

MEMORANDUM

DATE: May 2, 2005

TO: Water Right File 95-8639

FROM: Shelley W. Keen

RE: Ownership change and amendment

In May of 2002 IDWR received an ownership change notice for Permit 95-8639. The notice indicated that North Kootenai Water District had acquired the permit from Hayden Pines Water Co. Because the ownership of permits is usually conferred by assignment, I investigated the situation to determine if an assignment could be obtained.

In 1998 North Kootenai Water District entered into an agreement with Allied Water, Inc., Hayden Pines Water, Inc., and Charles Ford, collectively called AWC, to purchase the water system owned and operated by AWC. A copy of the agreement was submitted in connection with the amendment. The agreement did not adequately establish the relationships among Hayden Pines Water, Allied Water, and Charles Ford, so investigated further. It turns out that Charles Ford was the president of both Allied Water and Hayden Pines Water. Allied Water was administratively dissolved in 2001, and Hayden Pines Water was administratively dissolved earlier this month.

I then wanted to ensure that the provisions of the sales agreement were actually executed. I first spoke with North Kootenai Water District's attorney, Bob Covington (208-762-4545), who told me that the financial and other transactions did, in fact, take place in 1998. I also obtained from Kootenai County copies of deeds conveying several parcels of land from Charles Ford and from June Ford to North Kootenai Water District in November of 1998. Among the parcels listed is one that matches the legal description of the original point of diversion for Permit 95-8639.

From the information gathered in my investigation, I conclude that because Hayden Pines Water was dissolved, the opportunity to obtain an assignment of permit has been lost. Therefore, the ownership change notice, which is substantiated by the sales agreement and the warranty deeds from 1998, should be accepted.

I also discussed with Bob Haynes, Northern Region Manager, the need to advertise the application to amend the permit. He recommends proceeding without advertisement because a related transfer and a related application for permit were both advertised without protest.