

Nelson, Dan

From: Christopher H Meyer <ChrisMeyer@givenspursley.com>
Sent: Tuesday, June 19, 2018 2:53 PM
To: Saxton, Craig; Jones, Doug; Keen, Shelley
Cc: Nelson, Dan; Brian M. Werst (bwerst@worthwith.com); Baxter, Garrick; Weaver, Mathew; Fritschle, Carter; Necia Maiani (nmaiani@welchcomer.com); Chris DeGroot (chrisd@nkwsd.com); Lisa Hughes
Subject: CHM Ltr to IDWR #10.PDF [IWOV-GPDMS.FID525891]
Attachments: CHM Ltr to IDWR #10 (2).PDF

Shelley, Craig, and Doug,

Please see attached letter regarding NKWSD.

Much thanks to each of you, and to our friend Jeff Peppersack.

I look forward to working with you on the CSRBA, transfer applications, and RAFN application.

I will follow up in July upon my return from my son's wedding and other pleasant family events.

In the meantime, please do not hesitate to reach me by phone or email, or to reach out to Chris de Groot or Necia Maiani.

I will send the original by mail to Shelley Keen for filing as appropriate.

Best,
-Chris

CHRISTOPHER H. MEYER

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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GIVENS PURSLEY LLP

Attorneys and Counselors at Law

601 W. Bannock Street
PO Box 2720
Boise, ID 83701
Telephone: 208-388-1200
Facsimile: 208-388-1300

www.givenspursley.com

Christopher H. Meyer
208-388-1236
chrismeyer@givenspursley.com

Gary G. Allen
Christopher J. Beeson
Jason J. Blakley
Curt R. Bolinder
Jeff W. Bower
Preston N. Carter
Jeremy C. Chou
William C. Cole
Michael C. Creamer
Amber N. Dina
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Deborah E. Nelson

W. Hugh O'Riordan, LL.M.
Randall A. Peterman
Jack W. Relf
Michael O. Roe
Jamie Caplan Smith
P. Mark Thompson
Jeffrey A. Warr
Robert B. White

Kenneth L. Pursley (1940-2015)
James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

June 19, 2018

Via email, with original to Mr. Keen

Shelley W. Keen
Water Right Section Manager
Idaho Department of Water Resources
The Idaho Water Center
322 E Front St
Boise, ID 83702
shelley.keen@idwr.idaho.gov

Craig L. Saxton
Senior Water Resource Agent
Idaho Department of Water Resources
The Idaho Water Center
322 E Front St
Boise, ID 83702
craig.saxton@idwr.idaho.gov

Douglas Jones
Regional Manager
Northern Regional Office
Idaho Department of Water Resources
7600 N Mineral Dr, Ste 100
Coeur d'Alene, ID 83815-7763
doug.jones@idwr.idaho.gov
www.idwr.idaho.gov

Re: North Kootenai Water and Sewer District (NKWSD)

Gentlemen:

I am writing to follow up on Jeff Peppersack's letter to me of June 7, 2018, which responded to my letter of March 5, 2018. I am honored to have received a letter from Jeff on his last day with the Department. He served ably, thoughtfully, and with a steady hand. He will be deeply missed by me and all who had the opportunity to work with him. The Department is fortunate to have good people like you to fill his shoes.

Shelley W. Keen
Craig L. Saxton
Douglas Jones
June 19, 2018
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Jeff's letter chronicles the great progress that we have made in sorting through the many issues involving NKWSD's water rights. Thanks to each of you, and so many others at the Department, for your hard work.

Let me re-cap where I think we are.

I. CSRBA PRELIMINARY CLAIMS

The first round of preliminary claims are resolved. I spoke with Craig Saxton this morning. He tells me we will see then next round of preliminary claims soon. I understand the Director's Reports will follow, perhaps as early as July or August.

II. CSRBA CLAIM NOS. 95-7231 AND 95-7235

I very much appreciate Craig Saxton's email of 4/12/2018. I agree with his suggestion that NKWSD should file an amended claim on no. 95-7231 adding in the 1.2 AFA volume from no. 95-7235. Thus, the new volume claimed would be $15.6 + 1.2 = 16.8$ AFA. The rate will remain at 0.08 cfs. I understand that no. 95-7235 would then be recommended for disallowal (effectively combining it with no. 95-7231), and that there is no need for NKWSD to file a withdrawal of the claim.

