

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 25

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO PERMITS TO APPROPRIATE WATER; AMENDING SECTION 42-218a, IDAHO
2 CODE, TO PROVIDE THAT NOTICE OF LAPSED PERMITS SHALL BE SENT TO PERMIT
3 HOLDERS, TO REVISE PROVISIONS RELATING TO THE REINSTATEMENT OF PERMITS
4 WITHIN SIXTY DAYS AFTER NOTICE OF LAPSING, TO REVISE PROVISIONS AND RE-
5 QUIREMENTS RELATING TO SUBMISSION OF PROOF OF BENEFICIAL USE STATEMENTS
6 SUBMITTED MORE THAN SIXTY DAYS AFTER NOTICE OF LAPSING, TO PROVIDE FOR
7 THE REINSTATEMENT OF SUCH PERMITS AND THE ADVANCEMENT OF PRIORITY DATES
8 AND TO MAKE TECHNICAL CORRECTIONS.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 42-218a, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 42-218a. LAPSE OF APPLICATION FOR FAILURE TO REQUEST EXTENSION OR SUB-
14 MIT PROOF OF APPLICATION TO BENEFICIAL USE -- NOTICE OF LAPSING. A permit
15 upon which the proof of beneficial use has not been submitted, or a request
16 for extension of time has not been received on or before the date set for
17 such proof, shall lapse and be of no further force nor effect. Notice of said
18 lapsing shall be sent by the department to the ~~applicant~~ permit holder at the
19 address of record by regular mail ~~provided~~.

20 (1.) ~~That w~~Within sixty (60) days after such notice of lapsing the de-
21 partment may, upon a showing of reasonable cause, reinstate the permit with
22 the priority date advanced a time equal to the number of days that said show-
23 ing is subsequent to the date set for proof.

24 (2.) ~~That upon receipt of proof of beneficial use after sixty (60) days~~
25 ~~after such notice of lapsing, the director shall require sufficient evidence~~
26 ~~to be submitted by the permit holder to clearly establish the extent of ben-~~
27 ~~eficial use made during the time authorized by the permit and any extensions~~
28 ~~of time previously approved. Upon finding that beneficial use had occurred~~
29 ~~during the authorized period and upon a showing of reasonable cause for fil-~~
30 ~~ing a late proof of beneficial use, the director may reinstate the permit~~
31 ~~with the priority date advanced to the day that proof of beneficial use was~~
32 ~~received;~~ In connection with a proof of beneficial use statement submitted
33 more than sixty (60) days after such notice of lapsing, the director shall
34 require all of the following items to be submitted to the department:

35 (a) A report prepared by a certified water right examiner as the re-
36 sult of an examination to clearly confirm and establish the extent of
37 the beneficial use of water established in connection with the permit
38 during the time authorized by the permit and any extensions of time pre-
39 viously approved. The report shall be on the form or forms specified
40 by the director and shall provide the information specified in section
41 42-217, Idaho Code, for confirming beneficial use and such other infor-
42 mation as may be required by the director.

1 (b) A statement of reasonable cause for filing a late proof of benefi-
2 cial use.

3 (c) A reinstatement fee of two hundred fifty dollars (\$250).
4 Upon finding that beneficial use had occurred during the authorized period
5 and upon a showing of reasonable cause for filing a late proof of beneficial
6 use, the director may reinstate the permit with the priority date advanced to
7 the day that proof of beneficial use was received.

8 (3.) The original priority date of a lapsed permit shall not be rein-
9 stated except upon a showing of error or mistake of the department.