

IN THE SENATE

SENATE BILL NO. 1316

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO WATER; AMENDING SECTION 42-204, IDAHO CODE, TO PROVIDE THAT CER-  
2 TAIN PERMITS MAY BE GRANTED UPON CONDITIONS SET FORTH IN SPECIFIED LAW,  
3 TO REVISE PROVISIONS REGARDING CONSTRUCTION WORK AND THE APPLICATION OF  
4 WATER TO FULL BENEFICIAL USE, TO PROVIDE FOR EXTENSIONS OF TIME, TO PRO-  
5 VIDE FOR PERMITS HELD BY MUNICIPAL PROVIDERS FOR REASONABLY ANTICIPATED  
6 FUTURE NEEDS, TO PROVIDE A PROCEDURE, TO REVISE PROVISIONS REGARDING  
7 AGGRIEVED PERMIT HOLDERS, TO REMOVE PROVISIONS REGARDING THE EXCAVA-  
8 TION AND CONSTRUCTION OF CERTAIN DIVERSION WORKS, TO PROVIDE FOR THE  
9 RELINQUISHMENT OF CERTAIN RIGHTS, AND TO MAKE TECHNICAL CORRECTIONS;  
10 AMENDING SECTION 42-217, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
11 PROOF OF APPLICATION TO BENEFICIAL USE; AMENDING SECTION 42-218a, IDAHO  
12 CODE, TO REVISE PROVISIONS REGARDING LAPSES OF PERMITS; AMENDING SEC-  
13 TION 42-219, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ISSUANCE  
14 OF LICENSES; AND AMENDING SECTION 42-220, IDAHO CODE, TO CLARIFY THAT  
15 CERTAIN PROVISIONS SHALL APPLY TO WATER RIGHT LICENSES AND TO MAKE TECH-  
16 NICAL CORRECTIONS.  
17

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

19 SECTION 1. That Section 42-204, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 42-204. EXAMINATION -- PERMIT -- COMMENCEMENT OF WORK -- EXTENSIONS  
22 -- APPEAL. (1) On receipt of the application, which shall be of a form pre-  
23 scribed by the department of water resources, it shall be the duty of that de-  
24 partment to make an endorsement thereon of the date of its receipt, and to ex-  
25 amine said application and ascertain if it sets forth all the facts necessary  
26 to show the location, nature and amount of the proposed use. If upon such  
27 examination the application is found defective, it shall be the duty of the  
28 department of water resources to return the same for correction or to corre-  
29 spond with the applicant to obtain the needed information or amendments. If  
30 the application is returned to the applicant or the department shall request  
31 additional information and the applicant fails to return the corrected ap-  
32 plication or to supply the needed information within thirty (30) days, the  
33 department may void the record of said application and notify the applicant  
34 of such action. If the corrected application is returned or the informa-  
35 tion is supplied after thirty (30) days, such corrected application shall be  
36 treated in all respects as a new application, and the priority of the right  
37 initiated shall be determined by the date of receipt, in the office of the de-  
38 partment, of the corrected application or additional information; provided,  
39 that upon request, and good cause appearing therefor, the director of the de-  
40 partment of water resources may grant an extension of time within which to  
41 return the corrected application or supply needed information. All applica-  
42 tions ~~which shall~~ that comply with the provisions of this chapter and with

1 the regulations of the department of water resources shall be numbered in  
 2 such manner as will aid in their identification, and it shall be the duty of  
 3 the department to approve all applications, ~~made in proper form, which that~~  
 4 contemplate the application of water to a beneficial use: provided, that the  
 5 department may deny any such application, or may partially approve and grant  
 6 a permit for a lesser quantity of water than applied for, or may grant a per-  
 7 mit upon conditions as provided in ~~the preceding section~~ this chapter.

