

Nelson, Dan

From: Christopher H Meyer <ChrisMeyer@givenspursley.com>
Sent: Wednesday, July 18, 2018 2:33 PM
To: Keen, Shelley; Nelson, Dan; Saxton, Craig
Cc: Necia Maiani (nmaiani@welchcomer.com); Ashley Williams; Chris DeGroot (chrisd@nkwsd.com)
Subject: FW: Voice Message from 208-287-4947 on 7/17/18 4:23 PM for 236 [IWOV-GPDMS.FID525891]
Attachments: 2082874947-071718-162308-71-750311-1.wav; CHM Memo to IDWR (Saxton) re Director_s recommendations.PDF; NKWSD Spreadsheet (Current).XLS

Shelley,

Thanks much for your voicemail (attached) and for your continued assistance.
Please let me know if I can be any help in bringing you and Dan back up to speed.
The various combined use conditions and other interactions on these rights are tricky!

We are very pleased that many of the combined use conditions were dropped in the proposed Director's Report. That sure helps.

As discussed in my memo of 7/11/2018, I think that Craig Saxton did the right thing in not including combined use conditions on Nos. 95-9199, 95-9217, and 95-9129. But we need to do some more thinking about how Nos. 95-9244 and 95-10019 will be licensed.

By copy of this email, I will ask our engineering consultant, Welsh Comer, to let IDWR know right away if NKWSD disagrees with any of the conclusions set out in footnote 1 to my 7/11/2018 memo (which are copied from IDWR's spreadsheet of 3/22/2016). For convenience, I will attach a copy of that memo.

In case it might be helpful as you come back up to speed, I enclose my revised version of NKWSD's water rights spreadsheet. (It is set up to print on 11x17 paper.) This is a working draft, subject to further revision. This reflects the latest proposed Director's Report recommendations. But I'm doing some guessing about what the Department may do on licensing, based on prior communications.

Thanks to all,
-Chris

CHRISTOPHER H. MEYER

GIVENS PURSLEY LLP

chrismeyer@givenspursley.com / www.givenspursley.com

From: giSTT@mutaresoftware.com <giSTT@mutaresoftware.com>
Sent: Tuesday, July 17, 2018 4:27 PM
To: Christopher H Meyer <ChrisMeyer@givenspursley.com>
Subject: Voice Message from 208-287-4947 on 7/17/18 4:23 PM for 236

Voice Message from 208-287-4947 on 7/17/18 4:23 PM

"Hi Chris this is Shelly Keen at the Department of Water resources. Just got your voicemail and looked at your email from a couple of days ago regarding in North scrutiny(?) water and sewer district and licensing of those permit and it's probably gonna take me a little bit to get back up to speed on those I think I'm going to ask Dan Nelson to look at those and give me a quick refresher. I'll be out of the office tomorrow Wednesday I'm going down to our court our Twin Falls

office for a day but I should be back in the office on Thursday and hopefully can reconnect with Dan Dan get up to speed and then we will get in touch with you at that point either Thursday or maybe sometime Friday. So anyway if that will work for you and I."

Attachment(s):

- Voice Message (76 sec)

