

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

IN THE MATTER OF APPLICATION FOR	)	ORDER GRANTING
PERMIT NO. 96-9253 IN THE NAME OF	)	CONDITIONAL MOTION
KOOTENAI LAND AND TRUST, LLC	)	TO WITHDRAW
	)	PROTEST AND
_____	)	CANCELLING HEARING

A hearing is scheduled for a contested case regarding the application for permit no. 96-9253 on March 5 and 6, 2008.

On January 18, 2008, the Department received a *Notice of Settlement and Conditional Motion to Withdraw Protest* regarding the contested case. The hearing officer reviewed the agreement, and orders as follows:

ORDER

IT IS HEREBY ORDERED that the Department accepts the settlement agreement, in particular, the documented labeled Exhibit "A," and titled *Settlement Agreement Between Kootenai Land and Trust LLC and the Kootenai Environmental Alliance, Inc. in regards to KDWR Application for Permit no. 96-9253*.

IT IS FURTHER ORDERED that a permit for application no. 96-9253 shall be issued with a flow rate of 0.30 cubic feet per second ("cfs") for domestic and fire protection.

IT IS FURTHER ORDERED that the permit holder is granted five (5) years to develop the permitted beneficial use. The five year time period will expire on the proof due date of April 1, 2013.

IT IS FURTHER ORDERED that the following conditions shall be included in the permit approval:

1. The total annual volume for this permit and any subsequent license shall not exceed 40.3 acre feet per annum, except for use in documented fire protection incidents.
2. The right holder shall annually report to IDWR and Kootenai Environmental Alliance the total annual water volume withdrawn and the annual volume of water delivered to each connection by January 31 for the previous calendar year.

3. Five years from the date of issuance of the original permit, the right holder shall report to the Department and Kootenai Environmental Alliance the average per annum water consumption, within the limits granted in the permit, subject to review by Kootenai Environmental Alliance. The right holder agrees to restrict the annual volume of the water right based on actual average per annum water consumption. Actual average per annum water consumption (actual use) will be calculated as follows:

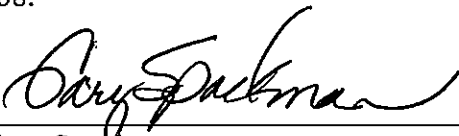
The total volume of water diverted and measured at the well head and reported for the previous calendar year divided by the actual number of occupied homes. This amount is to be pro-rated for any homes that were not occupied for the entire year. The annual volume shall be limited to the per annum allocation based on actual use plus ten percent multiplied by the 24 connections anticipated at build-out. The total annual volume cannot exceed 40.3 acre feet per annum.

4. Use under this right shall be limited to 24 connections.

5. The diversion and use of water described in this order is subject to additional conditions and limitations agreed to by both Kootenai Environmental Alliance and the water right holder under a separate agreement to which the Department is not a party and which may be independently enforceable by a court of law. A copy of the agreement is contained in the water right file.

IT IS FUTHER ORDERED that the hearing scheduled for March 5 and 6, 2008, is **Cancelled** and the protest of Kootenai Environmental Alliance is **Dismissed**.

DATED 8th day of May, 2008.



Gary Spackman
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of May, 2008, a true and correct copy of the document(s) described below were served by placing the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Order Granting Conditional Motion to Withdraw Protest and Cancelling Hearing, and an Explanatory Statement to accompany a preliminary order when a hearing was not held.

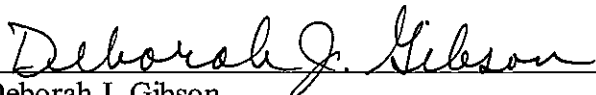
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