

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JAN 06 2020

DEPARTMENT OF
WATER RESOURCES

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. 95-11084 Date proof is due February 1, 2020
 Name(s) of permit holder(s) Four Mile Point Subdivision, Laura & Steve Thurn & John fountain
 Mailing address 2875 Riveria Ct City Springfield State OR Zip 97477
 Telephone no. _____ Email _____

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

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

NoneCosting \$ 0

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

See Memo that is included.
Litigation has prohibited completion of the beneficial
Use.

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

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

Date

1-2-20

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 _____, 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 May 16, 20 21.

Signed this 25th day of March, 20 20

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



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 16, 2020

FOUR MILE POINT SUBDIVISION
2875 RIVERIA CT
SPRINGFIELD OR 97477

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 95-11084

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 **May 16, 2021**.

The department has granted this extension based on the actual time development of this permit was delayed by pending litigation, according to Section 42-204(1), Idaho Code. The documented delay caused by litigation occurred from October 19, 2018 to February 1, 2020 extending the proof due date an equal number of days. The request for extension approval grants 470 additional days to the proof due date, which is now May 1, 2021

You may be eligible for further extensions based on the same reason noted above if the issue is ongoing. Please submit supporting documentation providing dates for the period of delay with any future requests for an extension for this same reason. It is important that you work diligently toward the completion of the project during the new development period allowed by this extension as soon as the issue is resolved.

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)

c: VERDIS , JAMES S DE SMET

CERTIFICATE OF SERVICE

I hereby certify that on **April 16, 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. **95-11084**

**VERDIS
C/O STEPHANIE BLALACK
PO BOX 580
COEUR D ALENE ID 83816**

**FOUR MILE POINT SUBDIVISION
2875 RIVERIA CT
SPRINGFIELD OR 97477**

**JAMES S DE SMET
SOUTH 2641 SILVER BEACH LOOP
COEUR D ALENE ID 83814**



Jean Hersley
Technical Records Specialist II

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.

Spokane Office
Bank of America Financial Center
601 W. Riverside, Suite 1900
Spokane, Washington 99201-0695

Phone: (509) 838-6131
Fax: (509) 838-1416
website: www.winstoncashatt.com

Winston & Cashatt

L A W Y E R S

A Professional Service Corporation

*Winston & Cashatt has offices in Spokane, Washington
and Coeur d'Alene, Idaho*

February 18, 2020

Sent via Fax/U.S. Mail: (208) 287-6700

Debbi Judd
Technical Records Specialist
Department of Water Resources
322 East Front St.
P.O. Box 83720
Boise, ID 83720-6700

Re: Permit No. 95-11084

Dear Ms. Judd:

My client forwarded me your letter of February 12, 2020 (enclosed), and has asked that I provide you a response.

Currently, my client (Olive Fountain Land Company, LLC and it members) is being sued by the property owners of the neighboring parcel in Coeur d'Alene, Idaho. Much of the lawsuit pertains to whether an easement and access road that serves my client's property is valid and legal. Trial is currently set commence on March 10, 2020. As it stands now, there has been no legal determination upholding my client's easement and access. As such, the parties have been at a standstill, and no development has been allowed to occur on my client's property until these issues are resolved at trial.

The case is filed in Kootenai County District Court under cause number CV28-18-8183. You have requested documentation in your letter, and I hope that this response letter will suffice. If you need additional or more specific documentation, please let me know what particular documentation you need.

Beverly L. Anderson
Patrick J. Cronin ^{MD}
Kevin J. Curtis
Darren M. Digiacinto ^{MD}
Timothy R. Fischer ^{MD}
David P. Gardner ^{MD/MT}

Scott A. Gingras ^{MD/MT}
Michael T. Howard ^{MD}
Catherine Kardong ^{MD}
Collette C. Leland ^{MD}
Lisa A. Malpass ^{MD}
Bethany E. Mikolas

Benjamin H. Rascoff ^{MD}
Jeffrey R. Ropp
Gabrielle C. Roth
Casey R. Simmons ^{MD}
Kammi Mencke Smith ^{MD}
Elizabeth A. Tellessen ^{MD}

Of Counsel
C. Matthew Andersen ^{MD}
Courtney R. Beaudoin
Greg M. Devlin ^{MD}
Stephen L. Farnell
Kenneth B. Howard ^{MD}

Carl E. Hueber
Nancy L. Isserlis
Fred C. Pflanz
Richard W. Relyea
Lucinda S. Whaley

RECEIVED
FEB 26 2020
DEPARTMENT OF
WATER RESOURCES

February 18, 2020

Page 2

Thank you for your consideration of this letter. My client respectfully requests that you grant the extension of time.

