

MEMORANDUM

Date: June 12, 2006

To: Permit 63-11540

From: Jeff Peppersack 

Re: Request for Extension of Time to Submit Proof

The permit holder submitted a request for extension of time (to August 1, 2011) for cause or due diligence on June 5, 2006 for the permit referenced above. This is the fourth extension request associated with this permit. The previous extensions were filed and granted as shown below:

Permit Approved on August 2, 1991 with proof due on August 1, 1996 (five years).

First Extension requested on July 12, 1996 for five years due to litigation case 97821. Extension was granted to August 1, 2000 (4 years) for due diligence (see IDWR letter of July 12, 1996). Due diligence was probably used as the basis because supporting documentation for the litigation was not submitted.

Second Extension requested on June 26, 2000 for two years due to litigation case 97821 (litigation period was April 1, 1993 to January 25, 1995 – 21 months). Extension was granted to August 1, 2002 (two years) for litigation. Note that the litigation referenced was the same litigation referenced for the first extension.

Third Extension requested on June 5, 2002 for three years due to litigation (litigation period was March, 1995 to January, 1998 – 34 months). Extension was granted to August 1, 2004 (two years) for litigation.

Fourth Extension requested on July 9, 2004 for two years due to litigation (litigation period was December 13, 2002 to July 1, 2004 – 19 months). Extension was granted to August 1, 2006 (two years) for litigation.

Extensions can be granted for litigation purposes for time lost. Total time lost due to litigation was six years and two months. Total time granted was six years.

One extension can be granted for cause or due diligence (maximum of five years). Total time granted was four years under the permit; no additional extensions for cause can be granted.

Note that the first extension could have been granted for litigation, had the documentation been pursued by IDWR and submitted by the permit holder. The end result would be the same since the second litigation period ended prior to the beginning of the third litigation period. An extension due to cause or due diligence would have been required and likely granted at that time. The third litigation period would further extend that due date. The timeline would be as follows:

Initial Proof Due – August 1, 1996

First Litigation Period – 21 months to May 1, 1998

Second Litigation Period – 34 months to March 1, 2001

Extension for Cause – 4 years to March 1, 2005

Third Litigation Period – 19 months to October 1, 2006

The maximum time allowed for extensions under the permit would be 10 years and two months from August 1, 1996. Total time granted to date has been 10 years. The remaining time allowed for extensions would be two months to October 1, 2007 based on litigation.