8 (2) The department of water resources shall issue a permit for any ap-  
 9 proved application, make a record of the approval and provide a copy of the  
 10 permit to the applicant, who shall be authorized, on receipt thereof, to pro-  
 11 ceed with the construction of the necessary works for the diversion of such  
 12 water, and to take all steps required to apply the water to a beneficial use  
 13 and perfect the proposed appropriation.

14 (3) The provisions of this subsection shall not apply to permits held  
 15 by municipal providers for reasonably anticipated future needs. For all  
 16 other permits, tThe department shall require that actual construction work  
 17 and application of the water to full beneficial use shall be complete within  
 18 a period of five (5) years from the date of such approval, but may limit ~~the~~  
 19 permit development to a less shorter period than is named requested in the  
 20 application, and the permit shall set forth the date when beneficial appli-  
 21 cation of the water to be diverted by such works shall be made. Sixty (60)  
 22 days before the date set for the completion of the appropriation of water  
 23 under any permit, the department shall forward a notice to the ~~applicant~~  
 24 permit holder by certified mail at ~~his~~ the permit holder's address of record  
 25 of the date for such completion, which said notice shall advise the ~~applicant~~  
 26 permit holder of the necessity of submitting an affidavit a statement of com-  
 27 pletion showing proof of beneficial use or a request for an extension of time  
 28 on or before said date; Provided that. The department may approve a timely  
 29 request for an extension of time in the following circumstances:

30 (1a) In cases where the ~~applicant~~ permit holder is prevented from pro-  
 31 ceeding with ~~his~~ construction, work, or application of water to full  
 32 beneficial use by his the permit holder's failure to obtain necessary  
 33 consent or final approval or rejection from the federal government be-  
 34 cause of the pendency of an application for right-of-way or other matter  
 35 within the jurisdiction of the United States, by state, county, city or  
 36 other local government permitting or administrative action or process  
 37 related to the ~~applicant's~~ permit holder's land or water development,  
 38 or by litigation of any nature which might bring ~~his~~ the permit holder's  
 39 title to said water in question, the department of water resources, upon  
 40 proper showing of the existence of any such condition, and being con-  
 41 vinced that said ~~applicant~~ permit holder is proceeding diligently and  
 42 in good faith, shall extend the time so that the amount of time lost by  
 43 such delays shall be added to the time given in the original permit, or  
 44 in any subsequent grant of extension pursuant to ~~subsection (2), (3),~~  
 45 ~~(4) or (6)~~ paragraph (b), (c), (d), or (f) of this subsection, for each  
 46 and every action required.

47 (2b) The time for completion of works and application of the water to  
 48 full beneficial use under any permit involving the diversion of more  
 49 than twenty-five thousand (25,000) acre-feet in one (1) irrigation sea-  
 50 son for a project of no less than five thousand (5,000) acres, may, upon

1 application to the director of the department of water resources sup-  
2 ported by a showing that additional time is needed on account of the time  
3 required for organizing, financing and constructing works of such large  
4 size, be extended by the director of the department of water resources  
5 for up to twelve (12) years beyond the initial development deadline  
6 contained in the permit, or beyond a grant of extension pursuant to the  
7 provisions of ~~subsection (1) paragraph (a)~~ of this subsection: Pro-  
8 vided, that no such extension shall be granted unless the ~~applicant~~  
9 permit holder for such extension shall show that there has been actually  
10 expended toward the construction of said diversion, including expen-  
11 ditures for the purchase of rights-of-way and property in connection  
12 therewith, at least one hundred thousand dollars (\$100,000).

13 (3c) The time for completion of works and application of the water to  
14 full beneficial use under any permit involving the construction of a  
15 reservoir of more than ten thousand (10,000) acre-feet capacity or for  
16 the appropriation of water to be impounded in such reservoir of more  
17 than ten thousand (10,000) acre-feet capacity, may be extended by the  
18 director of the department of water resources upon application to the  
19 director if the ~~permittee~~ permit holder establishes that the ~~permittee~~  
20 permit holder has exercised reasonable diligence and that good cause  
21 exists for the requested extension.

