

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

IN THE MATTER OF LAPSED PERMIT	)	REINSTATEMENT
NO. 65-23032 IN THE NAME OF	)	ORDER
ROBERT M FLATEN	)	
_____	)	

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 May 10, 2006, the Department issued Permit No. 65-23032 in the name of Robert M Flaten ("permit holder"). This permit authorized the maximum diversion rate of 0.27 cubic feet per second ("cfs") of surface water for irrigation, irrigation storage, stockwater, and stockwater storage in the (SESW) of Section 20, Township 12 North, Range 04 East, Valley County. A condition of permit approval required the permit holder to submit proof of beneficial use of water ("proof") to the Department on or before May 1, 2007.

2. On February 28, 2007, 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 either proof of beneficial use or request an extension of time. The notice was mailed to the address on record, PO Box 556, Cascade, Idaho 83611.

3. On April 06, 2007, the Department received a Request for Extension of Time ("extension request") which was granted giving the permit holder until May 1, 2009 to submit proof of beneficial use.

4. On February 28, 2009, 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 either proof of beneficial use or request an extension of time. The notice was mailed to the address on record, PO Box 556, Cascade, Idaho 83611.

5. On May 07, 2009, the Department notified the permit holder that this permit had lapsed on May 01, 2009, because it had not received a proof statement or extension request by the May 01, 2009 proof due date.

6. On July 14, 2009, the Department received proof of beneficial use from the permit holder.

7. On July 17, 2009, the Department notified the permit holder that filing proof more than 60 days after the proof due date resulted in the original priority date of the permit being lost, and of the requirement for two forms of evidence establishing the extent of beneficial use made during the development period.

8. On September 01, 2009, the Department received two acceptable forms of evidence establishing extent of beneficial use made during the authorized development period of the permit.

CONCLUSIONS OF LAW

1. Section 42-218a.2, Idaho Code, provides as follows:

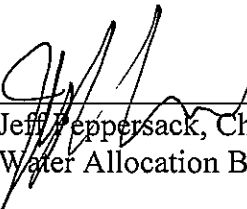
That upon receipt of proof of beneficial use after sixty (60) days after such notice of lapsing, the director shall require sufficient evidence to be submitted by the permit holder to clearly establish the extent of beneficial use made during the time authorized by the permit and any extensions of time 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. The permit holder has provided a reasonable showing why the permit should be reinstated, by submitting acceptable proof of beneficial use on July 14, 2009, and evidence that beneficial use of the water occurred during the period when the permit was active. The Department should reinstate permit no. 65-23032 with the priority advanced to July 14, 2009.

ORDER

IT IS HEREBY ORDERED, that Permit No. 65-23032, in the name of Robert M Flaten is **REINSTATED**, with the priority advanced to July 14, 2009.

Dated this 15th day of September, 2009.



Jeff Peppersack, Chief
Water Allocation Bureau