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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

RECEIVED
JUL 23 2007
DEPARTMENT OF
WATER RESOURCES

The Idaho Department of Water Resources will consider this form as 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 or beneficial use of water. There is a **FILING FEE** of \$50.00 to be included with this form when filed with IDWR.

Permit No. 63-10240

Name(s) of Permit Holder: Boise Project Board of Control

Address: P.O. Box 2139 City Boise State ID Zip 83701

Telephone No. (208) 344-1141 Date Proof is Due: August 1, 2007

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

See Attachment

Costing \$ _____

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

See Attachment

Permit holder(s) request an extension to August 1, 20 12

[Signature]
(Signature)* Project Manager

20 July 2007
(Date)

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to August 1, 2012

Signed this 24th day of July, 20 07
for Deborah J. Gibson
Jeff Peppersack,
Bureau Chief, Water Allocation Bureau

ATTACHMENT TO THE BOISE PROJECT BOARD OF CONTROL'S
REQUEST FOR EXTENSION OF TIME ON

PERMIT NO. 63-10240 (ARROWROCK)

July 2007

The Boise Project Board of Control ("BPBOC") requests an extension of time to submit proof of beneficial use for Permit No. 63-10240 (Arrowrock Hydroelectric Project). The Project is to be constructed on the existing Arrowrock dam, on the Snake River. This request is based on Idaho Code § 42-204(1).

The Board of Control applied for Permit No. 63-10240 on behalf of its member districts, the Boise-Kuna Irrigation District, the Nampa & Meridian Irrigation District, the New York Irrigation District, the Wilder Irrigation District, and the Big Bend Irrigation District, on April 19, 1984. The application was approved on August 6, 2002, with proof of beneficial use due on August 1, 2007. As BPBOC will not be able to provide proof of beneficial use on August 1, 2007, it is requesting an extension of 5-years.

The Districts have been diligently trying to develop the hydroelectric resource at Arrowrock Dam for many years. Development of the hydroelectric Project has been delayed by a number of circumstances. The Federal Energy Regulatory Commission issued a license for development of the Project in 1989. Because of drought conditions at that time, it appeared infeasible to begin construction of the project.

In the mid-1990s, the ESA listing of anadromous fish downstream in the Columbia and Snake Rivers caused greater uncertainty about the uses to which water would be put in the tributaries above, including on the Boise. Even though there are no anadromous fish in the vicinity of the Arrowrock Dam, or even in the Boise River, the uncertainty about the uses of stored water cause greater uncertainties in the viability of any hydroelectric facility, even one not within the habitat of the listed anadromous species.

Since the spring of 2004, the Districts have been working with Shaw/Stone & Webster, an engineering and construction firm of national prominence in the hydroelectric industry, to develop the Project. Shaw/Stone & Webster has consulted with Reclamation and completed a feasibility study and updated the study in September 2005. The Districts have entered into a power purchase and sales agreement with an Oregon public power entity, the Clatskanie People's Utilities District, to develop the Project, and for Clatskanie to purchase all of the output of the facility.

In the last three-years, the Districts have twice been poised to begin construction on the Arrowrock Hydroelectric Project. However, consultation requirement with the US Fish & Wildlife Service ("Service") and the Federal Energy Regulatory Commission ("FERC") caused additional delay in the development of the Project.

In 2004 the selected a contractor to design and build the Project. A plan was developed over the course of summer of 2004 to reduce the size of the Project and presented to FERC staff in submissions and in a meeting in FERC's offices in August of 2004. Based on this consultation with FERC staff, the Districts planned to meet the start of construction date by beginning manufacture of the component parts as permitted by Commission precedent and regulations. There was sufficient time in the schedule to meet the deadline. At that point, the Districts had spent nearly \$900,000 in preparing for construction.

The Fish and Wildlife Service had been insisting for some time that FERC consult with the Service on this Project under Section 7 of the Endangered Species Act because of the presence of bull trout in Arrowrock Reservoir. FERC had taken the position that there was no new discretionary federal action that required consultation. In 2004, the Service again requested that FERC engage in consultation.

In light of an anticipated March 2005 start of construction date, the Districts worked diligently with their contractor and had a feasibility study completed by December of 2004. The

Districts' representative previously met with the Service and provided them with all the information provided to FERC. However, the Service did not act until December, 2004. At the end of December 2004, the Service advised FERC and the Districts that it disagreed with the FERC's determination of no affect or not likely to adversely affect bull trout, and insisted on formal consultation, but stated that it would not be in a position to begin consultation on the Project until the end of March 2005, *after the deadline for start of construction*.

The Districts filed for a stay of the March, 2005 deadline, with the support of the Service. FERC, however, denied the request. Upon rehearing, the request was again denied. As a result of the Districts' inability to begin construction by the March, 2005, deadline, the federal license expired. The districts were forced to plead their case before Congress. The Districts presented to Congress their case for an extension of the license deadline, and the inactions of the Service and FERC, which were the direct cause of the District's failure to meet the deadline.

On December 13, 2006, Congress reinstated the Project's license that incorporates an extension to the construction deadline for the Project. According to the federal legislation, the Districts have until December 2009 to begin construction. The Districts hope to begin sooner and anticipate completing the Project and putting it into production by summer 2010.