

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

IN THE MATTER OF LAPSED PERMIT	)	
NO. 22-7786 IN THE NAME OF	)	REINSTATEMENT
TETON CREEK RESORT, LLC.	)	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 August 20, 1997, the Department issued Permit No. 22-7786 in the name of Teton Creek Resort, LLC. This permit authorized the diversion from ground water of 0.40 cubic feet per second (cfs) for commercial use in Lot 1(NW1/4NE1/4), of Section 20, Township 5 North, Range 46 East; and 0.56 cfs for domestic use and 2.23 cfs for fire protection use in Lot 1(NW1/4NE1/4), Lot 2(SW1/4NE1/4) and Lot 3(NW1/4SE1/4) of Section 20, Township 5 North, Range 46 East, Teton 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 September 1, 2002.
2. On September 4, 2002, the Department received a request for additional time in which to submit proof of beneficial use for the permit. The extension was approved and the new proof due date was extended to September 1, 2007.
3. On June 30, 2007, 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.
4. The Department issued the permit holder a lapse notice on September 11, 2007, because it had not received either an acceptable proof statement or an extension request.
5. On October 16, 2008 the Department received a request to reinstate Permit 22-7786 submitted by engineer Jamie Boos, of Nelson Engineering on behalf of Teton Creek Resort, LLC. The submittals included a Proof of Beneficial Use form signed by Jamie Boos and some evidence to substantiate construction of the water system. The submittals did not include documentation of authority to sign the proof form on behalf of the permit holder.
6. On October 27, 2008 the Department received the required proof fee from Nelson Engineering.
7. On November 5, 2008 the Department received a letter from Jamie Boos of Nelson Engineering, explaining the reason for filing late proof.

8. On November 10, 2008, the Department received a completed Proof of Beneficial Use form signed by the permit holder and additional evidence supporting beneficial use was 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;

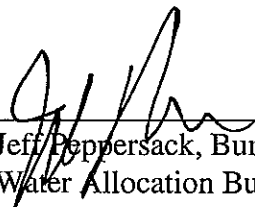
2. The permit holder has provided sufficient information and reasonable cause for the Department to reinstate the permit.

3. The Department should reinstate Permit No. 22-7786 with the priority advanced to the date that the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 22-7786, in the name of the Teton Creek Resort, LLC., is **REINSTATED**, with the priority advanced to November 10, 2008.

Dated this 18th day of November, 2008.



Jeff Peppersack, Bureau Chief
Water Allocation Bureau