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

February 27, 2018

Via hand delivery and email

Carter Fritschle
Adjudication Section Manager
Idaho Department of Water Resources
The Idaho Water Center
322 E Front St
Boise, ID 83702
carter.fritschle@idwr.idaho.gov

Re: North Kootenai Water and Sewer District (NKWD)

Dear Mr. Fritschle:

Enclosed please find a Notice of Error Reply for each of the seven water rights held by NKWD that were included in the Director's Preliminary Director's Report that was provided to us by Director Spackman's letter of February 9, 2018. Please note that each report is accompanied by the summary sheet you provided, in which I circled any items we believe should be changed. Each report is also accompanied by an identical Attachment "A" providing further explanation.

I assume that you do not need to see a copy of my Special Power of Attorney authorizing me to act on behalf of the NKWD (which has been provided to the Department on numerous occasions before). But if you do, just let me know.

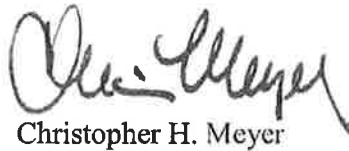
I will copy others in the Department (by email) who have been involved in reviewing these rights with NKWD. Thanks much to you and all the IDWR staff for your assistance in this.

Please advise it if would be best for representatives of NKWD to attend the meetings in Coeur d'Alene, or whether it would be more efficient for me to meet with staff in Boise, or if no

Carter Fritschle
February 27, 2018
Page 2 of 2

meeting is required. By the way, I will be following up shortly with a communication addressing other NKWD water rights. We look forward to hearing from you.

Sincerely,



Christopher H. Meyer

Encl: As noted

cc: Jeff Peppersack, Chief, Water Allocation Bureau
Shelley W. Keen, Water Right Section Manager, IDWR
Daniel A. Nelson, Staff Hydrogeologist, IDWR
Mike Galante, District Manager, North Kootenai Water & Sewer District
Chris de Groot, District Manager, North Kootenai Water & Sewer District
Necia Maiani, Welch Comer Engineers

02/09/2018

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: 95-168

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 = SENW (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: 
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: 95-168
NAME AND ADDRESS: NORTH KOOTENAI WATER DISTRICT
13649 N MEYER RD
RATHDRUM ID 83858
SOURCE: HAYDEN LAKE TRIBUTARY: SINKS
QUANTITY: 0.700 CFS
19.95 AFY
PRIORITY DATE: 03/05/1951
POINT OF DIVERSION: T51N R03W S10 NEW 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	0.700 CFS 19.95 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 - Decreed

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

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

ATTACHMENT "A"

TO: Idaho Department of Water Resources

FROM: Christopher H. Meyer *CHM*

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.

02/09/2018

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: 95-506

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

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."

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: 95-506

NAME AND ADDRESS: NORTH KOOTENAI WATER DISTRICT
13649 N MEYER RD
RATHDRUM ID 83858

SOURCE: HAYDEN LAKE

TRIBUTARY: SINKS

QUANTITY: 0.600 CFS
44.50 AFY

Right Nos. 95-506 and 95-2199 are limited to a total combined diversion rate of 0.60 cfs and to a total combined annual diversion volume of 54.2 AF.

PRIORITY DATE: 06/01/1957

POINT OF DIVERSION: T51N R03W S10 SENW 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	0.600 CFS 44.50 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 - Decreed

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

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

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

ATTACHMENT "A"

TO: Idaho Department of Water Resources

FROM: Christopher H. Meyer *CHM*

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.

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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.

02/09/2018

NOTICE OF ERROR
REPLY

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

Water right number: 95-2199

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

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."

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: 95-2199

NAME AND ADDRESS: NORTH KOOTENAI WATER DISTRICT
13649 N MEYER RD
RATHDRUM ID 83858

SOURCE: HAYDEN LAKE

TRIBUTARY: SINKS

QUANTITY: 0.340 CFS
9.70 AFY

Right Nos. 95-506 and 95-2199 are limited to a total combined diversion rate of 0.60 cfs and to a total combined annual diversion volume of 54.2 AF.

PRIORITY DATE: 02/02/1967

POINT OF DIVERSION: T51N R03W S10 SENW 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	0.340 CFS 9.70 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 - Decreed

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

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

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

ATTACHMENT "A"

TO: Idaho Department of Water Resources

FROM: Christopher H. Meyer *CHM*

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

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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.

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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.

02/09/2018

NOTICE OF ERROR
REPLY

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

Water right number: 95-4027

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):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

☒ 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, (208) 762-2800

02/09/2018

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

RIGHT NUMBER: 95-4027

NAME AND ADDRESS: NORTH KOOTENAI WATER DISTRICT
13649 N MEYER RD
RATHDRUM ID 83858

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

No lawful appropriation shown.

EXPLANATORY MATERIAL: BASIS OF CLAIM -

No lawful appropriation shown: There are a number of circumstances in which a claim is proposed to be disallowed on this basis. This is most commonly included for a claim based on beneficial use or posted notice that is proposed to be disallowed because the right claimed is not within an exception to the mandatory permit statute, and beneficial use of water prior to the mandatory permit statute was not confirmed. This is also included where a claim is proposed to be disallowed because the claim is to water that is not public water subject to appropriation. This is also included where a right was determined not to exist in a prior adjudication.

ATTACHMENT "A"

TO: Idaho Department of Water Resources

FROM: Christopher H. Meyer *CHM*

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

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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.

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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.

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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.

02/09/2018

NOTICE OF ERROR
REPLY

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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:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

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 *CHM*

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.

02/09/2018

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: 95-9113

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):

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

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

☒ 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: 95-9113

NAME AND ADDRESS: NORTH KOOTENAI WATER DISTRICT
13649 N MEYER RD
RATHDRUM ID 83858

SOURCE: COEUR D ALENE LAKE

TRIBUTARY: SPOKANE RIVER

QUANTITY: 1.000 CFS

PRIORITY DATE: 10/26/2001

POINT OF DIVERSION:

T50N R04W S36 SESE Lot 4 Within KOOTENAI County

A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.

The approach velocity at the point of diversion shall not exceed 0.5 feet per second.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

MUNICIPAL

01/01 12/31

1.000 CFS

PLACE OF USE:

Place of use is within the 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

After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.

ATTACHMENT "A"

TO: Idaho Department of Water Resources

FROM: Christopher H. Meyer *CHM*

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.

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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”)

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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.

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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.

02/09/2018

NOTICE OF ERROR
REPLY

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

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

Water right number: 95-9216

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):

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

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

☒ 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: 95-9216
NAME AND ADDRESS: NORTH KOOTENAI WATER DISTRICT
13649 N MEYER RD
RATHDRUM ID 83858
SOURCE: COEUR D ALENE LAKE TRIBUTARY: SPOKANE RIVER
QUANTITY: 1.000 CFS
PRIORITY DATE: 01/21/2004
POINT OF DIVERSION:
T50N R04W S36 SESE Lot 4 Within KOOTENAI County
The approach velocity at the point of diversion shall not exceed 0.5 feet per second.
A fish screen of 1/4 inch or smaller mesh shall be installed and maintained at the point of diversion.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	01/01 12/31	1.000 CFS

PLACE OF USE:

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

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

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