

Nelson, Dan

From: Christopher H Meyer <ChrisMeyer@givenspursley.com>
Sent: Thursday, April 12, 2018 12:14 PM
To: Saxton, Craig
Cc: Chris DeGroot (chrisd@nkwsd.com); Mike Galante (mikeg@nkwsd.com)
Subject: RE: North Kootenai Water and Sewer District - Possible Amendment of 95-7231 [IWOV-GPDMS.FID525891]

Craig,
I'm pausing in the middle of other pressing tasks to acknowledge your email.
And also to thank you so very much for your careful attention to this!!
I will follow up tomorrow.

-Chris

CHRISTOPHER H. MEYER

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From: Saxton, Craig <Craig.Saxton@idwr.idaho.gov>
Sent: Thursday, April 12, 2018 8:00 AM
To: Christopher H Meyer <ChrisMeyer@givenspursley.com>
Subject: North Kootenai Water and Sewer District - Possible Amendment of 95-7231

Hello Chris,

I hope all is going well. I have been digging into NKWD claim files, specifically the relationship between 95-7231 and 95-7235, and think NKWD might want to amend 95-7231 to include the diversion volume authorized under 95-7235.

To summarize, NKWD claimed 95-7231 which authorizes domestic use for 13 homes. However, the original license for 95-7231 includes a combined use limit that ties it to 95-7235. The condition limits use of 95-7231 and 95-7235 to 0.08 cfs. As a result, NKWD later claimed 95-7235 with the intent that it be disallowed so that the combined use limit could be dropped from the recommendation for 95-7231. My understanding is that the reasoning behind this is because it was believed that the water use (single domestic use) authorized under 95-7235 was one of the 13 units authorized under 95-7231. In other words, the thinking is together, 95-7231 and 95-7235 authorize use for 13 homes (that they were overlapping uses).

After reviewing the backfiles of both rights, I think there were 14 domestic uses authorized between the two rights. Meaning I don't think they overlap. I think the combined use limit is just because that is the capacity of the well.

Analysis:

Page 5 of the backfile for 95-7231 is a copy of an application for extension of time. On that application the president of the Ranch Valley Water Assn. stated that there were 14 homes using the water:

That he has heretofore performed the following work described under said permit: <i>Well drilled and 14 homes using water.</i> <i>Measuring device not installed, two more</i> <i>lock ups are available but land not sold</i>
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On page 16 of the backfile for 95-7231, the field examiner wrote that the capacity of the well was 0.076 cfs and then lists 13 homes + 95-7235. The volume was calculated by multiplying 13 (homes) by 1.2 AF which totaled 15.6 AF:

EXAMINATION	
Date <u>12-16-80</u>	Accompanied by _____ Total Q measured _____
If source is surface water, estimate total flow of source _____	
Methods of measurement <u>Calc/est city</u>	Meets Permit requirements? <u>No. See</u>
Measurement calculations: <u>Capacity</u> $\frac{8.8(35)(.80)}{276 + 20(2.33)} = 34.64$ $\frac{8.8(35)(.80)}{276 + 45(2.33)} = 0.076 \text{ cfs}$ $(0.07 \times 1.98)(365) = 50.89 \text{ AF}$ $13(1.2) = 15.6 \text{ AF}$ $8.8(35)(.80) = 0.0665 \text{ cfs}$ $276 + 45(2.33)$	
Pump @ 340' <u>54</u> <u>13 homes + 95-7235</u>	

Further down page 16, the examination report states that 95-7235 is from the same well (as 95-7231) but for a different domestic unit:

Calculations show that system not capable of producing 1.0 cfs. Recommend Measurement device requirement be at least 95-7235 same well different domestic unit. No Overlap Recommend R17 RC 4-

Finally, on page 13 of the backfile for 95-7235, is a letter dated September 30, 1976 that essentially says that the distribution system that 95-7235 is getting the water from is operated by Ranch Valley Water Association:

Rodney L. Fisher
Route 3, Box 417A
Rathdrum, Idaho 83858

Dear Mr. Fisher:

Our field examiner has just completed the field inspection of the water system under your Permit No. 95-7235.

He has determined that the well, the pump, and the distribution system are actually operated by the Ranch Valley Water Association. Therefore, we feel that your use of the water should be included under the water right developed by Ranch Valley Water Association. We have enclosed a relinquishment form so that we might remove this unnecessary permit from our records. If you have any questions concerning this matter, please let us know.

Sincerely,

Bobby D. Fleenor
BOBBY D. FLEENOR
Chief, Water Rights

My research does not indicate that a competing claim has been filed for the use described under 95-7235.

Based on the above information, I think NKWD could amend claim 95-7231 to include the 1.2 AF of volume licensed under 95-7235. Then we would essentially be combining 95-7231 and 95-7235 into one recommendation. Note that 95-7235 has a January 8, 1973 priority and if combined with 95-7231, would have to take the Jr. priority date of February 23, 1973 (46 days).

Another option would be to leave things how they are, and I could move forward and recommend 95-7235 as a valid water right and maintain the combined use limit. This preserves the priority date of 95-7235, but is also just propagating a decision that split what should have been one water right into two.

I do have concern flat out disallowing 95-7235 since I think the evidence shows that 95-7235 authorizes a water use that isn't covered in 95-7231. If the new owners of Mr. Fishers property (James Jay Mitchel) are still on the system, then 95-7235 is still being used.

In short, my proposal is that NKWD amend 95-7231 to show 0.08 cfs and 16.8 AF (15.6 AF from 95-7231+ 1.2 AF from 95-7235). Leave claim 95-7235 as is and we will disallow it saying it was recommended under 95-7235 *(Note that we will probably need to renumber 95-7231 to a new number.)*

Look it over and let me know what you think.

Thanks Chris,

Craig L. Saxton
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