

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
NO. 24-10688 IN THE NAME OF)
PEART LAND & DEVELOPMENT LLC)
_____)

**ORDER DELAYING PROCESSING
OF APPLICATION FOR PERMIT**

This matter having come before the Department of Water Resources (Department) as a petition to delay processing of an Application for Permit, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On November 9, 2005, Peart Land and Development, LLC (applicant) filed Application for Permit 24-10688 (application) for 0.02 cfs for domestic use from Manning Spring in the SW¼SE¼ of Section 30, T9S, R46E, B.M. on USDA Forest Service land.
2. On December 14, 2005, the Department received a letter from the Forest Service indicating the applicant was not authorized to occupy and use Forest Service land for the purpose shown on the application.
3. IDAPA Water Application Rule 37.03.08.045.01.c requires the applicant to have legal access to the property necessary to construct and operate the proposed project, have the authority to exercise eminent domain authority to obtain such access, or in the instance of a project diverting water from or conveying water across land in state or federal ownership, have filed all applications for a right-of-way.
4. On January 6, 2006, the Department sent correspondence to the applicant indicating it must submit proof of an arrangement with the Forest Service allowing access to the point of diversion, withdraw the application, or request a delay in processing of the application in order to allow more time to reach an agreement with the Forest Service.
5. On January 27, 2006, the Department received the applicant's petition to delay processing of the application.

CONCLUSIONS OF LAW

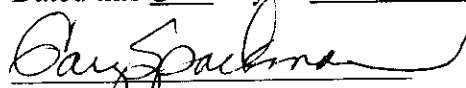
1. IDAPA Water Application Rule 40.0.d. (IDAPA 37.03.08.040.01.d.) allows an applicant to request that commencement of processing of his or her application be interrupted for a period not to exceed six (6) months. The director at his discretion may approve the request unless he determines that others will be injured by the delay or that the applicant seeks the delay for the purpose of speculation, or that the public interest of the people of Idaho will not be served by the delay.

2. No others will be injured by the delay, the applicant is not seeking the delay for the purpose of speculation and the public interest of the people of Idaho will not be injured by the delay.

ORDER

IT IS HEREBY ORDERED that the processing of Application No. 24-10688 is interrupted until July 27, 2006, 6 months from the date of receipt of the applicant's petition to delay processing, or until the applicant demonstrates that it has legal access to the point of diversion described on the application. If the applicant does not provide evidence of legal access to the point of diversion by July 27, 2006, the Department will reject the application pursuant to IDAPA Water Application Rule 37.03.08.045.01.c and Idaho Code §42-203A(5).

Dated this 8th day of March, 2006.


GARY SPACKMAN