



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 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

March 11, 2013

CITY OF EAGLE
PO BOX 1520
EAGLE ID 83616

RE: Permit Nos. 63-32089 & 63-32090

Dear Permit Holder:

Enclosed are copies of the approved requests for extension of time submitted in connection with the above referenced permits which extends the time within which to submit proofs of beneficial use to November 12, 2015. Please note that the department granted these extensions due to circumstances beyond your control, which kept you from completion of developing the permits.

Please note that the department has granted this period of your extensions based on the actual time these permits were subject to Department and judicial review during the last development period, according to Section 42-204(1), Idaho Code.

It is important that you work diligently toward the completion of the development. You may apply for one additional extension for up to five more years under due diligence on or before the new proof due date of November 12, 2015.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the Department. Please contact any office of the Department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

If you have any questions regarding this matter, please feel free to contact the department.

Sincerely,

A handwritten signature in black ink that reads "Darla Block".

Darla Block
Technical Records Specialist

cc: HOLLADAY ENGINEERING CO
SPF WATER ENGINEERING



SPF WATER
ENGINEERING

RECEIVED

FEB 14 2013

DEPARTMENT OF
WATER RESOURCES

February 13, 2013

Darla Block
IDWR State Office
PO Box 83720
Boise, ID 83720-0098

Subject: Extensions of Time; Permits 63-32089 and 63-32090

Dear Darla,

Enclosed on behalf of the City of Eagle are Requests for Extension of Time for permits 63-32089 and 63-32090. The proof due dates for both permits is March 1, 2013.

Check No. 7461 is enclosed for the \$100 filing fee.

Please let me know if there are any questions. Thanks Darla.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori Graves".

Lori Graves
Water Rights Specialist

Cc: Mike Echeita, City of Eagle Public Works
Bruce Smith

Enclosures

SPF file number: 307.0040

RECEIVED

FEB 14 2013

Form No. 204 Rev. 10/12

DEPARTMENT OF WATER RESOURCES STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

\$50 fee Received by HP Receipt No. 0096552 Date 2-14-13

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. 63-32090 Date proof is due 3/1/2013

Name(s) of permit holder(s) City of Eagle

Mailing address PO Box 1520 City Eagle State ID Zip 83616

Telephone no. 208-939-6813 Email

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

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

In accordance with the Department's Final Order for Permits 63-32089 and 63-32090, a ground water monitoring plan was prepared and submitted to the Department June 26, 2012 and was recently approved August 22, 2012. Two municipal wells have been drilled (with pumps and pump houses and infra-structure connecting the wells to the City of Eagle municipal water system.

Costing in excess of \$1 million

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

See attached explanation

Permit holder(s) request an extension to November 12, 20 20.

Signature (If other than permit holder, Power of Attorney must be supplied) Date 2-8-13

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 42-204 and/or 42-218, Idaho Code.

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 November 12, 2015.

Signed this 17th day of March, 2013

Jeff Peppersack, Chief Water Allocation Bureau

Explanation for Extension of Time:

Proof of beneficial use for permits 63-32089 and 63-32090 are currently due March 1, 2013, which is based on five years from the date of a Final Order regarding both permits issued by the Department February 26, 2008. Normally, an additional 5 years is proposed for extensions, however these two permits have been subject to Department and judicial review since the Final Order was issued. As provided in Idaho Code 42-204, subsection 5, these review periods were not something the applicant had control of and consequently, this time should be credited towards the permits' future development time allowances.

The following is a chronology of the Department and judicial review periods:

IDWR Final Order Issued	2/26/08
Eagle Petition to Reconsider Final Order	3/11/08
Order on Reconsideration of Final Order	<u>7/03/08</u>
Review Days	115
Petition for Review by District Court	8/11/08
District Court Decision	<u>8/18/09</u>
Review Days	373
Supreme Court Appeal	9/28/09
Supreme Court Decision	<u>2/07/11</u>
Review Days	498

Total Requested Credit Days: $115 + 373 + 498 = 986$ days (2 years + 256 days)

Total Requested Extension Request: 5 years + 2 years + 56 days = 7 years + 56 days

RECEIVED

FEB 14 2013

Form No. 204 Rev. 10/12

DEPARTMENT OF WATER RESOURCES STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

\$50 fee

Received by HP

Receipt No. 0096552

Date 2-14-13

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. 63-32089 Date proof is due 3/1/2013

Name(s) of permit holder(s) City of Eagle

Mailing address PO Box 1520 City Eagle State ID Zip 83616

Telephone no. 208-939-6813 Email

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

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

In accordance with the Department's Final Order for Permits 63-32089 and 63-32090, a ground water monitoring plan was prepared and submitted to the Department June 26, 2012 and was recently approved August 22, 2012. Two municipal wells have been drilled (with pumps and pump houses) and infrastructure connecting the wells to the City of Eagle municipal water system.

