

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

IN THE MATTER OF PERMIT NO. 63-12510)
IN THE NAME OF BRIDGET VANDERWOUDE)
AND/OR GEORGE VANDERWOUDE)
_____)

**PRELIMINARY ORDER
REINSTATING A PERMIT**

This matter having come before the Idaho Department of Water Resources (“Department”), the Department finds, concludes and orders:

FINDINGS OF FACT

1. On December 11, 2008, the Department issued Permit No. 63-12510 (“Permit”) in the name of Bridget Vanderwoude and/or George Vanderwoude (“Permit Holders”) authorizing the diversion of 1.00 cubic feet per second of water from ground water for commercial and stockwater uses in the NW¼SE¼ and the SW¼SE¼ of Section 8, Township 5 North, Range 4 West, B.M., Canyon County. A condition of permit approval required the Permit Holders to submit proof of beneficial use of water to the Department on or before December 1, 2013.
2. On September 30, 2013, the Department notified the Permit Holders by certified mail that proof of beneficial use was due and instructed the Permit Holders 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 October 31, 2013, the Department received an Extension Request, which was subsequently approved on December 23, 2013. The updated date to submit proof of beneficial use was December 1, 2018.
4. On September 28, 2018, the Department notified the Permit Holders by certified mail that proof of beneficial use was due and instructed the Permit Holders of the steps to be taken to submit a Proof or an Extension Request.
5. On November 30, 2018, the Department received an Extension Request. On March 6, 2019, the Department asked the Permit Holders for additional information regarding the reason for the Extension Request.
6. On December 1, 2018, the Permit lapsed because the Department had not received an acceptable Proof or Extension Request.
7. On May 10, 2019 the Department received the Permit Holders’ request to withdraw their November 30, 2018, Extension Request.
8. On May 10, 2019, the Permit Holders filed Proof for the Permit.

CONCLUSIONS OF LAW

Idaho Code § 42-218a states, in pertinent part:

A permit upon which the proof of beneficial use has not been submitted, or a request for extension of time has not been received on or before the date set for such proof, shall lapse and be of no further force nor effect. Notice of said lapsing shall be sent by the department to the permit holder at the address of record by regular mail . . .

Idaho Code § 42-218a (1) states, in pertinent part:

Within sixty (60) days after such notice of lapsing the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof . . .

By submitting an acceptable Proof, the Permit Holders provided a reasonable showing why this permit should be reinstated. The permit should be reinstated based upon the May 10, 2019, Proof filing date.

ORDER

IT IS HEREBY ORDERED that Permit No. 63-12510 is **REINSTATED** and the permit's priority date is advanced to August 17, 1999.

DATED this 24th day of June, 2019.



Shelley W. Keen, Chief
Water Allocation Bureau

RECEIVED

MAY 10 2019

WATER RESOURCES
WESTERN REGION

RECEIVED

MAY 14 2019

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$ 50
Receipt No. W047396
Received By KT
Date Received 5/10/19

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. 63-12510 Telephone No. 208-867-4579
- Name of Permit Holder(s) Bridget and/or George Vanderwoude
- Mailing Address 22448 Market Road City Parma
State Idaho Zip 83660 Email bridgetvw1@gmail.com
- Source of Water _____ If **GROUND WATER** (well), Date Drilled mo. Exist / yr. _____
Well Driller _____ Drilling Permit Number See attached
- Extent of use(s) completed as authorized by the water right permit:
Domestic (No. of households) _____ Stockwater (No. and type of stock) Dairy 1200
Irrigation (No. of acres) _____ Other Commercial .47
- Total rate of diversion or storage volume for which proof is submitted 1.0 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 ☒

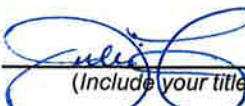
Other Conditions of Permit

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.

No _____ Completed? Yes ☐ No ☐

- Fee Enclosed \$ 50.00 or not applicable ☐. See fee schedule on page 2 of the instructions.
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 Bridget Vanderwoude Telephone Number 208-867-4579
Mailing Address 22448 Market Road City Parma
State Idaho Zip 83660 Email bridgetvw1@gmail.com

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  attorney-in-fact Date 5-10-19
(Include your title, if on behalf of company or organization)

RECEIVED

MAY 10 1999

Form 236-1
11/97 WATER RESOURCES
WESTERN REGION

IDAHO DEPARTMENT OF WATER RESOURCES

WELL DRILLER'S REPORT 053852

1. WELL TAG NO. D 63-99-W-0588-000
 DRILLING PERMIT NO. D-10-09939
 Other IDWR No. _____

2. OWNER:
 Name George Vanduvande
 Address 22448 Market Rd.
 City Parma State ID Zip 83660

3. LOCATION OF WELL by legal description:
 Sketch map location must agree with written location.

N				
		X		
S				

Twp. 5 North ☒ or South ☐
 Rge. 4 East ☐ or West ☒
 Sec. 8 NW 1/4 SE 1/4 1/4
 Gov't Lot _____ County Canyon 10 acres 40 acres 160 acres
 Lat. _____ Long. _____
 Address of Well Site 22448 Market Rd
 City PARMA, ID

