

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMITS NOS.	)	
47-7679 AND 47-7682 IN THE	)	REINSTATEMENT
NAME OF RONALD A. KASEL	)	ORDER
_____	)	

WHEREAS, the Department issued permit no. 47-7679 with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before December 1, 1987.

The Department issued permit no. 47-7682 with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before October 1, 1987.

The Department received Proof of Beneficial Use from the permit holder on October 18, 1985 for both permits nos. 47-7679 and 47-7682.

The Department notified the permit holder on August 12, 1986, that examination fees or certified field examinations were due within 60-days.

The permit holder notified the Department on November 4, 1986 that a field examination would be conducted by a certified water right examiner and enclosed a letter from C. E. Brockway, P.E., stating that the examination would be conducted for permits 47-7679 and 47-7682.

The Department issued Lapse Notices to the permit holder on August 12, 1987, and informed the permit holder that the permits would lapse on October 12, 1987, because the department had not received either the license examination fee or an acceptable field examination report prepared by a certified water right examiner.

The certified water right examiner filed a Beneficial Use Field Report with the Department on May 4, 1988 referencing only permit no. 47-7679.

On August 30, 1989, the Department contacted the examiner for clarification of the field examination. The examiner responded on October 13, 1989 to the department and explained that "...an oversight on my part since the other stream had been incorporated in the water supply for permit 47-7679 and the field exam should have covered both permits...." The department accepted the examiner's explanation and the report was amended to include permit no. 47-7682.

Section 42-218a(2), Idaho Code, provides that the Department may reinstate a permit 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 (field examination). In accordance with the August 30, 1989 letter, the delay of the filing of the field examination by the field examiner will cause the priority date of both permits nos. 47-7879 and 47-7682 to be adjusted by the number of days from the lapse date of October 12, 1987 to May 4, 1988, which equals 205 days.

Section 42-218a(3), Idaho Code, provides that the Department may reinstate a permit based on department error. The department's error in this instance was delay of processing this permit in a timely manner for resolution of the field examination report error. The examiner's error was not addressed in a timely manner by the department from May 5, 1988 to the August 30, 1989 letter requesting clarification. No advancement of the priority date during this period will be calculated based on department error.

IT IS, THEREFORE, HEREBY ORDERED that Permits Nos. 47-7679 and 47-7682 are **REINSTATED** with an advance in priority to **June 23, 1982**.

DATED this 27th day of December, 2004.


Gary Spackman