22 (4d) The time for completion of works and application of the water to  
23 full beneficial use under any permit involving the diversion of two (2)  
24 or more cubic feet per second or the development or cultivation of one  
25 hundred (100) or more acres of land may be extended by the director of  
26 the department of water resources upon application by the ~~permittee~~  
27 permit holder for an additional period up to ten (10) years beyond the  
28 initial development deadline contained in the permit, or beyond a grant  
29 of extension pursuant to the provisions of ~~subsection (1) paragraph (a)~~  
30 of this subsection, provided the ~~permittee~~ permit holder establishes  
31 that the ~~permittee~~ permit holder has exercised reasonable diligence and  
32 that good cause exists for the requested extension.

33 (5e) In connection with permits held by the United States, or the Idaho  
34 water resource board, whether acquired as the original applicant, by  
35 assignment or otherwise, the director of the department of water re-  
36 sources may extend the time for completion of the works and application  
37 of the water to full beneficial use for such additional period or peri-  
38 ods of time as ~~he~~ the director may deem necessary upon ~~application~~ an  
39 extension request supported by a showing that such additional time is  
40 required by reason of the status of plans, authorization, construction  
41 fund appropriations, construction, or any arrangements ~~which that~~ are  
42 found to be requisite to completion of the construction of such works.

43 (6f) In all other situations not governed by these provisions, the  
44 department may grant one (1) extension of time, not exceeding five (5)  
45 years beyond the date originally set for completion of works and ap-  
46 plication of the water to full beneficial use, or beyond any grant of  
47 extension pursuant to the provisions of ~~subsection (1) paragraph (a)~~ of  
48 this subsection, upon request for extension received on or before the  
49 date set for completion, provided good cause appears therefor.

1       (4) For permits held by municipal providers for reasonably anticipated  
2 future needs, the permit development period shall correspond to the plan-  
3 ning horizon authorized by the permit, which may not be extended. During the  
4 permit development period, the municipal provider shall periodically sub-  
5 mit to the department incremental statements of completion showing proof of  
6 beneficial use consistent with the provisions of section 42-217, Idaho Code.  
7 Each such incremental statement shall document the extent of application of  
8 water to beneficial use during the most recent reporting interval. Each in-  
9 cremental statement shall be prepared by a certified water rights examiner,  
10 unless the permit holder is not asserting any additional increment of bene-  
11 ficial use during that reporting interval. The department shall set and may  
12 later adjust the duration of any reporting interval for any permit, which  
13 shall be made a condition of the permit, to any duration not shorter than  
14 five (5) years. Sixty (60) days before the end of each reporting interval,  
15 the department shall forward a notice to the municipal provider by certified  
16 mail to its address of record specifying the date the incremental statement  
17 is due. Unless an extension of the deadline for the incremental statement is  
18 requested by the municipal provider prior to the deadline, and the extension  
19 is approved by the director upon a showing of good cause, failure to timely  
20 submit an incremental statement shall result in a lapse of that portion of  
21 the permit that has not previously been licensed or for which an incremental  
22 statement of completion showing proof of beneficial use has not been submit-  
23 ted. Such lapsed permit portion may be reinstated only in accordance with  
24 the provisions of section 42-218a, Idaho Code. For reasonably anticipated  
25 future needs permits existing on July 1, 2020, the department shall have one  
26 (1) year from July 1, 2020, either to issue a license, where proof already  
27 has been submitted, or to modify the permit to conform to the provisions of  
28 this section by establishing future reporting intervals for periodic proof  
29 statements, by establishing the date for the final proof statement corre-  
30 sponding with the end of the planning horizon authorized by the existing per-  
31 mit, and by updating approval conditions to clarify whether information that  
32 must be submitted with proof of beneficial use is due at each reporting in-  
33 terval or only with the final proof statement.