Lt. _____ Bk. _____ Sub. Name _____

4. USE:
☒ Domestic ☐ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK check all that apply (Replacement etc.)
☒ New Well ☐ Modify ☐ Abandonment ☐ Other _____

6. DRILL METHOD
☒ Air Rotary ☐ Cable ☐ Mud Rotary ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK		AMOUNT		METHOD
Material	From To	Sacks or Pounds		
Bentonite	0 21	50 LBS		Dry pour

Was drive shoe used? ☒ N Shoe Depth(s) 171"
 Was drive shoe seal tested? ☒ Y ☐ N How Blow By

8. CASING/LINER:

Diameter	From To	Gauge	Material	Casing	Liner	Welded	Threaded
6"	±2 171	20	Steel	☒	☐	☒	☐

Length of Headpipe _____ Length of Tailpipe _____

9. PERFORATIONS/SCREENS

Perforations _____ Method _____
 Screens _____ Screen Type _____

From To	Slot Size	Number	Diameter	Material	Casing	Liner
					☐	☐

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

99 ft. below ground Artesian pressure _____ lb.
 Depth flow encountered _____ ft. Describe access port or control devices Sanitary Well Cap

Office Use Only		
Inspected by _____	Twp _____ Rge _____ Sec _____	
1/4 _____	1/4 _____	1/4 _____
Lat: _____	Long: _____	

11. WELL TESTS:

Yield gal./min.	Drawdown	Pumping Level	Time
35	N/A	140	3 Hr

Water Temp. 59° Bottom hole temp. _____
 Water Quality test or comments: _____

12. LITHOLOGIC LOG: (Describe repairs or abandonment) Water

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Y	N
10"	0	7	Top Soil		X
10"	7	12	Hard Pan		X
10"	12	21	Sandy Soil		X
10"	21	37	Sandy Soil		X
10"	37	108	Sandy Clay Layers		X
10"	108	85	Coarse Sand		X
10"	85	93	Brown Clay		X
10"	93	123	Sand & Clay Layers 2-3 gal	X	
10"	123	135	Sand Gravel 5-10 gal	X	
10"	135	144	Sand Gravel 10-20 gal	X	
10"	144	172	Brown Clay		X
10"	172		Sand 40 gal	X	

RECEIVED

AUG 10 1999

Department of Water Resources

MICROFILMED

Completed Depth 171' (Measurable)
 Date: Started 7-27-99 Completed 7-28-99

13. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Company Name Riverside Etc. Firm No. 0333

Firm Official _____ Date _____
 and _____
 Driller or Operator _____ Date 8-9-99
 (Signature if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES

Form 238-7/94 MAY 10 2019

62801

Use Typewriter
or
Ball Point Pen

Kenneth M. F.
(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES



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

June 03, 2019

GEORGE VANDERWOUDE
BRIDGET VANDERWOUDE
22448 MARKET RD
PARMA ID 83660

PROOF ACKNOWLEDGEMENT LETTER

RE: Permit No. 63-12510

Dear Permit Holder(s):

The Department acknowledges receipt of the Proof of Beneficial Use form ("proof") and license examination fee for the above-referenced water right permit. Enclosed is an order that reinstates this permit since proof and the license examination fee were submitted after the proof deadline. Please note that the priority date for this permit has been advanced to **August 17, 1999**, as provided in section 42-218a(2), Idaho Code.

The next step in the process of developing a water right is for the Department to conduct a field examination to determine and confirm the use being made of the water according to the conditions of the permit.

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 the field examination, please contact the Western Region Office of the Department located in Boise at (208) 334-2190.

Sincerely,

Darla Block
Technical Records Specialist

Enclosure(s)

c: MORROW & FISCHER

CERTIFICATE OF SERVICE

I hereby certify that on **July 02, 2019** I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**PRELIMINARY ORDER REINSTATING A PERMIT**) to the person(s) listed below:

RE: Preliminary Order in the Matter of Permit No. **63-12510**

**GEORGE VANDERWOUE
22448 MARKET RD
PARMA ID 83660**

**BRIDGET VANDERWOUE
22448 MARKET RD
PARMA ID 83660**

**MORROW & FISCHER
C/O JULIE KLEIN FISCHER
332 N BROADMIRE WAY STE 102
NAMPA ID 83687**



**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.

RECEIVED

Form No. 204 Rev. 12/12
NOV 30 2018WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES\$50 fee *reapplied towards*
Received by *AK Prof B/M*
Recpt No. *W646975*
Date *11/30/2018* *DB*

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. 63-12510 Date proof is due December 1, 2018Name(s) of permit holder(s) Bridget and/or George VanderwoudeMailing address 22448 Market Road City Parma State ID Zip 83660Telephone no. 208-867-4579 Email Bridgetvw1@gmail.com

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

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

Using the existing wells, additional water under this pemirt has been diverted to support an increased number of milking and dry cows and a larger commercial operation. Specifically, the dairy has been expanded to support the increased number of animals including acquiring more land (for waste water application); raising calves on site (this number has doubled); increasing the lagoon size; and adding new facilities, such as new free stall barns and milking facilities.

