

INSTRUCTIONS FOR FILING A REQUEST FOR EXTENSION OF TIME TO SUBMIT PROOF OF BENEFICIAL USE

Every permit to appropriate water is issued with a completion deadline called a proof of beneficial use due date. The permit holder may file a request for extension of time to submit this proof according to Sections 42-204 and 42-218, Idaho Code. See www.idwr.idaho.gov for more information about these statutes. If the development of the water use authorized by your permit is not complete and you need more time to finish the development prior to submitting proof of beneficial use, you may apply for more time as follows:

- Read the following instructions carefully.
- Complete the Request for Extension of Time form.
- Submit the non-refundable filing fee of \$50.00 with the Request for Extension of Time form.

The Request for Extension of Time form must state the extent of development that has occurred, the costs incurred, and the reason(s) the work has not been completed. The department may extend the proof due date of a permit when a permit holder is prevented from proceeding with his work for one of the following reasons:

Good cause: You must provide the reason for delay, along with evidence that you have proceeded with due diligence. Evidence of due diligence may include well drilled, pump installed, some acres now irrigated, fish propagation ponds constructed, sprinkler system purchased, etc. Lack of financial resources, the state of the economy or personal illness usually cannot be considered adequate reasons to approve a Request for Extension of Time.

After a permit holder has had five years to develop a permit, usually only one extension of time can be granted for good cause, for up to five more years. If your permitted diversion rate is 2.0 cfs or more or the permitted number of irrigated acres is 100 acres or more, a total of 10 years may be granted for good cause after the initial five year development period allowed.

Government agency action or litigation that qualifies for an extension: You may also receive an extension of time for a lack of required consent or final approval by a government agency (right-of-way, easement, or land classification such as Desert Land Entry or Carey Act) or for litigation related to ownership of the water if it has prevented development of the permit.

When basing your extension on delays caused by a government agency or by litigation, you must provide documentation to establish the time-period that development was delayed. The department can only extend the development period of a permit for the actual time a government agency or litigation delayed your development based on the evidence of delay submitted with the request for extension of time. If no documentation is provided, the department will review the request based on good cause.

Additional basis for granting an extension: The water project is of a large scale -- storage of more than 10,000 acre-feet, or diversion of more than 25,000 acre-feet in one irrigation season for an irrigation project of at least 5,000 acres; or when the water right permit is held by the United States of America. A written explanation for these requests must be submitted.

NOTE: In no case should a Proof of Beneficial Use form and a Request for Extension of Time form both be submitted. If your water development project is complete, the proof of beneficial use form should be completed and filed. If the project has not been initiated and does not fit into any of the exceptions listed above, then neither form should be filed with the department. The permit will lapse and shall become of no further force nor effect.