

RECEIVED

JUN 12 2017

DEPARTMENT OF
WATER RESOURCES

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

FOR OFFICE USE ONLY

Amt. of Fee \$: _____
Receipt No. _____
Receipt By: _____
Date Received: _____

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, please contact any Department office or visit the Department's website at: www.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.

1. Permit No.: 61-7731 Telephone No.: (208) 587-2129

2. Name of Permit Holder(s): Elmore County, Board of County Commissioners

3. Mailing Address: Elmore County Courthouse, 150 South 4th East Ste #3 City: Mountain Home

State: ID Zip: 83647 Email: sessl@elmorecounty.org

4. Source of Water: Canyon Creek If **GROUND WATER** (well), Date Drilled: mo. _____ / yr. _____

Well Driller: _____ Drilling Permit Number: _____

5. Extent of use(s) completed (as authorized by the water right permit):

Domestic (No. of households): _____ Stockwater (No. and type of stock): _____

Irrigation (No. of acres): _____ Other: Groundwater Recharge

6. Total rate of diversion or storage volume for which proof is submitted: 200 cfs OR _____ acre-feet.

7. 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?

If yes, has the lockable device been installed?

Yes ☐ No ☒
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 ☐

8. Fee Enclosed: \$ _____ See fee schedule on back of the instructions for filing proof of beneficial use. Proofs filed without an appropriate fee, will be considered incomplete.

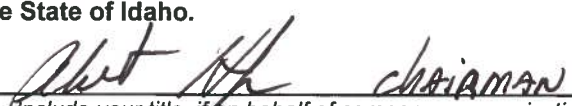
9. Person to contact to accompany the Department representative during field examination of the water system.

Name: Field Exam by SPF Water Engineering, LLC Telephone Number: (208) 383-4140

Mailing Address: _____ City: _____

State: _____ Zip: _____ 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:  chairman Date: 6-2-17
(Include your title, if on behalf of company or organization)

Mail to: Idaho Department of Water Resources, PO Box 83720, Boise, ID 83720-0098



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

December 26, 2017

ELMORE COUNTY BOARD OF COMMISSIONERS
ELMORE COUNTY COURTHOUSE
150 S 4TH STE 3
MOUNTAIN HOME ID 83647

**PROOF ACKNOWLEDGEMENT LETTER AND APPLICATION FOR AMENDMENT
OF PERMIT**

RE: Permit No. 61-7731

Dear Permit Holder(s):

The Idaho Department of Water Resources (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 June 12, 2017, as provided in section 42-218a(2), Idaho Code.

The Department is reviewing the permit referenced above prior to issuing a water right license. By issuing a license, the Department confirms the extent of development that has been established in compliance with the terms of the permit.

During review of your proof statement, certified field examination, and the permit listed above. The certified field report submitted only addressed the water diverted for recharge in 2017. A permit can only be licensed for water used during the development period. The development period is from the time the permit was approved to the time that proof was due. In the case of this permit the development period was from May 22, 1998 through June 1, 2008. The only recognized recharge event during this time frame was the 1999 recharge event.

Therefore, the permit must be amended to reflect the water that was diverted during the 1999 recharge event. It has been determined that an amendment of permit is needed to add the third point of diversion that was established during the 1999 recharge event, and to correct the place of use that was developed during the 1999 recharge event. The enclosed amendment reflects the water use during this period.

Changes that do not increase the authorized use of water under the permit can be requested and approved in accordance with Section 42-211, Idaho Code. Before a license can be issued, your permit must be amended to depict your water use as it was actually developed.

The enclosed Application for Amendment form depicts the elements of the water right as they will appear on the license when issued. Please review the amendment form carefully. If you concur with the information presented, please sign and return the form with the \$100.00 filing fee within 14 days or by January 9, 2018.

If you have any questions, please don't hesitate to contact me.

Respectfully,



Daniel A. Nelson

Analyst 3

Water Right Section

Idaho Department of Water Resources

Telephone # (208) 287-4856

Email – dan.nelson@idwr.idaho.gov

Enclosure(s): Application for Amendment with map

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

JUN 12 2017

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Fee \$250.00

Receipt no.

Received by

Date

C103710

YC

6/12/17

Request to Reinstate a Permit Lapsed more than Sixty Days

Statements of Completion for Submitting Proof of Beneficial Use submitted more than sixty (60) days after mailing of a lapsed permit notice must be accompanied by a Beneficial Use Field Report prepared by a certified water right examiner as the result of an examination to clearly confirm and establish the extent of the beneficial use of water established in connection with the permit during the time authorized by the permit and any extensions of time previously approved, a statement of reasonable cause for filing late proof of beneficial use, and a reinstatement application fee of \$250 per§ 42-218a(2), Idaho Code.

