

JUN 18 2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES\$50 fee ☒

Received by

Receipt No. W047401Date 5/14/19DEPT 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. 65-23573, Date proof is due July 1, 2019
Name(s) of permit holder(s) Allan Elaine Maki
Mailing address 7774 N. Plover Park Rd City Boise State ID Zip 83714
Telephone no. 208.870.5483 Email edlawnsolutions@gmail.com

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

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

~~none~~ Investigated backhoe costs. getting permits
for one installation

Costing \$ _____

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

time constraints and other priorities. saving for cost
of installation.

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

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

6.18.19

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____

DENIED PER ORDER DATED: July 29, 2019 .Shelley W. Keen, Chief
Water Allocation Bureau

Block, Darla

From: Elaine Eberharter-Maki <edlawsolutions@gmail.com>
Sent: Thursday, July 25, 2019 4:22 PM
To: Block, Darla
Subject: Re:
Attachments: image001.png

Hi Darla: The first question states: "Investigated backhoe costs, getting/consulting for line installation." The second question states: "Time constraints and other priorities. Saving for cost of installation." Hope this helps - Elaine



Elaine Eberharter-Maki
EDUCATION LAW SOLUTIONS PA
Mobile: 208-870-5483
edlawsolutions@gmail.com

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On Thu, Jul 25, 2019 at 4:22 PM Block, Darla <Darla.Block@idwr.idaho.gov> wrote:

Elaine,

Thank you for your help in advance.

Darla Block

Technical Records Specialist

Water Allocation Bureau

Ph. #(208) 287-4945

Darla.Block@idwr.Idaho.gov



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

July 30, 2019

ALLAN MAKI
7776 PIERCE PARK
BOISE ID 83714

RE: Permit No. 65-23573

Dear Permit Holder(s):

The Department acknowledges receipt of your request for extension of time (extension request) for the permit referenced above. The Department will not grant your extension request for this permit based on good cause or due diligence according to Idaho Code § 42-204(6).

Enclosed is a copy of an Order Denying Request for Extension of Time issued in response to the extension request you filed with the Department for this permit. The accompanying order is a **preliminary order** issued by the Department pursuant to Idaho Code § 67-5243. It can and will become a final order without further action of the Department unless a party (1) petitions for reconsideration within fourteen days after the service date of the preliminary order, or (2) requests a hearing within fifteen days after the service date of the preliminary order. These remedies are further described in the attached information sheet.

LAPSE NOTICE

You are hereby notified that under the provision of Idaho Code § 42-218a, the above referenced **permit has lapsed and is of no further force nor effect**. The permit may only be reinstated with evidence of development that occurred during the development period from July 01, 2014 to July 01, 2019. In this instance, no evidence was provided.

You may be able to apply for a new water right permit or seek other remedies. Please contact our regional office in your area for information related to new appropriations or other options. Department forms are available from any department office or at the department's website at www.idwr.idaho.gov.

Sincerely,

Shelley W. Keen, Chief
Water Allocation Bureau

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on ^{Aug. (DOB)} ~~July 02~~, 2019 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**PRELIMINARY ORDER DENYING REQUEST FOR EXTENSION OF TIME**) to the person(s) listed below:

RE: Preliminary Order in the Matter of Permit No. **65-23573**

**ALLAN MAKI
7776 PIERCE PARK
BOISE ID 83714**


Darla Block
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.

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT NO. 65-23573)
IN THE NAME OF ALLAN MAKI)
_____)

**PRELIMINARY ORDER DENYING
REQUEST FOR EXTENSION
OF TIME**

This matter having come before the Idaho Department of Water Resources ("Department") as a request for additional time to submit proof of beneficial use, the Department finds, concludes and orders:

FINDINGS OF FACT

1. On July 1, 2014, the Department issued Permit No. 65-23573 ("Permit") in the name of Allan Maki ("Permit Holder") authorizing the diversion of 0.04 cubic feet per second (cfs) of ground water for domestic use in Government Lot 7 (NE¼SW¼) of Section 23, Township 7 North, Range 2 East, B.M., Boise County. A condition of permit approval required the Permit Holder to submit proof of beneficial use of water to the Department on or before July 1, 2019.
2. On April 30, 2019, the Department notified the Permit Holder by certified mail that proof of beneficial use was due and instructed the Permit Holder of the steps to be taken to submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof"), or a *Request for Extension of Time* ("Extension Request").
3. On June 18, 2019, the permit holder filed an Extension Request with the Department. The Permit Holder described the work completed as "Investigated backhoe costs, getting /consulting for line installation", and states the reason for delay as "Time constraints and other priorities. Saving for cost of installation."

APPLICABLE STATUTES

Idaho Code § 42-204 states, in pertinent part:

Every holder of a permit which shall be issued under the terms and conditions of an application filed hereafter appropriating twenty-five (25) cubic feet or less per second 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 prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted through no fault of the holder of such permit by circumstances, over which he has no control.

Idaho Code § 42-204(6) states, in pertinent part:

In all other situations not governed by these provisions the department may grant one (1) extension of time, not exceeding five (5) years beyond the date originally set for completion of works and application of the water to full beneficial use . . . provided good cause appears therefor.

