

Form No. 204 Rev. 12/12
RECEIVED
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OCT 30 2019

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

\$50 fee
Received by Ja
Recpt No. N035705
Date 10-28-19

IDWR / NORTH **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. 96-09640 Date proof is due 11/1/19
Name(s) of permit holder(s) Brian & Michele Moore
Mailing address 899 Less Traveled Rd Eagle City Id State Id Zip 83860
Telephone no. 706 315 3391 Email moorebmoore@hotmail.com

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

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

none

Costing \$ _____

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

Oct 2018
property was purchased Oct 18, was not aware that previous owner had not assigned permit to us. We plan to use the water for our home & livestock once developed

Permit holder(s) request an extension for

5 2

year(s). per permit holder see email in file

michelle moore

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

Date

Oct 23 2019

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 November 1, 2021.

Signed this 16th day of January, 2020

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

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.



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

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 16, 2020

BRIAN CHRISTIAN MOORE
MICHELE DENISE MOORE
899 LESS TRAVELED RD
SAGLE ID 83860-8552

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 96-9640

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 **November 01, 2021**.

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,

Jean Hersley
Technical Records Specialist II

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on **January 17, 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. **96-9640**

**BRIAN CHRISTIAN MOORE
899 LESS TRAVELED RD
SAGLE ID 83860-8552**

**MICHELE DENISE MOORE
899 LESS TRAVELED RD S
AGLE ID 83860-8552**



Jean Hersley
Technical Records Specialist II

Hersley, Jean

From: Brian Moore <moorebmoore@hotmail.com>
Sent: Tuesday, December 10, 2019 10:37 AM
To: Hersley, Jean
Cc: d moore
Subject: RE: Additional information for Extension Request for 96-9640

Jean,

Per our call, since I took possession of the property and moved here in April of this year, we have started trenching and installing the water lines from the source to the home site location. We still have to install the collection basin, but that should be it.

We should only need 2 years or less to complete (my goal is spring 2020 if I can not complete before the freeze this year.

Please let me know if there are any other concerns with the extension request, and have a great holiday!

Brian Moore
706.315.3390

From: Hersley, Jean
Sent: Tuesday, December 10, 2019 10:24 AM
To: moorebmoore@hotmail.com
Subject: Additional information for Extension Request for 96-9640

Dear Permit Holder(s):

The Department received the request for extension of time (extension) form you submitted for the above referenced permit. There is a part of the form that says, "*Describe what work has been completed toward the development of this water right:*" You wrote "none." Does that mean you have not done any work and/or the previous owner had not done any work?

- In order for the Department to grant an extension of time the permit holder must provide good cause for the delay in development. Please explain why you have been unable to complete the project and any steps you have taken for development of the permit. Idaho Code §42-204 states, in part, that every permit holder must, within one (1) year from the date upon which said permit issues from the office of the department of water resources, commence the excavation or construction of the works by which he intends to divert the water, and must work diligently and uninterruptedly to completion, unless temporarily interrupted through no fault of the holder of such permit by circumstance, over which he has no control.

Also, you requested 5 additional years to provide beneficial use. Your permit was approved on October 21, 2016 with a proof due date of November 1, 2019. According to Idaho code §42-204, you can have an initial development period of 5 years with one (1) extension of 5 additional years. If the Department approves this request, you will lose 2 years of development. Would you like to change

your request to two (2) years and be able to file an additional Extension Request for the additional 5 years?

Please provide the additional information requested within 10 days or the Extension could be approved for 5 years. If you have any questions concerning this matter, please contact me at (208) 287-4942.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

November 20, 2019

BRIAN MOORE
MICHELE MOORE
899 LESS TRAVELED RD
SAGLE ID 83860

RE: Ownership Change for Water Right Permit No.: 96-9640

Dear Property Owner:

The Department of Water Resources received a Request for Extension of Time (Extension Request) from you on October 28, 2019. Water right permit 96-9640 is in the name of Krista Hess Mills. Before the Department can accept the Extension Request, an attempt must be made by you to contact the owner of the permit to assign the permit to you. If you cannot contact the current permit owner, you must prove you have an interest in the water right permit, such as owners of the property the permit is appurtenant to.

I am enclosing an Assignment of Permit form for you. Please fill in the highlighted portions, have the permit holder sign and have the form notarized and return to this office at the address above.

I am also enclosing a Notice of Change in Water Right Ownership form. If the original permit holder cannot be located, you may submit this form with the appropriate documentation to show ownership of the land appurtenant to water right 96-9640.

Please provide the requested information within 14 days or the permit will lapse and no longer be in effect.

If you have any questions, please contact me at (208) 287-4942. Thank you.

Sincerely,

Jean Hersley
Technical Records Specialist II

Enclosure

Hersley, Jean

From: Hersley, Jean
Sent: Friday, November 01, 2019 8:20 AM
To: 'moorebmoore@hotmail.com'
Subject: REQUEST FOR EXTENSION OF TIME DEFICIENCY LETTER FOR PERMIT 96-9640

Dear Permit Holder(s):

The Department received the request for extension of time (extension) form you submitted for the above referenced permit.

- In order for the Department to grant an **extension** of time the permit holder must provide **good cause** for the delay in development. Please explain why you have been unable to complete the project and any steps you have taken for development of the permit. Idaho Code §42-204 states, in part, that every permit holder must, within one (1) year from the date upon which said permit issues from the office of the department of water resources, commence the excavation or construction of the works by which he intends to divert the water, and must work diligently and uninterruptedly to completion, unless temporarily interrupted through no fault of the holder of such permit by circumstance, over which he has no control. On the form submitted to the Department, you stated the work hasn't been completed, has any work been started?

Please provide the additional information requested within 10 days to avoid the possibility of your permit lapsing. If you have any questions concerning this matter, please contact me at (208) 287-4942.

*Jean Hersley
Idaho Dept Water Resources
Technical Records Specialist II
208-287-4942*