

FEB 13 2020

DEPARTMENT OF  
WATER RESOURCESSTATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

\$50 fee

Receipted by \_\_\_\_\_

Recpt No. C105835Date 10/31/2018

## 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. 75-13977 Date proof is due 2/16/2020Name(s) of permit holder(s) Formation Capital Corporation, U.S.Mailing address 1309 S. Challis Street City Salmon State ID Zip 83467Telephone no. (208) 756-4578 Email thughes@jervoismining.com

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

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

Please see attached sheet.

Costing \$ \_\_\_\_\_

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

Please see attached sheet.Permit holder(s) request an extension for 5 year(s).Signature (If other than permit holder, Power of Attorney must be supplied) [Signature] Date 2/10/2020

## 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 February 16, 2025.

Signed this 27<sup>th</sup> day of May, 2020Shelley W. Keen  
Shelley W. Keen, Chief  
Water Allocation Bureau



IDAHO COBALT OPERATIONS

RECEIVED  
FEB 13 2020  
DEPARTMENT OF  
WATER RESOURCES

February 10, 2020

**Attachment to Request for Extension of Time to Submit Proof of Beneficial Use  
for Water Permit 75-13977**

**Work completed by 2/16/2020:**

- Ground water well completed
- Pump installed
- Pump station constructed
- Distribution system partially completed
- Water management pond (storage impoundment) construction completed  
(completion report for submittal to IDWR is currently in progress)

**Reason for not completing remainder of the work by 2/16/2020:**

- Water Permit 75-13977 is designated for mining and mining storage, but mining activities have not started at the Idaho Cobalt Operations and the mill/concentrator have not been constructed. We are still in the construction phase and we are projected to start using and storing water for mining in 2021.
- The scale of this project is such that changes in overall process design are impacting our progress towards developing this water right. As we work to expand the mine process circuit design and infrastructure, we need to wait for the design to be finalized before completing the water distribution infrastructure and starting beneficial use.

Please note that Jervois Mining USA Limited is submitting this request for a 5-year extension under the provisions of Idaho Code Section 42-204(4). At the time of requesting the 5-year extension, it was believed that the company would qualify for up to a 10-year extension because of the overall size of the mine site development (i.e. greater than 100 acres) where the water would be used. Our previously approved request for a 5-year extension extended our due date from 2/16/2015 to 2/16/2020. We are now submitting a request to extend the due date to 2/16/2025, thus using the full provision of Idaho Code Section 42-204(4).



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)

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

May 28, 2020

JERVOIS MINING USA LTD  
1309 S CHALLIS ST  
SALMON ID 83467-5453

### REQUEST FOR EXTENSION OF TIME LETTER

**RE: Permit No. 75-13977**

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 **February 16, 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(4).

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

c: MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD

## **CERTIFICATE OF SERVICE**

I hereby certify that on **May 28, 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. **75-13977**

**JERVOIS MINING USA LTD  
1309 S CHALLIS ST  
SALMON ID 83467-5453**

**MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD .  
C/O SCOTT L CAMPBELL  
PO BOX 829  
BOISE ID 83701-0829**

  
\_\_\_\_\_  
**Jean Hersley**  
**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.