34       (5) Any applicant feeling himself permit holder aggrieved by the deci-  
35 sion of the department of water resources regarding his application its re-  
36 quest for extension may request a hearing before the director in accordance  
37 with section 42-1701A(3), Idaho Code, for the purpose of contesting the de-  
38 cision and may seek judicial review pursuant to section 42-1701A(4), Idaho  
39 Code, of any final decision of the director following the hearing.

40       Every holder of a permit which shall be issued under the terms and condi-  
41 tions of an application filed hereafter appropriating twenty-five (25) cu-  
42 bic feet or less per second must, within one (1) year from the date upon which  
43 said permit issues from the office of the department of water resources, com-  
44 mence the excavation or construction of the works by which he intends to di-  
45 vert the water, and must prosecute the work diligently and uninterruptedly  
46 to completion, unless temporarily interrupted through no fault of the holder  
47 of such permit by circumstances, over which he has no control.

48       (6) The holder of any permit who shall fail Subject to the provisions  
49 for reinstatement as provided in section 42-218a, Idaho Code, a permit  
50 holder who fails to comply with the provisions of this section within the

1 time or times specified shall be deemed to have ~~abandoned~~ relinquished all  
 2 rights under ~~his~~ its permit or, in the case of a permit held by a municipal  
 3 provider for reasonably anticipated future needs, the permit holder shall be  
 4 deemed to have relinquished all rights under any portion of the permit that  
 5 has not previously been licensed or for which an incremental statement of  
 6 completion showing proof of beneficial use has not been submitted.

7 SECTION 2. That Section 42-217, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9 42-217. PROOF OF APPLICATION TO BENEFICIAL USE. (1) On or before the  
 10 date set for the beneficial use of waters appropriated under the provisions  
 11 of this chapter, or the date set for submission of an incremental statement  
 12 of completion showing proof of beneficial use, the permit holder shall sub-  
 13 mit a statement on a form furnished by the department of water resources that  
 14 he the permit holder has used such water for the beneficial purpose allowed  
 15 by the permit. The statement shall include:

16 1-(a) The name and ~~post-office~~ post office address of the permit  
 17 holder-;

18 2-(b) The permit number-;

19 3-(c) A description of the extent of the use-;

20 4-(d) In the case of a municipal provider, a ~~revised estimate of the~~  
 21 ~~reasonably anticipated future needs, a revised~~ description of the  
 22 ~~current~~ service area, ~~and a revised~~ planning horizon, together with  
 23 ~~appropriate supporting documentation-;~~

24 5-(e) The source of the water used-; and

25 6-(f) Such other information as shall be required by ~~the blank form fur-~~  
 26 ~~nished by~~ the department's form.

27 (2) ~~Such written proof as may be required to be submitted by such user~~  
 28 ~~shall be upon forms furnished by the department of water resources and~~  
 29 ~~statement shall include fees as provided in subsection K. of section 42-221,~~  
 30 ~~Idaho Code, or a field examination report prepared by a certified water right~~  
 31 ~~examiner. For permits held by a municipal provider for reasonably antic-~~  
 32 ~~ipated future needs, such statements shall be provided in accordance with~~  
 33 ~~section 42-204(4), Idaho Code.~~

34 (3) Upon receipt of such ~~proof~~ written statement and the fee as required  
 35 in section 42-221, Idaho Code, ~~by the department of water resources~~ the de-  
 36 partment shall examine, or cause to be examined:

37 1-(a) The place where such water is diverted and used, and, if the use  
 38 is for irrigation, ~~he shall ascertain~~ the area and location of the land  
 39 irrigated and the nature of all the improvements which have been made as  
 40 a direct result of such use.

41 2-(b) The capacities of the ditches or canals or other means by which  
 42 such water is conducted to such place of use, and the quantity of water  
 43 which ~~that~~ has been beneficially applied for irrigation or other pur-  
 44 poses.