This will allow the removal of the combined use restriction on no. 95-7231. There will be a minor loss of priority (46 days) as to the 1.2 AFA on no. 95-7235, but that is inconsequential and a small price to pay for eliminating the administrative headache caused by an unnecessary combined use limit. Hat's off to Craig for parsing through the backfile documents so carefully in order to determine that the two rights are not redundant.

I am working with Craig now to get this amended claim filed. We determined that no additional filing fee is required, because the diversion rate is unchanged. And I understand that no motion is required, because the Director's Report has not been issued.

III. PERMIT NO. 95-12599

We have agreed that there is no need to address this ground water right until proof is due in 2021.

IV. REMAINING 13 LICENSES AND 3 PERMITS

NKWSD acquiesces in IDWR's decision not to recommend APODs that include points of diversion on physically disconnected systems unless they already appear on the license.

Shelley W. Keen
Craig L. Saxton
Douglas Jones
June 19, 2018
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(IDWR has determined that they do not qualify as accomplished transfers.) Instead, in the future, NKWSD anticipates seeking system-wide APODs (based on the existing integrated operating regime monitored by the SCADA system). These APODs will be sought via applications for transfer and amendment of permit and in the RAFN application.

We are pleased that IDWR and NKWSD are in agreement as to each of the modifications I requested (shown in yellow on the spreadsheet attached to my letter of March 5, 2018). As Jeff Peppersack noted, some of these will be reflected in CSRBA recommendations and others will come in the form of transfers or permit amendments.

V. RAFN APPLICATION

We are pleased to receive confirmation that NKWSD's RAFN application may move forward on a parallel track with the CSRBA. We look forward to working with Doug Jones on getting this advertised. It is my understanding that we will return to the original, system-wide RAFN application.

Again, thanks to you and others at the Department for your assistance and insights in these matters.

Sincerely,



Christopher H. Meyer

cc: Mathew D. Weaver, Deputy Director, IDWR
Garrick L. Baxter, Deputy Attorney General, IDWR
Daniel A. Nelson, Staff Hydrogeologist, IDWR
Carter Fritschle, Adjudication Section Manager, IDWR
Chris DeGroot, District Manager, North Kootenai Water & Sewer District
Brian M. Werst, Witherspoon Brajcich McPhee, PLLC
Necia Maiani, Welch Comer Engineers

Nelson, Dan

From: Fritschle, Carter
Sent: Thursday, June 07, 2018 6:42 AM
To: Saxton, Craig; Peppersack, Jeff; Keen, Shelley; Jones, Doug
Subject: RE: Chris Meyer for North Kootenai

Craig has accurately stated our discussion of the combined use limits.

From: Saxton, Craig
Sent: Thursday, June 07, 2018 6:32 AM
To: Peppersack, Jeff <Jeff.Peppersack@idwr.idaho.gov>; Keen, Shelley <Shelley.Keen@idwr.idaho.gov>; Fritschle, Carter <Carter.Fritschle@idwr.idaho.gov>; Jones, Doug <Doug.Jones@idwr.idaho.gov>
Subject: RE: Chris Meyer for North Kootenai

Jeff,

The letter looks accurate from my perspective.

In regards to your comment under item IV.:

“Question for Craig and Carter, if the combined use limits are superfluous, can we see our way to removing them regardless of the accomplished transfer issue? Or is it too late to make changes to our recommendations? I understand the combined limits are not true limits because the conditions just restates the cumulative total for the rights listed.”

It is not too late to make changes to our recommendations. Carter and I did briefly discuss the removal of the superfluous combined use limits, and if I am remembering correctly, I don't think we have any problem removing the combined use limits for the same reasons you mentioned....they are just restating the cumulative total. We were just reluctant to do so because, 1) the administrative action that added the combined use limit occurred after the commencement of the CSRBA, and 2) we weren't sure if there was some other reason the limits were added that we didn't know about.

With that said, I think we thought that if Water Rights is ok with us removing them from the recommendations, then we will remove them.

Thanks,
c

From: Peppersack, Jeff
Sent: Wednesday, June 06, 2018 5:13 PM
To: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>; Saxton, Craig <Craig.Saxton@idwr.idaho.gov>; Fritschle, Carter <Carter.Fritschle@idwr.idaho.gov>; Jones, Doug <Doug.Jones@idwr.idaho.gov>
Subject: Chris Meyer for North Kootenai

Gents,

Here's a draft letter responding to Chris Meyer for North Kootenai. I'd like to get this out before I leave, but I want to make sure this is accurate. Please let me know your thoughts by tomorrow if you can.

Thanks,
Jeff