

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF LAPSED PERMIT	)	
NO. 96-9011 IN THE NAME OF	)	REINSTATEMENT ORDER
ROCKY BEACH WATER DISTRICT	)	
_____	)	

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 March 8, 1999, the Department issued Permit No. 96-9011 in the name of Rocky Beach Water District ("permit holder") authorizing the diversion of 0.33 cubic feet per second ("cfs") of ground water for domestic use for 32 homes and irrigation of 51 acres in the SESE of Section 7, SWSW of Section 8, and the NW1/4 of Section 17, in Township 53 North, Range 04 West, B.M., Kootenai 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 March 1, 2004.

2. On December 31, 2003, 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 the proof of beneficial use ("proof") or an extension of time request ("extension").

3. On March 5, 2004 the Department sent the permit holder a lapse notice since the department had not received an acceptable proof statement or extension request.

4. On September 19, 2008, the Department received the proof of beneficial use statement. The permit holder filed evidence of the construction of the well and a letter from DEQ referring to their inspection of Well #2 and confirming it as a groundwater source for a public water system, and a letter explaining the reason for filing proof late was provided. This establishes that proof of beneficial use of the water occurred during the period when the permit was active.

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;

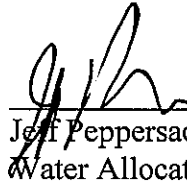
2. The permit holder has provided sufficient information and reasonable cause for the Department to reinstate the permit.

3. The Department should reinstate permit no. 96-9011 with the priority advanced to the date that proof was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 96-9011 in the name of Rocky Beach Water District is **REINSTATED**, with the priority advanced to **September 19, 2008**.

Dated this 23rd day of September, 2008.



Jeff Peppersack, Chief
Water Allocation Bureau