

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT TO	)	
APPROPRIATE WATER NO. 63-32177	)	ORDER CHANGING PROOF OF
IN THE NAME OF JOHN HAUCK	)	BENEFICIAL USE DUE DATE
_____	)	

This matter having come before the Department of Water Resources (Department), the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On November 21, 2005, the Department issued Permit to Appropriate Water No. 63-32177 (permit) to John Hauck, (permit holder) for the diversion and use of 13.8 af from an unnamed slough in Government Lot 4 (NW¼NW¼) of Section 26, Township 5 North, Range 5 West, B. M., for wildlife storage.

2. Section 42-204, *Idaho Code*, says, in pertinent part:

The department shall require that actual construction work and application of the water to full beneficial use shall be complete within a period of five (5) years from the date of such approval, but may limit the permit to a less period than is named in the application, and the permit shall set forth the date when beneficial application of the water to be diverted by such works shall be made.

3. On the application for permit, the permit holder requested one year to complete the diversion works and to apply water to the proposed beneficial use.

4. Approval condition no. 1 of the permit says:

Proof of application of water to beneficial use shall be submitted on or before December 1, 2005.

CONCLUSIONS OF LAW

1. Requiring the permit holder to submit proof of beneficial use ten days after the permit was issued was an error of the Department. The permit should have required proof of beneficial use to be submitted on or before December 1, 2006.
2. The beneficial use due date should be changed to December 1, 2006 in accordance with the provisions of §42-204, *Idaho Code*.

ORDER

The condition of approval requiring Proof of application of water to beneficial use to be submitted on or before December 1, 2005 under Permit No. 63-32177 is **MODIFIED** as follows:

Proof of application of water to beneficial use shall be submitted on or before December 1, 2006.

Dated this 4th day of April, 2006.



Gary Spackman