

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

IN THE MATTER OF PERMIT	)	
NO. 77-7382 IN THE NAME OF	)	REINSTATEMENT ORDER
BARBARA PYLE	)	
_____	)	

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 February 15, 2005, 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 February 1, 2007. The permit bore the priority date of August 26, 1999.
2. On August 1, 2006, the Department received a Request for Extension of Time ("extension request") which was granted giving the permit holder until July 1, 2009 to submit proof of beneficial use.
3. On April 30, 2009, 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 or extension of time.
4. On July 1, 2009, the permit lapsed since the Department had not received an acceptable proof of beneficial use statement or extension of time from the permit holder.
5. On July 13, 2009, the Department sent a lapse notice to the permit holder since the Department had not received an acceptable proof of beneficial use statement or extension of time request.
6. On August 13, 2009, the permit holder notified the Department that the proof of beneficial use submitted for permit number 77-14143 was intended to be proof submitted for permit no 77-7382. The permit holder stated that the system was complete for permit number 77-7382.

CONCLUSIONS OF LAW

1. Section 42-218A(2), Idaho Code, provides as follows:

That upon receipt of proof of beneficial use after sixty (60) days after such notice of lapsing, the director shall require sufficient evidence to be submitted by the permit holder to clearly establish the extent of beneficial use

made during the time authorized by the permit and any extensions of time previously approved. 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;

2. Section 42-218A(3), Idaho Code, provides that:

The original priority date of a lapsed permit shall not be reinstated except upon a showing of error or mistake of the department.

3. The permit holder has provided a reasonable showing why the permit should be reinstated by providing notice of her error to the Department. The permit should be reinstated based upon the notice given to the Department on August 13, 2009.

ORDER

IT IS HEREBY ORDERED that Permit No. 77-7382 is **REINSTATED** and the permit's priority date is advanced to October 8, 1999.

DATED this 24th day of September, 2009.



JEFF PEPPERSACK, Chief
Water Allocation Bureau