

MOO VIEW COW PALACE REQUEST FOR EXTENSION OF TIME WATER RIGHTS 45-690, 45-691, 45-7004, 45-7186a, , 45-7186b, , 45-13904, 45-13905 by C.E. Brockway

Moo View Cow Filed a Transfer Application No 71925 to provide a transfer of irrigation water and provide additional water for a planned dairy which was approved by IDWR on November 6th, 2006. Condition 7 of water right 45-13905, with a nature of use for stockwater and commercial, required that 'right holder accomplish the transfer within 5 years of date of the approval.' A Request for Extension of Time to Complete Transfer was submitted on November 17, 2009. Subsequently, a letter from Mr. Aaron Marshall, IDWR, requested additional justification for the request and this memo responds to that request.

The construction of the dairy has not been completed. The CAFO was secured by the previous owner of the land. Negotiations with Cassia County regarding the water rights associated with the dairy required considerable time to complete. The land upon which the CAFO was permitted inadvertently included a county road right-of-way which necessitated the revision of the dairy plan to accommodate the road and meet Burley Highway District requirements. On July 24, 2006 the Burley Highway District finally withdrew their protest to the CAFO and the Cassia County P&Z granted a 3 year extension on February 21, 2008. This required considerable time to complete and be reviewed by the County. It is estimated that redesign and negotiations with the County prevented construction and progress by at least three (3) years.

On November 30, 2008, the applicants became aware of plans by Idaho Power Company to obtain rights of way on BLM and private land to construct the Gateway Power Line project. The location of the right of way for the 500,000 volt power line was revealed on December 16, 2008 and included a 300 ft easement across the proposed dairy site. The final approval or disapproval of the power line project is pending issuance of the final approved EIS, review and approval by the BLM, and approval of Cassia County and other state and federal agencies.

Because of the pending decision on the power line easement, the applicants have been unable to move forward with potential redesign or planning for the dairy and are reluctant to speculate on the outcome of the EIS. If the right of way is approved, it will necessitate re-design and location of the proposed dairy as well as pose real concerns about the effect of high voltage lines adjacent to the animals.

For the above reasons, the applicants have been unable to proceed with the proposed use of water under the approved water rights.

Pending decisions by the BLM and Idaho Power Company, It is estimated that the earliest that the planned dairy can be fully operational would be April 2015, so the request is for a five year extension from the current date (April 15, 2010).