



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

July 17, 2009

ROBERT M FLATEN
1111 N ATKINS AVE
MERIDIAN ID 83642

RE: Lapsed Permit No. 65-23032

Dear Permit Holder:

On July 14, 2009, the department received a Statement of Completion for filing proof of beneficial use ("proof statement") and \$100.00 for the license examination fee for the above referenced permit. According to the Department's records this permit lapsed because the statement of completion form or request for extension of time form for filing proof was not received on or before the May 1, 2009 proof deadline.

Your proof statement was received by the Department after the 60-day deadline. Filing proof after the 60-day deadline results in the original priority date of the permit being lost. Also, the Department requires acceptable documentation evidencing the development and use of the water as permitted by this right for reinstatement of the lapsed permit.

The information the Department requires is explained in to Section 42-218a(2), *Idaho Code*, which reads:

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 extension 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;

Further, the Department requires two acceptable documents that provide evidence of beneficial use **during the time the permit was active** (May 10, 2006 to May 1, 2009), and a letter explaining the reason for delay of filing proof. Please submit the documents within **30-days** of the date of this letter.

Be aware that this permit has lapsed and is of no force nor effect unless reinstated. Therefore, the department will hold the proof statement you have submitted for 30-days to provide you the opportunity to submit evidence of the construction and use of the water. If you need more time, please notify me. If the evidence is not submitted within this time period, I will return the proof form and the filing fee to you and the permit will remain lapsed. If you cannot provide the Department with the documentation it requires, you may need to reapply for a new water right permit.

During my review of your proof statement and water right permit, I noted that condition nos. 7, 8, and 9 of the permit requires the permit holder to install a lockable device, and measuring devices. A license can not be issued without installation of a lockable device, and measuring devices as required in the permit conditions. Your responses to item no. 7 of the proof statement indicated that

there is no measuring device requirement, or any other additional requirement in connection with this permit. Enclosed is a copy of the permit for your reference and a copy of the proof statement should you want to amend your statement.

If you feel this requirement is unnecessary, you may submit a written request to the Department that the requirement be waived. Additionally, you must contact the watermaster about his need for this requirement. If he agrees that the measurement device requirement is unnecessary, request that he/she provide the Department with written agreement that the requirement can be waived at this time. Upon receipt of your request and his acknowledgement the Department will issue an order waiving the requirement at this time.

Idaho Code Section 42-248 requires you or the owner of this water right to maintain current ownership and address records on file with the department. The Department notified you of this requirement in previous correspondence sent to you, copies enclosed

If you have any questions regarding this matter, please feel free to contact me at (208) 287-4945

Sincerely,

A handwritten signature in cursive script, appearing to read "Darla Block", written in dark ink.

Darla Block
Technical Records Specialist

Enclosures