

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

IN THE MATTER OF PERMIT NO. _____)	
15-7243 IN THE NAME OF _____)	REINSTATEMENT ORDER
ELDON JOHN and/or MIKE JOHN _____)	
_____)	

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 May 29, 2003, the Department issued Permit No. 15-7243 in the name of Eldon John and/or Mike John ("permit holders"). This permit authorized the diversion of 1.30 cubic feet per second ("cfs") of ground water for irrigation use in the SW1/4SW1/4 of Section 11, Township 15 South, Range 35 East, and in the NW1/4NW1/4 of Section 14, Township 15 South Range 35 E, Oneida 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 June 1, 2005.

2. On March 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 May 12, 2005, the department received a Proof of Beneficial Use ("proof") form and a \$50.00 examination fee.

4. On May 12, 2006, the Department returned the proof to the permit holders because the filing fee was not for the full amount of \$125.00. Therefore, the proof was unacceptable. The Department returned the proof with a letter indicating that the permit holders should return the proof along with the fee of \$75.00 by May 31, 2006 to avoid lapsing of the permit.

5. The Department did not issue a notice of lapsed permit to the permit holders.

6. On May 3, 2007, the department received a Proof of Beneficial Use form and the balance of the examination fee from the permit holders.

CONCLUSIONS OF LAW

1. Section 42-218a., Idaho Code, provides in pertinent part as follows:

A permit upon which the proof of beneficial use has not been submitted, or a request for extension of time has not been received on or before the date set for such proof, shall lapse and be of no further force nor effect. Notice of said lapsing shall be sent by the department to the applicant at the address of record by regular mail provided:

1. That within sixty (60) days after such notice of lapsing the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof;

....

3. The original priority date of a lapsed permit shall not be reinstated except upon a showing of error or mistake of the department.

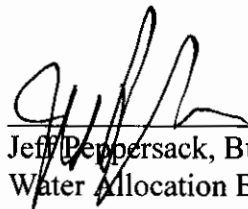
2. The permit holder has provided a reasonable showing why the permit should be reinstated by submitting acceptable proof of beneficial use on May 3, 2007.

3. The Department should reinstate permit no. 15-7243 with the priority advanced the number of days late since May 31, 2006.

ORDER

IT IS HEREBY ORDERED, that Permit No. 15-7243, in the name of the Eldon John and/or Mike John is **REINSTATED**, with the priority advanced to February 26, 2004.

Dated this 30th day of July, 2007.



Jeff Penppersack, Bureau Chief
Water Allocation Bureau