

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF LAPSED PERMIT)
NO. 63-32259 IN THE NAME OF)
HENDERSHOT CONSTRUCTION INC)
_____)

**ORDER OF
REINSTATEMENT**

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes and orders:

FINDINGS OF FACT

1. On June 26, 2006, the Department issued Permit No. 63-32259 in the name of Hendershot Construction Inc. (permit holder). The Department issued permit 63-32259 with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before June 1, 2011.
2. On March 31, 2011, the Department notified the permit holder by certified mail that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use.
3. On June 8, 2011, the Department sent the permit holder a lapse notice because the Department had not received an acceptable proof of beneficial use statement or request for extension of time to submit proof of beneficial use.
4. Section 42-218a.2, Idaho Code provides as follows:
 - (2) In connection with a proof of beneficial use statement submitted more than sixty (60) days after such notice of lapsing, the director shall require all of the following items to be submitted to the department:
 - (a) A report prepared by a certified water right examiner as the result of an examination to clearly confirm and establish the extent of the beneficial use of water established in connection with the permit during the time authorized by the permit and any extensions of time previously approved. The report shall be on the form or forms specified by the director and shall provide the information specified in section 42-217, Idaho Code, for confirming beneficial use and such other information as may be required by the director.
 - (b) A statement of reasonable cause for filing a late proof of beneficial use.

(c) A reinstatement fee of two hundred fifty dollars (\$250).

Upon finding that beneficial use had occurred during the authorized period and upon a showing of reasonable cause for filing a late proof of beneficial use, the director may reinstate the permit with the priority date advanced to the day that proof of beneficial use was received.

5. On February 2, 2012, the Department received a proof of beneficial use statement, a field examination report prepared by a certified water right field examiner, and a completed change of ownership form from Hendershot Construction Inc., to First Security Corporation. The permit holder provided an explanation for filing late proof and submitted evidence supporting that beneficial use authorized by permit 63-32259 had occurred during the authorized period.

6. On February 13, 2012, the Department received a filing fee of \$250 as required by Section 42-218a(2), Idaho Code.

CONCLUSIONS OF LAW

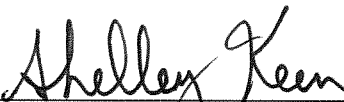
1. The permit holder provided sufficient information to meet the requirements for reinstatement as described in 42-218a(2), Idaho Code.

2. The Department should reinstate the permit with the priority date advanced to the date the \$250 filing fee was received. Submittal of the filing fee was the final requirement that needed to be met in order to reinstate permit 63-32259.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 63-32259 is **REINSTATED** with an advance in priority to **February 13, 2012**.

DATED this 14th day of February, 2012.



SHELLEY KEEN, Manager
Water Rights Section