Very truly yours,

Dictated but not signed to expedite delivery

BENJAMIN H. RASCOFF

cc: Steven W. Thurn, Olive Fountain Land Company, LLC
enclosure

FAX**Date:** 02/18/2020**Pages including cover sheet:** 4

To:	'2082876700@rcfax.com'
Phone	
Fax Phone	(208) 287-6700

From:	Winston & Cashatt, Lawyers
	Winston & Cashatt, Lawyers
	601 W. Riverside Ave.
	Spokane
	WA 99201
Phone	(509) 202-4306 * 1
Fax Phone	15092024304

NOTE:

Permit No. 95-11084



Spokane Office
Bank of America Financial Center
601 W. Riverside, Suite 1900
Spokane, Washington 99201-0695

Phone: (509) 838-6131
Fax: (509) 838-1416
website: www.winstoncashatt.com

Winston & Cashatt

L A W Y E R S

A Professional Service Corporation

*Winston & Cashatt has offices in Spokane, Washington
and Coeur d'Alene, Idaho*

February 18, 2020

Sent via Fax/U.S. Mail: (208) 287-6700

Debbi Judd
Technical Records Specialist
Department of Water Resources
322 East Front St.
P.O. Box 83720
Boise, ID 83720-6700

Re: Permit No. 95-11084

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Beverly L. Anderson
Patrick J. Cronin ^{WA}
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David P. Gardner ^{WA}

Scott A. Gingras ^{WA}
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Gabrielle C. Roth
Cascy R. Simmons ^{WA}
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February 18, 2020

Page 2

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Very truly yours,

Dictated but not signed to expedite delivery

BENJAMIN H. RASCOFF

cc: Steven W. Thurn, Olive Fountain Land Company, LLC
enclosure



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

February 12, 2020

FOUR MILE POINT SUBDIVISION
2875 RIVERIA CT
SPRINGFIELD OR 97477

RE: Permit No. 95-11084

Dear Permit Holder:

The Department received the request for extension of time (extension) form you submitted for the above referenced permit. The extension stated that litigation has prohibited completion of the beneficial use.

In order for the Department to grant an extension of time based on litigation that might bring title to water into question the permit holder must provide evidence for the delay in development of the permit. Please provide supporting documentation to show the dates and nature of stated litigation.

Please submit the requested documentation within 14 days. If the requested documentation is not received within 14 days, the Department will initiate a denial of the extension request and a lapse notice will be sent. If you have any questions concerning this matter, please contact me at (208) 287-4920.

Sincerely,

Debbi Judd
Technical Records Specialist



1

[Smart Search](#)

2

[Search Results](#)

Case Information

CV28-18-8183 | Greenfield Family Trust Plaintiff, vs. Olive Fountain Land Company, LLC, Kootenai County Defendant.

Case Number

CV28-18-8183

File Date

10/19/2018

Court

Kootenai County District Court

Case Type

AA- All Initial District Court Filings (Not E, F, and H1)

Judicial Officer

Christensen, Richard S.

Case Status

Active - Pending

Party

Plaintiff

Greenfield Family Trust

Active Attorneys ▼

Attorney

Wieland, Jaren Nichole

Retained

Lead Attorney

Wieland, Steven Paul

Retained

Inactive Attorneys ▼

Attorney

Weeks, Susan Patricia

Judd, Debbi

From: Stephanie Blalack <sblalack@verdisnw.com>
Sent: Thursday, February 06, 2020 10:29 AM
To: Judd, Debbi
Subject: RE: Permit 95-11084

I understand.

Thank you,

Stephanie Blalack
Senior Planner



planning | design | engineering | construction

☎ (208) 667-1214 x102

📠 (208) 659-6559

From: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>
Sent: Wednesday, February 5, 2020 3:03 PM
To: Stephanie Blalack <sblalack@verdisnw.com>
Subject: RE: Permit 95-11084

Stephanie,

This permit has now lapsed and a lapse notice will be going out this week. I am unable to recommend an extension without documentation that was requested almost a month ago. The permit holders have the option of relinquishing this permit and applying for a permit when they are ready to commence development.

Please feel free to contact me should you have any questions.

Best regards,
Debbi

From: Stephanie Blalack [<mailto:sblalack@verdisnw.com>]
Sent: Friday, January 10, 2020 10:23 AM
To: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>
Subject: RE: Permit 95-11084

Hi Judy,
I will get more information from the client. It may be a few days.
Thank you,

Stephanie Blalack
Senior Planner



planning | design | engineering | construction

☎ (208) 667-1214 x102

☎ (208) 659-6559

From: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>
Sent: Thursday, January 9, 2020 11:23 AM
To: Stephanie Blalack <sblalack@verdisnw.com>
Subject: RE: Permit 95-11084

Stephanie,

Sorry for the last email, it wasn't intended to be sent yet. I would like to see the complaint and a recent notice of hearing. Idaho Code sets forth criteria for extensions. One reason allowed is litigation which brings title of water into question. So, the exact nature of the court proceeding is something we will look at. Also, a notice of hearing would be evidence that the issue is ongoing. This permit has had its limit of ten years development period, so the details of the litigation are important in determining the extension request.

Thanks,
Debbi

From: Stephanie Blalack [<mailto:sblalack@verdisnw.com>]
Sent: Thursday, January 9, 2020 11:14 AM
To: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>
Subject: RE: Permit 95-11084

Hi Debbi,
I have more information if you need it.
Thank you,

Stephanie Blalack
Senior Planner



planning | design | engineering | construction

☎ (208) 667-1214 x102

☎ (208) 659-6559

From: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>
Sent: Thursday, January 9, 2020 9:56 AM
To: Stephanie Blalack <sblalack@verdisnw.com>
Subject: RE: Permit 95-11084

How much paperwork is there? We don't need all pleadings, perhaps just a copy of the most recent notice of hearing and complaint.

