

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

IN THE MATTER OF PERMIT	)	PRELIMINARY ORDER
NO. 95-9502 IN THE NAME OF	)	APPROVING PETITION TO
UPPER COLUMBIA CORPORATION	)	REINSTATE LAPSED PERMIT
<u>OF SEVENTH DAY ADVENTISTS</u>	)	

This matter having come before the Idaho Department of Water Resources (Department) as a Petition to Reinstate a Lapsed Permit, the Department finds, concludes and orders:

FINDINGS OF FACT

1. On August 11, 2008, the Department issued permit no. 95-9502 (permit) to Upper Columbia Corporation of Seventh Day Adventists (permit holder) authorizing the diversion of 0.20 cubic feet per second (cfs) of ground water for domestic use in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, Township 51 North, Range 3 West, B.M., Kootenai County. A condition of approval on the permit required the permit holder to submit proof of beneficial use of water (proof) to the Department on or before August 1, 2013.

2. On May 31, 2013, the Department notified the permit holder by mail that proof was due for the permit and informed the permit holder of the steps to submit the proof or a request for extension of time (notice). The Department sent the notice to the permit holder's last known address by certified mail.

3. On August 7, 2013, the Department sent the permit holder a lapse notice by certified mail, which notified the permit holder that the permit had lapsed and was of no further force nor effect. The lapse notice was sent to the same address as the May 31, 2013 notice.

4. On November 22, 2013, the Department received a *Request to Reinstate a Permit Lapsed more than Sixty Days* with the required \$250 filing fee. The request included a *Beneficial Use Field Report* completed by a certified water right examiner, an Application for Amendment of a Permit, and a transmittal cover sheet from Quantum Engineering.

5. Idaho Code § 42-218a(2) in pertinent part states:

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 the 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.
- (b) A statement of reasonable cause for filing a late proof of beneficial use.
- (c) A reinstatement fee of two hundred fifty dollars (\$250).

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 date that proof of beneficial use was received.

6. The examiner confirmed that water is diverted from the ground water sources (wells numbers 3 and 4), in connection with permit no. 95-9502 for domestic use (to supply water to staff homes, dormitories, duplexes, camp buildings, shop, office, cabin, and barn) in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, Township 51 North, Range 3 West, B.M., Kootenai County, at a diversion rate of 0.06 cfs.

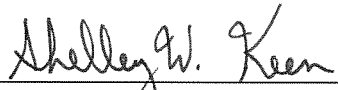
CONCLUSIONS OF LAW

1. The provisions of Idaho Code § 42-218a(2) require the permit holder to submit sufficient evidence that clearly establishes the extent of beneficial use during the authorized development period.
2. The permit holder provided evidence that water had been diverted and beneficially used prior to the date set for proof.
3. The Department should approve the request for reinstatement pursuant to Idaho Code § 42-218a(2).

ORDER

IT IS HEREBY ORDERED that the request to reinstate permit no. 95-9502 is **APPROVED**.

Dated this 24th day of December, 2013.



Shelley W. Keen, Manager
Water Rights Section