

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: NEIL PRICE
DEPUTY ATTORNEY GENERAL**

DATE: JANUARY 8, 2016

**SUBJECT: CANCELLATION OF FOX CREEK WATER & SEWER, LLC'S
APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY, CASE NO. FCW-W-13-01**

On January 17, 2013, Fox Creek Water & Sewer, LLC (“Fox Creek” or “Company”) sent a letter to the Commission seeking a Certificate of Public Convenience and Necessity (CPCN) to operate as a water utility in Idaho.

Fox Creek’s letter was submitted in response to Commission Staff (“Staff”) notifying the Company that it was operating as a water utility in Idaho without a CPCN. Subsequently, Staff worked extensively with representatives of Fox Creek to assist them to prepare and submit necessary documentation to support their Application for a CPCN.

In the interim, the Company’s customers, Fox Creek Country Club Estates Property Owners Association, Inc. (“Estates HOA”) and Fox Creek Village Home Owners Association (“Village HOA”), purchased the Fox Creek water system from Fox Development, LLC and Fox Creek Investments, LLC, owners of the Fox Creek water system.

Ultimately, a bill of sale was provided to Staff documenting the legal transfer of the water system to transferees Estates HOA and Village HOA who have been operating the water system at cost and for the sole benefit of Estates HOA and Village HOA members. Estates HOA and Village HOA are not subject to the Commission’s jurisdiction. *See Idaho Code* § 61-104. According to the Idaho Secretary of State web site records, Applicant Fox Creek has been dissolved.

COMMISSION DECISION

Does the Commission wish to dismiss or cancel Fox Creek's Application for a CPCN?

/s/ Neil Price

Neil Price

Deputy Attorney General

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