By Chris Meyer, Givens Pursley
Printed 7/20/2018 @ 10:43 AM

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V
	Right No.	Source	Basis	CSRBA Status	Priority	Purpose	Period of Use	POD(s)	POU	RATE: Nominal Peak Rate (cfs)	RATE: Combined Use Rate Limit (cfe)	RATE: Subject to Combined Use Rate Limit (cfe)	RATE: Effective Peak Rate (cfs) (as recom- mended or permitted)	RATE: Effective Peak Rate (cfs) (as may be reduced in future licensing)	RATE: Effective Sustain- able Rate (cfs) (24/7 use of Annual licensing)	VOLUME: Express Volume (if any) (AFA)	VOLUME: 24/7 Annual Volume (AFA) [calculated for comparison]	VOLUME: Rights Use Volume Combined Limit (AF) [as recom- mended or permitted]	VOLUME: Effective Annual Volume (AFA) [as may be reduced in future licensing]	Notes		
1		Surface Water Rights																				
2	95-00166	Surface: Hayden Lake	Decree	Claimed Prelim R (2/9/2016)	3/5/1951	Municipal	1/1 to 12/31	Raw water intake (T51N R3W S10 SENW L3)	NKWD's municipal service area	0.70	N/A	N/A	0.70	0.70	0.03	19.95	506.78	N/A	19.95	19.95		
3	95-00506	Surface: Hayden Lake	Decree	Claimed Prelim R (2/9/2016)	8/7/1957	Municipal	1/1 to 12/31	Raw water intake (T51N R3W S10 SENW L3)	NKWD's municipal service area	0.60	0.60	95-506 95-2199	0.60	0.60	0.06	44.50	434.39	54.20	95-506 95-2199	44.50	The combined limit on rate appears in the license of No. 95-2199. It means that right 95-2199 may divert no additional rate. The combined limit on volume is the sum of the two volumes and thus not a constraint. It serves to clarify that additional volume may be pumped, despite the combined rate limit.	
4	95-002199	Surface: Hayden Lake	Decree	Claimed Prelim R (2/9/2016)	2/2/1967	Municipal	1/1 to 12/31	Raw water intake (T51N R3W S10 SENW L3)	NKWD's municipal service area	0.34	0.60	95-506 95-2199	0.00	0.00	0.00	9.70	246.15	54.20	95-506 95-2199	9.70	The combined limit on rate appears in the license of No. 95-2199. It means that right 95-2199 may divert no additional rate. The combined limit on volume is the sum of the two volumes and thus not a constraint. It serves to clarify that additional volume may be pumped, despite the combined rate limit.	
5	95-00936	Surface: Hayden Lake	License	Claimed Prelim R (2/9/2016)	3/3/1986	Municipal	1/1 to 12/31	Raw water intake (T51N R3W S10 SENW L3)	NKWD's municipal service area	0.10	N/A	N/A	0.10	0.10	0.10	72.30	72.40	N/A	N/A	72.30		
6	95-00113	Surface: Lake Coeur d'Alene	License	Claimed Prelim R (2/9/2016)	10/25/2001	Municipal	1/1 to 12/31	Raw water intake (T51N R3W S36 SESE L3)	NKWD's municipal service area	1.00	N/A	N/A	1.00	1.00	1.00	724.00	723.98	N/A	N/A	724.00		
7	95-00216	Surface: Lake Coeur d'Alene	License	Claimed Prelim R (2/9/2016)	1/21/2004	Municipal	1/1 to 12/31	Raw water intake (T51N RAW S36 SESE L4)	NKWD's municipal service area	1.00	N/A	N/A	1.00	1.00	1.00	724.00	723.98	N/A	N/A	724.00		
8	TOTAL - Surface Water																					
9		Ground Water Rights																				
10	95-00144	Ground water	License	Claimed	10/22/1982	Municipal		3 APODs	NKWD's municipal service area	0.65	N/A	N/A	0.65	0.65	0.04	30.00	470.59			30.00		
11	95-00235	Ground water	License	Claimed	2/21/1987	Municipal		3 APODs	NKWD's municipal service area	0.29	N/A	N/A	0.29	0.29	0.04	30.00	209.95			30.00		
12	95-00138	Ground water	License	Claimed	3/25/1971	Municipal	1/1 to 12/31	20 APODs	NKWD's municipal service area	0.14	N/A	N/A	0.14	0.14	0.08	60.60	101.36			60.60		
13	95-00185	Ground water	License	Claimed	4/3/1972	Municipal		3 APODs	NKWD's municipal service area	1.39	N/A	N/A	1.39	1.39	0.86	624.00	1,066.33			624.00		
14	95-00231	Ground water	License	Claimed	2/23/1973	Municipal	1/1 to 12/31	3 APODs	NKWD's municipal service area	0.08	N/A	N/A	0.08	0.08	0.02	16.80	57.92			16.80	At Craig Sexton's suggestion, the AFA was increased from 15 to 16.8 cfs, adding the quantity associated with 95-7235 (Rodney Fleener right).	
15	95-00271	Ground water	License	Claimed	4/3/1973	Municipal		3 APODs	NKWD's municipal service area	0.83	N/A	N/A	0.83	0.83	0.09	86.00	600.90			86.00		
16	95-00713	Ground water	License	Claimed	3/30/1977	Municipal	1/1 to 12/31	20 APODs	NKWD's municipal service area	0.04	N/A	N/A	0.04	0.04	0.04	29.00	28.96			29.00		
17	95-00765	Ground water	License	Claimed	8/29/1977	Municipal	1/1 to 12/31	2 APODs	NKWD's municipal service area	3.60	N/A	N/A	3.00	3.00	1.59	1,148.40	2,171.93			1,148.40		
18	95-00827	Ground water	License	Claimed	3/29/1978	Municipal	1/1 to 12/31	20 APODs	NKWD's municipal service area	0.20	N/A	N/A	0.20	0.20	0.08	55.20	144.60			55.20		
19	95-00822	Ground water	License	Claimed	8/20/1986	Municipal	1/1 to 12/31	20 APODs	NKWD's municipal service area	0.61	N/A	N/A	0.61	0.61	0.61	441.60	441.63			441.60		
20	95-00939	Ground water	License	Claimed	1/5/1980	Municipal	1/1 to 12/31	24 APODs	NKWD's municipal service area	1.00	N/A	N/A	1.00	1.00	0.52	376.00	723.99			376.00		
21	95-00125	Ground water	Permit	Late claim	6/13/2008	Municipal	1/1 to 12/31	1 POD	Area served by Sytle Development LLC generally unclaimed section	0.95	N/A	N/A	0.95	0.53	0.00	None	687.78			687.78	We filed a late claim when it was discovered that this was not a post-commencement right. We are awaiting further word from IDWR, but we anticipate that at licensing the effective volume will be reduced to zero	
22																						

