

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

IN THE MATTER OF LAPSED	)	
PERMIT NO. 63-8392 IN THE	)	REINSTATEMENT ORDER
NAME OF MARK ANDERSON	)	
_____	)	

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 December 7, 1976, the Department issued Permit No. 63-8392 to Mark Anderson ("permit holder") authorizing the diversion of 0.18 cubic feet per second ("cfs") of ground water to be diverted for domestic, stockwater and irrigation of six (6) acres within Section 29, Township 05 North, Range 01 East, B.M., Ada 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 February 1, 1978.
2. On November 30, 1977, 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 February 6, 1978, 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 February 3, 2005, the Department received Proof of Beneficial Use from the permit holder and a license exam fee.
5. The permit holder submitted evidence to show that water has been applied to the authorized beneficial use during the development period and has shown sufficient cause why the beneficial use was not timely submitted.

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 the proof of beneficial use was received.

ORDER

IT IS HEREBY ORDERED, that Permit No. 63-8392 in the name of Mark Anderson is **REINSTATED** with the priority advanced to **February 3, 2005**.

Dated this 4th day of February 2005.



Gary Spackman