

RECEIVED

JUN 11 2020

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

\$50 fee

Receipted by

KM

Recpt No.

C108877

Date

6-11-2020

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. 69-11543 Date proof is due 1 July 2020
 Name(s) of permit holder(s) Daniel N. Tarter
 Mailing address 118 Michelle Court City Missoula State MT Zip 59803
 Telephone no. (406) 529-9842 Email dan.tarter@gmail.com

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

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

See attached letterCosting \$ 800-\$1,000.00

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

See attached letter.Permit holder(s) request an extension for ~~XXX~~ 3 year(s). Amended to 3 years per email 5/26/2020

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

Date

15 May 2020

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 July 1, 2023.

Signed this 27th day of June, 2020

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

From: [Dan Tarter](#)
To: [Judd, Debbi](#)
Subject: Re: Request for Extension - Permit 69-11543
Date: Tuesday, May 26, 2020 8:41:42 PM

Dear Debbi

Thank you for your response and for the additional information. Yes, please. I would like to amend the extension request to 3 years. That would be very helpful!

Our mail is starting to move now so you should receive my hard copy application and fee payment soon.

Very best,

Dan Tarter
Bangkok

On May 27, 2020, at 12:08 AM, Judd, Debbi <Debbi.Judd@idwr.idaho.gov> wrote:

Mr. Tarter,

Thank you for your email regarding your request for extension for permit 69-11543. It appears that the work done would qualify for an extension. I would like to note that the initial development period for this permit is 2 years and your request is for an additional 2 years. You are allowed up to 5 years for the initial development period pursuant to Idaho Code § 42-218. Your request would only bring the initial development period up to 4 years. If you would like to amend that request to 3 years, please respond to this email and I will amend the request for you.

Also, your letter mentions the possibility of drilling a well. Please be aware that this permit authorizes the diversion of surface water from East Brownlee Creek. Diversion of ground water would require a separate permit.

Please feel free to contact me should you have questions or concerns.

Best regards,
Debbi

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

Idaho Department of Water Resources
322 E Front St
PO Box 83720

Boise, ID 83720-0098
208-287-4920
www.idwr.idaho.gov

From: Dan Tarter [<mailto:dan.tarter@gmail.com>]
Sent: Saturday, May 23, 2020 1:47 AM
To: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>
Subject: Request for Extension - Permit 69-11543

Dear Ms. Judd

My brother, Mr. Allen Tarter, recently stopped by your office seeking clarification on whether I had sufficiently proved the surface water right for Permit 69-11543, or if I should file an extension. For your consideration, I am attaching a copy of my extension request herewith. I have mailed a hard copy of this request to IDWR's Front Street office along with a \$50 check for the filing fee.

I am a U.S. State Department officer assigned to the U.S. Embassy in Bangkok, Thailand. We have been experiencing mail delays due to a severe reduction in international air traffic as a consequence of the on-going pandemic. My hard copy extension application should arrive IDWR ahead of the deadline for filing (1 July 20); however, in the event that it does not, I ask for consideration of my extension based on these attachments. I would also value your opinion on whether the work described in the attached is already sufficient to prove my water right, in which case, I would amend my extension request and file for demonstrated beneficial use.

My brother, Allen, is my authorized representative. Please feel free to discuss this with him.

Thank you for your consideration and may you remain healthy.

Very best,

Dan Tarter

Daniel N. Tarter
Colonel, U.S. Army (ret.)
U.S. Department of State
Personal E-mail: dan.tarter@gmail.com
Official: TarterDN@state.gov
International: +6681-257-4825

RECEIVED

JUN 11 2020

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

\$50 fee

Received by KMRecpt No. C108877Date 6-11-2020

REQUEST FOR EXTENSION OF TIME

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Permit no. 69-11543 Date proof is due 1 July 2020Name(s) of permit holder(s) Daniel N. TarterMailing address 118 Michelle Court City Missoula State MT Zip 59803Telephone no. (406) 529-9842 Email dan.tarter@gmail.com

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

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

See attached letterCosting \$ 800-\$1,000.00

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

See attached letter.Permit holder(s) request an extension for two year(s).

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

Date

15 May 2020

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 _____, 20____.

Signed this _____ day of _____, 20____

Shelley W. Keen, Chief
Water Allocation Bureau



Point of diversion from East Fork of Brownlee Creek via high pressure pump (July 2018).



