

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

\$50 fee

Received by MSRecpt No. NO409102Date 3/25/13

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. 65-23245 Date proof is due April 1, 2013

Name(s) of permit holder(s) James W. Smith and/or Mary B. Smith

Mailing address 11606 Cartwright Road City Boise State ID Zip 83703

Telephone no. (208) 342-1010 Email _____

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

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

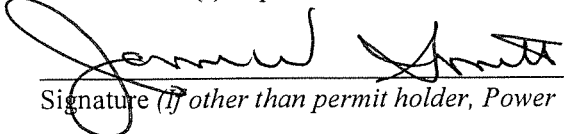
Well and conveyance system to irrigate approximately 29 acres has been completed and the water has been beneficially used to grow crops on all of those acres. Water from the well to irrigate the remaining 17 acres has to be brought across Squaw Creek.

Costing \$ 50,000 plus _____

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

The explanation is in the attached letter of March 25, 2013, from the permit holder's attorney to the Department

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


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

March 22, 2013
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 April 01, 2018.

Signed this 8th day of April, 2013

Jeff Peppersack, Chief
Water Allocation Bureau

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WESTBERG, McCABE & COLLINS, CTD.

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March 25, 2013

Of Counsel:
THOMAS J. McCABE

VIA HAND DELIVERY

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705

Re: Permit No. 65-23245
James W. Smith and/or Mary B. Smith

Dear Sir or Madam:

This letter is part of the enclosed Request for Extension of Time within which to submit proof of beneficial use on the above water right. The filing fee of \$50.00 is also enclosed. This is a request for a second extension requesting an extension of five more years. The following is the time table of this Permit:

Permit Issued:	April 23, 2008
Original Proof of Beneficial Use Date:	April 1, 2010
First Extension of Beneficial Use Entered to:	April 1, 2013

The purpose of this letter is to state the reasons for the Permit holders' inability to complete the remainder of the work to irrigate approximately 17 acres of the 46 acres included in the Application and Permit within the last three years.

As noted in the Request for the first extension there are approximately 46 acres included under the Permit, 29 acres lie on the west side of Squaw Creek which is where the well is located and the remaining land lies on the east side of the creek. That parcel comprises approximately 17 acres.

The land comprising approximately 29 acres and lying on the west side of Squaw Creek has been irrigated each year and crops grown on the land each year since 2008. All of the facilities necessary to put the water to beneficial use on that property have been in place and the applicant is ready to submit proof of beneficial use on that parcel but is not able to submit proof of beneficial use on the 17-acre parcel lying on the east side of Squaw Creek.

The applicant had planned taking water from the well and injecting it into Squaw Creek and then approximately a quarter of a mile down stream pumping that same quantity of water from the creek. Thus, if the applicant completes the work necessary following that Plan there are two points of diversion

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and one injection point. One of the points of diversion is where the well is located and a second would be where another pump would be located to lift water out of Squaw Creek. The injection point is in Squaw creek next to the well. The Application did not specify that detail. There was no discussion in the Application on how the 17-acre parcel would be irrigated and, as a result, the Application would appear to simply indicate that water would be conveyed from the well directly to the parcel located on the other side of the creek. The Permit holders feel that a pipeline carrying water across the creek and down to the other parcel is cost prohibitive.

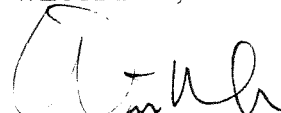
Also, as noted in the request for the first extension, a Permit holder cannot take water from the well and put it into Squaw Creek without first obtaining a NPEDS permit under the Federal Clean Water Act or, at a minimum, at least satisfying the EPA that the water from the well is not "polluted" as defined by the Clean Water Act. Squaw Creek has been classified as having water quality appropriate for the protection and maintenance of a viable aquatic life community for cold water species and its waters would provide a habitat for active self-propagating population of salmonoid fish. The concern on the pollution issue is whether the water from the well is too warm and whether the nutrients and dissolved minerals are such that the water would be considered a pollutant. The primary concern relates to the presence of arsenic and fluoride. The Permit holders must be extremely cautious before injecting water from a separate source into a stream since the offense can result in a felony.

The other issue the Permit holders have been grappling with is how to irrigate this 17-acre parcel once water from the well is on the east side of Squaw Creek. This parcel is steeper than that lying on the west side of the creek and is also uneven and rocky. The unevenness of the ground makes flood irrigation impossible. Hand lines seem to be out of the question because of the labor cost. Because of the labor cost, the only logical system would be to try to use wheel lines. The Permit holders are in the process of purchasing one or more wheel lines and will attempt to pump flood water from Squaw Creek before regulation has to take place to see if wheel lines are even practical. If that looks possible, it probably will require some modification over the period of the next several years, then Permit holders will know whether or not to pursue proof of beneficial use on both parcels or whether to abandon the proof on the 17-acre parcel.

Therefore, the Permit holders are requesting that the Department grant a second extension to the Proof of Beneficial Use extending the time period to April 1, 2018.

Very truly yours,

WESTBERG, McCABE & COLLINS, CTD.



William D. Collins