

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	PRELIMINARY ORDER
NO. 65-22632 IN THE NAME OF	)	DENYING REQUEST
ROBERT E WILSON	)	FOR EXTENSION OF TIME
_____	)	

This matter having come before the Idaho Department of Water Resources ("Department"), the Department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On December 20, 2001, the Department issued Permit No. 65-22632 to Robert E Wilson ("permit holder") authorizing the diversion of 0.20 cubic feet per second (cfs) of ground water for irrigation use on 10 acres in the NWNE, of Section 8, Township 06 North, Range 01 West, Gem County. A condition of permit approval required the permit holder to submit proof of beneficial use of water ("proof") to the Department on or before January 1, 2007.

2. On November 28, 2006, the Department issued an Order Changing Proof Due Date. The order established a new proof of beneficial use deadline of February 1, 2007.

3. On November 30, 2006, the Department notified the permit holder that proof was due and instructed the permit holder of the steps to be taken to submit the proof or a request for extension of time ("extension request").

4. On December 5, 2006, the permit holder filed an extension request with the Department. This extension was approved based on due diligence or good cause. The extension established a new proof of beneficial use deadline of February 1, 2012.

5. On December 5, 2006, the Department notified the permit holder of the approved request for extension of time and instructed the permit holder of the importance to work diligently towards the completion of the project during the construction period allowed, since the department could not grant an additional extension request based on good cause.

6. On November 30, 2011, the Department notified Robert E Wilson that proof was due and instructed the permit holder of the steps to be taken to submit the proof or a request for extension of time ("extension request")

7. On December 9, 2011, the permit holder filed a request for extension of time indicating that the reason for delay is: "Due to other projects on property - fences - etc. Short of funds due to cost. We still intend to complete the project."

CONCLUSIONS OF LAW

1. Idaho Code § 42-204 provides for an extension:

1. In cases where the applicant is prevented from proceeding with his work by his failure to obtain necessary consent or final approval or rejection from the federal government because of the pendency of an application for right of way or other matter within the jurisdiction of the United States, or by litigation of any nature which might bring his title to said water in question

5. In all other situations . . . the department may grant one (1) extension of time, not exceeding five (5) years beyond the date originally set for completion of works and application of the water to full beneficial use . . . provided good cause appears therefore.

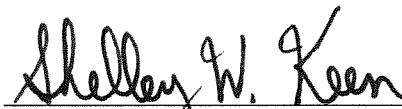
The holder of any permit who shall fail to comply with the provisions of this section within the time or times specified shall be deemed to have abandoned all rights under his permit.

2. The Department cannot grant an additional request for extension based on good cause. Therefore, the extension request should be denied.

ORDER

IT IS HEREBY ORDERED that the Request for Extension of Time filed on December 9, 2011, for Permit No. 65-22632 in the name of Robert E Wilson, is **DENIED**.

Dated this 25th day of January, 2012.



Shelley W. Keen, Manager
Water Rights Section