Irrigation of indigenous pines via high pressure pump and hose. (July 2018)



Irrigation of indigenous trees and pasture via hose and sprinkler system (August 2019)



Future home site marked with survey stakes. Doused site for future well located to the immediate left foreground (August 2019)

JUN 11 2020

DEPARTMENT OF
WATER RESOURCES

Colonel Daniel N. Tarter, USA (ret.)
Unit 7200, Box 55
DPO AE 09974-0055
E-mail: dan.tarter@gmail.com

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

May 15, 2020

Dear IDWR

This is a request for an extension of time to show proof of beneficial use for Permit No. 69-11543. This letter expands on the description of work and my reasons for temporary inability to complete the rest of the work otherwise described on Form 204, Request for an Extension of Time (enclosed.)

Completed work and use:

Since IDWR granted provisional use (June 2018) I have twice diverted surface water from the East Fork of Brownlee Creek (July 2018, August 2019) via high-pressure pump, hose, and "big gun" sprinkler system for agricultural and fire abatement use, watering indigenous pines (about 1 acre) and adjacent grass pasture (2.5 acres). Cost for a used pump, hose and sprinkler system, and fuel was \$750. Note, since I do not occupy the property full time, I could not leave this pilferable material on site in a permanent installation. These diversions were not metered.

From May – August 2018; June—August 2019: surface water used for stock water for two horses and 10 head of cattle intermittently pastured on the property.

In August 2019, I had a survey of the property performed by a local excavation firm for a future homesite and septic tank system installation. Simultaneously, I had the property doused for potential domestic well sites, identifying two locations suitable for drilling. Cost for dousing was \$50. Survey work performed on spec in anticipation of future work.

Reason for incomplete work:

I am a Foreign Service Specialist with the U.S. Department of State Bureau of Diplomatic Security. In September 2019, I received overseas transfer orders to Bangkok, Thailand for a three-year tour of duty. This unexpected assignment disrupted my development plans. Nevertheless, I intended to take extended leave in May 2020 and return to Idaho to contract for domestic well digging on the property; install a solar pump; construct a permanent installation for surface water diversion with measuring device; perform land-leveling on the property; and start septic system permitting and installation. Covid-19 interceded on those plans. The Government of Thailand locked the country down in early March 2020 with no incoming flights or passengers (hence no out-going flights) except for humanitarian / medical purposes. I am, at present, unable to

Colonel Daniel N. Tarter, USA (ret.)
Unit 7200, Box 55
DPO AE 09974-0055
E-mail: dan.tarter@gmail.com

travel outside the country and I am finding it quite difficult to contract for any development work from here. When Thailand opens back up (July?) and barring a second wave of the virus, I will come to Idaho to execute as much of my planned work as possible. At a minimum, we will once again divert surface water for tree and pasture irrigation purposes, and husband stock on the property during the summer. I should have a domestic well dug by August 2020.

Since we do not, as yet, know the shape of future obstacles posed by the present pandemic, I respectfully request an extension of two years (until July 2022) to complete development of this water right.

The property in question is an original homestead that has been in our family for more than a century. The Cambridge Museum, in Cambridge, ID exhibits the front facade of a primitive cabin built by my great-grandfather on this property. My grandmother was born on this homestead. My mother grew up there. A pioneer grave on the site holds the remains of my great-grandmother, who succumbed to the second wave of the Spanish influenza in 1920. My point, of course, is that I am not developing this property with any commercial intent of sale. It is a long-term labor of love. It's just taken a little longer than I anticipated. Thank you for your understanding and support. Stay healthy.

My brother, Mr. James Allen Tarter, a Bureau of Land Management employee living in Boise, is my authorized representative in this matter. His number is (208) 914-3478.

Very best,



Dan Tarter
Colonel, U.S. Army (ret.)
U.S. Embassy, Bangkok

Encl.

-Form 204

-Attachment 1 (photographs)

TS. \$50 Fee enclosed. Thank you!


CERTIFICATE OF SERVICE

I hereby certify that on **July 6, 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 persons listed below:

RE: Preliminary Order in the Matter of Permit No. **69-11543**

**DANIEL N TARTER
118 MICHELLE CT
MISSOULA MT 59803**

ALLEN TARTER – *via email*



**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.



BRAD LITTLE
Governor

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

GARY SPACKMAN
Director

July 6, 2020

DANIEL N TARTER
118 MICHELLE CT
MISSOULA MT 59803

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 69-11543

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 **July 01, 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 according to Idaho Code § 42-204(6).

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: ALLEN TARTER – *via email*