

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

IN THE MATTER OF PERMIT NO. 61-7731	)	PRELIMINARY ORDER
IN THE NAME OF ELMORE COUNTY	)	REINSTATING A PERMIT
BOARD OF COUNTY COMMISSIONERS	)	
_____	)	

This matter having come before the Idaho Department of Water Resources ("Department") as a request to reinstate a lapsed permit, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On May 22, 1998, the Department issued water right permit no. 61-7731 ("Permit") to the Mountain Home Groundwater Advisory Committee ("MHGWAC") 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 June 1, 2003. The Permit bore the priority date of March 26, 1997.
2. On March 31, 2003, the Department notified the MHGWAC by certified mail that proof of beneficial use was due and instructed the MHGWAC of the steps to be taken to submit proof of beneficial use or a request for extension of time ("extension request").
3. On May 21, 2003, the MHGWAC filed an extension request. The Department extended the proof of beneficial use deadline to June 1, 2008.
4. On March 31, 2008, the Department notified the MHGWAC by certified mail that proof of beneficial use was due and instructed the MHGWAC of the steps to be taken to submit proof of beneficial use or an extension request.
5. On June 1, 2008, the Permit lapsed since the Department had not received an acceptable proof of beneficial use statement or extension request form.
6. On June 9, 2008, the Department notified the MHGWAC that the Permit had lapsed.
7. On June 12, 2017, the Department received from the Elmore County Board of County Commissioners ("Elmore County") a *Request to Reinstate a Permit Lapsed more than 60 Days* ("Request"), a *Beneficial Use Field Report* prepared by a certified water right examiner ("CWRE"), a *Statement of Completion for Submitting Proof of Beneficial Use*, a statement of reasonable cause for filing a late proof of beneficial use, and a reinstatement fee of \$250.
8. The CWRE reported in the *Beneficial Use Field Report* that the MHGWAC beneficially used water pursuant to the Permit prior to June 1, 2008.
9. On June 28, 2017, the Department sent Elmore County a letter stating that the Permit was still in the name of MHGWAC and that an assignment of permit or ownership change notice would be needed to demonstrate Elmore County's interest in the Permit.

10. On July 31, 2017, the Department received a *Notice of Change in Water Right Ownership* ("Ownership Notice") from Elmore County.
11. On October, 18, 2017, Department staff contacted Elmore County by email to inform it that the documentation supporting the Ownership Notice was not adequate to change the ownership of the Permit into the name of the Elmore County.
12. On November 28, 2017, MHGWAC assigned its interest in the Permit to Elmore County.

CONCLUSIONS OF LAW

1. Idaho Code § 42-218a.2 states as follows:

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

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

(b) A statement of reasonable cause for filing a late proof of beneficial use.

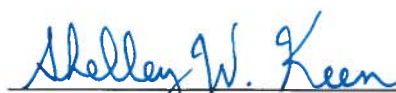
(c) A reinstatement fee of two hundred fifty dollars (\$250).

2. Elmore County has met the requirements of Idaho Code § 42-218a.2 for reinstating the Permit.
3. The Permit should be reinstated in the name of Elmore County Board of County Commissioners with its priority date advanced to June 12, 2017.

ORDER

IT IS HEREBY ORDERED that the Permit is **REINSTATED** with an advance in priority to June 12, 2017.

Dated this 21st day of December, 2017.



Shelley W. Keen, Manager
Water Rights Section