45 (4) The department or the person making such examination under the di-  
 46 rection of the department shall prepare and file a report of the investiga-  
 47 tion: provided, that whenever an irrigation project is developed in the name  
 48 of an association, company, corporation, irrigation district or the United  
 49 States as provided in section 42-219, Idaho Code, proof of beneficial use

1 shall be made by the permit holder. The lands upon which the water has been  
 2 used need not be described by legal subdivisions, but may be described as  
 3 provided in section 42-219, Idaho Code, and it shall only be necessary to  
 4 show in such cases that the quantity of water beneficially applied for irri-  
 5 gation has been applied within the limits of the project.

6  ~~Holders of permits who have submitted proof of beneficial use but have  
 7 not had their project examined for beneficial use shall submit the fee re-  
 8 quired in section 42-221, Idaho Code, within sixty (60) days of notification  
 9 by the director of the department of water resources that a license examina-  
 10 tion fee is required. Failure to submit the fee in the time allowed shall be  
 11 cause for the director to advance the date of priority of the permit one (1)  
 12 day for each day that the fee is late; provided that if the fee is not fully  
 13 paid within one (1) year of the time it is due, the director of the department  
 14 of water resources may consider the proof of beneficial use for the permit  
 15 to be incomplete and lapse the permit, as provided in section 42-218a, Idaho  
 16 Code.~~

17 SECTION 3. That Section 42-218a, Idaho Code, be, and the same is hereby  
 18 amended to read as follows:

19 42-218a. LAPSE OF APPLICATION FOR FAILURE TO REQUEST EXTENSION OR SUB-  
 20 MIT PROOF OF APPLICATION TO BENEFICIAL USE -- NOTICE OF LAPSING. (1) A permit  
 21 upon which the proof of beneficial use, or an incremental statement of com-  
 22 pletion showing proof of beneficial use, has not been submitted, or a request  
 23 for extension of time has not been received on or before the date set for such  
 24 proof or incremental statement, shall lapse and be of no further force nor  
 25 effect. For a permit held by a municipal provider for reasonably anticipated  
 26 future needs, such lapse shall not apply to any portion of the permit that has  
 27 been previously licensed or for which an incremental statement of completion  
 28 showing proof of beneficial use has been submitted. Notice of said lapsing  
 29 shall be sent by the department to the permit holder at the address of record  
 30 by regular mail.

31 ~~(12)~~ Within sixty (60) days after such notice of lapsing, the depart-  
 32 ment may, upon a showing of reasonable cause, reinstate the permit with the  
 33 priority date advanced a time equal to the number of days that said showing is  
 34 subsequent to the date set for proof.

35 ~~(23)~~ In connection with a proof of beneficial use statement submitted  
 36 more than sixty (60) days after such notice of lapsing, the director shall  
 37 require all of the following items to be submitted to the department:

38 (a) A report prepared by a certified water right examiner as the re-  
 39 sult of an examination to clearly confirm and establish the extent of  
 40 the beneficial use of water established in connection with the permit  
 41 during the time authorized by the permit and any extensions of time pre-  
 42 viously approved. The report shall be on the form or forms specified  
 43 by the director and shall provide the information specified in section  
 44 42-217, Idaho Code, for confirming beneficial use and such other infor-  
 45 mation as may be required by the director.

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

48 (c) A reinstatement fee of two hundred fifty dollars (\$250).

1 Upon finding that beneficial use had occurred during the authorized period  
2 and upon a showing of reasonable cause for filing a late proof of beneficial  
3 use, the director may reinstate the permit with the priority date advanced to  
4 the day that proof of beneficial use was received.

