to be covered within the next 4 years. At which, the evaporation ponds and diversion infrastructure will no longer be needed and reclaimed, and the diversion infrastructure will likely be removed before the end of the extended five year period.

We are requesting an extension with the attached Request for Extension of Time document to allow us the right to appropriate water for an additional five years. Certain conditions with the Conditions of Approval have not been completed due to the challenges and nuances of our situation. There has been no installation of a lockable device as this is not a typical head gate and the disallowance for diverting contact water into the ponds does not fit within our multi sector general permit for discharging this water into the waters of the U.S. or by approved plans from other regulating agencies. The bi-weekly reporting for water being captured into the evaporation ponds is not as necessary as is the collection of such data, according to phone correspondence between you and myself, and we would like to collect the data bi-weekly and water stored will be reported semi-annually or upon request of the Idaho Department of Water Resources.

Please use the payment sent in for the proof of beneficial use to cover the expense for the Request for Extension and refund any excess.

Thank you for this consideration  
Best Regards,

Braden Lott | EH&S Supervisor  
3010 Conda Road, Soda Springs, ID 83276  
Direct: 208-909-5371 | Cell: 208-339-5086  
[Braden.Lott@itafos.com](mailto:Braden.Lott@itafos.com)



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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

GARY SPACKMAN  
Director

November 27, 2020

ITAFOS CONDA LLC  
ATTN JON GOODE  
3010 CONDA RD  
SODA SPRINGS ID 83276-5301

**REQUEST FOR EXTENSION OF TIME LETTER**

**RE: Permit No. 27-12276**

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 **September 01, 2025**.

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 because the Department **will not** grant an additional extension based on good cause, according to Idaho Code § 42-204(3)(f).

This approved extension also reinstates the permit and advances the priority date since the request and the filing fee was submitted after the permit proof due date. The priority date of this permit is advanced to **May 1, 2015**, according to Idaho Code § 42-218a(2).

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](http://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 **November 27, 2020** 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. **27-12276**

**ITAFOS CONDA LLC  
ATTN JON GOODE  
3010 CONDA RD  
SODA SPRINGS ID 83276-5301**



---

**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.