

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF PERMIT)
NO. 92-7229 IN THE NAME OF)
EVERGREEN WATER COMPANY)
_____)

**REINSTATEMENT
ORDER**

This matter having come before the Idaho Department of Water Resources ("Department"), the Department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On July 25, 1997, the Department issued the above-captioned permit 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 August 1, 2002. The permit bore the priority date of April 21, 1997.

2. On May 31, 2002, the Department notified the permit holder that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof or a Request for Extension of Time ("extension request").

3. On July 31, 2002, the Department received an extension request. The Department approved the request, and the proof of beneficial use deadline was extended to August 1, 2004.

4. On June 30, 2009, the Department discovered that the proof due notice was not mailed out as required and then gave notice to the permit holder that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof or an extension request. The Department gave the permit holder until September 1, 2009 to submit proof of beneficial use or an extension of time.

5. On August 10, 2009, the permit holder filed a second extension request with the department.

6. On October 30, 2009, the Department denied the extension request as the request could not be granted based on good cause according to Section 42-204(5), Idaho Code.

7. On October 30, 2009, the Department notified the permit holder that the permit was lapsed and that the permit could only be reinstated if an acceptable proof of beneficial use was filed within sixty days of the mailing of the lapse notice.

8. On November 9, 2009, the permit holder filed a Statement of Completion for submitting proof of beneficial use with the appropriate license examination fee.

CONCLUSIONS OF LAW

Section 42-218a, *Idaho Code*, provides that the Department may reinstate a permit upon a showing of reasonable cause by the permit holder within sixty days of the date of notice of lapsing.

The permit holder has provided a reasonable showing why each permit should be reinstated, by submitting an acceptable proof of beneficial use. The permits shall be reinstated based upon the November 9, 2009 filing date.

ORDER

IT IS HEREBY ORDERED that Permit No. 92-7229 is **REINSTATED** and the permit's priority date is advanced to June 29, 1997.

DATED this 16th day of December, 2009.



JEFF PEPPERSACK, Chief
Water Allocation Bureau