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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JAN 23 2020

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use for a water right permit

IDWR / NORTH

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. 96-09724 Date proof is due March 1 2020
 Name(s) of permit holder(s) Mark Hixson Michelle Hixson
 Mailing address 3784 Colburn Culver City Sandpoint State ID Zip 83861
 Telephone no. (208) 304-3160 Email MRK Hixson@aol.com

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

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

I have purchased a pump, 2-50' sections of 3" hose, 4-100' sections of 2" hose, 10 apple trees, and Reducers/noseels. I Also Have water storage containers, garden hose, and drip irrigation purchased that I intend to use for the project.

Costing \$ 1400

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

The Fish and Wildlife department conducted a project to improve fish habitat on the section of Grouse Creek running through our property. The project involved skidding large trees through the irrigation right. I anticipated the project being completed in summer. NRCS completed the fish and wildlife project on January 8th, leaving no time for a proof statement.

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

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

1/8/2020
 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 March 1, 2024.

Signed this 23rd day of April, 2020

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

RECEIVED
 JAN 27 2020
 DEPARTMENT OF
 WATER RESOURCES

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FEB 13 2020

DEPARTMENT OF
WATER RESOURCES

Hixon Stream Project

Grouse Creek

1. Harvest 6 cottonwood trees minimum diameter 15" and minimum length 40', root balls attached.
2. Skid trees to locations designated in stream
3. Follow drawing for embedded depth and willow placement. Approximately 30 willows per tree location.
4. Bull Trout Work Windows are July 15, 2019 to August 31, 2019 AND November 1, 2019 to February 28, 2020.

Project Area





DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
COEUR D'ALENE REGULATORY OFFICE
1910 NORTHWEST BOULEVARD, SUITE 210
COEUR D'ALENE, IDAHO 83814-2676

RECEIVED

FEB 13 2020

DEPARTMENT OF
WATER RESOURCES

August 19, 2019

Regulatory Division

SUBJECT: NWW-2019-00312, Hixson – Grouse Creek Floodplain Structures

Mark Hixson
3784 Colburn Culyer Rd.
Sandpoint, Idaho 83864

Dear Mr. Hixson:

We have determined that your proposed Grouse Creek floodplain structures project is authorized in accordance with Department of Army (DA) **Nationwide Permit (NWP) No. 18: Minor Discharges**. This project is located within Sections 3 of Township 58 North, Range 1 West, near latitude 48.40145° N and longitude -116.458441° W, in Bonner County, near Sandpoint, Idaho. Please refer to File Number NWW-2019-00312 in all future correspondence with our office regarding this project.

Project activities include the excavation and backfill of 15 cubic yards of native riverbed material within Grouse Creek, a waters of the United States (U.S.), including wetlands, for the purpose of installing 6 embedded tree structures that enhance stream habitat. All work shall be done in accordance to the attached drawings, titled: *Hixson – Grouse Creek Floodplain Structures, File No. 2019-00312, Sheets 1 through 3, dated 6 June 2019.*

AUTHORITY

DA permit authorization is necessary because your project may involve the discharge of dredged and/or fill material into Waters of the U.S., including wetlands. This authorization is outlined in Section 404 of the Clean Water Act (33 U.S.C. 1344).

PERMIT CONDITIONS

You must comply with all regional, general, and special conditions for this verification letter to remain valid and to avoid possible enforcement actions. The regional and general permit conditions for *NWP No. 18: Minor Discharges* is available online at <http://www.usace.army.mil/Business-With-Us/Regulatory-Division/Nationwide-Permits/>. If you are unable to access this website or would prefer a hard copy of the regional and general conditions please notify us and we will provide you a copy. In addition you must also comply with the special conditions listed below.

The following Special Conditions include:

- a. This Corps verification does not authorize you to take an endangered species, in particular Bull Trout. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA), e.g. an ESA Section 10 permit, or BO under ESA Section 7, with "incidental take" provisions with which you must comply.

The U.S. Fish and Wildlife Service (USFWS) Programmatic Restoration Opinion for Joint Ecosystem Conservation by the Services (PROJECTS) BO, dated May 15, 2015, contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with the "incidental take" that is also specified in the May 15, 2015 BO.

Copies of the PROJECTS BO can be found online at <https://www.fws.gov/oregonfwo/toolsforlandowners/RiverScience/Documents/201505.15PROJECTS-FINAL.pdf>. If you are unable to access the web, you may contact this office to obtain a paper copy.

