

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

IN THE MATTER OF LAPSED PERMIT	)	
NO. 63-31430 IN THE NAME OF	)	REINSTATEMENT
BROWN CONSTRUCTION	)	ORDER
_____	)	

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 April 25, 2002, the Department issued Permit No. 63-31430 in the name of Brown Construction and/or David A Hunemiller (permit holders). This permit authorized the diversion from ground water of 0.23 cubic feet per second (cfs) for domestic use in Lot 1 (NE1/4NE1/4), of Section 4, Township 3 North, Range 2 West, Canyon 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 May 1, 2004.
2. On February 29, 2004, 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 another extension of time.
3. The Department issued the permit holder a lapse notice on May 6, 2004, because it had not received either an acceptable proof statement or an extension request.
4. On March 11, 2008, the Department received a Proof of Beneficial Use form signed by Richard Brown, the required proof fee from Richard Brown of Brown Construction and evidence supporting beneficial use had been established before the proof due date.
5. On December 8, 2008, the Department received a letter from Richard Brown, president of Brown Construction, explaining the reason for filing late proof.

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. 63-31430 with the priority advanced to the date that the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 63-31430, in the name of Brown Construction, is **REINSTATED**, with the priority advanced to March 11, 2008.

Dated this 24th day of February, 2009.



Jeff Peppersack, Bureau Chief
Water Allocation Bureau