(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE INVESTIGATION OF THE SERVICE AND OPERATIONS OF THE HAPPY VALLEY WATER SYSTEM. | )  )  )  )  )  )  ) | CASE NO. HVW-W-97-1  NOTICE OF INVESTIGATION  ORDER NO.  27240 |

On September 22, 1997, the Commission in Order No. 27142 (attached) asserted formal regulatory jurisdiction over the Happy Valley Water System (Company; Happy Valley) and issued Certificate of Public Con­veni­ence and Necessity No. 328 to Mr. John Smick dba Happy Valley Water System, a public water utility, for the following described existing service territory: an approximate 1/2 square mile area located approximately 3 miles West of US Highway 95 in Kootenai County, Idaho, on the North side of Hayden Avenue between Huetter Road and Meyers Road, said area including all of the South 1/2 of Section 17, Township 51 North, Range 1 West, Boise-Meridian.  Reference Idaho Code §§ 61-526, 61-528; IDAPA 31.01.01.111.  Happy Valley is a small water system with only 25 customers.

The Commission in its Order established rates and charges and required the Company to file tariff sheets.  The Commission also required the Company to adopt and implement the Commission’s Consumer Relations Rules, the Commission’s Utility Customer Information Rules, and an accounting system consistent with the information required by the Commission’s annual report for small water companies.  The Company was further required to inform its customers of the Commission approved rates and policies.  Finally, the Commission required the Company to make written petition or application to the Commission prior to any proposed change in ownership of the system.

YOU ARE HEREBY NOTIFIED that the Commission Staff has informed the Commission that it has received information indicating that ownership of the Happy Valley Water System has purportedly been transferred or reconveyed from John Smick to Zeke Davis.  The Company has failed to comply with Staff request for documentation regarding the transfer.  As reflected in correspondence obtained by Commission Staff and reviewed by the Commission, Mr. Davis is of the mistaken belief that if he does not actually charge or collect for water service that he cannot be regulated by the Commission.  Indeed it appears from customer correspondence to Commission Staff that the Company is returning proffered payments to customers for October-November water services.  In so doing, the Commission is concerned that the Company will not have sufficient revenues to pay operating expenses.  As we indicated above, the Company has been issued Certificate of Convenience and Necessity No. 328 by this Commission and is a regulated water utility subject to Commission jurisdiction and authority.  The Company, the Certificate holder, its successors and assigns will remain regulated until the Commission orders otherwise.  Of further concern, it is the perception of some customers, as related to Staff, that they have been offered an ultimatum - i.e. pay $5,000 to Mr. Davis by November 30, 1997 or be disconnected, to join a co-op or lose service.  The Company correspondence is ambiguous in this regard regarding the timing of any proposed disconnection, but is certainly sufficient basis for creating concern and confusion.

YOU ARE FURTHER NOTIFIED that the Commission has reviewed and considered the filings of record in Case No. GNR-W-96-3, and the complaint records of the Commission’s Consumer Staff.  We find that the Company by its actions rejects the Commission’s jurisdiction and has failed to comply with the Commission’s order and directions.  Reference Order No. 27142; Idaho Code § 61-406.  The Commission finds it reasonable and necessary to initiate an immediate investigation into the Happy Valley Water System, its service and operations, and the fitness of its owner(s) to provide adequate, efficient, just and reasonable water service.  We also find it reasonable to expressly direct the Company during the course of this investigation to continue providing water service to its customers.

YOU ARE FURTHER NOTIFIED that the Commission is of the opinion that the Company by its actions and inactions and by threatening to disconnect customers has demonstrated a willful intent to ignore or thwart this Commission’s jurisdiction, orders, decisions, rules, directions and requirements and in so doing has evidenced an intent to violate its duties as a public utility as defined and more particularly set out in Idaho Code Title 61, including specifically its duty under Idaho Code 61-302 to furnish, provide and maintain adequate, efficient, just and reasonable water service.

We therefore find it reasonable to authorize this Commission’s attorney, at his or her discretion, to commence an action or proceeding in the Kootenai County District Court in the name of the people of the State of Idaho for the purpose of having such violations or threatened violations stopped and prevented either by mandamus or injunction.  Reference Idaho Code 61-705.

The Company is apprised that willful violation of Commission orders by act, omission, or failure may subject the Company to an assessed civil penalty of $2,000 per day for each and every violation.  Reference Idaho Code, Title 61, Chapter 7, Public Utilities Law—Enforcement, Penalties and Interpretation.  Additionally, its officers, agents or employees in failing to obey, observe and comply with any Commission Order, decision, rule, direction, demand or requirement may be held criminally liable for their willful acts and omissions and subject to fine and imprisonment.  Reference Idaho Code 61-709.

CONCLUSIONS OF LAW

The Commission has jurisdiction to initiate an investigation of the service and operations of the Happy Valley Water System, a water utility, pursuant to the provisions of Idaho Code, Title 61, Idaho Code § 61-302 (Maintenance of Adequate Service), § 61-515 (Safety Regulations), Idaho Code § 61-406 (Compliance with Commission’s Orders), Idaho Code § 61-501 (Investment of Authority), Idaho Code § 61-701 (Enforcement of Law), and the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq.

The Commission also has jurisdiction and authority pursuant to Idaho Code § 61-705 (Summary Proceedings by Commission) to cause to be filed in the district court of Kootenai County, Idaho an action or proceeding against the Happy Valley Water System, its owner(s) and operator(s) for the purpose of having any violations or threatened violations of law, or of any order, decision, rule, direction or requirement of this Commission stopped and prevented, either by mandamus or injunction.

O R D E R

In consideration of the foregoing and for reasons more particularly described above, IT IS HEREBY ORDERED and the Commission by this Order hereby initiates the docket in Case No. HVW-W-97-1 to investigate the service and operations of Happy Valley Water System, and the fitness of its owner(s) to provide adequate, efficient, just and reasonable water service.  The Company is directed and ordered during the course of this investigation to continue providing water service to its customers.

IT IS FURTHER ORDERED and the Commission authorizes its attorney, at his or her discretion, to commence an action or proceeding in the Kootenai County District Court in the name of the people of the State of Idaho against the Happy Valley Water System, its owner(s) and/or operator(s), for the purpose of stopping or preventing violations or threatened violations of its duties as a public utility under Idaho Code Title 61 to furnish, provide and maintain adequate, efficient, just and reasonable water service..

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of November 1997.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:HVW-W-97-1.sw

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

November 28, 1997