

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF LAPSED PERMIT)
NO. 96-9056 (RENUMBERED TO)
95-12164) IN THE NAME OF)
PATRICIA AND WALLACE PERRY)
_____)

**ORDER OF
REINSTATEMENT**

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes and orders:

FINDINGS OF FACT

1. On January 3, 2001, the Department issued Permit No. 96-9056 in the name of Patricia and Wallace Perry (permit holders). The Department issued permit 96-9056 with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before January 1, 2006.

2. On October 31, 2005, the Department sent the permit holder a notice by certified mail that proof of beneficial use was due. The notice provided instruction to the permit holder of the steps to be taken to submit the proof of beneficial use. The postal service marked the notice "Not Deliverable" and returned it to the Department.

3. On January 9, 2006, the Department sent the permit holder a lapse notice because the Department had not received an acceptable proof of beneficial use statement or request for extension of time to submit proof of beneficial use. The postal service returned the lapse notice to the Department as well.

4. On July 10, 2009, the Department received a proof of beneficial use statement submitted by the permit holder. The permit holder provided an explanation for filing late proof and submitted evidence supporting that beneficial use authorized by permit 96-9056 had occurred during the authorized period. The proof of beneficial use form itself was unsigned, however, the attached letter explaining the rationale for requesting reinstatement of the permit was signed and will be considered an addendum to the proof of beneficial use form. A signature on the actual proof of beneficial use form itself is not required.

5. 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;

CONCLUSIONS OF LAW

1. The permit holder provided sufficient information to show that water was beneficially used during the authorized development period in accordance with the permit.

2. The permit holder demonstrated reasonable cause for filing late proof of beneficial use.

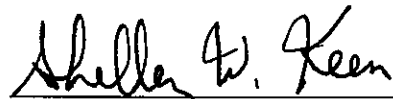
3. The Department should reinstate the permit with the priority date advanced to the date that proof of beneficial use was received.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 96-9056 is **REINSTATED** with an advance in priority to **July 10, 2009**.

IT IS FURTHER ORDERED, because of a redrawing of the boundary line between IDWR Administrative Basins 95 and 96, permit 96-9056 is **RENUMBERED** to 95-12164.

DATED this 18th day of March, 2010.



SHELLEY KEEN, Manager
Water Rights Section