- b. The following work windows are acceptable for activities within the lower reach of the Pack River: July 15 to August 31 & November 1 to February 28.
- c. Permittee is responsible for all work done by any contractor. Permittee shall ensure any contractor who performs the work is informed of and follows all the terms and conditions of this authorization, including any Special Conditions listed above. Permittee shall also ensure these terms and conditions are incorporated into engineering plans and contracts specifications.

WATER QUALITY CERTIFICATION

You must also comply with the conditions detailed in the Section 401 Water Quality Certification (WQC) issued by the Idaho Department of Environmental Quality (IDEQ) on March 3, 2017. For your review, a copy of this 401 WQC is available on the IDEQ's website at: <http://www.deq.idaho.gov/media/60179758/nationwide-permits-2017-401-certification-0317.pdf>. If you have any questions regarding the conditions set forth in the Water Quality Certification, please contact IDEQ directly at 208-769-1422, Coeur d'Alene Regional Office.

COMPLIANCE CERTIFICATION

Further, Nationwide Permit General Condition 30 (*Compliance Certification*) requires that every permittee who has received NWP verification must submit a signed certification regarding the completed work and any required mitigation. The enclosed Compliance Certification form is enclosed for your convenience and must be completed

and returned to us.

LIMITATIONS OF THIS VERIFICATION

This letter of authorization does not convey any property rights, or any exclusive privileges and does not authorize any injury to property or excuse you from compliance with other Federal, State, or local statutes, ordinances, regulations, or requirements which may affect this work.

EXPIRATION OF THIS VERIFICATION

This verification is valid until **March 18, 2022**, unless the NWP is modified, suspended or revoked. If your project, as permitted under this NWP verification is changed and/or modified, you must contact our office prior to commencing any work activities. In the event you have not completed construction of your project by March 18, 2022, please contact us at least 60-days prior to this date. A new application and verification may be required.

CUSTOMER SERVICE

We actively use feedback to improve our delivery and provide you with the best possible service. Please take our online customer service survey to tell us how we are doing. Follow this link to take the survey: http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. If you have questions or if you would like a paper copy of the survey, call our office at 208-433-4464. For more information about the Walla Walla District Regulatory program, visit us online at <http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/>.

If you have any questions or need additional information about this permit, you can contact me at (208) 433-4475, by mail at the address in the letterhead, or email at Jeremy.N.Roberts@usace.army.mil. For informational purposes, a copy of this letter will be sent to: the Idaho Department of Environmental Quality, the Idaho Department of Water Resources, and the U.S. Fish & Wildlife Service.

Sincerely,



Jeremy Roberts
Project Manager
Regulatory Division

Enclosure

Transfer of Nationwide Permit Form

From: **Mrkhixson** mrkhixson@aol.com
Subject: Fwd: FW: work windows
Date: February 10, 2020 at 9:25 AM
To: violet7141@aol.com

M

-----Original Message-----

From: Becker, Greg - NRCS, Sandpoint, ID <greg.becker@usda.gov>
To: mrkhixson@aol.com <mrkhixson@aol.com>
Sent: Tue, Feb 4, 2020 03:23 PM
Subject: FW: work windows

See below, Mark.

gb

From: Becker, Greg - NRCS, Sandpoint, ID
Sent: Tuesday, January 21, 2020 3:10 PM
To: Morlin, Brittany <brittany_morlin@fws.gov>
Subject: work windows

Hixon -

Machine work (complete)

January 2 to January 10, 2020

Grass seed, seedling planting

March 15 to March 20, 2020

Grouse/Pack -

Machine work (complete)

November 18 to November 25, 2019

Grass seed, seedlings, willows, plugs

March 15 to March 20, 2020

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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

April 28, 2020

MARK HIXSON
MICHELLE HIXSON
3784 COLBURN CULVER RD
SANDPOINT ID 83864

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 96-9724

Dear Permit Holder(s):

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 **March 01, 2024**.

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 Section 42-204(6), Idaho Code.

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 Section 42-248, Idaho Code, 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

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on **April 29, 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(s) listed below:

RE: Preliminary Order in the Matter of Permit No. **96-9724**

**MARK HIXSON
MICHELLE HIXSON
3784 COLBURN CULVER RD
SANDPOINT ID 83864**



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.