

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

IN THE MATTER OF LAPSED PERMIT	)	
NO. 27-7456 IN THE NAME OF	)	REINSTATEMENT ORDER
GERALD BARTAUSKY AND	)	
NORTHWEST FARM CREDIT SERVICES	)	
_____	)	

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. 27-7456 in the name of the Virginia Rollison Estate ("permit holder") authorizing the diversion of 4.00 cubic feet per second ("cfs") of ground water for irrigation of 200 acres in the SW1/4NE1/4SW1/4 of Township 02 South, Range 36 East, Bingham 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, 1992.

2. On September 6, 1991, the Department received an Assignment of Permit signed by Bonnie George, individually and as personal representative for the Virginia E. Rollison estate, assigning this permit to Gerald Bartauskys and Kyle Edwards.

3. On March 31, 1992, 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.

4. On December 4, 1992, the department received two Assignments of Permit. These assignments removed Kyle Edwards as a permit holder and added Northwest Farm Credit Services, ACA in addition to Gerald Bartauskys.

5. On June 1, 1992, the Department approved a Request for Extension of Time extending the proof deadline to June 1, 1994.

6. On March 31, 1994, 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.

7. On June 7, 1994, 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.

8. On August 12, 1994, the Department received a Request for Extension of Time ("request") that was not acceptable because the 60-day filing period had past for filing a request. The department returned the request to Mr. Bartauskys on August 23, 1994, explaining that the request could not be accepted at this time, that only Proof of Beneficial Use was appropriate.

9. On March 28, 2005, the department received a Proof of Beneficial Use form filed with evidence of the development of the permit. Additional evidence was requested from Mr. Bartauskys, and he filed them with the department on September 30, 2005. That additional evidence contained appropriate evidence to prove beneficial use of the water occurred during the time 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. 27-7456 with the priority advanced to the date that the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 27-7456, in the name of Gerald Bartauskys and Northwest Farm Credit Services, ACA is **REINSTATED**, with the priority advanced to **March 28, 2005**.

Dated this 7th day of October, 2005.



Gary Spackman