



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 Gary Spackman

December 10, 2021

MELLIN PROPERTIES LTD PARTNERSHIP
10100 W FRANKLIN RD
BOISE ID 83709-0333

REQUEST FOR EXTENSION OF TIME

RE: Permit No. 63-33141

Dear Permit Holder:

On December 9, 2021, the Department received your request to withdraw the Requests for Extension received on September 9, 2021 and October 4, 2021 for permit 63-33141. The Department acknowledges that these Requests for Extension have been withdrawn. A refund has been requested and will arrive under separate cover from the State Controller's Office.

If you have any questions, please contact me at (208) 287-4920 or debby.judd@idwr.idaho.gov

Sincerely,

Debby Judd
Technical Records Specialist

Enclosures

Judd, Debbi

From: Judd, Debbi
Sent: Thursday, December 9, 2021 2:30 PM
To: IdwrPayable
Subject: Refund request

TO: Fiscal

FROM: Debbi Judd

DATE: December 9, 2021

RE: Refund: Requests for Extension

Please refund \$100. Two extension requests were withdrawn.

NAME: MELLIN PROPERTIES LTD PARTNERSHIP

ADDRESS: 10100 FRANKLIN RD
BOISE ID 83709-0333

RECEIPT #S: C110874 & C111065

Thank you.
Debbi

Debbi Judd
Technical Records Specialist
debbi.judd@idwr.idaho.gov

Idaho Department of Water Resources
322 E Front St
PO Box 83720
Boise, ID 83720-0098
208-287-4920
www.idwr.idaho.gov

RECEIVED

DEC 09 2021

DEPARTMENT OF
WATER RESOURCES

Mellin Properties Ltd Ptr
10100 W Franklin Rd
Boise ID 83709
December 6, 2021

Idaho Department of Water Resources
Attn: Debbie Judd
PO Box 83720
Boise, ID 83720-0098

Dear Madam/Sir:

RE: Request for Extension of Time for Permit No. 63-33141

In response to a phone conversation on Friday, December 3, 2021, on the above permit it appears that there have been two duplicate requests for an extension of time for the above permit.

Therefore I withdraw my extension requests received by the Department on September 9, 2021, and the one received on October 4, 2021, in deference to the one received subsequent to those dates and apparently still valid. You may, if appropriate, refund the applicable fees.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph Mellin", written in a cursive style.

Ralph Mellin
General Partner

RECEIVED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Received by ICWRecpt No. C110874Date 9-9-21

SEP 09 2021

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

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. 63-33141 related to 63-34046 Date proof is due Evidently August 28, 2021
 Name(s) of permit holder(s) Mellin Properties Limited Partnership
 Mailing address 10100 W. Franklin Rd. City Boise State ID Zip 83709-0333
 Telephone no. 208-250-2963 Email rmellinla@msn.com

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

If no work has been completed, show "none". An 8 inch guide well to be enlarged to 20 inches has been drilled to 370 feet with static water at 280 feet.

Except for the top 64 feet, this was through rock ending at gravel. The pipe and electric line to the pivot pad, elementary boundary fencing, and offset disking has been completed. An attorney has started eminent domain proceedings to acquire a power line easement for 1/4 mile from a non-negotiator. Costing \$45,000/160 acres. owner and IPC has applied to the BLM for a second 1/4 mile of easement.

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

Acquiring delay from eminent domain proceedings and BLM delay each for an 1/4 mile of power line easement. Letter starting eminent domain proceedings enclosed.

WITHDRAWN

Permit holder(s) request an extension for five year(s) from March 1, 2020

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

September 2, 2021

Date

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(s) 42-204 and/or 42-218, Idaho Code.

☐ IT IS HEREBY ORDERED that the permit is **REINSTATED** with the priority date advanced to _____, 20____.

☐ IT IS HEREBY ORDERED that the above request for extension of time is **APPROVED**, and the time within which to submit proof of beneficial use is extended to _____, 20____.

Signed this _____ day of _____, 20____

Shelley W. Keen, Chief
 Water Allocation Bureau



800 West Main Street, Suite 1300
Boise, Idaho 83702
Main 208.562.4900
Fax 208.562.4901

A Professional
Law Corporation

Fredric V. Shoemaker
Attorney at Law
Direct 208.562.4900
FShoemaker@parsonsbehle.com

June 17, 2021

VIA US MAIL

Ray Montierth
825 Heartland Drive
Nampa, Idaho 83686

THIS LETTER SUPERCEDES AND REPLACES MY LETTER OF JUNE 15, 2021

**Re: Notice of Intent to File Suit
PB&L File No. 30207.001**

Dear Mr. Montierth:

I represent and write on behalf of Mellin Properties Limited Partnership ("Mellin Properties"). As you know from prior communications with Ralph Mellin, the Principal and General Partner of Mellin Properties, my client owns 160 acres located approximately one-quarter mile south of property you own, on the west side of and adjoining the future right-of-way for Cole Road, when extended.