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

7 SECTION 4. That Section 42-219, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 42-219. ISSUANCE OF LICENSE -- PRIORITY. (1) Upon receipt by the de-  
10 partment of water resources of all the evidence in relation to such final  
11 proof, it shall be the duty of the department to carefully examine the same,  
12 and if the department is satisfied that the law has been fully complied with  
13 and that the water is being used at the place claimed and for the purpose for  
14 which it was originally intended, the department shall issue to such user or  
15 users a license ~~confirming such~~ corresponding to the beneficial use. Such  
16 license shall state the name and ~~post-office~~ post office address of such  
17 user, the purpose for which such water is used and the quantity of water ~~which~~  
18 that may be used, which in no case shall be an amount in excess of the amount  
19 that has been beneficially applied. ~~A license may be issued to a municipal~~  
20 ~~provider for an amount up to the full capacity of the system constructed~~  
21 ~~or used in accordance with the original permit provided that the director~~  
22 ~~determines that the amount is reasonably necessary to provide for the ex-~~  
23 ~~isting uses and reasonably anticipated future needs within the service area~~  
24 ~~and otherwise satisfies the definitions and requirements specified in this~~  
25 ~~chapter for such use. For permits held by a municipal provider for reason-~~  
26 ~~ably anticipated future needs, a license may be issued incrementally for an~~  
27 amount corresponding to the beneficial use demonstrated to the satisfaction  
28 of the department in each incremental statement of completion showing proof  
29 of beneficial use submitted pursuant to section 42-204(4), Idaho Code, which  
30 amount, together with any previously licensed portion of said permit, shall  
31 not exceed the initial quantity authorized under the permit. The final in-  
32 cremental license at the end of the planning horizon shall be issued for an  
33 amount corresponding to the beneficial use. The director shall condition  
34 the license to prohibit any transfer of the place of use outside the service  
35 area, as defined in section 42-202B, Idaho Code, or to a new nature of use  
36 of amounts held for reasonably anticipated future needs together with such  
37 other conditions as the director may deem appropriate.

38 (2) If such use is for irrigation, such license shall give a descrip-  
39 tion, by legal subdivisions, of the land ~~which is~~ irrigated by such water,  
40 except that the general description of a place of use described in accordance  
41 with subsection (5) or (6) of this section may be described using a digi-  
42 tal boundary, as defined in section 42-202B, Idaho Code. If the use is for  
43 municipal purposes, the license shall describe the service area ~~and shall~~  
44 ~~state the planning horizon for that portion of the right, if any, to be used~~  
45 ~~for reasonably anticipated future needs as provided in section 42-202B(9),~~  
46 Idaho Code.

47 (3) Such license shall bear the date of the application for, and the  
48 number of, the permit under which the works from which such water is taken  
49 were constructed, the date when proof of beneficial use of such water was

1 made, and also the date of the priority of the right confirmed by such li-  
2 cense.

3 (4) The date of priority confirmed by the license shall be the date of  
4 the application for the permit for the construction of the works from which  
5 the water is taken, and to which the right relates, provided there has been  
6 no loss of priority under the provisions of this chapter. Whenever proof  
7 of the beneficial application of water shall be offered subsequent to the  
8 date stated in the permit, or in any authorized extension thereof, when such  
9 beneficial application shall be made, the proof shall be taken, if received  
10 by the department within the sixty (60) days prescribed in the preceding  
11 section. If the proof taken is satisfactory to the department of water re-  
12 sources, a license shall be issued by the department the same as though proof  
13 had been made before the date fixed for such beneficial application. The  
14 priority of the right established by the proof shall not date back to the date  
15 of the application for the permit to which the right would relate under the  
16 provisions of this chapter, but shall bear a date ~~which shall be~~ subsequent  
17 to the date of the application, a time equal to the difference between the  
18 date set in the permit, or extension thereof, for such beneficial applica-  
19 tion of water and the date of proof.

20 (5) For irrigation projects where the canals constructed cover an area  
21 of twenty-five thousand (25,000) acres or more, or within irrigation dis-  
22 tricts organized and existing as such under the laws of the state of Idaho,  
23 the license issued shall be issued to the persons, association, company,  
24 corporation or irrigation district owning the project, and final proof may  
25 be made by such owners for the benefit of the entire project. It shall not  
26 be necessary to give a description of the land by legal subdivisions, but a  
27 general description of the entire area under the canal system shall be suffi-  
28 cient. The water diverted and the water right acquired thereby shall relate  
29 to the entire project, and the diversion of the water for the beneficial use  
30 under the project shall be sufficient proof of beneficial use without regard  
31 as to whether each and every acre under the project is irrigated or not.

