



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

December 4, 2023

NELSON DITCH CO
C/O DAX KELLER
2017 E HIGHWAY 36
PRESTON ID 83263

Re: Request for Extension of Time to File Adjudication Claim(s)
Nelson Ditch Co. 13-970. 1974 adjudication (11-1055)

Dear Mr. Keller,

The Idaho Department of Water Resources received a *Request for Extension of Time to file Adjudication Claim(s)* ("request") from you indicating that additional time was required to make the determination if PacifiCorp's pending claim to storage water held in Bear Lake will represent your interests. Unfortunately, it was not clear what date you have requested for the extended filing deadline.

I am returning the submitted extension request to you as incomplete. You may complete the form and return it with a proposed filing deadline.

Please feel free to contact me if you have questions.

Respectfully,

Craig L. Saxton
Adjudication Section Manager
322 E Front St
Boise ID 83720-0098
Craig.saxton@idwr.idaho.gov

RECEIVED

NOV 29 2023

IDWR/Preston

State of Idaho
Department of Water Resources
REQUEST FOR EXTENSION OF TIME
TO FILE ADJUDICATION CLAIM(S)

The Idaho Department of Water Resources will consider this form as a request by the claimant for an additional period of time to file an adjudication claim as allowed under Section 42-1409(8), Idaho Code.

NELSON DITCH CO c/o DAX KELLER (208) 852-6586
Name of Claimant Phone Number
2017 E HIGHWAY 36 DAX KELLER@GMAIL.COM
Mailing Address E-mail Address
PRESTON ID 83263
City State Zip
FRANKLIN December 8, 2023
County(ies) where place of use is located Date claim originally due
13-970 5/01/1880 APR 20 TO SEP 30 6.5 cfs
Identify water right(s) for which extension is requested

State why an extension of time is requested, explaining how a diligent effort has been made to meet the deadline:

See attached.

Claimant requests an extension to See attached explanation., 20__

[Signature] 29 NOVEMBER, 20 23
Signature Date of request
President
Title

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

The above request for extension of time is hereby [☐ granted] [☐ denied] for the following reasons:

and if granted the filing deadline is extended to _____, 20__

Signed this _____ day of _____, 20__

Director or his designated agent

Mail to: Idaho Department of Water Resources
322 E. Front St., PO Box 83720
Boise, ID 83720-0098

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NOV 29 2023 Attachment to Request for Extension of Time to File Adjudication Claims

IDWR/PacifiCorp

Claimant is a canal company serving land in the Bear River Basin. The Bear River Basin Adjudication (BRBA) Court has not yet sent a commencement notice for the place of use of Claimant's water rights.

Claimant also owns storage water in Bear Lake. The BRBA Court has issued a Commencement Notice for Basin 11, mailing Group 2, which encompasses Bear Lake.

Claimant claims equitable title to storage in Bear Lake in accordance with *U.S. v. Pioneer Irrigation District*, 144 Idaho 106 (2007). Based on that decision, PacifiCorp holds nominal legal title and Claimant holds equitable title to storage water in Bear Lake. Claimant anticipates that PacifiCorp will be the named owner of the storage water right in Bear Lake, and that Claimant's equitable title will be memorialized with a condition on the BRBA partial decree as prescribed in *U.S. v. Pioneer Irrigation District*.

Assuming Claimant's interest is memorialized with a condition, it seems unnecessary for Claimant to file a claim to a storage water right in Bear Lake. Rather, Claimant's interest can be protected by the inclusion of a condition on the claim filed by PacifiCorp.

Claimant is currently working with PacifiCorp in an effort to ensure that the claim to a Bear Lake storage right filed by PacifiCorp properly recognizes Claimant's equitable title to Bear Lake storage. Claimant anticipates that these discussions will not be completed by the December 8, 2023, claim deadline for Basin 11, mailing Group 2.

In the event PacifiCorp files one or more water right claims for Bear Lake storage that do not acknowledge, to the satisfaction of Claimant, its equitable title in Bear Lake storage, Claimant may need to file its own claim for storage in Bear Lake. In the event Claimant is required to file its own claim, the filing fee under Idaho Code 42-1414(1)(b)(i) will be calculated based on the irrigated acres within Claimant's service area. Since the BRBA Court has not yet filed a commencement notice for the place of use of Claimant's water rights, and due to the large and complex service area of Claimant's water rights, Claimant has not completed an accounting of all irrigated acreage within its service area.

Therefore, Claimant respectfully requests pursuant to Idaho Code Section 42-1409(8) that the time for filing Claimant's notice of claim for storage water in Bear Lake, if necessary, be extended to the deadline set forth in the Commencement Notice issued by the BRBA Court for the area encompassing the place of use of Claimant's water rights.