



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 • Web Site: www.idwr.idaho.gov

June 20, 2012

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

LARRY GRAY
VELMA GRAY
4546 TRESIZE RD
RAYMOND, WA 98577

RE: Permit No. 95-9342

Dear Permit Holder(s):

Enclosed is a copy of the Order Denying Request for Extension of Time, issued in response to a Request for Extension of Time you filed on March 10, 2012. Your Request for Extension of Time is denied because the department previously granted an extension based on due diligence and is not authorized to grant an additional extension according to Idaho code. This denial 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 unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

LAPSE NOTICE

You are hereby notified that under the provision of Idaho Code § 42-218A, the above referenced permit has lapsed and is of no further force nor effect. The permit can only be reinstated if you submit an acceptable proof of beneficial use to the department within (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report.

You state on your request for extension of time, "Domestic use completed and being used."

If water was put to beneficial use for the domestic portion of this permit, and you were in compliance with conditions of this permit prior to the date proof of beneficial use was due (May 1, 2012), you may file Proof of Beneficial Use (proof) with the department for the domestic amount as long as the amount is less than or meets the maximum diversion rate allowed for domestic use under this permit. In order to put water to use for the commercial component, you must do it under a separate permit. You can contact the Northern Regional Office of the Department at 208-762-2800 to reapply for a permit.

Enclosed is a copy of this permit for your reference, and a Statement of Completion form for your convenience. You can also find these forms on our website at: <http://www.idwr.idaho.gov/>. You can contact the Northern Regional Office of the Department at 208-762-2800 to reapply for a permit.

If you have any questions about this matter, please contact Darla Block at (208) 287-4945.

Sincerely,

Jeff Peppersack, Chief
Water Allocation Bureau

Enclosure(s)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of June, 2012, a true and correct copy of the documents described below was served by placing in the U.S. Mail, with postage prepaid and addressed to the following:

Document(s) Served: Preliminary Order Denying Request for Extension of Time, and
Explanatory Information to Accompany a Preliminary Order without a
Hearing

**LARRY GRAY
VELMA GRAY
4546 TRESIZE RD
RAYMOND WA 98577**

A handwritten signature in cursive script that reads "Darla Block". The signature is written in black ink and is positioned above a horizontal line.

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.