NKWS Water Rights Spreadsheet

A	S	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V
Water Right No.	Source	Basin	CSRS Status	Priority	Purpose	Period of Use	POD(s)	POU	RATE: Nominal Peak Rate (cfs)	RATE: Combined Use Rate Limit (cfs)	RATE: Rights Subject to Combined Use Rate Limit (cfs)	RATE: Effective Peak Rate (cfs) [as permitted or reduced in future licensing]	RATE: Effective Peak Rate (cfs) [as may be reduced in future licensing]	RATE: Effective Surface Rate (cfs) [24/7 use of Annual]	VOLUME: Express Annual Volume (AFY) (AFY)	VOLUME: 24/7 Annual Volume (AFY) [calculated for comparison]	VOLUME: Combined Use Volume Limit (AFY)	VOLUME: Rights Subject to Combined Use Volume Limit (AFY)	VOLUME: Effective Annual Volume (AFY) [as recom-mended for future licensing]	VOLUME: Effective Annual Volume (AFY) [as may be reduced in future licensing]	Notes
1	95-09199 Ground water	License	Claimed	3/3/2003	Municipal	1/1 to 12/31	23 PODs	NKWD's municipal service area	8.83	N/A	N/A	8.83	8.83	8.83	6,393.00	6,392.72			6,393.00	6,393.00	
24	95-09217 Ground water	License	Claimed	1/22/2004	Municipal	1/1 to 12/31	23 PODs	NKWD's municipal service area	2.51	N/A	N/A	2.51	2.51	2.51	1,818.00	1,817.18			1,818.00	1,818.00	
25	95-09244 Ground water	Permit	Not Claimed	8/27/2004	Municipal	1/1 to 12/31		NKWD's municipal service area	2.00	N/A	N/A	2.00	2.00	0.00	None	1,447.96			1,447.96	0.00	We are awaiting further word from IDWR, but we anticipate that at licensing the effective volume will be reduced to zero incremental volume.
26	95-10019 Ground water	Permit	Not Claimed	5/6/2003	Municipal	1/1 to 12/31		NKWD's municipal service area	0.20	N/A	N/A	0.20	0.20	0.00	None	144.80			144.80	0.00	Per CHM memo of 9/7/2017, IDWR is still re-thinking the diversion rate, but it will likely be close to the permitted 0.2 cfs. We are awaiting further word from IDWR, but we anticipate that at licensing the effective volume will be reduced to zero incremental volume.
27	95-12596 Ground water	Permit	Not Claimed	5/17/2010	Municipal	1/1 to 12/31	25 wells (permit)	Municipal (Kootenai County)	5.48	N/A	N/A	5.48	5.48	5.48	None	3,967.40			3,967.40	3,967.40	This permit is not up for licensing until 2021
28	TOTAL - Ground Water								28.20			28.20	27.78	20.80		20,419.17			17,396.53	15,096.00	
31	OLD TOTAL - All licenses held in name of NKWS (per 12/11/2014 RAFL Application)								13.33			13.33	13.33	12.67		9,692.62			9,173.40	8,173.40	
32	GRAND TOTAL - Surface & Ground Water								31.94			31.80	31.18	22.69		23,123.84			18,630.98	16,650.45	
33	GRAND TOTAL - Surface & Ground Water without permit 95-12599								26.46			26.12	25.70	17.51		18,158.44			14,963.58	12,683.05	
34	GRAND TOTAL - Surface & Ground Water without permits 95-9129, 95-9244, 95-10019 & 95-12599								23.31			22.97	22.97	17.51		16,875.02			12,683.05	12,683.05	
35	Old Gap Analysis (Shortfall to 45.33 cfs) (NKWS licenses only per 12/11/2014 RAFL Application)								32.00			32.00	32.00	32.66							
36	Gap Analysis (Shortfall to 45.33 cfs) (excluding permit 95-12599)								18.87			19.21	19.63	27.82							
37	Gap Analysis (Shortfall to 45.33 cfs) (excluding permits 95-9129, 95-9244, 95-10019 & 95-12599)								22.02			22.36	22.36	27.82							
40	Disallowed claims																				
41	95-04027 Ground water	Statutory claim	Claimed / Disallowed	9/1/1963	Municipal	1/1 to 12/31	N/A	No POU found for this	1.20	1.20	N/A	1.20	1.20	1.20	None				868.77		Priority date post-dates the mandatory permitting requirement.
42	95-07235 Ground water	License	Late Claim / Disallowed	1/8/1973	Domestic	1/1 to 12/31	N/A	40-acre tract	0.04	0.04	95-7231 95-7235	0.04	0.04	0.04	1.20	28.96			1.20		We filed a late claim for this right held by Rodney Fisher solely to have it disallowed, and to eliminate combined use limit with 95-7231. See CHM memo 9/1/2016. Craig Saxton determined that this quantity could be claimed by NKWS as part of 95-7231
44	TOTAL - Disallowed Claims								1.24	1.24		1.24	1.24	1.24					869.97		

