



IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

August 19, 2025

CITY OF CASCADE
PO BOX 649
CASCADE, ID 83611

**RE: RETURNING APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF
WATER RIGHT NO. 65-10354**

Dear Applicant:

On May 18th, 2023, the Department of Water Resources (Department) received your Application for Extension for Time to Avoid Forfeiture of Water Right 65-10354. A letter requesting additional information to complete the review process was sent on September 10th, 2024. As of the date of this letter no significant information was provided to indicate any beneficial use occurred within the five years prior to the submission of your application (2018-2022). Therefore, I recommend the application be returned.

If you can provide information demonstrating that beneficial use occurred within the years 2018 through 2022, you are welcome to resubmit an Application for Extension of Time to Avoid Forfeiture. Department resources were expended to provide a thorough review of the application I am returning to you. Therefore, the application fees cannot be refunded.

Please note that a water right is not protected from forfeiture unless it is Leased into the Water Supply Bank, an Application for an Extension of Time to Prevent Forfeiture is approved, or an exception or defense to forfeiture applies as described under Idaho Code § 42-223.

If you have any questions regarding this matter, please contact me at (208) 287-4913 or skyler.cheever@idwr.idaho.gov.

Sincerely,

Skyler Cheever
Water Resource Agent, Sr. – State Office
Idaho Dept. of Water Resources

Enclosure(s).

RECEIVED
MAY 18 2023
DEPARTMENT OF
WATER RESOURCES

DENIED

APPLICATION FOR EXTENSION OF TIME TO AVOID FORFEITURE OF A WATER RIGHT

Section 42-222(4), Idaho Code, provides that a water right holder may apply to protect a valid water right from forfeiture. Upon a showing of reasonable cause, the Director may grant one (1) extension of five (5) years in which to resume use.

1. Water Right No. 65-10354 (one right per application)
☒ Attach a copy of the water right record, available at <http://www.idwr.idaho.gov>, *Water Right Transfers, Step 1*, or by contacting any Department office.
2. Applicant City of Cascade Phone (208) 382-4279
3. Are you the current water right holder of record? Yes ☒ No ☐
☐ If no, provide documentation of your authority to sign on behalf of the right holder -- OR -- attach a *Notice of Change in Water Right Ownership* form along with the required documentation and fee.
4. Mailing address ☐ Same as water right record -- OR -- complete the following information:
 Address P.O. Box 649 City Cascade
 State Idaho Zip code 83611 Email mayor@cascadeid.us
5. Give the last date water was beneficially used Beneficial use ongoing (as of 5/17/23)
6. Explain your reasons for non-use of the water right and your reasons for requesting an extension of time.
 Attach additional documentation if needed.
This water right continues to replenish the ground water relied upon by the City of Cascade.
This water right was leased to the Water Supply Bank until at least 2017.
The City of Cascade would like to re-lease this water right to the Water Supply Bank.

The information contained in this application is true to the best of my knowledge.

Signature of applicant or authorized agent

Judith R. Nissula
Print name (and title, if applicable)

5/17/23
Date

James Conwinkle
Signature of applicant or authorized agent

Janice Van Winkle

Print name (and title, if applicable)

5/17/23
Date

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby
said application, subject to the following conditions or reasons:

The right holder shall resume beneficial use of water *on or before* _____

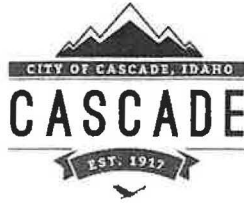
Signed this _____ day of _____, 20____. _____
Title: _____

Stamped received ☐ Fee received by Ku Date 5.18.23 Receipt # C116284

RECEIVED

MAY 18 2023

DEPARTMENT OF
WATER RESOURCES



May 17, 2023

Jean Hersley
Idaho Department of Water Resources
322 E. Front St., Suite 648
Boise, ID 83702-0098

Re: Non-Forfeiture of Water Right No. 65-10354

Dear Jean,

Enclosed, please find a copy of the City of Cascade response to the March 10, 2023 packet you sent related to the Water Right noted above.

1. \$100.00 fee payment;
2. Water Right Record (see enclosed); and
3. Response Letter (see enclosed).

Please note the change in mailing address for the City of Cascade.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Judith Nissula', is written over the word 'Sincerely,'.

Judith Nissula, Mayor
City of Cascade

WHITE PETERSON

ATTORNEYS AT LAW

KATELIN E. BARTLES
KELSY R. BRIGGS
MARC J. BYBEE
WM. F. GIGRAY, III
DANIEL W. GOODMAN
MATTHEW A. JOHNSON
BRYAN W. KNOX
WILLIAM F. NICHOLS *

WHITE, PETERSON, GIGRAY & NICHOLS, P.A.
CANYON PARK AT THE IDAHO CENTER
5700 E. FRANKLIN RD., SUITE 200
NAMPA, IDAHO 83687-7901

TEL (208) 466-9272
FAX (208) 466-4405

EMAIL: dgoodman@whitepeterson.com

RECEIVED

MAY 18 2023

DEPARTMENT OF
WATER RESOURCES

BRIAN T. O'BANNON *
PHILIP A. PETERSON
WILLIAM L. PUNKONEY

TERRENCE R. WHITE
OF COUNSEL
WILLIAM F. "BUD" YOST
OF COUNSEL

* Also admitted in OR

May 16, 2023

Jean Hersley
Idaho Department of Water Resources
322 E Front Street, Suite 648
Boise, ID 83702

Re: Non-Forfeiture of Water Right No. 65-10354

Dear Jean Hersley,

I am writing to you on behalf of the City of Cascade as their legal representative and in the capacity of City Attorney for the City of Cascade. We received your May 9, 2023 letter regarding Water Right No. 65-10354 which you claim has been abandoned or forfeited. Pursuant to I.C. §§ 42-223(2) and (12), this water right has not been lost through abandonment nor forfeiture and remains valid for the following reasons:

