



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 27, 2019

GIVENS PURSLEY LLP
ATTN CHRISTOPHER H MEYER
PO BOX 2720
BOISE ID 83701

RE: North Kootenai Water and Sewer District Water Right Permits 95-9129, 95-9244,
and 95-10019

Dear Mr. Meyer:

I have been asked to resume processing of the above mentioned permits for North Kootenai Water and Sewer District (NKWSD). Everyone involved in this process has put forth a considerable amount of time and effort, and we would like to ensure that we have done everything possible to ensure that the licensing of these permits goes as smoothly as possible.

I would like to start by reviewing the existing ground water rights involved in the Coeur D'Alene-Spokane River Basin Adjudication (CSRBA). There are surface water rights involved in the CSRBA that belong to NKWSD, but for the purpose of licensing the above permits, we are not addressing those rights at this time. I have attached a simple table below showing the diversion rates and volumes of the ground water rights and how they have been recommended:

Basin	Sequence	Suffix	Priority Date	Diversion Rate	Volume	Source List	Water Use List
95	2144		10/22/1962	0.650	30.0	GROUND WATER	MUNICIPAL
95	2205		2/21/1967	0.290	30.0	GROUND WATER	MUNICIPAL
95	7138		3/25/1971	0.140	60.6	GROUND WATER	MUNICIPAL
95	7185		4/3/1972	1.390	624.0	GROUND WATER	MUNICIPAL
95	7231		2/23/1973	0.080	16.8	GROUND WATER	MUNICIPAL
95	7271		4/3/1973	0.830	66.0	GROUND WATER	MUNICIPAL
95	7713		3/30/1977	0.040	29.0	GROUND WATER	MUNICIPAL
95	7763		8/29/1977	3.000	1,148.4	GROUND WATER	MUNICIPAL
95	7827		3/29/1978	0.200	55.2	GROUND WATER	MUNICIPAL
95	8522		8/20/1986	0.610	441.6	GROUND WATER	MUNICIPAL
95	8639		1/5/1990	1.000	376.0	GROUND WATER	MUNICIPAL
95	9199		3/3/2003	8.830	6,393.0	GROUND WATER	MUNICIPAL
95	9217		1/22/2004	2.510	1,820.0	GROUND WATER	MUNICIPAL
Totals				19.570	11,090.6		

Please note: Water right permit 95-9129 was claimed in the CSRBA, but I did not include it in this table, since it will be subject to the license issued.

There are no combined use conditions on any of the recommendations shown in the table above. The total diversion rate and volume for the rights in the table is shown at the bottom of the table. It is my understanding that all of these recommendations are up to date, but there does appear to be objections to all of these recommendations by the Idaho Department of Lands (IDL). IDL is concerned that service area described as the place of use described in these recommendations in the table above may include State of Idaho Endowment Lands. Since it doesn't appear as though the diversion rates or volumes are in dispute, the totals from the recommendations will provide the basis for any combined limitations that may be imposed on permits 95-9129, 95-9244, and 95-10019.

As per the conclusions discussed in the footnote of your July 11, 2018, memo, water right permits 95-9129, 95-9244, and 95-10019 only add diversion rate, and do not add any additional volume to the NKWSD water system. Although a combined condition was not necessary in the recommendations for the existing water rights in the CSRBA, a combined limitation condition will be necessary for the licensing of permits 95-9129, 95-9244, 95-10019. The Idaho Department of Water Resources (Department) recommends that the following condition be added to all three permits:

Rights 95-2144, 95-2205, 95-7138, 95-7185, 95-7231, 95-7271, 95-7713, 95-7763, 95-7827, 95-8522, 95-8639, 95-9129, 95-9199, 95-9217, 95-9244, and 95-10019 when combined shall not exceed a total annual maximum diversion volume of 11,100 af.

You will notice that the 11,100 af is very similar to the 11,096.6 af total volume recommended in the CSRBA recommendations. We have rounded the volume in the condition to allow it to fit within the Department rounding policy. You will also notice that we did not include any diversion rate limitations in the condition, since the maximum diversion rate allowed will be the total diversion rate when all of the existing water rights' diversion rates and the diversion rates for each permit are added together.

The Department concludes that the licensed place of use for permits 95-9129, 95-9244, and 95-10019 can be the NKWSD service area, consistent with the service area definition in Idaho Code § 42-202B(9). As indicated in previous correspondence, the Department is also willing to consider applications to amend permit 95-9129, 95-9244, and 95-10019 to show all of the NKWSD's wells as alternate points of diversion (APODs). As with any application for amendment, the Department must ensure the proposed change will not result in enlargement of the authorized water use or injury to other water rights. In the past, we have discussed with you an accounting plan that shows how diversion records could be used to administer NKWSD's water rights to avoid enlargement. Your initial accounting proposal was to account for use in terms of priority, using all of your junior water rights at the beginning of the year leaving your senior rights available in times of shortage. This method does not reflect how the rights have historically been used and would likely result in enlargement of the water rights.

Shelley Keen and I demonstrated a proposed accounting method for monitoring the water rights within a system with APODs to you on March 22, 2016. We also sent you a copy of the spreadsheet with the proposed accounting method for you to share that information with

NKWSD. The Department would consider a plan other than the one shared with you in 2016, but so far has not seen another plan that would prevent enlargement of the NKWSD water rights.

The three permits were developed differently, so the volume will be depicted differently on each right. Water rights 95-9129 and 95-10019 were each developed as a private right for a subdivision and not part of the NKWSD system. Water right 95-9244 was filed as part of the NKWSD municipal system, so it will not need a volume. However, if a volume is assigned to 95-9244 it would be 1,450 af. Due to the combined condition limitation, the Department will have the ability to list the volumes below on the right, or to leave them blank. We will plan to follow the Department's standard unless it is determine there is a better alternative. The following shows the way the diversion rates and volumes should be described in the amendment for each permit.

Water Right Permit	Recommended Diversion Rate in cfs	Recommended Diversion Volume in af.
95-9129	0.53	51.6
95-9244	2.00	
95-10019	0.04	18

Please provide written confirmation NKSWD accepts the Department's proposed accounting method. Alternatively, please offer an alternative accounting method for Department review that will ensure no enlargement will occur. Within the next sixty (60) days, please provide this information and any additional comments or concerns regarding the way we propose to move forward with the processing of these permits. Additional time may be granted upon request. In order to include all of the APODs on the permits, all of the permits will need to be amended. Licensing amendments will be prepared and sent to NKSWD once an acceptable accounting method is agreed upon. If the Department does not receive a response within the next sixty (60) days, we will proceed with licensing of the permits without the APODs.

Respectfully;



Daniel Nelson

Water Right Analyst 3

Idaho Department of Water Resources

Email: dan.nelson@idwr.idaho.gov

Telephone (208) 287-4856

Fax (208) 287-6700 (attn: Dan Nelson)