

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	PRELIMINARY ORDER
NO. 35-13522 IN THE NAME OF	)	DENYING REQUEST
ROLLING HILLS DEVELOPMENT	)	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 April 22, 2005, the Department issued Permit No. 35-13522 to Rolling Hills Development ("permit holder") authorizing the diversion of 0.45 cubic feet per second (cfs) of ground water for in-house Domestic use for 94 homes in the NENE, NWNE, and the SENE, of Section 34, Township 04 North, Range 37 East, Jefferson 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 April 1, 2006.
2. On January 31, 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").
3. On March 31, 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 April 1, 2011.
4. On April 28, 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.
5. On January 31, 2011, the Department notified Rolling Hills Development 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")
6. On March 18, 2011, the permit holder filed a request for extension of time indicating that the reason for delay is: "Two wells are planned as needed to meet water needs of development. Well #1 is close to capacity. When more lots are developed well #2 will need to be implemented."

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.

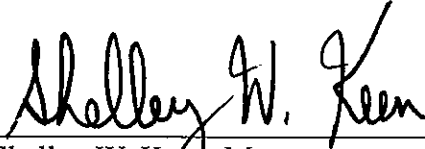
The holder of any permit who shall fail to comply with the provisions of this section within the time or times specified shall be deemed to have abandoned all rights under his permit.

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 March 18, 2011, for Permit No. 35-13522 in the name of Rolling Hills Development, is **DENIED**.

Dated this 23rd day of March, 2011.



Shelley W. Keen, Manager
Water Rights Section