



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

May 19, 2015

SOUTHWEST IRRIGATION DIST
PO BOX 668
BURLEY ID 83318

RE: Lapsed Permit Nos. 01-10566, 45-14183 (01-10572)

Dear Permit Holder:

Proof of beneficial use statements (proofs) and examination fees were submitted for Permit Nos. 01-10566 and 45-14183/01-10572 (permits). You were contacted about additional information necessary pursuant to permit conditions for the proofs to be acceptable, and given time to submit the information. When the information was not submitted, the department returned the deficient proofs for the permits and refunded the examination fees. Correspondence was sent to the permit holder on April 20, 2015 by certified mail to explain the proof deficiency was not addressed and the permits were lapsed.

On April 24, 2015, the department received an email from Jaxon Higgs of Water Well Consultants Inc. in response to the lapse notice. He provided a 76,433.4 acre GIS shape file of all the lands that Southwest Irrigation District (SWID) delivers water for the permits. I have enclosed a copy of the email and mapped area for your reference. Identifying the entire irrigated place of use for SWID is one step closer to the documentation needed, but is not sufficient to meet pertinent conditions of the permits.

Consistent with the intent of the applications, these permits were approved specifically for the replacement of ground water usage, and not to augment supplies for farms solely dependent on surface water supplies or for breaking out new irrigated land. Within the SWID system, it is difficult for the department to discern which ground water lands benefited from delivery of water under these permits. The water right licenses for these permits will be limited to the maximum annual number of ground water acres that received this water instead. In order to establish this number of acres, the department required SWID to annually track, record and report the information when submitting proof. Some information may be available from data you submitted related to mitigation plans, and may help you to determine benefitted users, locations, and the amount of ground water acres replaced each year.

The following are the pertinent conditions of approval listed on each of the permits:

- This right is limited to use on land with valid ground water irrigation right(s) and does not authorize irrigation of land not already irrigated with ground water. The water user shall not divert water under the appurtenant ground water irrigation right(s) when receiving water for irrigation under this right.
- Prior to diverting and using water pursuant to this right, the right holder shall identify the land to be irrigated with water diverted pursuant to this right by submitting a land list and a representative electronic shape file or by submitting a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system

component of the water rights database maintained by the department. In addition, the right holder shall submit a list of ground water irrigation rights that will not be used when water is being delivered pursuant to this right. Before changing the land to be irrigated pursuant to this right, the right holder shall submit a new land list, representative electronic shape file or map, and list of ground water irrigation rights to the Department prior to the irrigation season in which the change will occur.

- When submitting proof of beneficial use for this right, the right holder shall also submit a set of detailed maps and/or electronic shape file showing the land actually irrigated with water diverted pursuant to this right in each irrigation season during the authorized development period.

These conditions must be fully complied with in order for proof statements to be acceptable and allow the issuance of licenses confirming beneficial use of water. Please provide a list of groundwater rights that benefited when surface water under these permits was delivered, and demonstrate the extent of benefit by identifying the actual number and location of acres replaced under those rights by delivery of surface water under the permits on an annual basis.

The department will also conduct the necessary examinations to confirm beneficial use, but a field examiner would not be able to identify the maximum number of acres irrigated under the permits during the five (5) year development period with a single site visit. The additional information requested under the permit conditions is necessary to confirm and support the full development of the permits prior to licensing.

You were previously notified that under the provision of Idaho Code § 42-218a, **the permits have lapsed and are of no further force nor effect.** The permits may be reinstated according to Idaho Code § 42-218a (1) if you submit acceptable proof statements to the department **within sixty days** of the mailing of the lapse notice on **April 20, 2015**. An acceptable proof statement submittal must include the examination fee or a completed field examination report prepared by a certified water right examiner. A proof statement may be submitted for all or any portion of the permitted use which has been established during the development period from April 14, 2010 to April 01, 2015.

After 60 days of this lapse notice the permit may only be reinstated according to Idaho Code § 42-218a (2) including a reasonable cause for the delay, a reinstatement fee of \$250.00 and a report prepared by a certified water right examiner clearly confirming the extent of beneficial use of water during the development period of the permit. The permit priority date will be advanced to the date an acceptable proof statement is received.

Department forms are available from any department office or at the department's website at www.idwr.idaho.gov.

Sincerely,



Pamela S. Skaggs
Water Rights Supervisor

Enclosure

WILLIAM A PARSONS, PARSONS SMITH & STONE
BRIAN HIGGS, WATER WELL CONSULTANTS