

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF LAPSED PERMIT	)	PRELIMINARY ORDER
NO. 96-9439 IN THE NAME OF	)	REINSTATING A PERMIT
ATKINSON TRUST	)	
_____	)	

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 1, 2009, the Department issued permit no. 96-9439 (“permit”) in the name of Atkinson Trust. The permit authorized the diversion of 0.01 cubic feet per second (“cfs”) of ground water for domestic use in one 4 plex in NE¼SE¼ of Section 17, Township 57 North, Range 02 West, B.M., Bonner 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 December 1, 2010.
2. On September 30, 2010, the Department notified the permit holder that proof of beneficial use for permit no. 96-9439 was due and instructed the permit holder of the steps to be taken to either submit proof of beneficial use or request an extension of time (“extension request”).
3. On December 8, 2010, the Department issued the permit holder a lapse notice for the permit because it had not received an acceptable proof statement or extension request.
4. On June 29, 2011 the Department received proof of beneficial use with a request for reinstatement of the permit. The permit holder provided evidence of the diversion and beneficial use of water during the authorized development period for the permit.

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

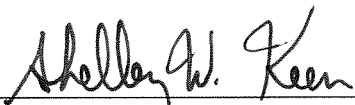
filing a late proof of beneficial use, the director may reinstate the permit with the priority date advanced to the day that proof of beneficial use was received;

2. The permit holder has provided a reasonable showing why the permit should be reinstated, by submitting acceptable proof of beneficial use on June 29, 2011, and evidence that beneficial use of the water occurred during the period when the permit was active. The Department should reinstate permit no. 96-9439 with the priority advanced to June 29, 2011.

ORDER

IT IS HEREBY ORDERED, that permit no. 96-9439, in the name of Atkinson Trust is **REINSTATED**, with the priority advanced to June 29, 2011.

DATED this 13th day of July, 2011.



SHELLEY W. KEEN, Manager
Water Rights Section