



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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September 26, 2007

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

CHARLES G BROCKWAY, PHD PE
BROCKWAY ENGINEERING
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

RE: LAPSED PERMIT NO. 37-20400

Dear Mr. Brockway:

This letter is to acknowledge receipt of your letter dated September 03, 2007, regarding Mr. W. Bruce Willis' property in Hailey and the water rights he has for irrigation and domestic uses. You provided the department with a Proof of Beneficial Use ("proof"), a \$50.00 license examination fee, copies of Deeds providing ownership information of the property, and documentation in support of reinstatement of the referenced lapsed permit.

The documents you provided is a start to clear up the status of this permit and the other water rights that Mr. Willis is using on the property that are not in his name. Therefore, the first item we need to address is the ownership of the water rights. According to the aerial photographs you provided of Mr. Willis' property in Hailey it appears that he has use of the following water rights: 37-20400, 37-20402, 37-8502 and 37-8822. I have enclosed copies of reports generated from the department's database for these water rights and found that only one water right is in Mr. Willis' name that is 37-8822. Therefore, I am enclosing an Assignment of Permit and ownership change forms for use by the owners of these rights to assign them over to Mr. Willis. Because ownership of lapsed permit no. 37-20400 is not in Mr. Willis' name, I cannot accept the Proof you filed until this water right is changed into his name.

Secondly, the documents you filed for reinstatement purposes do not provide sufficient information to reinstate this permit according to Section 42-218a(2), *Idaho Code*. For a better understanding of what the department requires the following paragraph may be of assistance.

Section 42-218a(2), *Idaho Code*:

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 extension 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;

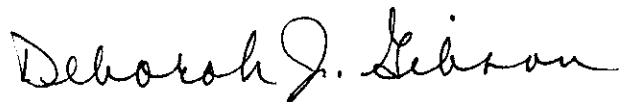
Appropriate evidence must clearly provide the timing and extent of development and confirm the application of beneficial use of the water as permitted. The evidence must verify that the water system was completed and irrigation occurred within Lot 35, during the active stage (March 29, 2002 to April 1, 2005) of permit 37-20400. This evidence is essential for reinstatement of the water right.

One suggestion would be to provide written affidavits from someone familiar with the development along with maps or diagrams showing the specific locations irrigated. Another suggestion would be to provide documents confirming purchases of equipment or supplies, or services associated with the development and use of the irrigation system.

Please be aware that this permit remains **lapsed** and is of no force nor effect unless it is reinstated. According to Section 42-218a, *Idaho Code*, the Department requires "...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..."

I will hold this matter for **30-days** to receive your response. If there is no response from you within that time, I will return the documents you have filed, without reinstatement of this permit. If you have questions regarding this matter, please feel free to contact me at (208) 287-4942 or Jeff Peppersack at (208) 287-4948.

Sincerely,

A handwritten signature in black ink that reads "Deborah J. Gibson". The signature is written in a cursive, flowing style.

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosures