

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF LAPSED PERMIT	)	
NO. 95-09129 IN THE NAME OF	)	REINSTATEMENT ORDER
SYLTE DEVELOPMENT LLC	)	
_____	)	

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

FINDINGS OF FACT

1. On March 06, 2003, the Department issued Permit No. 95-09129 to Sylte Development LLC ("permit holder") for the diversion of 0.95 cubic feet per second of ground water from a point within the NE1/4NE1/4 of Section 28, Township 52 North, Range 04 West, B.M., for municipal use. The permit required the permit holder to submit proof of beneficial ("proof") to the Department on or before March 1, 2008.
2. On March 13, 2008, the Department sent the permit holder of record a lapse notice because it had not received either an acceptable proof statement or an extension request.
3. On June 10, 2008, the Department received a completed assignment conveying ownership of the permit from the permit holder to North Kootenai Water District.
4. On June 13, 2008, the Department received documents submitted by Welch-Comer engineer Necia Maiani, on behalf of North Kootenai Water District. The submittals included: Proof of Beneficial Use statement; the examination fee; a letter stating the basis for filing documents after the proof deadline and requesting reinstatement of the permit; and evidence to substantiate construction of the water system. On August 27, 2008, the Department received evidence that beneficial use of the water occurred during the period authorized for development under 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

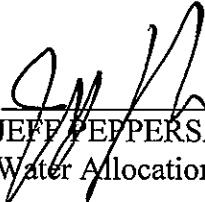
evidence to be submitted by the permit holder to clearly establish the extent of beneficial use made during the time authorized by the permit and any extensions of time previously approved. Upon finding that beneficial use had occurred during the authorized period and upon a showing of reasonable cause 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 North Kootenai Water District provided sufficient information and reasonable cause for the Department to reinstate the permit.
3. The Department should reinstate Permit No. 95-9129 with the priority advanced to the date that the proof of beneficial use was received.
4. North Kootenai Water District acquired Sylte Development LLC's interest in the permit.

ORDER

IT IS HEREBY ORDERED, that Permit No. 95-09129 is **REINSTATED** in the name of North Kootenai water district with the priority advanced to June 13, 2008.

Dated this 4th day of September, 2008.



JEFF PEPPERSACK, Chief
Water Allocation Bureau