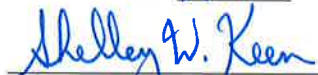
CONCLUSIONS OF LAW

1. The Permit Holder has not commenced excavation or construction of the diverting works or worked diligently on the project as required by Idaho Code § 42-204.
2. The Permit Holder has not demonstrated good cause for an extension, as required by Idaho Code § 42-204(6).
3. The Department should deny the Extension Request because the Permit Holder did not meet the commencement of construction, reasonable diligence, and good cause requirements.

ORDER

IT IS HEREBY ORDERED that the Extension Request filed on June 18, 2019, for Permit No. 65-23573 in the name of Allan Maki is **DENIED**.

DATED this 29th day of July, 2019.



Shelley W. Keen, Chief
Water Allocation Bureau

Block, Darla

From: Block, Darla
Sent: Tuesday, June 18, 2019 12:43 PM
To: Marston, Sascha
Subject: Modifications Needed to Receipt ID No. W047401

January 18, 2019

Re: Modifications Needed to Receipt ID No. W047401

Dear Sascha,

The money paid under this receipt for Proof of Beneficial Use needs to be reapplied to a Request for Extension of Time form that has been submitted to replace the Proof of Beneficial Use form submitted by mistake. The amount of money that is to be reapplied to the Request for Extension of Time is the same amount that was originally paid (\$50.00).

Please modify this receipt under the comments field to read: Request for Extension of Time for Permit 65-23573.

Also, please modify the fee details description from Beneficial Use to the PCA Extension code for Western Region.

Thank You,

😊 Darla

MEMORANDUM

TO: File

RE: Permit File No. 65-23573

FROM: Darla Block

DATE: June 18, 2019

SUBJECT: Proof of Beneficial Use Statement (Proof) form Filed By Mistake / Request for Extension of Time Filed Today in Place of Proof.

On **May 14, 2019**, the Department received a Proof form with a \$50.00 license examination fee for the above mentioned Permit to Appropriate Water. The Proof Due Date listed on this permit is **July 01, 2019**.

On **May 16, 2019**, the Department sent a Deficiency Letter to the permit holder regarding item 5 of the Proof form which stated an amount of homes over the permitted amount, and item 6 of the Proof form which was blank.

This morning the permit holder came into the office to see me regarding the deficiencies, because he wanted to make sure there were no loose ends getting it corrected.

During our conversation regarding this permit, I am informed by the permit holder that development has not occurred. So I explained that they could file a Request for Extension of Time form for up to 5 more years, and that the Department would reapply the \$50.00 fee already paid for Proof to the filing fee for the Extension Request.

Today the permit holder filed a Request for Extension of Time form. It will be considered received on June 18, 2019.

RECEIVED RECEIVED

MAY 14 2019

MAY 15 2019

WATER RESOURCES
WESTERN REGIONDEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCESSTATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

 Amt. of Fee \$ 50
 Receipt No. W047401
 Received By KT
 Date Received 5/14/19

The Idaho Department of Water Resources considers this form a statement by the permit holder(s) that development of a water right has been **completed** and that water has been applied to beneficial use to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner.** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, contact any Department office or visit the Department's website at idwr.idaho.gov for an *Assignment of Permit* form. If you wish to relinquish your permit because you have not established the authorized use of the water and are not applying for an extension, please notify the Department in writing.

- Permit No. 65-23573 Telephone No. 208-869-6644
- Name of Permit Holder(s) Allan Maki (Jim Grant is Well Owner)
- Mailing Address 7776 N. Pierce Pt City Boise
State ID Zip 83714 Email _____
- Source of Water Ground water If **GROUND WATER** (well), Date Drilled mo. ____ / yr. 2014
Well Driller Amc Drilling Permit Number _____
- Extent of use(s) completed **as authorized by the water right permit:**
Domestic (No. of households) 2 Stockwater (No. and type of stock) _____
Irrigation (No. of acres) _____ Other _____
- Total rate of diversion or storage volume for which proof is submitted .04 cfs OR _____ acre-feet.
- Compliance with a measuring device requirement, lockable controlling device requirement, and/or other conditions of permit:
Refer to the approval conditions on your permit and respond accordingly.
The Department will not issue a license if permit conditions are not met.

Measuring Device	Is a measuring device required?	Yes ☐	No ☒
	If yes, has the measuring device been installed?	Yes ☐	No ☐
Lockable Controlling Device	Is a lockable device required to control the diversion?	Yes ☐	No ☒
	If yes, has the lockable device been installed?	Yes ☐	No ☐
Fish Screen	Is a fish screen required?	Yes ☐	No ☒
	If yes, has the fish screen been installed?	Yes ☐	No ☐

Other Conditions of Permit WHEN I PURCHASED Property from Jim Grant (2015±), I purchased
 Do the approval conditions on your permit require you to submit additional information in connection with your proof of beneficial use? If yes, list the conditions below and attach documents with the required information. water rights from
 _____ Completed? Yes ☐ No ☐
- Fee Enclosed \$ _____ or not applicable ☐. See fee schedule on page 2 of the instructions. Jim Grant's Well.
Proof statements filed without an appropriate fee, will be considered incomplete.
- Person to contact to accompany the Department representative during field examination of the water system.
Name Jim Grant Telephone Number _____
Mailing Address N. Horseshoe Bend City Horseshoe Bend
State ID Zip 83629 Email _____

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to a beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

Signature of Permit Holder

Allan Maki

(Include your title, if on behalf of company or organization)

Date

MAY 14, '19