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APR 03 2020

DEPARTMENT OF
WATER RESOURCES

Idaho Department of Water Resources
PO Box 83720
Boise, Idaho 83720-0098

Mellin Properties Limited Partnership
Attn: Reconsideration of Preliminary Order
10100 W Franklin Rd
Boise, Idaho 83709-0333
April 2, 2020

RE: Reconsideration of Permit No. 63-33141 Preliminary Order in letter of March 17, 2020

Dear Sir/Madam:

In response to the above letter giving a PRELIMINARY ORDER for a Request for Extension of Time received on March 20, 2020 (shown on the receipt envelope copy), I am petitioning for Reconsideration of the PRELIMINARY ORDER as suggested was available in that letter.

I am asking for a longer Extension of Time than given of until April 7, 2020. My Request asked for a maximum extension for five years, which is hereby requested.

My first request for an Extension of Time signed on February 24, 2015, noted the single reason that permit was not developed in the first five years was that I needed to first purchase the adjacent 80 acres, now related to Permit No. 63-34046, to combine with this permit's 80 acres to make an economic unit for the use of a single deep well and a full circle irrigation pivot. That first request was granted with the acceptance of that single reason of developing a project of 160 acres as being the good cause for the extension of time request.

I on December 11, 2019, asked for this second extension of 5 years (for a total of 10 years) to be allowed as provided by the passage of Chapter 82 (House Bill 131) of 2013 that added a new Section 4 to I.C. 42-204. This House Bill states the director of the IDWR may extend the time for the application of the water to full beneficial use for up to 10 years for the "cultivation of 100 acres or more...."

In interpreting a law, the principle of reviewing the intent of the legislatures generally is followed. To do that one may go to the testimony given during the passage of the law. The most detailed testimony appears to be in the Idaho House Resource and Environment Committee's meeting of February 21, 2013. There the principal source behind the development of the house bill was Attorney Andrew Waldera of the Moffatt Thomas law firm for his client. In that testimony Mr. Waldera stated this addition to the Idaho Code "involved the cultivation of 100 or more acres." (No specific testimony, other than general words of support, was spoken in the Senate Resources and Environment Committee on its hearing date of March 4, 2013.) That House testimony was accepted without question. And similarly, the

relative addition to the Idaho Code uses the related words, "involving...the development or cultivation of one hundred (100) or more acres...."

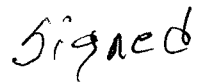
It is noted that a principle of law through the courts generally suggests for a more liberal interpretation of a statute instead of using a most strict interpretation of the statute. (Legal sites left out in the interest of time.)

Certainly the development of the above permit involves the development or cultivation of 100 or more acres since the intent from early on, as noted and accepted in my first request, was for an extension of time to have an 160 acre project. In that extension request, the water was noted to be intended to be applied with a single 135 acre pivot irrigation system and a single well. Through the use of an economic single pivot and a single well, the water covered by the above permit cannot be, or is not required to be, segregated out and applied only on the acres noted in the permit, but must interchange with the water from Permit No. 63-34046 and vice versa. So my project is a single project that involves 100 acres or more.

I also submit an email from Idaho Power Company that indicates the BLM can take up to two years from their initial receipt of a request for power line right-of-way across their land, which was received by them on January 21, 2020 per BLM's email to me. These emails were the basis of my minimum request of an extension of time of two and one-third years.

In summary, related to the above justification for a single 100 acre or larger project, I request a reconsideration of the above noted Preliminary Order to give a full 5 year extension of time for Permit No. 63-33141 as allowed under Idaho Code 42-204 (4).

Sincerely,



Ralph Mellin, General Partner
Mellin Properties Limited Partnership

Enclosures: Email from Felica Waste of Idaho Power Co.
Email from Debbi Judd with email from BLM
Copy of envelope delivering Preliminary order with the date stamp

From: Waste, Felisa FWaste@idahopower.com
Subject: Mellin Properties Limited Partnership Pump WO 27543362
Date: Dec 6, 2019 at 1:26:06 PM
To: rmellin1a@msn.com
Cc: Walker, Zac ZWalker@idahopower.com

Hello Ralph,

Per our meeting this afternoon, see below for the current status update on your BLM permit as well as estimated timelines:

- Received Zac Walker's design on 11/18/19.
- Submitted Zac Walker's designs to Josh Spurling for development of BLM exhibit map.
- Requested support from Environmental Survey team for study evaluation.
 - IF studies are required, the permitting process through the BLM may take up to two years. The BLM will inform Idaho Power of required studies after application has been submitted. Anticipated submittal date of application is by 12/31/19.
 - Average initial review by BLM – three months
 - Cultural Study – may take eight months to a year to complete depending on weather conditions and approval by SHPO and BLM
 - Threatened and Endangered Species Study – May take a year or more to complete as each species must be studied in the appropriate season and then approved by BLM.
 - Once studies are received and approved by BLM, internal process may take another three to six months to issue permit for signature.
 - Overall processing time based on the above is anticipated to take up to two years.

Please let me know if you have any questions.

Thank you.

Felisa

Felisa A. Waste

Permitting Coordinator

Idaho Power | Corporate Real Estate | Land Mgmt. & Permitting

PO Box 70 | Boise, ID | 83707

Ofc: (208) 388-6798 388-5363 - main desk

Fax: (208) 433-2842

Email: fwaste@idahopower.com

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From: Judd, Debbi Debbi.Judd@idwr.idaho.gov
Subject: RE: Application For Line Extension to Serve Mellin Properties WO
27543362 T. 1N R 1E, Sections 13 and 24
Date: Jan 22, 2020 at 2:48:36 PM
To: Ralph Mellin rmellin1a@msn.com

Ralph,

Thank you for sending this. It looks like it is just what we need.

Debbi

From: Sorensen-Pereira, Meghan R [<mailto:mpereira@blm.gov>]
Sent: Wednesday, January 22, 2020 12:06 PM
To: Ralph Mellin <rmellin1a@msn.com>
Cc: Judd, Debbi <Debbi.Judd@idwr.idaho.gov>; Busse, Courtney L <cbusse@blm.gov>
Subject: Re: Application For Line Extension to Serve Mellin Properties WO [27543362](#) T. 1N
R 1E, Sections 13 and 24

Dear Mr. Mellin,

Idaho Power Company has submitted an application requesting a right-of-way to utilize public lands for a new overhead 34.5 kV distribution line to service your irrigation and well. The application was dated on December 30, 2019; however, **the BLM received this application at close of business on January 21, 2020.**

Attached is a copy of the application and corresponding map for your and IDWR's reference (IDWR copied on this email). As an interested party, we can keep you apprised on the status of this application as it is processed, although our primary communications will be with Idaho Power Company as the applicant. Typically customer-driven projects such as this one have the highest priority to Idaho Power to be processed; however, the BLM has many ongoing projects and it is likely that the project will have to await for staff availability to be processed, as well as complying with regulatory requirements during processing which can take some time. I can update both you and Idaho Power with a better timeframe once I have had time to review the application more thoroughly.

Please let me know if I can be of any further assistance, or if you have questions.

From: Ralph Mellin <rmellin1a@msn.com>
Sent: Wednesday, January 22, 2020 11:45 AM
Cc: Sorensen-Pereira, Meghan R <mpereira@blm.gov>; debbi.judd@idwr.idaho.gov
<debbi.judd@idwr.idaho.gov>
Subject: [EXTERNAL] Re: Application For Line Extension to Serve Mellin Properties WO
[27543362](#) T. 1N R 1E, Sections 13 and 24

Good morning Meghan, if I may only use your first name.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

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