

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF LAPSED	)	
PERMITS NOS. 27-7578 AND 27-7579	)	REINSTATEMENT ORDER
IN THE NAME OF GAYLEN CLAYSON,	)	
DBA, CEDAR ARCH DAIRIES	)	
_____	)	

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 16, 1997, the Department issued Permits no. 27-7578 and no. 27-7579 to Gaylen Clayson, dba, Cedar Arch Dairies ("permit holder"). These permits authorized the diversion of 0.14 and 0.10 cubic feet per second ("cfs") of ground water to be diverted for commercial and stockwater uses for two dairies in Sections 29 and 32, Township 01 South, Range 37 East, B.M., Bingham County. These applications were processed and approved because the applicant represented that full development was complete prior to November 1987. The completed development was limited by the flow rate and the number of stock. Conditions of permit approval required the permit holder to limit the number of stock to 838 and 656 head, respectively. The applicant was required to submit proof of beneficial use of water ("proof") to the Department on or before June 1, 1998.
2. On March 31, 1998, 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 26, 1998, the Department sent the permit holder a lapse notice, since the Department had not received an acceptable proof or extension request for these permits.
4. On September 8, 2000, the permit holder submitted Proof of Beneficial Use for each permit, with the required license examination fees to the Department. The permit holder provided a letter stating the reason for delay of filing and requested that the permits be reinstated.
5. On September 29, 2000, the department requested that the permit holder provide evidence of development.
6. On July 14, 2005 the permit holder submitted evidence to show that water has been applied to the authorized beneficial use during the development period.

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 water was beneficially used during the authorized development period.

3. The Department should reinstate the permit with the priority advanced to the date that evidence of development was received.

4. The beneficial use recognized by these permits, the beneficial use field examination, and any license issued should be limited to the beneficial use completed before November 1987.

ORDER

IT IS HEREBY ORDERED, that Permits no. 27-7578 and no. 27-7579 in the name of Gaylen Clayson, dba, Cedar Arch Dairy are **REINSTATED** with the priority advanced to **July 14, 2005**, with the original conditions of the permits.

IT IS FURTHER ORDERED, that the beneficial uses recognized by these permits are limited to the beneficial use completed before November 1987.

Dated this 4th day of August, 2005.



Gary Spackman