

RECEIVED

02/09/2018

FEB 28 2018

DEPARTMENT OF
WATER RESOURCES

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: March 30, 2018

Water right number: 95-8936

NORTH KOOTENAI WATER DISTRICT
13649 N MEYER RD
RATHDRUM ID 83858
Telephone Number: 2086876597

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

POU
POD

2. Describe the changes you wish to make in the proposed recommendation:

POU = "Place of use is within the NKWD's municipal service area
as provided under Idaho law."
POD = SE NW (otherwise same)

3. Give a brief explanation as to why you disagree with these portions:

See Attachment "A"

I AGREE with this proposed recommendation: no changes need to be made.

DATE:

2-28-2018

SIGNATURE:

Christopher H. Meyer

Please print your name:

CHRISTOPHER H. MEYER

IDWR Regional Office, 7600 N MINERAL DR STE 100, COEUR D ALENE, ID 83815-7763, 2087622800

02/09/2018

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 95-8936
NAME AND ADDRESS: NORTH KOOTENAI WATER DISTRICT
13649 N MEYER RD
RATHDRUM ID 83858
SOURCE: HAYDEN LAKE TRIBUTARY: SINKS
QUANTITY: 0.100 CFS
72.30 AFY
PRIORITY DATE: 03/03/1996
POINT OF DIVERSION: T51N R03W S10 NENW Lot 3 Within KOOTENAI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	01/01 12/31	0.100 CFS 72.30 AFY

PLACE OF USE:

Place of use is within the Hayden Haven service area of North Kootenai Water District as provided for under Idaho law.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.

Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. As of November 12, 2008, this water right was within State Water District No. 95A.

ATTACHMENT "A"

TO: Idaho Department of Water Resources

FROM: Christopher H. Meyer 

RE: Attachment "A" to CSRBA Notice of Error Replies for North Kootenai Water and Sewer District ("NKWD")
Water Right Nos. 95-168, 95-506, 95-2199, 95-4027, 95-8936, 95-9113, and 95-9216

DATE: February 28, 2018

This attachment is intended to supplement the Notice of Error Replies for the seven water rights held by NKWD that were included in the Preliminary Director's Report dated February 9, 2018. This included six surface water rights that were recommended for approval and one ground water right that was recommended for disallowal.

NKWD thanks IDWR's staff for its efforts in making these preliminary recommendations and appreciates this opportunity to engage in this informal error correction process.

For those of you who have not yet met him, let me introduce Chris de Groot. Long-time District Manager Mike Galante will be retiring this April. Chris will be filling his shoes.

My Special Power of Attorney authorizing me to file these notices on behalf of NKWD is on file with IDWR.

I. DISALLOWAL OF NO. 95-4027

Per my letter of November 13, 2017 to Craig L. Saxton of IDWR, NKWD does not contest the disallowal of this claim.

II. PLACE OF USE (“POU”)

Of the six surface water rights, two (Nos. 95-9113 and 95-9216) were recommended with the following POU: “Place of use is the service area of North Kootenai Water District as provided for under Idaho law.” This is correct.

Four of the surface water rights (Nos. 95-168, 95-506, 95-2199, and 95-8936) were recommended with the following POU: “Place of use is within the Hayden Haven service area of North Kootenai Water District as provided for under Idaho law.” This should be changed to conform to the POU for Nos. 95-9113 and 95-9216.

All six claims were submitted with similar descriptions of the location of the existing distribution systems. However, these are claimed and recommended as municipal water rights. Accordingly, under Idaho law, they are entitled to a flexible municipal service area. See 10/12/2018 email from Mr. Peppersack to me, which noted: “You corrected that, saying that the Department will recommend a system-wide POU based on the ‘growing service area’ principle for municipal providers.” That email was addressing anticipated recommendations for NKWD’s ground water rights and permits, not its surface rights. But I would think the same would apply here.

By the way, on the notice forms I added the word “municipal” prior to “service area.” My thinking was that this helps to clarify what Idaho law applies. This is not of great consequence, however. We defer to how the Department prefers to identify it, so long as it is intended to capture the principle of an expanding municipal service area.

III. POINT OF DIVERSION (“POD”)

Two water rights have the wrong quarter-quarter listed for the POD (Nos. 95-168 and 95-8936). The claims for these rights listed only a government lot number. We now understand that the Department prefers a quarter-quarter as well, which it determined to be NENW. We believe that the correct quarter-quarter is SENW.

This is the same POD, by the way, that serves Nos. 95-506 and 95-2199. Those claims were filed with both a lot number and the correct quarter-quarter, and were recommended that way, so no change is required.

The point of diversion for these four rights is a single intake system with multiple pumps. As we understand it, the number of pumps is irrelevant to the water right, and this is correctly listed as a single POD.