

RECEIVED

JUL 21 2016

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

\$50 fee

Receipted by

Recpt No. C102286

Date 7-18-16

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. 96-09474 Date proof is due June 1, 2016
 Name(s) of permit holder(s) MIKE GABBA
 Mailing address 5314 HWY 2 City Priest River State ID Zip 83856
 Telephone no. 208-610-3407 Email mike.gabba@gmail.com

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

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

We have cleaned the ditch out so material
can dry out. We plan on getting it done
next month (this Fall)!

Costing \$ 3000.00

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

Waiting for Ducks Unlimited & the DNR. to get
me final plans. And the warmer weather to
get things dried out. We are all ready
to go!!!

Permit holder(s) request an extension for

5 year(s).modified permit request received
from permit holder on 7/23/16 (IDB)

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

Date

7/19/16

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
January 5, 2011.

☒ 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 June 01, 2021.

Signed this 25th day of July, 2016

Jeff Peppersack, Chief
 Water Allocation Bureau



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

July 25, 2016

MIKE GABBA
5314 HWY 2
PRIEST RIVER ID 83855-8308

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 96-9474

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 **June 01, 2021**.

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.

This approved extension also reinstates the permit and advances the priority date since the request and the filing fee was submitted after the permit proof due date. The priority date of this permit is advanced to **January 05, 2011**, according to Section 42-218a(1), 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.

Enclosed is the original form that was first filed, titled "Request to Reinstate a Permit Lapsed more than Sixty Days" which was inadvertently filed instead of the Request for Extension of Time form. A portion of the fee previously submitted to the Department along with the incorrect form will be reapplied for the \$50.00 filing fee of your extension request. The additional \$200.00 will be refunded to you. You should receive a State of Idaho check for \$200.00 within ten (10) business days under separate cover.

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,

A handwritten signature in blue ink, appearing to read "Darla Block", with a stylized flourish at the end.

Darla Block
Technical Records Specialist

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on **July 26, 2016** 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. **96-9474**

MIKE GABBA
5314 HWY 2
PRIEST RIVER ID 83855-8308



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: Friday, July 22, 2016 11:41 AM
To: Marston, Sascha
Subject: Reapplication of a fee paid under receipt no. C102286 & Issuance of a Refund Needed.

July 22, 2016

Re: Reapplication of a Fee Paid Under Receipt No. C102286

Dear Sascha,

The permit holder filed a Request for Extension of Time form which replaces the Request to Reinstate a Permit Lapsed more than Sixty Days form previously filed and receipted under the above mentioned receipt number.

Please reapply \$50.00 of the \$250.00 fee paid under this receipt to the Extension Request process, and change the comments field to read Request for Extension of Time under PCA code 56103. Please also issue a refund in the amount of \$200.00 and send it to the following address:

MICHAEL D GABBA
5314 HWY 2
PRIEST RIVER ID 83856

Thanks.

Darla

Block, Darla

From: Mike Gabba [mikegabba@gmail.com]
Sent: Monday, July 25, 2016 9:51 AM
To: Block, Darla
Subject: Re: Request for Extension of Time Received for Permit No. 96-9474

Thank you !!!

Sent from my iPhone

On Jul 25, 2016, at 8:23 AM, Block, Darla <Darla.Block@idwr.idaho.gov> wrote:

Mike,
The water right permit number I previously listed in the subject line was the wrong permit number. Your permit number is 96-9474. I will make the modification from a 1 year extension request to a 5 year extension request per your instructions below.

Sincerely,

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

From: Mike Gabba [<mailto:mikegabba@gmail.com>]
Sent: Saturday, July 23, 2016 7:04 AM
To: Block, Darla
Subject: Re: Request for Extension of Time Received for Permit No. 95-13803

Please make the request for 5 yrs.
thank you !!

Sent from my iPhone

On Jul 22, 2016, at 1:31 PM, Block, Darla <Darla.Block@idwr.idaho.gov> wrote:

July 22, 2016

Dear permit holder:

The Department is in receipt of your request for extension of time to submit proof of beneficial use for the above mentioned water right permit. On this extension request you have asked for 1 years.

According to Section 42-204, Idaho Code, you are allowed an initial development period of 5 years and only one extension request after that for up to 5 more years. You have already had the initial 5 years allowed under the permit.

This extension request will be considered your last extension request allowed under due diligence or good cause. You could request that the Department modify your extension request from to reflect a 5 year extension in lieu of the 1 year currently requested on your form.

However, in order for me to modify your request for extension of time from a 1 year extension to a 5 year extension, I need written request from you stating that you would like to have your extension request form modified to reflect a 5 year extension in lieu of the 1 year currently stated on the form. A reply to this email could be used as your written request to have your form modified. Please respond as soon as possible, and be as specific as you can in your request.

Once I receive your reply, I will be able to move forward with processing your extension request.

Sincerely,

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