

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

IN THE MATTER OF LAPSED PERMIT)	
NO. 78-12159 IN THE NAME OF KINGS PINES)	REINSTATEMENT ORDER
ESTATES III HOMEOWNERS ASSN INC)	
_____)	

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 February 8, 2002, the Department issued Permit No. 78-12159 to Kings Pines Estates Inc. (permit holder) with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before October 1, 2007.
2. On November 30, 2006, the Department notified the permit holder that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof or a Request for Extension of Time ("extension request").
3. On January 19, 2007, the permit holder filed an extension request with the Department. The Department granted the request, and the proof of beneficial use deadline was extended to October 1, 2007.
4. On April 27, 2007, King's Pines Estates, Inc. submitted an assignment of permit which changed the ownership of the permit to King's Pines Estates III Homeowners' Association, Inc.
5. On July 31, 2007, the Department notified the permit holder that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof or an extension request.
5. On October 9, 2007, the Department sent the permit holder a lapse notice because the Department had not received an acceptable proof of beneficial use statement or extension of time request.
6. On September 30, 2009, the permit holder submitted Proof of Beneficial Use with a completed Beneficial Use Field Exam to the Department. The permit holder submitted evidence to show that water has been applied to the authorized beneficial use during the development period and has shown sufficient evidence why the beneficial use was not timely submitted.

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 sufficient information and reasonable cause for the Department to reinstate the permit by submitting sufficient information to show that water was beneficially used during the authorized development period.

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

ORDER

IT IS HEREBY ORDERED that Permit No. 78-12159 in the name of King's Pines Estates III Homeowners' Association Inc is **REINSTATED** with the priority advanced to **September 30, 2009**.

Dated this 20th day of October, 2009.



Jeff Peppersack, Chief
Water Allocation Bureau