

|

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT TO	)	
APPROPRIATE WATER NO. 96-09207 IN	)	ORDER CHANGING PROOF OF
THE NAME OF RICHARD HANSEN	)	BENEFICIAL USE DUE DATE
_____	)	

This matter having come before the Department of Water Resources (Department), the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On March 9, 2005, the Department issued Permit to Appropriate Water No. 96-09207 (permit) to Richard Hansen, (permit holder) for the diversion and use of 0.20 cfs from Bayview Creek in the NE¼NW¼ of Section 27, Township 54 North, Range 2 West, B. M., for diversion to storage and for wildlife storage.
2. Section 42-204, *Idaho Code*, says, in pertinent part:

The department shall require that actual construction work and application of the water to full beneficial use shall be complete within a period of five (5) years from the date of such approval, but may limit the permit to a less period than is named in the application, and the permit shall set forth the date when beneficial application of the water to be diverted by such works shall be made.

3. On the application for permit, the permit holder requested one year to complete the diversion works and to apply water to the proposed beneficial use.
4. Approval condition no. 1 of the permit says:
Proof of application of water to beneficial use shall be submitted on or before March 1, 2005.

CONCLUSIONS OF LAW

1. Requiring the permit holder to submit proof of beneficial use eight days before the permit was issued was an error of the Department. The permit should have required proof of beneficial use to be submitted on or before March 1, 2006.
2. The beneficial use due date should be changed to March 1, 2006 in accordance with the provisions of §42-204, *Idaho Code*.

ORDER

The condition of approval requiring Proof of application of water to beneficial use to be submitted on or before March 1, 2005 under Permit No. 96-09207 is **MODIFIED** as follows:

Proof of application of water to beneficial use shall be submitted on or before March 1, 2006.

Dated this 13th day of April, 2005.



Gary Spackman