



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

Gay Day
RECEIVED

FEB 17 2009

DEPARTMENT OF
WATER RESOURCES

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405
Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
E-MAIL rharris@holdenlegal.com

February 13, 2009

VIA E-MAIL AND FIRST CLASS MAIL

David R. Tuthill, Jr. *DR*
Director
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
dave.tuthill@idwr.idaho.gov

RE: Request to Reinstate Lapsed Permit No. 25-7583.

Dear Director Tuthill:

This letter is in regards to lapsed permit no. 25-7583. I was recently contacted by individuals directly affected by this lapsed permit, and they have requested that I contact you directly, and request your assistance in resolving the matter that should have been taken care of nearly 15 years ago by the developer of the property. Attached to this letter are documents we obtained from the microfiche files at the Eastern Region Office of IDWR, and I would like to briefly review them so that the history on this permit is clear.

On February 4, 1991, Melvin Fielding submitted an application for permit, which was assigned number 25-7583. The application sought a water right for the diversion of .16 cfs for domestic purposes, and .72 cfs for the irrigation of 36 acres within the subdivision, including individual lots on the property. The purpose of the application was for Mr. Fielding to develop a 12 home subdivision known as Township Park Estates. A copy of this application is enclosed with this letter. The time period sought to develop the permit was 3 years.

On April 25, 1991, Mr. Fielding received a permit approval notice, and had until April 1, 1994 to submit proof of beneficial use. A copy of the permit approval notice and the actual permit is also enclosed with this letter. On January 31, 1994, the Department of Water Resources sent a proof due notice to the permit holder, indicating that the permit holder had

a deadline of April 1, 1994 to submit proof of beneficial use. A copy of this letter is enclosed.

On April 7, 1994, after the Department did not receive proof of beneficial use, a lapse notice was sent to Mr. Fielding by Mr. Glen Saxton of the Department. The letter requested that proof of beneficial use be submitted in 60 days.

For reasons that are not entirely clear, Mr. Fielding submitted proof of beneficial use on July 26, 1994, which was beyond the 60-day time requested by Mr. Saxton in his April 7th letter. As noted on the proof of beneficial use, the contact person was James Fielding, Melvin Fielding's son. At the time of this permitting process, Mr. Melvin Fielding was experiencing some health issues, and did not devote the attention necessary to resolve this issue. Ms. Fielding passed away on May 5, 1995, and Mr. Fielding passed away on May 19, 1996.

On August 19, 1994, the Department acknowledged receiving proof of beneficial use, but because it was past the 60 day period where the permit could be readily reinstated, the Department, consistent with its policies, requested additional information relative to the development of the water right. A copy of the letter is enclosed with this letter. The Department requested two pieces of evidence to show the beneficial use of the water during the authorized development period, and reasonable cause why the original proof was not submitted.

On October 27, 1994, the Department sent another letter to Mr. Fielding indicating that it had not received the information it had requested. A copy of this letter is also enclosed.

On November 3, 1994, James Fielding submitted a letter to the Department indicating that they had been unable to file proof of beneficial use in a timely manner due to commitments associated with opening a restaurant in the Idaho Falls area. Mr. Fielding requested that if there were any further steps required, to let him know. A copy of this letter is also enclosed.

On April 28, 1995, the Department sent a letter summarizing a telephone conversation it had had with Mr. Fielding. As stated in the letter, the Department stated that it needed two pieces of evidence to show that water was being put to beneficial use prior to the permit lapsing.

Finally, on October 25, 1995, Mr. Glen Saxton sent a letter to Mr. Fielding indicating that the permit had lapsed because the requested information had never been provided to the Department. A copy of this letter from Mr. Saxton is enclosed.

