

MEMORANDUM

Date: December 22, 2009

To: Water Right Permit File 37-8205 – Sun Valley Land & Minerals, Inc.

From: Jeff Peppersack

Re: Phone Conversation with Ed Lawson

I called Ed Lawson, attorney for the permit holder, to discuss their request for extension of time and related items.

The order issued November 24, 2009 (mailed November 30) rejected Brockway's field exam and voided the application for amendment of permit. The order provided 30 days to submit an acceptable exam. On December 18, 2009, the Department received a request for extension of time to submit proof. The request included an analysis of the volume of water anticipated for uses described under the original permit and the proposed amendment. The request also included an analysis of the consumptive use anticipated under the proposed amendment. The information provided with the request for extension of time fulfills the requirement necessary to continue processing the amendment of permit.

I told Mr. Lawson that the Department would not grant the extension because it would not be authorized under Section 42-204, Idaho Code. However, the Director would be willing to withdraw the order rejecting the field exam and voiding the amendment if an acceptable exam were submitted to supplement the information already submitted. An acceptable exam would include specific identification of actual beneficial use under the residential, pond and snow melt systems. Based on past practice, the Department could license for a full-year's volume if the system(s) were in place and diverting and using water (even for a short time).

Assuming an acceptable exam is submitted timely, the Director can sign an order withdrawing the previous order and the Department can finish processing the amendment of permit. Since the use will be consumptive, any approval of the amendment must include a condition requiring mitigation prior to continued diversion of water. A license should not be issued until and unless mitigation is implemented.

Follow up conversation with Chuck Brockway Jr. and Ed Lawson 12/29/09. Chuck Brockway suggested that a licensing amendment could still be processed without withdrawing the order voiding existing application for amendment. I agreed, indicating that a filing fee and signature would be required @ the time of licensing. Brockway will work on submitting exam by the 30th of Dec. He understands that a layce notice will be issued on Dec. 31.