

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER NO. 76286 IN THE	)	
NAME OF TELFORD LANDS, LLC	)	ORDER GRANTING MOTION
	)	TO EXTEND HEARING DATE

This matter having come before the Idaho Department of Water Resources ("Department") as a result of an application to transfer water rights, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On February 10, 2010 Telford Lands, LLC filed Application for Transfer No. 76286 with the Department seeking to add a point of diversion to ten ground water rights. The transfer was advertised to the public beginning on March 4, 2010. Protests were filed by Fred Burt, Heather Shosted (withdrawn), Jeffrey Allen, Jerry Brown, Jim Scouten, Kim Baldwin, Kirby Jensen, Nathan Carpenter, Reuben Babcock, Russell Babcock, and Wade Waddoups. A petition to intervene was filed by Moore Water and Sewer Association on March 21, 2010.

2. The Department attempted to schedule a pre-hearing conference in July, August or September of 2010, but could not find a day in that time period when all of the parties were available. A pre-hearing conference was held on October 20, 2010. The applicant was represented by Rob Harris of Holden Kidwell Hahn & Crapo, PLLC. None of the protestants were represented by an attorney. Because the protestants were not represented by counsel and because many of the protestants have never been involved in a contested case before the Department, the representative from the Department fully explained the administrative process at the conference.

3. On January 3, 2011, ten of the protestants (Fred Burt, Jeffrey Allen, Jim Scouten, Kirby Jensen, Reuben Babcock, Wade Waddoups, Jerry Brown, Kim Baldwin, Nathan Carpenter, and Russell Babcock) filed a Motion to Extend Hearing Date. The motion stated that the protestants' hydrologist, Tom Wood, needed additional time to perform measurements and collect data. According to the protestants, measurements cannot be performed until the power is turned on at the wells. The motion did not state when the hydrologist was retained and did not explain why data wasn't collected during the 2010 irrigation season.

4. A response to the Motion to Extend was filed by Rob Harris, on behalf of the applicant, on January 13, 2011. Mr. Harris noted that the protestants have had nearly a year to hire a consultant and collect data. He also asserted that the applicant will be injured if the administrative process is extended into the 2011 irrigation season. Due to an ongoing legal dispute, the applicant is unable to divert water from an existing ground water well. The applicant's inability to obtain water prompted the pending transfer application.

CONCLUSIONS OF LAW

1. Rule 260 of the Department's Rules of Procedure (IDAPA 37.01.01) gives the Department the authority to decide motions filed by any of the parties in a contested case.

2. The protestants listed on the Motion to Extend have had over ten months to develop their respective cases, including a full irrigation season to collect data. Given the specific elements at issue in this matter, the ten-month period would generally be considered adequate to collect data and prepare for hearing. Because the protestants are not represented by counsel and are not familiar with the administrative hearing process, however, some degree of flexibility should be allowed.

3. The applicant is not currently able to draw water from the existing ground water point of diversion. The inability to obtain water from the original point of diversion gave rise to the pending transfer application. A delay beyond the amount of time reasonably needed to collect some ground water data and process the information is not justified.

4. Therefore, the Department should grant the protestants' Motion to Extend Hearing Date. However, the extension should be strictly limited to the amount of time needed to collect data and process the information in preparation for the hearing.

ORDER

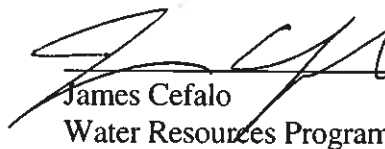
IT IS HEREBY ORDERED that the hearing scheduled in this matter for February 10, 2011 is EXTENDED.

IT IS FURTHER ORDERED that a one-day hearing shall be scheduled in this matter, to be held on a day between May 2 and May 13, 2011. The hearing shall not be extended past May 13, 2011.

IT IS FURTHER ORDERED that the parties immediately provide their available dates between May 2 and May 13, 2011. The Department will select a day when the applicant and its representatives are available and when the largest number of the protestants and their consultant are available.

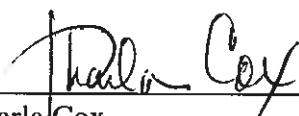
IT IS FURTHER ORDERED that the protestants shall provide the applicant a copy of any report, data, or other documentary evidence to be presented at the hearing, that comes into being after the date of this order, no later than 14 days prior to the rescheduled hearing.

Dated this 14th day of January, 2011.


James Cefalo
Water Resources Program Manager

CERTIFICATE OF MAILING

I hereby certify that on the 14th day of January 2011, I mailed a true and correct copy, postage prepaid, of the foregoing ORDER GRANTING MOTION TO EXTEND HEARING DATE to the person(s) listed below:



Sharla Cox
Administrative Assistant

US MAIL

RE: ORDER GRANTING MOTION TO EXTEND: TRANSFER NO. 76286

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AVAILABILITY CALENDAR

MAY 2011

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
2		3	4	5	6
9	10	11	12	13	
	1	14	15	16	17
	2	18	19	20	21
	3	22	23	24	25
HOLIDAY	4	26	27	28	29

Applicant or Protestant

Valer Kabin / Transfer No. (s) 76286