

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

**IN THE MATTER OF PERMIT
NO. 98-7770 IN THE NAME OF
MISSION CREEK WATER ASSOCIATION**

ORDER

This matter having come before the Department of Water Resources (Department) as a result of a request to waive certain condition of approval on a permit to appropriate water, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On May 13, 1996, the Department issued Permit 98-7770 (permit) to Mission Creek Water Association (permit holder) with a condition of approval requiring the use of the full allotment of appurtenant surface water rights in conjunction with ground water diverted for irrigation use under the right and to only divert ground water for irrigation use under the right when water from the appurtenant surface water rights cannot be delivered to the right holder.

2. On October 5, 2004, the Department received a request from the permit holder to remove the surface water requirement. The permit holder stated that surface water has not been used for six years due to a compliance with a voluntary consent order issued on July 6, 1994, by the Idaho Dept. of Environmental Quality. In July, 1998, the surface water intake was abandoned and distribution piping was cut and capped.

CONCLUSIONS OF LAW

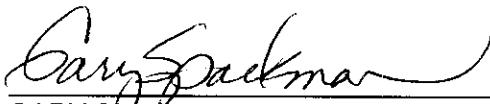
1. The right holder has discontinued use of Mission Creek water due to compliance with a voluntary consent order. The right holder no longer has access to surface water for the permitted uses.

2. The Department should waive the requirement of use of the full allotment of appurtenant surface water rights.

ORDER

IT IS HEREBY ORDERED that the condition of approval requiring the use of appurtenant surface water rights is **WAIVED**.

Dated this 14th day of December, 2004.



GARY SPACKMAN