Costing \$ \$300,000.00

RECEIVED

DEC 04 2018

DEPARTMENT OF
WATER RESOURCES

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

Please see attached letter from Applicant's counsel, Morrow & Fischer, PLLCPermit holder(s) request an extension for 5 year(s).

Bridget Vanderwoude
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

MORROW & FISCHER
ATTORNEYS AT LAW

332 N. Broadmore Way, Ste. 102
Nampa, Idaho 83687
208.475.2200
Fax 208.475.2201
www.morrowfischer.com

May 10, 2019

RECEIVED
MAY 10 2019
WATER RESOURCES
WESTERN REGION

Via Hand Delivery

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705

Re: Permit no. 63-12510

Pursuant to Darla Block's April 10, 2019 letter (enclosed for reference) we are delivering herewith the Statement of Completion for Permit No. 63-12510. We also have enclosed a check in the amount of \$50.00 for the examination fee.

In addition, and as requested, this will serve as notice that our clients, George and Bridget Vanderwoude, withdraw their November 30, 2018 request for extension of time to submit proof of beneficial use. It is the Vanderwoude's desire to proceed based on the enclosed Statement of Completion.

If you have any questions please feel free to contact me. Also, thank you for working with our clients, and us, to complete the necessary filings.

Sincerely,

MORROW & FISCHER, PLLC



Julie Klein Fischer

Enclosures

C: George & Bridget Vanderwoude

Block, Darla

From: Block, Darla
Sent: Wednesday, May 15, 2019 4:42 PM
To: Marston, Sascha
Subject: Modifications Needed to Receipt ID No. W046975

May 15, 2019

Re: Modifications Needed to Receipt ID No. W046975

Dear Sascha,

Please modify the fee details under Description from reading Extensions to reading Beneficial Use with the PCA code of 62104, and the comments to read Proof of Beneficial Use for Permit #63-12510.

Thank You.

😊 Darla

Idaho Department of Water Resources Receipt
Receipt ID: W046975

Payment Amount	\$50.00	Date Received	11/30/2018	Region	WESTERN
Payment Type	Check	Check Number	1558		
Payer	VANDERWOUE DAIRY				
Comments	REQUEST FOR EXTENSION OF TIME IN THE NAME OF BRIDGET AND/OR GEORGE				
VANDERWOUE	~~WRNO: 63-12510~~ <i>Proof of Btu</i> <i>Withdrawn</i>				

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$50.00	EXTENSIONS	62103	0229	21		1155
	<i>Beneficial Use</i>	<i>62104</i>				
	<i>License Examination</i>					

cek

Signature Line (Department Representative)

MORROW & FISCHER
ATTORNEYS AT LAW

November 30, 2018

332 N. Broadmore Way, Ste. 102
Nampa, Idaho 83687
208.475.2200
Fax 208.475.2201
www.morrowfischer.com

Via Hand Delivery

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705

RECEIVED RECEIVED
DEC 04 2018 NOV 30 2018
DEPARTMENT OF WATER RESOURCES
WATER RESOURCES WESTERN REGION

Re: *Addendum to Vanderwoude Request for Extension of Time*
Permit no. 63-12510

To: Water Allocation Bureau:

We are counsel for Bridget and George Vanderwoude and provide this letter as an addendum to their Request for Extension of Time to submit proof of beneficial use for permit 63-12510. Specifically we are providing comments in response to the following inquiry included in the Request form.

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

Applicants received an extension in December 2013 delaying the proof due to December 1, 2018. The initial request for an extension was related to applicant's efforts to expand their CAFO with Canyon County. That process, and determining whether additional permitting was necessary, delayed their ability to develop the water right. The original extension appears to have been granted pursuant to Idaho Code 42-204(6).

As stated in the main Request for Extension of Time, and following the first extension, the applicants have undertaken significant efforts and expended significant funds to enlarge their dairy operation. Although applicant has proceeded with diligence, the process of expanding a dairy is gradual, and while a portion of the water permitted under 63-12510 has been used, the enlargement is not yet complete. Because applicants intend to complete the expansion so that *all* of the water permitted under 63-12510 will be used, they believe filing an extension, rather than proof of beneficial use (for only a portion of the water) is most appropriate. This extension appears to be authorized pursuant to Idaho Code 42-204 in that extensions for good cause may be granted in addition to those given under 42-204(6).

If there are any questions regarding the applicants' efforts to complete development of the water right, or this request for extension, they may be directed to either Bridget Vanderwoude, or me.

Thank you for your consideration.

Sincerely,

MORROW & FISCHER, PLLC


Julie Klein Fischer

Approved:


Bridget Vanderwoude, Applicant