Mellin Properties requires both electrical service, to fully and fairly develop its property, and needs to document its existing vehicular and pedestrian access along the section line that will become the center line of Cole Road when extended. Relatedly it needs to widen that right-of-way and formally document that access to formally correspond with the prescriptive and historic easement's long recognized along section lines in Ada County.

While I understand Mr. Mellin has explained this to you, let me again document by letter, the purpose of and basis for the request for electrical service is to irrigate the property. Mr. Mellin has already drilled a test well in the northeast corner of the property near the Cole Road right-of-way, extended. There is no feasible way to provide irrigation water to this property by gravity flow so an electric pump is necessary to draw the water from the aquifer below this ground. Idaho law, specifically Idaho Code Section 7-701, authorizes the use of eminent domain for roads accessing farms and for electrical distribution and transmission lines for farming and other purposes.

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Although not everyone is aware of this, the power of condemnation is not limited to regulated utilities but instead, condemnation, under Idaho law, is generously available to individuals and corporations when it is reasonably necessary to provide access to farms and for electrical distribution lines for power facilities and other purposes like those required by my client to provide irrigation water for its lands. I.C. § 7-701.

In addition to the rights and powers available to Mellin Properties under Idaho's eminent domain laws, Mellin Properties has rights to access its property both for pedestrian, vehicular, and electrical power purposes based upon an easement by necessity.

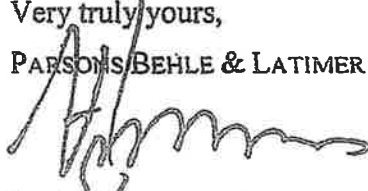
Thirdly, and finally, at least with respect to pedestrian and vehicular access, Mellin Properties has a prescriptive easement that, although not precisely defined, exists at least for its historic purpose of access to these 160 acres. and my client has the right to file a lawsuit to clarify and specify exact limits and dimensions of that prescriptive easement.

Mellin Properties has been negotiating in good faith to purchase the pedestrian and vehicular access rights and I am authorized to again offer \$10,000 upon securing your written agreement for a pedestrian and vehicular easement 25 feet in width, for the distance of about 8,200 feet described above. The written easement would be suitable for public access and transferable to a public entity, like the Ada County Highway District. Likewise, the 30-foot wide easement for electrical distribution lines needs to expressly provide that it is transferable to and for the benefit of an electric utility company.

Obviously, the dimensions of both the pedestrian and vehicular easement and the electrical distribution line easement will need to be more precisely defined in any agreement reached, as they would be in the lawsuit I am prepared to file on behalf of my client if negotiations are not successful.

If you are interested in negotiating a resolution of my client's need to acquire these easements across your property without the necessity of filing suit, please contact me or have your attorney do so, within twenty (20) days of the date of this letter, failing which, I have been authorized to file suit. Thank you.

Very truly yours,
PARSONS BEHLE & LATIMER


Fredric V. Shoemaker
Attorney at Law

FVS:kea

\$50 fee
 Received by KU
 Recpt No. CH1065
 Date 10-4-21

RECEIVED

STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES

OCT 04 2021 REQUEST FOR EXTENSION OF TIME

DEPARTMENT OF
 WATER RESOURCES

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. 63-33141 Date proof is due approximately on Oct 6 2021
 Name(s) of permit holder(s) Mellin Properties Limited Partnership
 Mailing address 10100 W. Franklin Rd. City Boise State ID Zip 83709-0333
 Telephone no. 208-250-2963 Email rmellinla@msn.com

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

If no work has been completed, show "none". An 8 inch guide well to be enlarged to 20 inches has been drilled to 370 feet with static water at 280 feet.

Except for the top 64 feet, this was through rock ending at gravel. The pipe and electric line to the pivot pad, elementary boundary fencing, and offset diskimg has been completed. An attorney has started eminent domain proceedings to aquire a power line easement for 1/4 mile from a non-negotiated. Costing \$45,000/160 acres. owner and IPC has applied to the BLM for a second 1/4 mile of easement. Also see attached additional information. The permit holder(s) has been unable to complete the remainder of the work for the following reasons: Aquiring delay from eminent domain proceedings and BLM delay each for an 1/4 mile of power line easement.

Permit holder(s) request an extension for five year(s) from March 1, 2020.

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

September 30, 2021
 Date

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(s) 42-204 and/or 42-218, Idaho Code.

☐ IT IS HEREBY ORDERED that the permit is **REINSTATED** with the priority date advanced to _____, 20____.

☐ IT IS HEREBY ORDERED that the above request for extension of time is **APPROVED**, and the time within which to submit proof of beneficial use is extended to _____, 20____.

Signed this _____ day of _____, 20____

Shelley W. Keen, Chief
 Water Allocation Bureau

RECEIVED

OCT 04 2021

September 30, 2021

DEPARTMENT OF
WATER RESOURCES

Additional information for permit no. 63-33141

The past well driller, Garrett Post - Treasure Valley Drilling LLC, has been contacted and has agreed to start the expanded drilling in about ten days from the 8-inch hole to the final 20-inch hole.

It is expected to also soon install a sprinkler system, then sprinkle a fall seeded winter wheat/barley crop with a diesel driven pump.