

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF LAPSED PERMIT	)	
NO. 95-8652 IN THE NAME OF ARROW	)	REINSTATEMENT ORDER
<u>PROPERTIES PARTNERSHIP</u>	)	

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 21, 1990, the Department issued Permit No. 95-08652 (Permit) to Arrow Properties Partnership authorizing the diversion of 1.60 cubic feet per second (cfs) of ground water for irrigation and domestic use within the following place-of-use: NW1/4NW1/4 and the SW1/4NW1/4 of Section 05, Township 49 North, Range 03 West; the NE1/4NE1/4, the SW1/4NE1/4 and the SE1/4NE1/4 of Section 06, Township 49 North, Range 03 West; and in Government Lot 4 of Section 36, Township 50 North, Range 04 West; 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 August 1, 1995.

2. On May 31, 1995, 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 extension of time.

3. The Department issued the permit holder a lapse notice on August 7, 1995, because it had not received either an acceptable proof statement or an extension request.

4. On May 18, 2007 the Department received documents submitted by Mr. Dennis Davis, attorney, on behalf of Arrow Point Community Association, Inc., a homeowner's association. The submittals included: Proof of Beneficial Use statement; the examination fee; a letter stating the basis for filing documents after the proof deadline and requesting reinstatement of the permit; evidence to substantiate construction of the water system and some documentation showing a history of developers associated with the project. On June 12, 2007, and October 22, 2007, the Department received additional evidence that beneficial use of the water occurred during the period authorized for development under the permit. On April 29, 2008 Arrow Point Community Association, Inc. submitted a Bill of Sale for the purchase of the community water and sewer system used throughout the place-of-use described in the Permit to demonstrate their interest in the water system and the associated permit.

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;

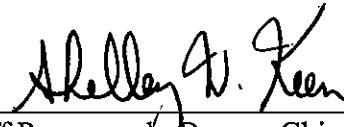
2. The Arrow Point Community Association provided sufficient information and reasonable cause for the Department to reinstate the permit.

3. The Department should reinstate Permit No. 95-8652 with the priority advanced to the date that the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 95-8652, is **REINSTATED**, with the priority advanced to May 18, 2007.

Dated this 2nd day of May, 2008.


for Jeff Peppersack, Bureau Chief
Water Allocation Bureau