

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

IN THE MATTER OF LAPSED PERMIT	)	
NO. 57-7594 IN THE NAME OF	)	REINSTATEMENT ORDER
EAGLE VIEW ESTATES	)	
HOMEOWNERS ASSN. #1	)	
_____	)	

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 20, 1991, the Department issued Permit No. 57-7594 in the name of Allan Lindner, Debra Lindner, Charles S. Hightower, and Vicky L. Hightower ("permit holders") authorizing the diversion of 0.61 cubic feet per second ("cfs") of ground water for domestic and irrigation uses for 5 households in the SE1/4SE1/4 of Section 9 and the SW1/4SW1/4 of Section 10, of Township 02 South, Range 02 West, Owyhee 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 December 1, 1999.
2. On May 13, 1999, the department received an Assignment of Permit signed by the permit holders, individually, assigning the permit to Eagle View Estates Homeowners Association No. 1.
3. On September 30, 1999, 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 the proof or a Request for Extension of Time ("extension request").
4. On December 8, 1999, the Department approved a Request for Extension of Time extending the proof deadline to December 1, 2003. The permit holder filed the extension request on December 2, 1999, therefore, the priority date for this permit was advanced to September 8, 1994.
5. On September 30, 2003, 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 the proof or a Request for Extension of Time.
6. On December 9, 2003, the Department sent the permit holder a lapse notice since the department had not received an acceptable proof of beneficial use statement or extension of time request.

7. On September 14, 2005, the department received a Proof of Beneficial Use form filed with evidence of the development of the permit. The evidence provided to the department contained proof of beneficial use of the water occurred during the period when the permit was active.

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 sufficient information to show that:

3. The Department should reinstate permit no. 57-7594 with the priority advanced to the date that the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 57-7594, in the name of Eagle View Estates Homeowners Assn. #1 is **REINSTATED**, with the priority advanced to **September 14, 2005**.

Dated this 19th day of December, 2005.


Gary Spackman