Nelson, Dan

From: Keen, Shelley
Sent: Tuesday, July 17, 2018 4:33 PM
To: Nelson, Dan
Subject: FW: Status inquiry re NKWSD licensing [IWOV-GPDMS.FID525891]

Dan,

See the email below. I'll need you to get back up to speed on our licensing progress and update me on where we stand right now. I told Chris we'd get back to him later this week. I'm booked all day Friday, so we'll have to touch bases Thursday. I'll send you an invite. After our discussion, we can decide how to communicate with Chris.

I apologize for the short notice. If you need more time, let me know.

Shelley

From: Christopher H Meyer [mailto:ChrisMeyer@givenspursley.com]
Sent: Monday, July 16, 2018 2:08 PM
To: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Cc: Saxton, Craig <Craig.Saxton@idwr.idaho.gov>; Jones, Doug <Doug.Jones@idwr.idaho.gov>; Chris DeGroot (chrisd@nkwsd.com) <chrisd@nkwsd.com>; Necia Maiani (nmaiani@welchcomer.com) <nmaiani@welchcomer.com>; Ashley Williams <awilliams@welchcomer.com>
Subject: Status inquiry re NKWSD licensing [IWOV-GPDMS.FID525891]

Hello, Shelley.

Thanks again for the great work by you and everyone at IDWR on North Kootenai Water and Sewer District's water right issues.

Thanks in particular to Craig Saxton for his work on the Director's Recommendations.

I am working on a revised Gap Analysis for the RAFN application.

We have agreed that Permit No. 95-12599 will not move to licensing in the short term; proof is not due until 2021.

However, it is my understanding that the plan is to move the other permits (Nos. 95-9129, 95-9244, and 95-10019) to licensing now.

Do I understand correctly (from Jeff Peppersack's letter of 6/7/2018) that you will be taking the lead on that licensing?

What is the timeframe for licensing?

Do you have revised proposed licenses that I can review? (I need the quantity numbers for the Gap Analysis.)

Best to you,

-Chris

CHRISTOPHER H. MEYER

CHIEF OF POLICY

601 W Bannock St, Boise, ID 83702 / PO Box 2720, Boise, ID 83701
direct 208-388-1236 / cell 208-407-2792 / assistant 208-388-1227 (Lisa Hughes)
chrismeyer@givenspursley.com / www.givenspursley.com

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Nelson, Dan

From: Saxton, Craig
Sent: Thursday, July 12, 2018 1:22 PM
To: 'Christopher H Meyer'
Subject: RE: CHM Memo to IDWR (Saxton) re Director's recommendations [IWOV-GPDMS.FID525891]

Chris,

I have some feedback for you in relation to our phone conversation and/or your memo.

1. From your memo:

Absence of annual volume limits

I inquired why some of the recommendations do not include annual volume limits (based on pumping 24/7). We sought this solely for clarity and administrative ease, so that every water right has a volume limit, which may be readily summed system-wide.

You explained that you omitted the volume limit from licenses or permits that were issued after the 2006 date of the accomplished transfer statute. I'm not certain that I understood you correctly. But the bottom line is that we can add in a volume limit later when we file the transfer applications.

I looked through our Adjudication Guidance Memos and will add the volumes to 95-9199 and 95-9217. The reference to the accomplished transfer statute I made in our conversation should not be applicable because we are saying that adding a volume limit isn't "changing" the water usage.