Statement of reasonable cause for filing a late proof of beneficial use:

Permit 61-7731 was issued to the Mountain Home Groundwater Advisory Committee (MHGAC). Beneficial
use of Groundwater Recharge was made during the permit development period. However, the MHGAC

disbanded and Proof of Beneficial Use was not submitted. Elmore County, Board of County Commissioners is

the appropriate entity to assume ownership of this permit and continue making beneficial use.

Required items:

- ☒ Statement of Completion for Submitting Proof of Beneficial Use
- ☒ Beneficial Use Field Report
- ☒ Reinstatement application fee of \$250

The information contained in this statement is true to the best of my knowledge. I understand that should the department reinstate my permit that the priority date will be advanced to the day that proof of beneficial use was received.

Albert Hoffer
Signature of Permit Holder or Authorized Representative

Albert Hoffer CHAIRMAN
Print Name and Title if applicable

6-2-17
Date

Signature of Permit Holder or Authorized Representative

Print Name and Title if applicable

Date

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

IN THE MATTER OF PERMIT NO. 61-7731	)	PRELIMINARY ORDER
IN THE NAME OF ELMORE COUNTY	)	REINSTATING A PERMIT
BOARD OF COUNTY COMMISSIONERS	)	
_____	)	

This matter having come before the Idaho Department of Water Resources ("Department") as a request to reinstate a lapsed permit, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On May 22, 1998, the Department issued water right permit no. 61-7731 ("Permit") to the Mountain Home Groundwater Advisory Committee ("MHGWAC") with the condition that proof of construction of works and application of water to beneficial use ("proof of beneficial use") be submitted to the Department on or before June 1, 2003. The Permit bore the priority date of March 26, 1997.
2. On March 31, 2003, the Department notified the MHGWAC by certified mail that proof of beneficial use was due and instructed the MHGWAC of the steps to be taken to submit proof of beneficial use or a request for extension of time ("extension request").
3. On May 21, 2003, the MHGWAC filed an extension request. The Department extended the proof of beneficial use deadline to June 1, 2008.
4. On March 31, 2008, the Department notified the MHGWAC by certified mail that proof of beneficial use was due and instructed the MHGWAC of the steps to be taken to submit proof of beneficial use or an extension request.
5. On June 1, 2008, the Permit lapsed since the Department had not received an acceptable proof of beneficial use statement or extension request form.
6. On June 9, 2008, the Department notified the MHGWAC that the Permit had lapsed.
7. On June 12, 2017, the Department received from the Elmore County Board of County Commissioners ("Elmore County") a *Request to Reinstate a Permit Lapsed more than 60 Days* ("Request"), a *Beneficial Use Field Report* prepared by a certified water right examiner ("CWRE"), a *Statement of Completion for Submitting Proof of Beneficial Use*, a statement of reasonable cause for filing a late proof of beneficial use, and a reinstatement fee of \$250.
8. The CWRE reported in the *Beneficial Use Field Report* that the MHGWAC beneficially used water pursuant to the Permit prior to June 1, 2008.
9. On June 28, 2017, the Department sent Elmore County a letter stating that the Permit was still in the name of MHGWAC and that an assignment of permit or ownership change notice would be needed to demonstrate Elmore County's interest in the Permit.

10. On July 31, 2017, the Department received a *Notice of Change in Water Right Ownership* ("Ownership Notice") from Elmore County.
11. On October, 18, 2017, Department staff contacted Elmore County by email to inform it that the documentation supporting the Ownership Notice was not adequate to change the ownership of the Permit into the name of the Elmore County.
12. On November 28, 2017, MHGWAC assigned its interest in the Permit to Elmore County.

CONCLUSIONS OF LAW

1. Idaho Code § 42-218a.2 states as follows:

In connection with a proof of beneficial use statement submitted more than sixty (60) days after such notice of lapsing, the director shall require all of the following items to be submitted to the department:

(a) A report prepared by a certified water right examiner as a result of an examination to clearly confirm and establish the extent of the beneficial use of water established in connection with the permit during the time authorized by the permit and any extensions of time previously approved. The report shall be on a form or forms specified by the director and shall provide the information specified in section 42-217, Idaho Code, for confirming beneficial use and such other information as may be required by the director.

(b) A statement of reasonable cause for filing a late proof of beneficial use.

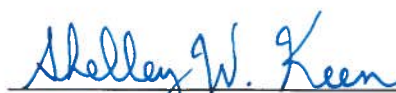
(c) A reinstatement fee of two hundred fifty dollars (\$250).

2. Elmore County has met the requirements of Idaho Code § 42-218a.2 for reinstating the Permit.
3. The Permit should be reinstated in the name of Elmore County Board of County Commissioners with its priority date advanced to June 12, 2017.

ORDER

IT IS HEREBY ORDERED that the Permit is **REINSTATED** with an advance in priority to June 12, 2017.

Dated this 21st day of December, 2017.



Shelley W. Keen, Manager
Water Rights Section