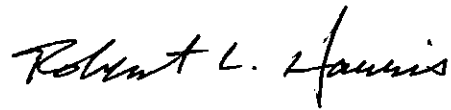
We have been contacted by the Township Park Estates Water Association to address this issue, which only recently came to light. The Association has operated for years under the presumption that the water right issues were previously taken care of. It is entirely unclear why the Fieldings did not provide the evidence to the Department as they had requested. The homeowners are in the process of obtaining information which would show the extent of beneficial use as of April 1, 1994. Everyone seems to recollect that the well was drilled, and all the water lines had been run to each of the lots. Additionally, a number of homes had been constructed, and a number of others were in the process of being constructed. As we understand Department policy, with regards to approving extent of beneficial use for a subdivision, the Department's "stub in" policy would govern. As we understand this policy, the Department's position is that as long as water lines have been run to respective lots, but not yet developed, the Department considers the lot developed for purposes of issuing a license for a water right. The homeowners recollect that shortly after the permit was approved in 1991, the well was drilled and the lines were run to each of the lots, and have been in existence since that time period. We will provide all this information once we receive it, but at this point, the members of the subdivision are concerned that this was not followed through by the Fieldings. Their concern, of course, is that they are using Idaho water under a permit that was only recently discovered had lapsed.

We recognize that the permit has been lapsed for some time, but are hopeful that the permit can be reinstated once information discussed in the above 2 paragraphs have been gathered. We recognize that you are very busy with all your responsibilities, but hope that you can assist us in addressing this unfortunate situation. If you have any questions or concerns, please let us know. Otherwise, we will wait to hear from you on the Department's

David R. Tuthill, Jr.
February 13, 2009
Page 4 of 4

position with this lapsed permit. Further, we hope to have information provided to you showing the extent of beneficial use. We sincerely appreciate your assistance in this matter.

Best Regards,

A handwritten signature in black ink, appearing to read "Robert L. Harris". The signature is fluid and cursive, with the first name "Robert" and last name "Harris" clearly distinguishable.

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures
c: client

Form 202
8/88

RECEIVED
JAN 10 1989

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 25 7583

To appropriate the public waters of the State of Idaho
Department of Water Resources
Eastern Division

1. Name of applicant Malvin Fielding Phone (208) 523-1280
Post office address 290 E. 13th St., Idaho Falls, ID 83404
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is SE 1/4 of NW 1/4 of NW 1/4 Govt. Lot
Sec. 6 Township 31N Range 30E B.M. Bonneville County; additional
points of diversion if any _____
4. Water will be used for the following purposes:
Amount 0.16 for Domestic purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.72 for Irrigation purposes from 4-1 to 11-1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.88 cfs and/or (b) _____ acre-feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Well & pump to 12 homes and acreages
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
 - c. Proposed well diameter is 10 inches; proposed depth of well is 280 feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? _____
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
3 years (minimum 1 year)

B. Description of project (fill in only applicable items)

- a. Hydropower show number of kilowatts and expected capacity in KW _____
 b. Stockwatering show number and kind of livestock _____
 c. Municipal show name of municipality _____
 d. Domestic show number of households _____
 e. Other, describe fully _____

9. Description of place of use

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
1N	38E	6					5	25	4	2									36
							D	D	D	D									

Total number of acres to be irrigated 36

10. Describe any other water rights used for the same purposes as described above. None

11. a. Who owns the property at the point of diversion? Melvin Fielding

b. Who owns the land to be irrigated or place of use? Melvin Fielding

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing _____

12. Remarks: _____

13. Map of proposed project show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth

William F. Kibler
(Applicant)

Received by HWA on 2-4-91 Time 05:10 Preliminary check by _____
Fee \$ 45.65 Received by HWA 15015631 Date 2-4-91
Publication prepared by SB Date 3-9-91 Published in Last Register
Publication approved LB Date 3-20-91

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____ and said application is hereby _____

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____ 19____

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:



State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mall, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

April 25, 1991

MELVIN FIELDING
290 E. 13TH ST.
IDAHO FALLS, ID 83404

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 25-07583

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed. You will receive a "Proof Due Notice" from this Department approximately 60 days prior to the completion date requiring you to file either a Proof of Beneficial Use form stating that the project has been completed or file a Request for an Extension of Time in which to file the proof statement.

Be sure to note the special condition requiring you to install a measuring device. Enclosed, for your reference, is a list of measuring device options.

Section 42-235, Idaho Code, requires that a "drilling permit" must be obtained from the department for all wells constructed after July 1, 1987. A drilling permit is a separate permit that must be issued in addition to your permit to appropriate water. Commencement of well construction or diversion of water under your permit to appropriate water is prohibited unless a drilling permit is obtained.

