

- b. Whether the priority date of Permit No. 37-07842 should be advanced to the date Proof of Beneficial Use which was acceptable to the Department was received by the Department.

2. Issues identified by the Respondent:

- a. Whether IDWR's 2010 decision to extend the time for proof of beneficial use was supported by the provisions of Idaho Code § 42-204?
- b. Whether Petitioners are barred as a matter of law and/or equity from waiting more than 6 years to challenge IDWR's two previous decisions to extend the time for proof of beneficial use and from waiting more than 19 years to challenge IDWR's decision to reinstate the permit?
- c. Whether Petitioners are barred as a matter of law from challenging the nature and extent of beneficial use prior to IDWR's issuance of a license.

DATED this 24th of June, 2011.

LAWRENCE WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division


SHASTA KILMINSTER-HADLEY
Deputy Attorney General

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CONFIDENTIALITY NOTE

Please see attached Statement of Legal Issues.

SUBJECT: Permit No. 37-07842

FROM: Joseph F. James

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TO: Idaho Department of Water Resources
Attn: Sharla Cox

PAGES BEING SENT: 3
(INCLUDING COVER SHEET)

FAX COVER LETTER

June 24, 2011

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