

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

IN THE MATTER OF LAPSED PERMIT	)	
NO. 25-7583 IN THE NAME OF	)	REINSTATEMENT
MELVIN FIELDING	)	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 April 18, 1991 the Department issued Permit No. 25-7583 in the name of Melvin Fielding. This permit authorized the diversion from ground water of 0.72 cubic feet per second (cfs) for irrigation and 0.16 cfs for domestic use in the NW1/4NW1/4, the NE1/4NW1/4 and the SE1/4NW1/4 of Section 6, Township 1 North, Range 38 East; Bonneville 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 April 1, 1994.
2. On January 31, 1994, 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 April 7, 1994, because it had not received either an acceptable proof statement or an extension request.
4. On July 26, 1994, the Department received a completed Proof of Beneficial Use statement signed by the permit holder, and the required proof fee.
5. On August 19, 1994, the Department sent a letter to the permit holder which acknowledged the late proof and notified him of the advancement to the permit's priority date if the permit was reinstated. The letter also outlined for the permit holder the additional steps required before the permit could be reinstated.
6. On February 17, 2009, the Department received a request to reinstate Permit 25-7583 submitted by Robert L. Harris, of Holden Kidwell Hahn and Crapo on behalf of Township Park Estates Homeowners Association.
7. On April 13, 2009 and on April 15, 2009, the Department received evidence to support beneficial use had been established before the proof due date.

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;

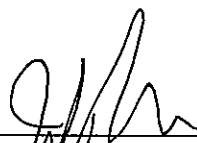
2. The permit holder has provided sufficient information and reasonable cause for the Department to reinstate the permit.

3. The Department should reinstate Permit No. 25-7583 with the priority advanced to the date that the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 25-7583, in the name of Melvin Fielding is **REINSTATED**, with the priority advanced to July 26, 1994.

Dated this 28th day of April, 2009.



Jeff Peppersack, Bureau Chief
Water Allocation Bureau