

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF LAPSED PERMIT NO.)	
22-7536 IN THE NAME OF BOB BAGLEY)	REINSTATEMENT ORDER
OR STEVE KOLLE)	
_____)	

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 August 3, 1988, the Department issued Permit No. 22-7536 in the names of Bob Bagley or Steve Kolle ("permit holders") authorizing the diversion of 0.15 cubic feet per second ("cfs") of ground water for commercial use for a recreational trailer park with 15 units within Section 23, Township 05 North, Range 45 East, B.M., Teton 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 August 1, 1990.
2. On May 31, 1990, 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 August 13, 1990, 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.
4. On January 31, 1991 the department approved an Application for Amendment of a Permit from Bob Bagley requesting that permit no. 22-7536 be amended for domestic use for 20 homes within Sec. 23, T05N, R45E, B.M., Teton County.
5. Additionally, on January 31, 1991, the Department approved a Request for Extension of Time filed by Bob Bagley granting an extension to February 1, 1992 based on due diligence. Because the extension request was received after the proof due date, the priority date for permit 22-7536 was advanced to September 1, 1988.
6. On November 30, 1991, 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").

7. On February 5, 1992, 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 March 18, 2005, the department received a Proof of Beneficial Use form filed on behalf of Bob Bagley and signed by Susan Hayes, President of the EE-DAH-HOW Homeowners Association. Ms. Hayes provided the department with evidence of the development of the permit. The information provided shows that the well was drilled and four (4) lots were 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:

a. Water was beneficially used during the authorized development period for four lots identified as 2E, 2W, 10E and 10W according to the "As Built" Water System Plans for EE-DAH-HOW ACRES SUBDIVISION, BLOCK 1, ADDENDUM, dated Nov. 8, 1990; and

b. The permit holder shall be identified as reflected in the Warranty Deed dated June 5, 1995, as the EE-DAH-HOW SUBDIVISION HOMEOWNER'S ASSOCIATION, INC.

3. The Department should reinstate permit no. 22-7536 with the priority advanced to the date that the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 22-7536, in the name of EE-DAH-HOW Homeowners Association, is **REINSTATED**, with the priority advanced to **March 18, 2005**.

IT IS FURTHER ORDERED that Permit No. 22-7536, was developed as a groundwater right for domestic use of four (4) lots identified as 2E, 2W, 10E and 10W within the EE-DAH-HOW ACRES SUBDIVISION.

Dated this 29th day of July, 2005.



Gary Spackman