2. Yesterday we discussed the fact that 23 POD's were claimed on 95-8639 but 24 POD's were recommended. The reason for this discrepancy is as follows:

23 wells (PODs) were authorized by license 95-8639 on January 7, 2010. Transfer 79275 approved May 21, 2015, added a point of diversion referred to as Lancaster 5 in T51N, R04W, S2, SWSW bringing the total number of points of diversion authorized by right 95-8639 to 24 points of diversion.

Thanks,
c

From: Christopher H Meyer [mailto:ChrisMeyer@givenspursley.com]
Sent: Wednesday, July 11, 2018 6:29 PM
To: Saxton, Craig <Craig.Saxton@idwr.idaho.gov>
Cc: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>; Jones, Doug <Doug.Jones@idwr.idaho.gov>; Lisa Hughes <lisahughes@givenspursley.com>; Chris DeGroot (chrisd@nkwsd.com) <chrisd@nkwsd.com>; Necia Maiani (nmaiani@welchcomer.com) <nmaiani@welchcomer.com>; Ashley Williams <awilliams@welchcomer.com>
Subject: CHM Memo to IDWR (Saxton) re Director's recommendations [IWOV-GPDMS.FID525891]

Craig,
I hope the attached is helpful.
Just trying to make a record, which I find useful in my old age.

Best,
-Chris

CHRISTOPHER H. MEYER

GIVEN SPURSLEY

601 W Bannock St, Boise, ID 83702 / PO Box 2720, Boise, ID 83701

direct 208-388-1236 / cell 208-407-2792 / assistant 208-388-1227 (Lisa Hughes)

chrismeyer@givenspursley.com / www.givenspursley.com

CONFIDENTIALITY NOTICE: This communication is confidential and may contain privileged information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Nelson, Dan

From: Saxton, Craig
Sent: Wednesday, July 11, 2018 11:18 AM
To: 'Christopher H Meyer'
Cc: 'Necia Maiani (nmaiani@welchcomer.com)'; 'Chris DeGroot (chrisd@nkwsd.com)'; 'Karen Osterdock (kosterdock@welchcomer.com)'; Lisa Hughes
Subject: RE: NKWD recommendations for B95 Part 1 Director's Report [IWOV-GPDMS.FID525891]

Sorry Everyone, I saw the e-mail from Chris last night but I got buried this morning.

Anyway, yes, if you can get me the original signed version of the amended claim this week then we will get the recommendations updated.

Thanks!

Craig S.

From: Christopher H Meyer [mailto:ChrisMeyer@givenspursley.com]
Sent: Wednesday, July 11, 2018 11:14 AM
To: Saxton, Craig <Craig.Saxton@idwr.idaho.gov>
Cc: 'Necia Maiani (nmaiani@welchcomer.com)' <nmaiani@welchcomer.com>; 'Chris DeGroot (chrisd@nkwsd.com)' <chrisd@nkwsd.com>; 'Karen Osterdock (kosterdock@welchcomer.com)' <kosterdock@welchcomer.com>; Lisa Hughes <lisahughes@givenspursley.com>
Subject: RE: NKWD recommendations for B95 Part 1 Director's Report [IWOV-GPDMS.FID525891]

Lisa,
I have not received any other instructions from Craig, so please go ahead and have the original copy of the amended claim hand delivered to him at IDWR HQ.
Thanks,
-Chris

CHRISTOPHER H. MEYER

GIVENS PURSLEY

chrismeyer@givenspursley.com / www.givenspursley.com

From: Christopher H Meyer
Sent: Tuesday, July 10, 2018 4:51 PM
To: 'Saxton, Craig' <Craig.Saxton@idwr.idaho.gov>
Cc: 'Necia Maiani (nmaiani@welchcomer.com)' <nmaiani@welchcomer.com>; 'Chris DeGroot (chrisd@nkwsd.com)' <chrisd@nkwsd.com>; 'Karen Osterdock (kosterdock@welchcomer.com)' <kosterdock@welchcomer.com>; Lisa Hughes <lisahughes@givenspursley.com>
Subject: RE: NKWD recommendations for B95 Part 1 Director's Report [IWOV-GPDMS.FID525891]

Craig,
Thanks for your patience.
I came out of the (apparently very successful) IMAP status conference today and am now digging out.

My legal assistant informed me just now that NKWD mailed the amended claim to me. It arrived while I was on vacation, and she did not understand that this needed to be filed with IDWR.

A scanned copy is attached. I will have the original delivered to you tomorrow, unless you tell me to do otherwise.

