

Memorandum

DATE: December 21, 2020

FROM: Debbi Judd and Phill Hummer (Water Rights Supervisor)

TO: File 95-16962

RE: Proof of Beneficial Use – Timeline

November 29, 2019 – The Department sent a Notice of Statement of Completion Due (Notice) advising proof was due February 1, 2020

February 7, 2020 – The Department sent a Lapse Notice advising the permit had lapsed due to no response to the Notice.

March 9, 2020 – The Department received the proof statement with a well construction and pump test report and a water system facility plan from the permit holder.

March 25, 2020 – I forwarded the file, proof and accompanying documents to Manuel Rauhut for review of sufficiency of filing and meeting permit conditions.

June 25, 2020 – The initial review indicated the report was insufficient. The proof and attached documents were returned to the permit holder along with a letter describing the deficiencies. The letter accompanying the returned documents also served as another lapse notice.

July 1, 2020 – Information (a spreadsheet of well logs) was received by Manuel to clarify the deficiencies at which time the proof was deemed acceptable.

On March 9, 2020 Hayden Lake Irrigation District submitted the proof statement along with a report they thought met the criteria of the conditions of approval on the permit. Debbi Judd (Technical Records Specialist 1, Water Allocation Section) asked Manuel Rauhut (Technical Engineer 1, Water Allocations Section) to review the report to determine if the report contained the necessary information. This review took a considerable amount of time and it was eventually determined the report contained most of the information needed but not exactly what was specified in the conditions of the approval. Based on this determination the proof statement was returned to the permit holder as an incomplete filing. The letter explaining the reasoning for the returned proof also served as a lapse notice. However, the proof statement probably should not have been returned at this time. Instead, the proof statement should have been kept and the missing information requested according to the evaluation of probable cause described in Permit Processing Memorandum No. 1. Since the proof statement should not have been returned, the second lapse notice sent to the permit

holder with the returned proof statement was also done in error and will not be considered when the advancement of the priority date is calculated.

The permit holder continued work with Mr. Rauhut to get the required information and eventually sent Mr. Rauhut information supporting the initial report via email. These communications and the submittal of information occurred without the knowledge of staff who process and evaluate proof statements (this task was assigned to Debbi Judd at this time). Since several parties were involved with the entire review process, including staff at the northern regional office, Ms. Judd was not aware the Department had received the appropriate information until sometime in November 2020. After review of the information and current Department policies, it was determined the permit should be reinstated. Permit Processing Memo No. 1 addresses how the advancement of the permit should be considered. It states, "In determining the number of days to advance the date of priority, the date of receipt of the original request should be used." As previously mentioned the proof statement should not have been returned and therefore the date it was received (March 9, 2020) should be used as the filing date. This date is within the 60 day deadline for filing a proof or extension after lapse notice has been sent so the permit could be reinstated without addition fees or examination by a certified examiner. The initial filing date is 35 days after the proof due deadline so the date of priority should be advanced 35 days from December, 23, 2014 to a new date of January 27, 2015.