

OCT 15 2018

DEPARTMENT OF
WATER RESOURCES

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

\$50 fee
Received by AV
Recpt No. C105775
Date 10/15/18

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. 95-9531 Date proof is due December 1, 2018
Name(s) of permit holder(s) Greenferry Water and Sewer District
Mailing address P.O. Box 2788 City Hayden State ID Zip 83835
Telephone no. 208-651-2192 Email john@pacni.org

Describe what work has been completed toward the development of this water right:
If no work has been completed, show "none".

The Board has worked for over three years to develop a plan so both of its wells can be used at the same time, and has submitted a \$50,000 plan to DEQ and USDA that will do that. The plan calls for a larger 10" dedicated main line from the wells to the reservoirs, as part of a much larger plan to replace mains and other infrastructure that is now dated over 40 years. The plan includes a first phase to be paid from a \$1.8 million bond sale approved by District voters in May 2018. USDA has agreed to fund that portion with 40-year bonds at a rate to be fixed at the time of the completion of the work. Construction funding has also been approved by Banner Bank. Construction bids are expected to be received by February 2019, pending only the approval of the FONSI being conducted by USDA.

Costing \$ 1,800,000

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

The Water Facility Plan was first submitted to DEQ on May 11, 2017 and then after comments from DEQ an update was submitted on February 12, 2018. We have been informed that a large backlog of Plans is the reason for the lengthy delay in getting DEQ approval of the Plan. Meanwhile, we met with and submitted to plan to USDA in the summer of 2018, for their review of the Plan for the environmental impact. We were informed it was likely to receive a FONSI, since all construction is within right-of-way, or temporary rights-of-way. We expect the FONSI from USDA at any time soon, but have not been able to proceed with the submittal of the bid specifications (which are complete) until the finding is complete. We hope for and expect DEQ approval soon as well.

Permit holder(s) request an extension for One 5 year(s). modified per email request from permit holder on 11-13-2018. (DAB)
John Klustman, Manager September 20, 2018
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 December 1, 2023.

Signed this 16th day of November, 2018 Pamela S. Skaggs
Jeff Peppersack, Chief Pamela S. Skaggs
Water Allocation Bureau Water Rights Section Mgr.

Facility Plan submittal and review time line

Greenferry Water and Sewer District

- Submitted Facility Plan to DEQ on May 8, 2017 - To Katy Baker-Casile
- Resubmitted to Marcia Babcock – DEQ May 11, 2017 -
- Check for timeline from DEQ Katy May 15, 2017, 5th, she replied "in queue". -
- Sent to USDA Howard Lunderstadt May 15, 2017 -
- Checked w/DEQ Katy on review July 11, 2017 - DEQ Katy response – out of town July 11, 2017 -
- DEQ Katy response July 17, 2017 – Next in review queue for facility plans. -
- From DEQ Katy October 2, 2017 Needs more info. to finish review. -
- October 25, 2017 John Austin to John and Howard USDA – Still waiting on DEQ review and approval -
- DEQ Katy- checking with us on updated plans, Nov 6, 2017 -
- Called DEQ Katy – to discuss system wide flow and pressure testing request and if she had review comments – left message, Nov 7, 2017 -
- Called DEQ Katy – Updating rate schedule, Nov 7, 2017 -
- DEQ Katy sent facility plan review comments, Nov 7, 2017 -
- Several attempts to call DEQ for clarification Dec 2017, on flow and pressure testing request of entire system, again in Jan 2018 -
- Katy DEQ to Roger – She was touching base with us for revised plan Jan 19, 2018 -
- Phone call to DEQ Katy – She will allow district to pass on system flows and pressure testing request if we submit letter to address Jan 19, 2018 -
- Resubmitted facility plan and letter Feb 12, 2018 -
- Call to DEQ Katy request for review time line, June 2018, 9 plans ahead of ours -
- Re-submitted facility plan to USDA, John Lynn, Howard Lunderstadt, June 11, 2018 -
- To DEQ Katy, review time line request, sept. 1, 2018, out of office until Sept.4, 2018 -
- Reply from DEQ Katy, 2nd in review queue. Sept. 4, 2018

Block, Darla

From: John Austin <john@pacni.org>
Sent: Tuesday, November 13, 2018 7:32 PM
To: Block, Darla
Cc: Stephanie Mueller
Subject: Greenferry Water Right Extension

Good afternoon, Darla:

Per our recent conversation, the Board of Directors of the Greenferry Water and Sewer District request a five-year extension of the district's water right (95-9531), based on the district exceeding 1,000 acres and the fact that the Board is undergoing due diligence toward system improvements that will correct the issues with the system. This includes \$1.8 million in improvements that are pending construction in the spring of 2019.

Please let me know if there is anything else I can do to assist you on this issue. As always, thanks very much for your help on securing the district's water right.

John F. Austin
Manager
(208) 651-2192



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

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 14, 2018

GREENFERRY WATER & SEWER DISTRICT
PO BOX 2788
HAYDEN ID 83835-2788

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 95-9531

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 **December 01, 2023**.

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 **because the department will not grant an additional extension based on good cause**, 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,

Darla Block
Technical Records Specialist

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on **November 16, 2018** I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**APPROVED REQUEST FOR EXTENSION OF TIME**) to the person(s) listed below:

RE: Preliminary Order in the Matter of Permit No. **95-9531**

GREENFERRY WATER & SEWER DISTRICT
PO BOX 2788
HAYDEN ID 83835-2788



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.