

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT	)	
NO. 95-9042 IN THE NAME OF	)	ORDER GRANTING REQUEST
C.P.M. DEVELOPMENT CORPORATION	)	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 June 26, 2000, the Department issued Permit No. 95-9042 to Acme Materials & Construction Company authorizing the diversion of 2.23 cubic feet per second (cfs) of ground water to be used for commercial use within Section 36, Township 51 North, Range 6 West, of Kootenai 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 July 1, 2001.
2. On April 30, 2001, the Department notified the permit holder that proof was due and instructed the permit holder of the steps to be taken to submit proof or a Request for Extension of Time ("extension request").
3. On June 29, 2001, the permit holder filed with the Department an extension request. This extension was approved and granted based on due diligence which extended the proof deadline to July 1, 2006.
4. On April 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 an extension request.
5. On June 16, 2006, the permit holder filed with the Department an extension request. This extension was approved on September 11, 2006 and granted based on due diligence which extended the proof deadline to July 1, 2007.
6. On November 17, 2006, the Department received an Assignment of Permit from Acme Materials & Construction Company assigning the permit to CPM Development Corporation ("permit holder").
7. On November 29, 2006, the Department notified the permit holder of the extension to July 1, 2007 and instructed them to work diligently toward the completion of the project since the Department may not be able to grant an additional extension request based on due diligence.

8. On April 30, 2007, the Department notified the permit holder that proof was due and instructed the permit holder of the steps to be taken to submit proof or an extension request.

9. On June 22, 2007, the permit holder filed with the Department an extension request to extend the proof deadline. The permit holder explained that it would allow the onsite activities to achieve a level of operation that reasonably reflects the amount of water to be appropriated.

10. On July 17, 2007, the Department issued an Order Denying Request for Extension of Time because additional requests could not be granted based on due diligence. The Department mailed the order to the permit holder on July 18, 2007.

11. On August 1, 2007, the Department received a Petition for Reconsideration and/or Request for Hearing ("petition") on the order from Stanley M. Schwartz ("petitioner"), attorney for the permit holder. The petitioner sought reconsideration of the extension request.

12. On August 16, 2007, the Department issued an Order Withdrawing a Preliminary Order to withdraw the Order Denying Request for Extension of Time. The withdrawal provided additional time for the Department to consider the extension request.

13. On August 23, 2007, the petitioner submitted information to support the extension request based on government delay from December 18, 2006 to April 12, 2007 (115 days).

CONCLUSIONS OF LAW

1. Idaho Code § 42-204 provides for an extension to submit proof for reasons of government delay and for litigation of any nature that might bring title to said water into question.

2. The Department should grant the extension request submitted on June 22, 2007 on the basis of government delay and provide the time lost from December 18, 2006 to April 12, 2007 to submit proof.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the Request for Extension of Time filed on June 22, 2007, for Permit No. 95-9042 in the name of CPM Development Corporation is **APPROVED** and the time within which to submit proof of beneficial use is extended to October 24, 2007.

Dated this 28th day of August, 2007.


JEFF PEPPERSACK, Bureau Chief
Water Allocation Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August, 2007, a true and correct copy of the documents described below were served on the following as noted:

Document(s) Served: Order Granting Request for Extension of Time, and
Explanatory Information to Accompany a Preliminary Order without a Hearing

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