You should be aware that you are located within a drainage basin where surface water diversions are regulated by a watermaster. It is possible that diversion of groundwater under your permit may cause a reduction of surface water flow. Siting your well as far as possible from surface water channels and casing your well

so that groundwater tributary to surface water flows are not
diverted will reduce the potential for the watermaster to
regulate your water use.
Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:blm

Enclosures

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 25-07583

Proposed Priority February 4, 1991 Maximum Diversion Rate: 0.88 CFS

This is to certify that MELVIN FIELDING
290 E. 113TH ST.
IDAHO FALLS, ID. 83404

has applied for a permit to appropriate water from: GROUNDWATER
and a permit is APPROVED for development of water as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION
IRRIGATION	04/01 to 11/01	0.72 CFS
DOMESTIC	01/01 to 12/31	0.16 CFS
	Totals	0.88 CFS

LOCATION OF POINT(S) OF DIVERSION: SENNW Sec. 6, Township 01N, Range 38E
BONNEVILLE County

PLACE OF USE: IRRIGATION	ACRES	ACRES	ACRES	TOTAL
TWN RGE SEC				
01N 38E 6	NENW 5	NENW 25	SWNW 4	36
	SEW 2			

Total number of acres irrigated: 36

PLACE OF USE: DOMESTIC, same as IRRIGATION use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before April 1, 1994.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Prior to the diversion of water under this permit a flow measurement port or other device as specified by the Department shall be installed to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
5. Permit holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. The right to the use of water acquired under this permit shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 25-07583

CONDITIONS/REMARKS:

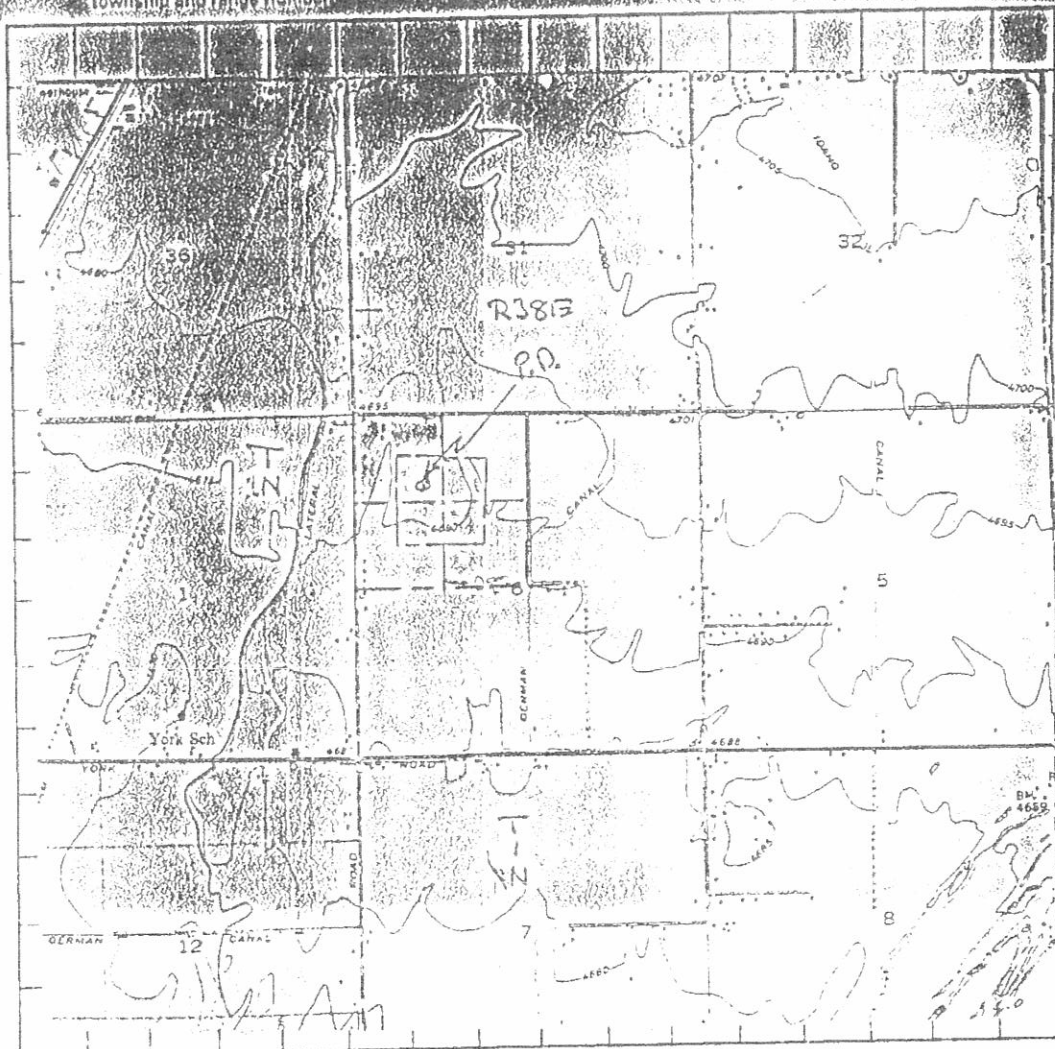
7. The Director retains jurisdiction of the permit and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
8. The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
9. Domestic use is for 12 homes.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this