Costing in excess of \$1 million

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

See attached explanation

Permit holder(s) request an extension to November 12, 20 20.

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

Date 2-8-13

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 42-204 and/or 42-218, Idaho Code.

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 November 12, 2015.

Signed this 11th day of March, 2013

Signature of Jeff Peppersack, Chief Water Allocation Bureau

Explanation for Extension of Time:

Proof of beneficial use for permits 63-32089 and 63-32090 are currently due March 1, 2013, which is based on five years from the date of a Final Order regarding both permits issued by the Department February 26, 2008. Normally, an additional 5 years is proposed for extensions, however these two permits have been subject to Department and judicial review since the Final Order was issued. As provided in Idaho Code 42-204, subsection 5, these review periods were not something the applicant had control of and consequently, this time should be credited towards the permits' future development time allowances.

The following is a chronology of the Department and judicial review periods:

IDWR Final Order Issued	2/26/08
Eagle Petition to Reconsider Final Order	3/11/08
Order on Reconsideration of Final Order	<u>7/03/08</u>
Review Days	115
Petition for Review by District Court	8/11/08
District Court Decision	<u>8/18/09</u>
Review Days	373
Supreme Court Appeal	9/28/09
Supreme Court Decision	<u>2/07/11</u>
Review Days	498

Total Requested Credit Days: $115 + 373 + 498 = 986$ days (2 years + 256 days)

Total Requested Extension Request: 5 years + 2 years + 56 days = 7 years + 56 days

Case and Attorney Assigned	Course of Proceedings/ Last Action	Future Action	Issues
<p>City of Eagle v. IDWR, Sup. Court Docket No. 36970 (Ada Co. Case No. CVOT08-15003) (appeal of IDWR order approving Application for Permit Nos. 63-32089 and 63-32090 in name of City of Eagle, upon conditions) (case assigned to Judge McKeel) (GLB, JWH, , Shasta H-K)</p>	<p>Petition for Judicial Review filed 8/11/08. Order Governing Judicial Review 8/13/08. IDWR Notice of Appearance 8/15/08. Order Approving Extension of Time 10/01/08. Notice of Lodging Record with Agency 11/07/08. Order Approving Second Extension 11/10/08. IDWR Notice Regarding Status of Record 11/21/08. Record re-lodged with agency 12/05/08. Order of Mediation 12/10/08. Order Rescinding Order of Mediation 1/12/09. Eagle Objection to Transcript 1/20/09. Order Approving Fourth Extension 2/18/09. Transcript and Record lodged with the Court 3/10/09. City of Eagle Appellant's Brief filed 4/14/09. IDWR Motion to dismiss filed 5/01/09. Memorandum in Support of Motion to dismiss filed 5/01/09. Affidavit of Phillip J. Rasser filed 5/01/09. IDWR Motion for Extension of Time to File Brief 5/11/09. Eagle Objection to Extension 5/13/09. Eagle Response to Motion to Dismiss 5/14/09. Order Granting Extension of Time 5/22/09. Order of Dismissal 8/18/09. Notice of Appeal to the Idaho Supreme Court filed on 9/28/09. Request for Additional Record filed by IDWR on 10/13/09. District court record lodged 11/19/09. The Supreme Court acknowledged the District Court's record filed 12/21/09 and set the deadline for the Appellant Brief. Brief of Appellant filed 1/25/10. IDWR Respondent's Brief filed 2/23/10. Appellant Reply Brief filed 3/15/10. Oral Argument has been requested by both parties. Substitution of Counsel filed on 4/2/2010.</p>	<p>Argument to be scheduled by the Court, likely this Fall.</p>	<p>ISSUE BEFORE DISTRICT COURT: Whether IDWR properly limited the use of 8 cfs under the approved permits to fire fighting purposes, and 2) Whether IDWR properly decline to recognize use of water for reasonably anticipated future needs of the municipality?</p> <p>ISSUE BEFORE SUPREME COURT: Whether the district court erred in dismissing the City's appeal as untimely filed under <i>Erickson v. Idaho Board of Professional Engineers?</i></p>