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MAY 02 2019

DEPT OF WATER RESOURCES
SOUTHERN REGION

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

FOR OFFICE USE ONLY

Amt. of Fee \$	100-
Receipt No.	5037301
Received By	DM
Date Received	5.2.19

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. 37-22847 Telephone No. (415) 722-6835
- Name of Permit Holder(s) Tom R. Norris
- Mailing Address 2521 Broadway Street City San Francisco
State CA Zip 94115 Email tnorris@tomnorris.com
- Source of Water Groundwater If **GROUND WATER** (well), Date Drilled mo. _____ / yr. 1979 est
Well Driller Wood River Drilling Drilling Permit Number N/A
- Extent of use(s) completed **as authorized by the water right permit:**
Domestic (No. of households) 1 Stockwater (No. and type of stock) N/A
Irrigation (No. of acres) _____ Other _____
- Total rate of diversion or storage volume for which proof is submitted N/A 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.

Completed? Yes ☐ No ☒

- Fee Enclosed \$ 100 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 Charles E. Brockway Telephone Number (208) 736-8543
Mailing Address 2016 N. Washington St., Ste. 4 City Twin Falls
State ID Zip 83301 Email charles.e.brockway@brockwayeng.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

Tom R. Norris
(Include your title, if on behalf of company or organization)

Date

4/26/19

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

IN THE MATTER OF PERMIT NO. 37-22847)
IN THE NAME OF TOM R NORRIS)
_____)

**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 February 24, 2014, the Department issued Permit No. 37-22847 (“Permit”) in the name of Tom R. Norris (“Permit Holder”) authorizing the diversion of 0.04 cubic feet per second of water from ground water for domestic use in the NE¼ of the SE¼ of Section 7, Township 3 North, Range 18 East, B.M., Blaine County. A condition of permit approval required the Permit Holder to submit proof of beneficial use of water to the Department on or before March 1, 2016.
2. On December 31, 2015, 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 March 1, 2016, the Permit lapsed because the Department had not received an acceptable Proof or Extension Request.
4. On March 2, 2016, the Department sent notice that the Permit had lapsed because no Proof or Extension Request had been received.
5. On March 18, 2016, the Department received an Extension Request, which was subsequently approved on March 23, 2016. The updated date to submit proof of beneficial use was March 1, 2019. The Department approval of the Extension Request reinstated the Permit and advanced the priority date to November 7, 2013.
6. On December 31, 2018, 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 Proof or an Extension Request.
7. On March 1, 2019, the Permit lapsed because the Department had not received an acceptable Proof or Extension Request.
8. On March 8, 2019, the Department sent notice that the Permit had lapsed because no Proof or Extension Request had been received.
9. On May 2, 2019, the Permit Holder filed Proof.

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:

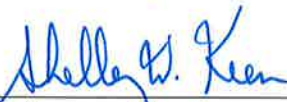
Within sixty (60) days after such notice of lapsing the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof

By submitting an acceptable Proof, the Permit Holder has provided a reasonable showing why this permit should be reinstated. The permit should be reinstated based upon the May 2, 2019, filing date.

ORDER

IT IS HEREBY ORDERED that Permit No. 37-22847 is **REINSTATED** and the permit's priority date is advanced to January 8, 2014.

DATED this 22nd day of May, 2019.



Shelley W. Keen, Chief
Water Allocation Bureau



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

May 13, 2019

TOM R NORRIS
2521 BROADWAY ST
SAN FRANCISCO CA 94115

PROOF ACKNOWLEDGEMENT LETTER

RE: Permit No. 37-22847

Dear Permit Holder(s):

The Department acknowledges receipt of the Proof of Beneficial Use ("proof") form for the above-referenced water right permit. Enclosed is an order that reinstates this permit since proof was submitted after the proof deadline. Please note that the priority date for this permit has been advanced to **January 08, 2014**, as provided in section 42-218a(2), Idaho Code.

A \$100.00 license examination fee was submitted with the proof form. A license examination fee is not required for a permit with a ground water source and a rate of diversion of 0.04 cfs or less. The fee will be returned to you in a separate mailing.

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 Southern Region Office of the Department located in Twin Falls at (208) 736-3033.

