



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)

C.L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Director

August 26, 2019

BLACKHAWK ON THE RIVER LLC  
PO BOX 10117  
BOISE ID 83707-4117

### REQUESTS FOR EXTENSION OF TIME DEFICIENCY LETTER

**RE: Permit Nos. 65-23042, 65-23043 & 65-23120**

Dear Permit Holder(s):

The Department received your Requests for Extension of Time (extension requests) for the above mentioned water right permits on July 30, 2019. While reviewing your extension requests, I note that they state that your progress on development of these water rights has been impeded by legal investigations and subsequent agreements.

If you are seeking these extensions in accordance with the provisions of Idaho Code § 42-204(1) under government delay **or litigation that brings title to said water into question**, additional documentation is required that shows the beginning date that government delay or litigation began and the date that government delay or litigation was approved. Upon receipt of such evidence, the Department can then extend the time so that the equal amount of time lost by such delay shall be added to the time given in the original permits, or in any subsequent grant of extensions.

If you are unable to provide the Department with the documentation that is required pursuant to Idaho Code § 42-204(1), the Department may be able to approve the extension requests submitted pursuant to Idaho Code § 42-204(4), which states:

*"The time for completion of works and application of the water to full beneficial use under any permit involving the diversion of two (2) or more cubic feet per second or the development or cultivation of one hundred (100) or more acres of land may be extended by the director of the Department of Water Resources upon application by the permittee for an additional period up to ten (10) years beyond the initial development deadline contained in the permit, or beyond the grant of extension pursuant to the provisions of subsection(1) of this section, provided the permittee establishes that the permittee has exercised reasonable diligence and that good cause exists for the requested extension."*

I will not be able to move forward with processing your extensions until the Department receives either the evidence of government delay or litigation that kept you from moving forward with development of the permits, or a letter stating that you are filing these extension requests pursuant to Idaho Code § 42-204(4).

Please submit the additional information required within 30 days of the date of this letter. If you have any questions concerning this matter, please contact me at (208) 287-4945.

Sincerely,



Darla Block  
Technical Records Specialist

Enclosure(s)

c: SPF WATER ENGINEERING LLC

JUL 30 2019

DEPARTMENT OF  
WATER RESOURCES

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

\$50 fee

Received by BU

Recpt No. C101303

Date 7/30/19

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. 65-23120 Date proof is due August 1, 2019

Name(s) of permit holder(s) Blackhawk Partners LLC (being assigned to Blackhawk on the River, LLC)

Mailing address P.O. Box 10117 City Boise State ID Zip 83707

Telephone no. (208) 350-1252 Email bdickens@icsinusa.com

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

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

None

Costing \$ unknown

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

The planned residential development at the place of use has not been constructed due to the lingering effects of economic downturn from 2008 to 2015. The proposed pond would be an amenity to that development. See also the attached explanation of SEC complaint and subsequent Consent and Judgment Agreement that has impeded the development of the place of use and this permit.

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

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

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 \_\_\_\_\_, 20\_\_\_\_.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Jeff Peppersack, Chief  
Water Allocation Bureau

### **Additional Explanation**

Since late 2013, the permit holder's progress on development of its water rights has been impeded by legal investigations and subsequent agreements. On or before October 1, 2013, the United States Securities and Exchange Commission commenced an investigation against several defendants, including Blackhawk Manager, LLC - the general partner of Blackhawk Gold, LLC, the parent company of Blackhawk on the River, LLC, the successor in interest to the permit holder - which impeded the development of this water right. In April 2017, the United States Securities and Exchange Commission filed a Complaint against several entities affiliated with the permit holder, as detailed above. In May 2017, the parties to the Complaint entered into a Consent and Judgment agreement, which installed an Independent Manager to take over and manage the continuing operations of the affected assets, including the water right. Since such appointment, it has taken time for the Independent Manager to become informed, to review related documents, obtain funding, and otherwise be in a position to further develop each permit. For these reasons, the Independent Manager is hereby requesting a 5-year extension to complete development of the water right under the permit.