We are now reviewing the other recommendations. Given all the work put in prior to this, I imagine that will be a routine exercise.

Thanks again for all your good work, and that of so many at IDWR.

-Chris

CHRISTOPHER H. MEYER



chrismeyer@givenspursley.com / www.givenspursley.com

From: Christopher H Meyer

Sent: Monday, July 9, 2018 10:32 AM

To: 'Saxton, Craig'

Cc: Necia Maiani (nmaiani@welchcomer.com) ; Chris DeGroot (chrisd@nkwsd.com) ; Karen Osterdock (kosterdock@welchcomer.com)

Subject: RE: NKWD recommendations for B95 Part 1 Director's Report [IWOV-GPDMS.FID525891]

Craig,

Thanks much for this. I have now returned from my son's wedding and post-wedding festivities back East. I will turn to this asap.

At the moment, I am preparing for a Status Conference at IDWR tomorrow on the IMAP. But I hope to get to this promptly thereafter.

Necia,

In the meantime, can you take a peek at this Necia?

-Chris

CHRISTOPHER H. MEYER



chrismeyer@givenspursley.com / www.givenspursley.com

From: Saxton, Craig <Craig.Saxton@idwr.idaho.gov>

Sent: Tuesday, July 3, 2018 9:47 AM

To: Christopher H Meyer <ChrisMeyer@givenspursley.com>

Subject: NKWD recommendations for B95 Part 1 Director's Report

Hello Chris,

I told you I would send you the updated recommendations for the NKWD rights. The attached file has all the Basin 95 recommendations except 95-7231 and 95-7235. As we discussed, you were going to amend 95-7231 to include the diversion rate of 95-7235.

I just got the update that Carter wants to have recommendations to be reported in the B95 Part 1 Director's report ready to print by **Friday, July 13**. Carter told me that he would like to include all of NKWD recommendations if they are ready. I think they are ready sort of 95-7231 and 95-7235. If you can get me the amended claim for 95-7231 before July 13, I can include all of NKWD's in the Director's report that will go out at the end of July/early August.

This is a different time frame than I mentioned before as I thought we were only going to send out KNWD's surface water rights in the Director's Report for B95 Part 1.

If we can't get the amendment by the date it isn't a big deal. I will include all the others and then we can discuss the options of what to do with 95-7231 and 95-7235.

Thanks,

Craig L. Saxton
Adjudication Technical Analyst
322 E Front St
Boise ID 83720-0098
Craig.saxton@idwr.idaho.gov
208.287.4916

Nelson, Dan

From: Saxton, Craig
Sent: Thursday, July 12, 2018 12:19 PM
To: 'Ashley Williams'
Cc: Chris DeGroot (chrisd@nkwsd.com); Necia Maiani; Christopher H Meyer
Subject: RE: CHM Memo to IDWR (Saxton) re Director's recommendations [IWOV-GPDMS.FID525891]

Ashley,

That is what I needed. I am making the updates. I will let you know if I have further questions.

Thanks,
c

From: Ashley Williams [mailto:awilliams@welchcomer.com]
Sent: Thursday, July 12, 2018 11:36 AM
To: Saxton, Craig <Craig.Saxton@idwr.idaho.gov>
Cc: Chris DeGroot (chrisd@nkwsd.com) <chrisd@nkwsd.com>; Necia Maiani <nmaiani@welchcomer.com>; Christopher H Meyer <ChrisMeyer@givenspursley.com>
Subject: RE: CHM Memo to IDWR (Saxton) re Director's recommendations [IWOV-GPDMS.FID525891]

Hi Craig –

Attached are excerpts from the 2001 Analysis of the system, showing the connection.

Please let us know if you need anything further or have any questions.

Thanks!

Ashley Williams, PE | Project Engineer / GIS Manager

Office: 208.664.9382 | Direct: 208.416.4878 | E: awilliams@welchcomer.com | Web: www.welchcomer.com



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From: Saxton, Craig [mailto:Craig.Saxton@idwr.idaho.gov]
Sent: Thursday, July 12, 2018 9:30 AM
To: Ashley Williams <awilliams@welchcomer.com>
Cc: Chris DeGroot (chrisd@nkwsd.com) <chrisd@nkwsd.com>; Necia Maiani <nmaiani@welchcomer.com>; Christopher H Meyer <ChrisMeyer@givenspursley.com>
Subject: RE: CHM Memo to IDWR (Saxton) re Director's recommendations [IWOV-GPDMS.FID525891]

Ashley,

Do you have documentation you could send me that shows that the Hillside and GET systems were connected before 2006? I will look in the file and see if I have anything but my guess is this is going to have to be pursued after the Director's Report goes out via the Objection process.

