Form No. 204 Rev. 12/12

RECEIVED
JUN 13 2016
DEPARTMENT OF WATER RESOURCES

$50 fee
Receipted by AG
Recpt No. 602154
Date 6-13-16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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. 95-14515 Date proof is due 7/1/2016

Name(s) of permit holder(s) TP Post Falls LLC / Gregory Haerr

Mailing address 5469 Walker Estates Cir City Holladay State UT Zip 84117

Telephone no. 801-634-8060 Email greg@haerr.com

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

see attached

Costing $ 5000

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

see attached

Permit holder(s) request an extension for 5 year(s).

Signature *(If other than permit holder, Power of Attorney must be supplied)* Date 5/16/16

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 _____, 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 July 1, 2021.

Signed this 16th day of June, 2016

Jeff Peppersack, Chief
Water Allocation Bureau

Water Permit #95-14515 Request For Extension of Time Explanation

The permit holder has completed the following work toward the development of this water right:

1. Yearly maintenance, repair and additions to the pump and water lines at the point of diversion since purchase of the property in 2006.
2. Yearly maintenance and repair of the fire protection and fire protection storage equipment on property since purchase of the property in 2006.
3. Keeping the pond filled for irrigation storage, fire protection, and fire protection storage continuously, weather permitting, since the purchase of the property in 2006.
4. Maintenance of the pond liner for irrigation storage and fire protection storage when required.

Cost: approximately $5000

The construction of the irrigation and irrigation from storage portion of the water right is incomplete.

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

1. There is an adjudication in process which overlaps this water right. This is a complex water right situation. This permit, #95-14515 was initially filed because a complex adjudication claim, #95-14700 is in process for a permit issued for a pond built by the Army Corp of Engineers in the 1950's.
2. The adjudication evaluation for the original overlapping claim #95-14700 has not started yet, and so it is unknown whether the remaining irrigation and irrigation from storage work needs to be completed for this right, and for what portions of it.
3. We were advised by IDWR that after adjudication is complete on the original claim, only non-allowed uses under the original claim would be allowed on this water right so there are no overlapping rights. The adjudication result will depend on the ability to collect people's written statements of evidence from the 1950's through the 1980's acceptable to IDWR.
4. There is a third water right, #95-2092 that runs with the land, allowing irrigation for an unspecified portion of 12 acres from portions of previous larger government lots. The lack of specificity for which portion is allowed to irrigate has delayed construction of further irrigation systems.
5. The permit holder is continuing to work on items #3 and #4 and requests a five year extension for reasons #1-5.

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

June 16, 2016

TP POST FALLS LLC
5469 WALKER ESTATES CRL
HOLLADAY UT 84117

REQUEST FOR EXTENSION OF TIME LETTER

RE: Permit No. 95-14515

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 **July 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.

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 **June 17, 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. **95-14515**

TP POST FALLS LLC
5469 WALKER ESTATES CRL
HOLLADAY UT 84117

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.