18 day of April, 1991

R. Keith Higginson
for R. Keith Higginson, Director

13. Map of proposed project, show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Michael F. Kikline
(Applicant)

JANUARY 21, 1994

MELVIN FIELDING
290 E. 13TH ST.
IDAHO FALLS, ID 83404

PROOF DUE NOTICE

RE: PERMIT NO. 25-0758

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before April 1, 1994. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

CERTIFIED MAIL

NO. 141005

April 7, 1994

MELVIN FIELDING
290 E. 13TH ST.
IDAHO FALLS, ID 83404

LAPSE NOTICE

REF PERMIT NO. 25-07593

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper format to you in our proof due notice dated January 31, 1994. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifteen dollar (\$15) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

L. Glen Saxton

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosures

CERTIFICATION OF MAILING

I hereby certify that on 4-7-94
a copy/an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

Form 217
RECEIVED
JUL 26 1994

Department of Water Resources
Eastern District Office

RECEIVED
AUG 11 1994

OFFICE USE ONLY
Amt. of Fee \$ 100
Date 7-26-94
Receipt No. E020100
Receipt by H.W.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 25-07583 Telephone No. 529-4817

2. Name(s) of Permit Holder(s): Melvin Fielding

3. Mailing Address: 290 E 13th Idaho Falls, ID 83404

4. Source of Water: GROUNDWATER

II GROUNDWATER Well Driller's Name: Denning Date Drilled: Feb 1991

OPTIONAL: 15

Pump horsepower: 1 1/2 hp Pressure (psi): 30-70 Dynamic pumping level (ft.): 250

5. Extent of Use (as authorized by the permit):

Domestically 12 (No. of households) Stockwater (No. and type of stock)

Irrigation 36 (No. of acres) Other

6. Total rate and/or volume for which proof is submitted 0.88 cfs OR acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? ☒ Yes ☐ No Installed? ☒ Yes ☐ No

Flow Measurement Port: Required? ☒ Yes ☐ No Installed? ☐ Yes ☐ No

8. Fee Enclosed: \$ 100 (See License Fee Schedule on back of Instruction Sheet)

9. Person to contact to accompany the Department representative during field examination of the water system:

Name: Melvin Fielding Telephone No. 529-4817

Address: 1750 Claremont Ln Idaho Falls 83404

10. The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

Date: 7/94 Signature (and title, if on behalf of a company or organization): Melvin O. Fielding

August 19, 1994

Melvin Fielding
290 E. 13th St.
Idaho Falls, ID 83404

RE: Permit No. 25-07583

Dear Permit Holder:

The Department received your proof of beneficial use statement for the above referenced permit on July 26, 1994. The permit lapsed on April 1, 1994, so the 60-day late period during which the permit can be readily reinstated has passed.

