

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

IN THE MATTER OF LAPSED PERMIT NO.)	
34-7572 IN THE NAME OF THE CITY)	REINSTATEMENT ORDER
OF MACKAY)	
_____)	

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 12, 1995, the Department issued Permit No. 34-7572 in the name of the City of Mackay ("permit holder") authorizing the diversion of 1.60 cubic feet per second ("cfs") of ground water for municipal use within the city limits of Mackay. 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, 1996.

2. On March 31, 1996, 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").

3. On June 6, 1996, the Department approved a Request for Extension of Time ("request") extending the proof deadline to June 1, 1997.

4. On March 31, 1997, 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").

5. On June 18, 1997, 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.

6. On August 29, 2005, the department received a Proof of Beneficial Use form filed with evidence of the development of the permit. The information provided shows that the well was drilled and connected during the active stage of this permit.

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. 34-7572 with the priority advanced to the date that the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 34-7572, in the name of the City of Mackay, is **REINSTATED**, with the priority advanced to **August 29, 2005**.

Dated this 1st day of September, 2005.



Gary Spackman