1. **Municipal Provider Status:** Water Right No. 65-10354 has been continuously held by the City of Cascade, which operates as a municipal provider, for the specific purpose of meeting reasonably anticipated future needs. As you are aware, I.C. § 42-223(2) expressly protects water rights held by a municipal provider to fulfill such needs. The City of Cascade has diligently managed and maintained this water right in accordance with the law and has not engaged in any activities indicating an intent to abandon nor forfeit it.
2. **Reasonably Anticipated Future Needs:** The quantity of water authorized for use under the license for Water Right No. 65-10354 remains necessary to meet reasonably anticipated future needs of the City of Cascade. The City of Cascade has thoroughly evaluated its current and projected water requirements, and it has determined that the full allocation of this water right is still essential to fulfill its current and future obligations as a municipal provider ensuring the sustainable development of the community.
3. **Resumption of Use:** Despite the passage of more than five (5) years of nonuse, the City of Cascade's submitted application seeking to re-lease Water Right No. 65-10354 to the Water Supply Bank constitutes a resumption of use pursuant to I.C. § 42-223(12). Since no third party has made a claim of right to Water Right No. 65-10354 prior to (nor since) said application's submission, Water Right No. 65-10354 remains valid and has been neither abandoned nor forfeited.

Jean Hersley
Idaho Department of Water Resources
May 16, 2023
Page 2

Given these considerations, it is clear that Water Right No. 65-10354 has not been abandoned nor forfeited and thus cannot be subject to such a determination. The legislative intent behind I.C. § 42-223(2) is to safeguard water rights held by municipal providers, acknowledging their critical role in providing essential services to the public. The City of Cascade has met all statutory requirements and has actively maintained this water right for the sole purpose of meeting reasonably anticipated future needs.

As such, we respectfully insist that you acknowledge the validity of Water Right No. 65-10354 and dismiss any notions of abandonment or forfeiture. The City of Cascade remains committed to responsibly managing its water resources and ensuring the sustainable growth and development of the community it serves.

We look forward to a prompt resolution of this matter in accordance with the applicable provisions of the law. Thank you for your attention to this important issue.

Sincerely,

Daniel W. Goodman, City Attorney

"W:\Work\C\Cascade, City of 22248\DWG\Water Rights\2023.05.16 Response Letter to Water Supply Bank - Alleged Forefeiture of Right.doc"

Cheever, Skyler

From: Cheever, Skyler
Sent: Tuesday, June 13, 2023 1:34 PM
To: mayor@cascadeid.us
Subject: Application for Extension of Time to Avoid Forfeiture for Water Right 65-10354

Hello,

I am currently reviewing your application for Extension of Time to Avoid Forfeiture. As is stands, without more information regarding use, nonuse is beyond the end of the 6th year of nonuse. The water right was decreed in 2000 and would be protected for that year. However, from 2001-2004 nonuse occurred, 4 years. Then the water right was leased into the water supply bank in 2005-2015 for an "indefinite" period. Then the lease was renewed for an additional 5 years, until the end of 2020. The water right was not leased into the WSB, nor an extension was filed for the next two years, 2021-2022. This means it would be unlikely the Department could grant an Extension without further information regarding when use was resumed. Pumping records, photographs, Aerial photograph, etc. could be used as evidence of use. In your application you state that use resumed on 5/17/2023, if you have any documented evidence of that please provide that to me. If you provide credible evidence, you could be exempt from forfeiture under Idaho Code § 42-223(12). If you have any questions, please let me know.

Best,

Skyler

Skyler Cheever
Water Resource Agent, State Office
Email: skyler.cheever@idwr.idaho.gov
Phone: 208-287-4913



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Governor Brad Little

Director Mathew Weaver

September 10, 2024

CITY OF CASCADE
PO BOX 649
CASCADE, ID 83611

**RE: ADDITIONAL INFORMATION REQUEST FOR PROCESSING APPLICATION FOR
EXTENSION OF TIME TO AVOID FORFEITURE FOR WATER RIGHT 65-10354**

Dear Applicant:

The Department of Water Resources Department acknowledges receipt of your Application for Extension of Time to Avoid Forfeiture. A preliminary review of your application has been completed and it has been determined that additional information is required to proceed with processing.

Please provide the following information within 30 days of the date of this letter or the application will be returned:

- In Section 5 on the application, you state beneficial use has been “ongoing as of May 17th, 2023”. What does “ongoing use” entail? How long has water been or is still being diverted? For what uses, lumped within municipal use, is WR 65-10354 utilized? If irrigation is occurring, where and how many acres? How much (diversion rate or volume) water is used and what is the duration of use?
- In Section 6 on the application, you state “this water right continues to replenish the groundwater relied upon the City of Cascade”. Please provide information confirming how much and often WR 65-10354 was used to “replenish groundwater” during the determined nonuse period (2001-2004, and 2021- Present).
- Any additional information confirming beneficial use of WR 65-10354 within the determined nonuse period when the WR was not leased into the Water Supply Bank (2001-2004 and 2021-Present). Information confirming beneficial use can include but is not limited to pumping/diversion records, confirmed irrigated acres, or information confirming any other use utilizing WR 65-10354 during the nonuse period.

The Department will continue processing your application once you have submitted the requested information. If you have questions regarding this matter, please contact me at (208)-287-4913 or skyler.cheever@idwr.idaho.gov.

Sincerely,

Skyler Cheever
Water Resource Agent, Sr – State Office
Idaho Department of Water Resources

Enclosures: Copy of Application for Extension of Time to Avoid Forfeiture.