

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

IN THE MATTER OF LAPSED PERMIT	)	
NO. 47-7861 IN THE NAME OF	)	REINSTATEMENT
JOHN AND/OR MARY NUNES	)	ORDER
_____	)	

This matter having come before the Idaho Department of Water Resources (Department), as a result of the filing of a petition to reinstate a lapsed permit, the Department makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On May 9, 2003 the Department issued Permit No. 47-7861 in the name of John and/or Mary Nunes. This permit authorized the diversion from ground water of 1.32 cubic feet per second (cfs) for irrigation use in the SE1/4 of Section 6, Township 10 South, Range 14 East; Twin Falls 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 September 1, 2003.
2. On June 30, 2003, 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.
3. The Department issued the permit holder a lapse notice on September 5, 2003, because it had not received either an acceptable proof statement or an extension request.
4. On September 18, 2008, the Department received the required proof fee and some evidence that beneficial use had been established before the proof due date. The Proof of Beneficial Use form included with the September 2008 submittals was not signed by the permit holder. A statement providing reasonable cause why the proof was submitted late was provided on a separate date.
5. On January 15, 2009, the Department sent a letter to the permit holder's consultant, Stan Haye, which acknowledged the submittals that he had provided on behalf of the permit holders and notified him of the additional steps required before the permit could be reinstated without additional penalty to the priority date.
6. On January 27, 2009, the Department received a Proof of Beneficial Use form signed by the permit holders.
7. On August 17, 2009, the Department personnel conducted a field examination and confirmed that beneficial use of water for irrigation purposes was occurring.

CONCLUSIONS OF LAW

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

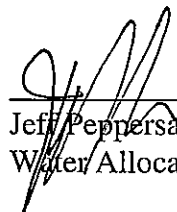
That upon receipt of proof of beneficial use after sixty (60) days after such notice of lapsing, the director shall require sufficient evidence to be submitted by the permit holder to clearly establish the extent of beneficial use made during the time authorized by the permit and any extensions of time 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 sufficient information and reasonable cause for the Department to reinstate the permit.
3. The Department should reinstate Permit No. 47-7861 with the priority advanced to the date that the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 47-7861, in the name of John and/or Mary Nunes is **REINSTATED**, with the priority advanced to September 18, 2008.

Dated this 24th day of August, 2009.



Jeff Peppersack, Bureau Chief
Water Allocation Bureau