

IN THE MATTER OF PERMIT)
NO. 15-7184 IN THE NAME OF)
DAVID AND ALICE EDWARDS)
)

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 June 19, 2000, the Department issued Permit No. 15-7184 ("permit") to John F. Fredrickson Co. authorizing the diversion of 4.76 cubic feet per second (cfs) of ground water to be used for irrigation within Sections 21 & 22, Township 14 South, Range 35 East, of 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 January 27, 2005, the Department received an Assignment of Permit from John F. Fredrickson Co. assigning the permit to David and Alice Edwards ("permit holders").
3. On March 31, 2005, the Department notified the permit holder that proof was due and instructed the permit holder of the steps to be taken to submit proof or a Request for Extension of Time ("extension request").
4. On April 21, 2005, the permit holder filed with the Department an extension request to extend the proof deadline. The permit holder explained that they had experienced a delay getting electricity to the site. This extension was approved and granted based on due diligence which extended the proof deadline to June 1, 2007.
5. On September 29, 2006, the Department received an Application for Amendment of a Permit ("amendment of permit"). The amendment of permit was filed to change the point of diversion for permit no. 15-7184. Although the filing fee was not submitted until January 18, 2007, it is apparent from Department date stamps on the amendment of permit that the Department did not notify the permit holders of the deficiency for several months.

6. The amendment of permit was granted and issued on March 21, 2007.

7. On March 31, 2007, the Department notified the permit holders that proof was due and instructed the permit holders of the steps to be taken to submit the proof or an extension request.

8. On April 12, 2007, the permit holders filed a second extension request for filing proof with the Department. The extension request was submitted prior to the date proof was due for the permit. The permit holders explained that "[t]he permit had to be amended, and we didn't receive it until the 27th of March, 2007."

9. On May 29, 2007, the Department issued an Order Denying Request for Extension of Time as a preliminary order mailed to the permit holders on May 30, 2007. The reason for the denial was that the permit holders had already been granted one extension based on good cause and additional extensions for cause could not be granted pursuant to Idaho Code § 42-204.

CONCLUSIONS OF LAW

1. Idaho Code § 42-204 provides for an extension to submit proof for reasons of government delay and for litigation of any nature that might bring title to said water into question.

2. The Department should withdraw the Order Denying Request for Extension of Time issued on May 29, 2007

3. The Department should grant the extension request submitted on April 12, 2007 on the basis of delay by the Department and provide the time lost due to processing of the amendment of permit from September 29, 2006 to March 21, 2007.

4. The Department should reinstate the Permit without an advance of the priority date.

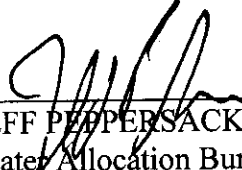
ORDER

IT IS HEREBY ORDERED that the Order Denying Request for Extension of Time issued on May 29, 2007 is **WITHDRAWN**.

IT IS FURTHER ORDERED that the Request for Extension of Time filed on April 12, 2007 in the name of David and Alice Edwards is **GRANTED** and the Permit is Reinstated with no change in the priority date of April 17, 2000.

IT IS FURTHER ORDERED that the time within which to submit proof of beneficial use is extended to **November 21, 2007**.

Dated this 13th day of June, 2007.



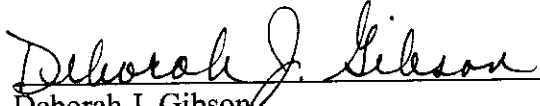
JEFF PEPPERSACK, Bureau Chief
Water Allocation Bureau

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of June, 2007, a true and correct copy of the documents described below were served on the following as noted:

Document(s) Served: Order Withdrawing Denial, Granting Extension and Reinstating Permit, and Explanatory Information to Accompany a Preliminary Order without a hearing.

DAVID EDWARDS
ALICE EDWARDS
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Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau