

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

IN THE MATTER OF LAPSED	)	
PERMIT NO. 81-7098 IN THE	)	REINSTATEMENT ORDER
NAME OF JAMES W. MORRISON	)	
_____	)	

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 May 13, 1981, the Department issued Permit No. 81-7098 to James W. Morrison ("permit holder") authorizing the diversion of 0.02 cubic feet per second ("cfs") of surface water diverted from Little Smith Creek for irrigation of one-half (1/2) acre within Section 32, Township 33 North, Range 06 East, B.M., Idaho 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 May 1, 1986.
2. On February 28, 1986, 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 May 13, 1986, 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 November 26, 2004, the Department received a Proof of Beneficial Use (proof) with a license exam fee from Bertie Starnes. Ms. Starnes submitted the evidence to show that water had been applied to the authorized beneficial use during the development period and has shown sufficient cause why the beneficial use was not timely submitted. She also provided the department with an Assignment of Permit from the permit holder to James Starnes, dated April 17, 1986.

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 permit no. 81-7098 with the priority advanced to the date that the proof of beneficial use was received, and the current permit holder(s) are Jim or Bertie Starnes.

ORDER

IT IS HEREBY ORDERED, that Permit No. 81-7098, now in the name of Jim or Bertie Starnes, is **REINSTATED** with the priority advanced to **November 26, 2004**.

Dated this 4th day of May 2005.



Gary Spackman