32 (6) For an irrigation project developed under a permit held by an as-  
33 sociation, company, corporation or the United States to divert and deliver  
34 or distribute surface water under any annual charge or rental for benefi-  
35 cial use by more than five (5) water users in an area of less than twenty-five  
36 thousand (25,000) acres, the license issued shall be issued to the permit  
37 holder. For the place of use description in the license issued for the ir-  
38 rigation project, it shall be sufficient to provide a general description  
39 of the area within which the total number of acres developed under the per-  
40 mit are located and within which the location of the licensed acreage can be  
41 moved provided there is no injury to other water rights.

42 (7) Subject to other governing law, the location of the acreage irri-  
43 gated within a generally described place of use, as defined in accordance  
44 with subsections (5) and (6) of this section and as filed with the department  
45 pursuant to section 43-323, Idaho Code, may be changed without approval un-  
46 der the provisions of section 42-222, Idaho Code. However, the change shall  
47 not result in an increase in either the rate of flow diverted or in the to-  
48 tal number of acres irrigated under the water right and shall cause no injury  
49 to other water rights. If the holder of any water right seeks to challenge  
50 such a change, the challenge may ~~only~~ be brought only as an action initiating



1 a contested case before the department, pursuant to the administrative pro-  
2 cedure act, chapter 52, title 67, Idaho Code. Nothing in this section shall  
3 be construed to grant, deny or otherwise affect an irrigation district's au-  
4 thority to deliver water to areas outside the boundaries of such district.

5 (8) In the event that the department shall find that the applicant has  
6 not fully complied with the law and the conditions of permit, it may issue  
7 a license for that portion of the use ~~which~~ that is in accordance with the  
8 permit, or may refuse issuance of a license and void the permit. Notice of  
9 such action shall be forwarded to the permit holder by certified mail. The  
10 applicant may contest such action by the department pursuant to section  
11 42-1701A(3), Idaho Code.

12 SECTION 5. That Section 42-220, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 42-220. EFFECT OF LICENSE. ~~Such license~~ Water right licenses shall be  
15 binding upon the state as to the right of such licensee to use the amount of  
16 water mentioned therein, and shall be prima facie evidence as to such right;  
17 and all rights to water confirmed under the provisions of this chapter, or by  
18 any decree of court, shall become appurtenant to, and shall pass with a con-  
19 veyance of, the land for which the right of use is granted. The right to con-  
20 tinue the beneficial use of such waters shall never be denied nor prevented  
21 for any cause other than the failure, on the part of the user or holder of such  
22 right, to pay the ordinary charges or assessments which may be made or levied  
23 to cover the expenses for the delivery or distribution of such water, or for  
24 other reasons set forth in this title: provided, that when water is used for  
25 irrigation, no such license or decree of the court allotting such water shall  
26 be issued confirming the right to the use of more than one (1) second foot of  
27 water for each fifty (50) acres of land so irrigated, unless it can be shown  
28 to the satisfaction of the department of water resources in granting such li-  
29 cense, and to the court in making such decree, that a greater amount is nec-  
30 essary, and neither such licensee nor ~~any one~~ anyone claiming a right under  
31 such decree, shall at any time be entitled to the use of more water than can  
32 be beneficially applied on the lands for the benefit of which such right may  
33 have been confirmed, and the right to the use of such water confirmed by such  
34 license shall always be held subject to the local or community customs, rules  
35 and regulations which may be adopted from time to time by a majority of the  
36 users from a common source of supply, canal or lateral from which such water  
37 may be taken, when such rules or regulations have for their object the eco-  
38 nomical use of such water.