Sincerely,

Darla Block
Technical Records Specialist

Enclosure(s)

c: BROCKWAY ENGINEERING PLLC, CHERESE D MCLAIN

CERTIFICATE OF SERVICE

I hereby certify that on **May 23, 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. **37-22847**

**TOM R NORRIS
2521 BROADWAY ST
SAN FRANCISCO CA 94115-1113**

**BROCKWAY ENGINEERING PLLC
C/O CHARLES E BROCKWAY
2016 WASHINGTON ST N STE 4
TWIN FALLS ID 83301**

**CHERESE D MCLAIN
MSBT LAW CHTD
7699 W RIVERSIDE DR
BOISE ID 83714-6213**

A handwritten signature in dark ink, appearing to read "Darla Block", is written over a horizontal line.

**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.

Block, Darla

From: Block, Darla
Sent: Monday, May 13, 2019 3:38 PM
To: Marston, Sascha
Subject: Refund Needing Issued:

May 13, 2019

Re: Refund needing issued under Water Right Permit No. 37-22847, and **Receipt ID S037301**

Dear Sascha,

Please issue a refund in the amount of \$100.00 from **Receipt ID S037301**. The Proof of Beneficial Use (proof) form was submitted with a license examination fee which was not required because this permit is for 0.04 cfs from ground water. Please send the \$100.00 refund to the following:

**BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301**

Thank You,
Darla Block

MEMORANDUM

TO: Water Right Permit File 95-17503

FROM: Daniel A. Nelson

DATE: May 9, 2019

SUBJECT: Review of Water Right Licensing for Permit 95-17503

This permit was marked for an in-house field examination. However, this file involves mitigation and other issues that will need an agent to investigate the actual site to ensure all of the mitigation and aesthetic storage components have been addressed. In-house exams are not allowed to be done when aesthetic storage is part of the permit, and this permit was filed to cover the consumptive use of an aesthetic pond. Therefore, a field examination will be required according to the IDAPA rules.



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

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DEPT OF WATER RESOURCES
SOUTHERN REGION

May 2, 2019

Mr. Corey Skinner
Idaho Department of Water Resources
650 Addison Ave. W., Ste. 500
Twin Falls, ID 83301

Re: Statement of Completion 37-22847

Dear Corey:

Enclosed is the signed Statement of Completion form for water right permit 37-22847, submitted on behalf of Mr. Tom Norris. The required \$100 fee for the Statement of Completion is included. Please contact our office if you have any questions.

Sincerely,

Sheila Daniels

Administrative Assistant to Charles Brockway

Encls: Statement of Completion 37-22847

Cc: Tom Norris
Cherese McLain

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

Block, Darla

From: Block, Darla
Sent: Wednesday, April 10, 2019 2:43 PM
To: 'cdm@msbtlaw.com'
Subject: Lapsed Permit #37-22847 in the name of Tom R. Norris
Attachments: Request for Extension of Time Form & Instructions.pdf; Statement of Completion Form & Instructions.pdf

The 60 Day Deadline is May 7, 2019.

Block, Darla

From: Block, Darla
Sent: Wednesday, March 13, 2019 4:36 PM
To: 'charles.e.brockway@brockwayeng.com'
Subject: Water Right Permit Nos. 37-8916 & 37-22847

Dear Mr. Brockway,

Per our phone conversation today, we determined that the Statement of Completion for submitting Proof of Beneficial Use("Proof") filed on March 1, 2019, for water right permit #37-8916 was inadvertently filed. The reason it was inadvertently filed was that Proof for this permit had already been filed and acknowledged back in 2016. This water right permit is just waiting for our regional office to conduct the Field Examination. Therefore I will return the Proof filed on March 1, 2019, and request that the Department issue you a refund in the amount of \$100.00 for the fee you paid.

In the same conversation we determined that Lapsed Permit #37-22847, which has a groundwater (Well) source and a Domestic water use will need to have a Request for Extension of Time form filed with a \$50.00 fee. The permit holder can ask for up to 5 more years on this last extension allowed according to Idaho Code. The 60 day deadline for filing an Extension Request is May 7, 2019, and an extension request will be unacceptable after that date.

I am satisfied with this, and will expect a Request for Extension of Time form for permit #37-22847 to be filed before the deadline with the proper fee.

Sincerely,

Darla Block
Technical Records Specialist
Water Allocation Bureau
Ph. #(208) 287-4945
Darla.Block@idwr.Idaho.gov