Thanks,
c

From: Ashley Williams [<mailto:awilliams@welchcomer.com>]
Sent: Thursday, July 12, 2018 9:19 AM
To: Saxton, Craig <Craig.Saxton@idwr.idaho.gov>
Cc: Chris DeGroot (chrisd@nkwsd.com) <chrisd@nkwsd.com>; Necia Maiani <nmaiani@welchcomer.com>; Christopher H Meyer <ChrisMeyer@givenspursley.com>
Subject: RE: CHM Memo to IDWR (Saxton) re Director's recommendations [IWOV-GPDMS.FID525891]

Hi Craig –

Thanks for talking with me today about the POD's for NKWD. As we discussed, any changes that occurred after 2006 cannot be implemented without an administrative action (such as a transfer). Thus, we will need to take care of the issue at the Lancaster wells in a transfer after the recommendations are finalized.

We did review 95-7763 (generally associated with the Hillside POD's) and found that it may be appropriate to add the wells on the GTE system as they are connected to the Hillside system (and have been since before 2006). Thus, we would like to request the following POD's be added to 95-7763:

- T51N R04W S23 SWSE
- T51N R04W S23 SWSE
- T51N R04W S23 NESE

Please let us know if you have any questions or concerns.

Thanks!

Ashley Williams, PE | Project Engineer | GIS Manager

Office: 208.664.9382 | Direct: 208.416.4878 | E: awilliams@welchcomer.com | Web: www.welchcomer.com



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From: Christopher H Meyer [<mailto:ChrisMeyer@givenspursley.com>]
Sent: Wednesday, July 11, 2018 5:29 PM
To: Craig L. Saxton (craig.saxton@idwr.idaho.gov) <craig.saxton@idwr.idaho.gov>
Cc: Shelley W. Keen (shelley.keen@idwr.idaho.gov) <shelley.keen@idwr.idaho.gov>; Douglas Jones (doug.jones@idwr.idaho.gov) <doug.jones@idwr.idaho.gov>; Lisa Hughes <lisahughes@givenspursley.com>; Chris DeGroot (chrisd@nkwsd.com) <chrisd@nkwsd.com>; Necia Maiani <nmaiani@welchcomer.com>; Ashley Williams <awilliams@welchcomer.com>
Subject: CHM Memo to IDWR (Saxton) re Director's recommendations [IWOV-GPDMS.FID525891]

Craig,
I hope the attached is helpful.
Just trying to make a record, which I find useful in my old age.

Best,

-Chris

CHRISTOPHER H. MEYER

GIVEN SPURSLEY

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MEMORANDUM

TO: Craig Saxton, Adjudication Technical Analyst, IDWR

CC: Shelley W. Keen, Water Right Section Manager, IDWR
Douglas Jones, Regional Manager, IDWR
Chris de Groot, District Manager, NKWD
Necia Maiani, Welch Comer Engineers
Ashley Williams, Welch Comer Engineers

FROM: Christopher H. Meyer *CHM*

RE: Notes on combined use annual volume limits

DATE: July 11, 2018

Thank you for taking my call today regarding the draft recommendations for North Kootenai Water & Sewer District's ("NKWSD") CSRBA claims. I thought it would be useful to capture the key points of that discussion for the file.

Absence of combined use limits on volume

One of the issues we discussed was combined use annual volume limits on Nos. 95-9129, 95-9199, 95-9217, 95-9244, and 95-10019. After we spoke, I refreshed my recollection by reviewing the water right spreadsheet prepared by IDWR dated 3/22/2016. It provides the notes on these rights, which I set out in the footnote.¹

¹ Explanation found in IDWR spreadsheet of 3/22/2016:

95-9129	This permit was originally issued for Selkirk Meadows subdivision. A field report was submitted and reviewed, and it was originally determined that the diversion rate should be limited to 0.20 cfs based on the measured flow and the volume should be limited to 51.6 af. However, water rights 95-9199 and 95-9217 include the points of diversion and place of use for this subdivision, and they have already been licensed with an earlier priority date and a volume exceeding NKWD's historic annual use. Therefore, the only increment of beneficial use added by this permit is the rate.
95-9199	This license covers the entire place of use for North Kootenai Water District from APODs. It was licensed as a municipal right with an open-ended volume. The proposed volume is equal to the maximum potential for the open-ended volume.

I will ask NKWSD's engineers to take another look at this. If they have a different view of the history of these rights or the need for a combine use limit on volume, we will let you know.