Thanks,
Debbi

From: Stephanie Blalack [<mailto:sblalack@verdisnw.com>]
Sent: Thursday, January 09, 2020 10:51 AM
To: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>
Subject: RE: Permit 95-11084

Hi Debbi,
Ok, I will pull the litigation paperwork and send that to you tomorrow if that is acceptable.
Thank you,

Stephanie Blalack
Senior Planner


planning | design | engineering | construction

☎ (208) 667-1214 x102
📠 (208) 659-6559

From: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>
Sent: Thursday, January 9, 2020 9:47 AM
To: Stephanie Blalack <sblalack@verdisnw.com>
Subject: Permit 95-11084

Good morning,

The Department received a Request for Extension of Time to submit proof of beneficial use for permit 95-11084 in the name of Four Mile Point Subdivision. You are listed as the authorized representative for this permit. The reason for an extension listed on the form is litigation. The Department requires documented evidence of litigation in order to grant the request. Please feel free to contact me should you have questions or concerns.

Thank you,
Debbi

Debbi Judd

Technical Records Specialist
debby.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

SUSAN P. WEEKS, ISB NO. 4255
DANIEL M. KEYES, ISB NO. 9492
JAMES, VERNON & WEEKS, P.A.
1626 Lincoln Way
Coeur d'Alene, ID 83814
Telephone: (208) 667-0683
Facsimile: (208) 664-1684
sweeks@jvwlaw.net
dkeyes@jvwlaw.net

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

GREENFIELD FAMILY TRUST,

Plaintiff,

vs.

OLIVE FOUNTAIN LAND COMPANY,
LLC, an Idaho limited liability company, and
KOOTENAI COUNTY, a municipal
corporation,

Defendants.

CASE NO. CV28-18-8183

DEPOSITION NOTICE AND SUBPOENA
DUCES TECUM

THE STATE OF IDAHO TO: Sandra M. Young
601 East Front Avenue, Ste. 205
Coeur d'Alene, ID 83814

YOU ARE HEREBY COMMANDED that Sandra M. Young is to appear at the place
and time specified below to testify in the above case at the place, date and time specified below.

Date/Time: Monday, October 21, 2019 at the hour of 1:00 p.m.



Place: James, Vernon & Weeks, P.A.
1626 Lincoln Way
Coeur d'Alene, ID 83814

The taking of said deposition is in accordance with Idaho Rules of Civil Procedure,
including IRCP. You shall be required to testify as a witness on the following areas of inquiry:

1. The facts and circumstances surrounding the notarization of the First Amendment

to Grant of Access and Utility Easement recorded as Instrument No. 2273964000, Records of Kootenai County, Idaho.

YOU ARE HEREBY FURTHER COMMANDED pursuant to IRCP 30(b)(2) to bring the following:

-  1. Any notary logs for Sandra Young for the period of June 2010.
-  2. The original First Amendment to Grant of Access and Utility Easement recorded as Instrument No. 2273964000, Records of Kootenai County, Idaho, if in Sandra Young's possession.

You are further notified that if you fail to appear at the place and time specified above, or to produce or permit copying or inspection as specified above you may be held in contempt of court and that the aggrieved party may recover from you the sum of \$100.00 and all damages which he may sustain by your failure to comply with this subpoena.

You are further notified that if you fail to appear at the place and time specified above, or to produce or permit copying or inspection as specified above that you may be held in contempt of court and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

BY ORDER OF THE COURT.

DATED this 14th day of October, 2019.

JAMES, VERNON & WEEKS, P.A.

By: /s/ Susan P. Weeks
Susan P. Weeks
Attorneys for Plaintiff

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing was served by iCourt on the following persons this 14th day of October, 2019:

Kammi Mencke Smith Benjamin H. Rascoff Winston & Cashatt 250 Northwest Boulevard, Suite 206 Coeur d'Alene, ID 83814	
Patrick M. Braden Civil Deputy Prosecuting Attorney P.O. Box 9000 Coeur d'Alene, ID 83816-9000	

/s/ Christine Elmore

MEMO

RECEIVED
JAN 06 2020
DEPARTMENT OF
WATER RESOURCES

To: Idaho Department of Lands
From: Stephanie Blalack, Senior Planner 
Date: January 2, 2020
Subject: Water Right 95-11084

On behalf of Steve and Laura Thurn of Four Mile Point we are requesting an extension of Water Right 95-11084. The Thurns are in litigation with their neighbors, Dwight and Monroe Greenfield regarding an access easement. For this reason, no development has taken place on the 4 Mile Point Property owned by Olive Fountain LLC, members are Steve and Laura Thurn and John Fountain.

A court date regarding the easement dispute is anticipated for Spring of 2020. Once the easement issue is resolved development or the sale of the property in question will occur. Please grant Water Right 95-11084 an extension based on the current litigation situation.

Thank you.