

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF LAPSED PERMIT	)	
NO. 37-20400 IN THE NAME OF	)	REINSTATEMENT ORDER
EDWARD F. O’GARA FAMILY TRUST	)	
_____	)	

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 29, 2002, the Department issued Permit no. 37-20400 in the name of Edward F. O’Gara Family Trust (“permit holder”). This permit authorized the diversion of 0.06 cubic feet per second (“cfs”) of ground water to be diverted for irrigation use in the NWNE of Section 5, Township 02 North, Range 18 East, B.M., Blaine County. A condition of permit approval required the permit holders to submit proof of beneficial use of water (“proof”) to the Department on or before April 1, 2005.

2. On January 31, 2005, 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 an extension of time.

3. On April 19, 2005, the Department sent the permit holder a lapse notice because the Department had not received an acceptable proof of beneficial use statement or extension of time request from these permit holders.

4. On September 21, 2007, the Department received a Proof of Beneficial Use form and a \$50.00 examination fee filed by W. Bruce Willis.

5. On October 4, 2007, an Assignment of Permit was received that changed the ownership of this permit from Edward F. O’Gara to W. Bruce Willis.

6. Evidence of development and use of the permit was provided to the Department that clearly provides proof of the application of a beneficial use as permitted.

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;

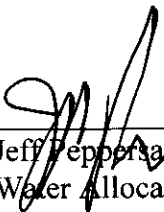
2. The permit holder has provided sufficient information and reasonable cause for the Department to reinstate the permit by submitting clear evidence to show that beneficial use had been completed before the permit had lapsed.

3. The Department should reinstate permit no. 37-20400 with the priority advanced to the date that Proof of Beneficial Use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 37-20400 shall be **REINSTATED** in the name of W. Bruce Willis with the priority advanced to **September 21, 2007**.

Dated this 8th day of February, 2008.



Jeff Peppersack, Bureau Chief
Water Allocation Bureau