Because you failed to file the proof of beneficial use in a timely manner, and pursuant to Section 42-218a, Idaho Code, (copy enclosed) the permit can be reinstated only if you submit the following:

- a) Two pieces of evidence to show that beneficial use of the water did commence and to show the extent of the use of water during the authorized permit period from the time the permit was issued until the proof due date, and
- b) Reasonable cause why the proof of beneficial use was filed late.

Your proof of beneficial use statement along with any information which may have been submitted with it, will remain on file in this office for 60 days to allow you an opportunity to assemble and submit the additional required information.

You should also be aware that since the proof was filed late, your priority date has been penalized. Provided you supply the requested information, your priority date of February 4, 1991 will be advanced to July 26, 1994.

If you have any questions or if I can be of any further assistance, please feel free to contact me at (208) 327-7953.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mall, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS

GOVERNOR

KEITH HIGGINSON

DIRECTOR

October 27, 1994

Melvin Fielding
290 E 13th St.
Idaho Falls, ID 83404

RE: Lapsed Permit No. 25-07583

Dear Mr. Fielding:

On August 19, 1994, I sent you a letter explaining that since you submitted proof of beneficial use for the above referenced permit late the Department could not accept the proof until you provided us with some additional information. To this date the Department has not received the requested information.

Please be aware that this water right permit is lapsed and is of no further force nor effect unless it is reinstated.

If the Department does not receive the requested information within thirty (30) days of receipt of this letter I will begin the process to refund the \$100.00 license examination you submitted with the proof and the file will be destroyed.

If you have any questions regarding this matter, please call me directly at (208) 327-7953.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Nov. 14, 1994

RECEIVED

NOV 14 1994

Department of Water Resources

John A. Yarbrough
State of Idaho
Department of Water Resources
11301 W. Orchard St.
Boise, Idaho 83720-9000

Re Permit No. 25-07583

Dear Mr. Yarbrough:

We have been unable to file
proof of beneficial use in a timely
manner due to the time required to
build and open a new business, namely
a restaurant in the Soda Falls area.
Please let us know if there are any
further steps required to complete the
permit process.

Sincerely,

James D. Fielding
(208) 529-4817

James D. Fielding



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 * FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

April 28, 1995

Melvin Fielding
290 E. 13th St.
Idaho Falls, ID 83404

RE: Lapsed Permit No. 25-07583

Dear Mr. Fielding:

On November 14, 1994, the department received your letter concerning the reinstatement of lapsed Permit No. 25-07583. You stated that you could not file proof in a timely manner since you were in the process of opening a business. When I spoke with you on the telephone prior to you sending the letter, I informed you that in order to reinstate the permit, you would need to submit two (2) pieces of evidence showing that water was put to beneficial use prior to the permit lapsing, and a reasonable explanation why the proof was not filed timely. The letter you sent alone will not allow the department to reinstate the permit.

In order for the department to reinstate the permit, you still will need to submit two (2) pieces of evidence to show that water was being put to beneficial use prior to the permit lapsing.

I apologize that my response is so late. I hope this will not cause any inconvenience.

If you have any questions regarding this matter, please do not hesitate to contact me at (208) 327-7900.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

~ Celebrating Our Centennial Year of Service to Idaho 1895-1995 ~



State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mall, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 25, 1995

Melvin Fielding
290 E. 13th Street
Idaho Falls, ID 83404

RE: LAPSED PERMIT NO. 25-07563

Dear Mr. Fielding:

The above referenced lapsed permit came to my attention as one of the permits in process to be filmed and destroyed, since the permit is no longer of any force nor effect.

The reason for this letter is that the file indicates that in November 1994, you submitted a letter to the department in an effort to have the permit reinstated but did not complete the submittal.

Enclosed is a copy of Julie Yarbrough's August 19, 1994, letter which advised you of the steps to follow in seeking reinstatement of a lapsed permit. Until the permit is reinstated or you obtain or develop a different water right, you are not authorized to divert and use water from the well as contemplated under the lapsed permit. Section 42-352 Idaho Code, provides civil penalties for unauthorized diversion and use of water.

If the department can assist you with a new filing or provide additional information, please feel free to contact us. We have an office in Idaho Falls which likely is the most convenient for you to contact if you seek to develop a water right. The phone number in Idaho Falls is 525-7161.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: IDWR - E. Region