Based on that discussion, I stated in my letter to Jeff Peppersack dated 3/5/2018: "As noted in the IDWR Spreadsheet, IDWR will impose a combined use limit on right Nos. 95-9129, 95-9199, 95-9217, 95-9244, and 95-10019 of 8,211.00 AFA, whose effect is to give Nos. 95-9129, 95-9244, and 95-10019 zero incremental volume.²"

The draft recommendations you provided did not contain such combined use limits. When we spoke today, we concluded at omitting these conditions is appropriate for the following reasons:

1. There is no need to include a limit on Nos. 95-9199 and 95-9217, because a combined use limit would be based on the sum of the authorized volumes for those rights.
2. There is no need to include a limit on No. 95-9129, because it is a permit that does not include any combined use limit. If any combined use limit is required, it will be added at the license stage.
3. Nos. 95-9244 and 95-10019 are post-commencement permits that have not been claimed in the CSRBA. Accordingly no recommendation will be made for them, and the combined use issue may be addressed at the time of licensing.

I provide this summary to make a record of our thinking on this, and to provide an explanation and documentation for the rather cryptic conclusion I provided on this subject in my 3/5/2018 letter (quoted above).

95-9217	This license covers the entire place of use for North Kootenai Water District from APODs. It was licensed as a municipal right with an open-ended volume. The proposed volume is equal to the maximum potential for the open-ended volume.
95-9244	Permit 95-9244 has a condition limiting it to the additional increment of beneficial use established during the development period. Since all the volume used by NKWD can be covered by its existing water rights, including Right 95-9199 and 95-9217, this right adds no volume to the overall beneficial use. Therefore, it should be limited to rate only.
95-10019	This permit was originally issued for East Seasons Acres subdivision. A field report was submitted and reviewed, and it was originally determined that the diversion rate should be limited to 0.04 cfs based on the measured flow and the volume should be limited to 18 af. However, water right 95-9199 includes the points of diversion and place of use for this subdivision, and it has already been licensed with an earlier priority date and a volume exceeding NKWD's historic annual use. Therefore, the only increment of beneficial use added by this permit is the rate.

² The IDWR Spreadsheet does not actually quantify the combined use limit. I have quantified it as 8,211.00 AFA, based on the sum of the authorized volumes for Nos. 95-9199 and 95-9217.

Condition mandating use of surface water when available

I inquired about the "surface water" condition proposed for Nos. 95-7138, 95-7713, 95-7827, and 95-8522. As I mentioned to you, at yesterday's status conference for SUEZ's IMAP, I inquired whether it is appropriate to impose this condition on a municipal provider that has no control over whether the developer of the property, the homeowners association, and/or the water customer makes appropriate use of available surface. I said that NKWD would be comfortable with a condition noting IDWR's policy of requiring the use of surface water when available, and obligating NKWSD not to take action that undermines that policy.

You agreed to chat with Shelley Keen on this question.

Absence of annual volume limits

I inquired why some of the recommendations do not include annual volume limits (based on pumping 24/7). We sought this solely for clarity and administrative ease, so that every water right has a volume limit, which may be readily summed system-wide.

You explained that you omitted the volume limit from licenses or permits that were issued after the 2006 date of the accomplished transfer statute. I'm not certain that I understood you correctly. But the bottom line is that we can add in a volume limit later when we file the transfer applications.

Limited POU for No. 95-9129

You explained that No. 95-9129 includes a limited POU (unlike all the other recommendations), because it is still a permit. This will be changed to a broad POU based on the entire service area at licensing.

We did not discuss this, but I see you listed the rate at 0.95 cfs. In some prior discussions with IDWR staff, it was suggested that this right might be licensed at 0.53 cfs. Is that still the thinking? We would like to know, so that we may prepare a meaningful gap analysis for the RAFN application.

APODs

We discussed APODs briefly. You explained that the recommended POD or APODs start with the current licenses and permits, and may be expanded by accomplished transfer only to the extent of the physically connected distribution system. This is consistent with prior communications with IDWR in which we have agreed that broader system-wide APODs (based on the system-wide SCADA system) should be achieved through subsequent transfer applications.

NKWSD's engineers are reviewing specific APOD listings and will follow up with you directly regarding a few requested changes.

Measuring devices

We did not discuss the conditions requiring IDWR approval of measuring devices. NKWD's engineers will be following up with you on that, too. All we seek is some level of assurance that the measuring devices in use (or expected to be put in place) are acceptable.

Conclusion

Once again, thanks to you and all the staff at IDWR for your assistance in moving us along in this process.