

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

IN THE MATTER OF LAPSED PERMIT	)	REINSTATEMENT
NO. 95-8976 IN THE NAME OF	)	ORDER
NEBELS ADDITION WATER & SEWER ASSN.	)	
_____	)	

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 August 21, 1998, the Department issued Permit No. 95-8976 in the name of Nebels Addition Water & Sewer Assn. ("permit holder"). This permit authorized the diversion of 0.70 cubic feet per second ("cfs") of ground water for domestic for 41 homes and irrigation of 20 acres in Lot 2 (SENE) and NESE of Section 19, Township 47 North, Range 03 West, Kootenai 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 August 1, 2003.

2. On May 31, 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. The notice was mailed to the address on record, 1136 Bryden, Lewiston, Idaho 83501.

3. The Department issued the permit holder a lapse notice on August 12, 2003, because it had not received an acceptable proof statement or extension request.

4. On February 20, 2009 the Department received proof of beneficial use with a request for reinstatement of the permit, and subsequently provided evidence of the application of the beneficial use of water 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 February 20, 2009, and evidence that beneficial use of the water occurred during the period when the permit was active. The Department should reinstate permit no. 95-8976 with the priority advanced to February 20, 2009.

ORDER

IT IS HEREBY ORDERED, that Permit No. 95-8976, in the name of Nebels Addition Water & Sewer Assn. is **REINSTATED**, with the priority advanced to February 20, 2009.

Dated this 16th day of June, 2009.



Jeff Peppersack, Chief
Water Allocation Bureau