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

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| IN THE MATTER OF THE APPLICATION OF IVAN DUNNICK FOR A REQUESTED TRANSFER OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 328 (HAPPY VALLEY WATER SYSTEM). | )  )  )  )  )  ) | CASE NO. HVW-W-98-1  ORDER NO.  27501 |

On March 17, 1998, Ivan Dunnick, agent for Jon and Richard Dunnick, filed an Application with the Idaho Public Utilities Commission (Commission) in Case No. HVW-W-98-1 requesting a transfer of Certificate of Public Convenience and Necessity No. 328.  Reference Idaho Code § 61-526; IDAPA 31.01.01.112.  Mr. Dunnick represents that as a result of an assignment, default and contractual remedies perfected pursuant to terms of the August 29, 1996, Earl H. Reamy, Jr.—Coyote Coeur d’Alene Corp. (Lawrence W. (Zeke) Davis) sales contract, ownership of the Happy Valley Water System (HVW) was on February 24, 1998, transferred to Mr. Dunnick’s sons, Jon and Richard.  Mr. Dunnick’s Application is accompanied by copies of related documents filed with the Kootenai County Recorder’s Office in Coeur d’Alene, Idaho and is augmented by the supporting affidavit of Michael B. McFarland, a Coeur d’Alene attorney who provides his legal opinion regarding chain of title and ownership of the Happy Valley Water System.

The Happy Valley Water System is a public water utility providing water service to 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 §§ 61-124, 61-129.

On April 3, 1998, the Commission in Case No. HVW-W-98-1 issued Order No. 27447 and Notices of Application, Modified Procedure, and Show Cause Hearing.  In its Order the Commission made the following findings:

The Commission has reviewed and considered the filings of record in Case No. HVW-W-98-1 and has considered the related reports of its counsel and Commission Staff.  We find that the documentation and affidavit filed in this case present prima facie evidence of a change in ownership of the Happy Valley Water System and present reasonable grounds to suspend the HVW management and operation rights of Mr. Davis and to appoint Mr. Dunnick as interim operator and manager of the Happy Valley Water System.  We note that any dispute regarding ownership of the water system is a matter for the courts and not this Commission.  Should Mr. Davis clearly assert any rights of ownership in this proceeding, we will require that title be resolved by judicial quiet title action.

The deadline for filing written comments or protests with respect to the proposed transfer of Certificate No. 328 and the Commission’s use of Modified Procedure in Case No. HVW-W-98-1 was Friday, April 17, 1998.  The only comments received were filed by Kootenai Electric Cooperative.  Kootenai Electric apprises the Commission that on March 1, 1998, the electric account for the Happy Valley Water System was changed over from Coyote Coeur d’Alene Corp. to Jon and Richard Dunnick.  Kootenai Electric further requests assistance in collecting the outstanding balance owed by Coyote Coeur d’Alene Corp. related to pumping and electric costs for service to the Happy Valley Water System.

A show cause hearing was held in Boise, Idaho on April 21, 1998, to provide Coyote Coeur d’Alene Corp. and Lawrence W. (Zeke) Davis and/or any other interested party the opportunity to appear and show cause (if any) why the requested transfer of Certificate of Public Convenience and Necessity No. 328 should not occur.  The Commission’s attorney, Deputy Attorney General Scott D. Woodbury, was the only party to appear.  Mr. Woodbury suggested that rather than a transfer of Certificate No. 328, the Commission consider a cancellation of the existing Certificate No. 328 and issuance of a new certificate to the Dunnicks.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. HVW-W-98-1.  Based on the established record, our prior finding that there exists prima facie evidence of a change in ownership of the Happy Valley Water System and the fact that no party, either by written comment or protest filed pursuant to Modified Procedure or by appearance at show cause hearing before the Commission, has asserted or claimed any competing rights of ownership or challenge to the Dunnicks’ claim of title to the Happy Valley Water System, we find that reasonable and sufficient grounds exist to cancel the existing Certificate of Public Convenience and Necessity No. 328 of Coyote Coeur d’Alene Corp, L.W. (Zeke) Davis, President, and to issue a new Certificate of Public Convenience and Necessity No. 339 for the Happy Valley Water System to Jon and Richard Dunnick.  We further find that the present and/or future public convenience and necessity requires issuance of said certificate.  Reference Idaho Code §§ 61-526, 61-528; IDAPA 31.01.01.112.

We further find that the previously established rates and charges for the Happy Valley Water System continue to be fair, just and reasonable.  Reference Commission Order No. 27142.

We further find it reasonable that the Dunnicks be required 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.

Regarding Kootenai Electric, we regret that we are unable to provide the Company with collection assistance.  We nevertheless express our sincere gratitude for the consideration that they have extended to the customers of the Happy Valley Water System.  We note that Mr. Davis is still the beneficiary of accounts receivable from the water system and trust that he will settle his related obligations to creditors.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has authority and jurisdiction over the Happy Valley System, a water utility and the issues raised in Case No. HVW-W-98-1, pursuant to Title 61 of the Idaho Code and the Rules of Procedure, IDAPA 31.01.01.000 et seq.

O R D E R

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby cancel Certificate of Public Convenience and Necessity No. 328 previously issued to Coyote Coeur d’Alene Corp, L.W. (Zeke) Davis, President, an Idaho Corporation, dba Happy Valley Water System.

IT IS FURTHER ORDERED and the Commission does hereby issue Certificate of Public Convenience and Necessity No. 339 to Jon and Richard Dunnick dba Happy Valley Water System, Post Falls, Idaho.

IT IS FURTHER ORDERED and the Commission does hereby direct that the  rates and charges previously approved for the Happy Valley Water System continue in effect.  The Dunnicks are required to file tariff sheets consistent with this Order.

IT IS FURTHER ORDERED and the Dunnicks are required 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.

IT IS FURTHER ORDERED and the Dunnicks are required to inform their customers of the Commission approved rates and policies.

IT IS FURTHER ORDERED and the Dunnicks are required to make written petition or application to the Commission prior to any proposed change in ownership of the Happy Valley Water System.

THIS IS A FINAL ORDER.  Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order.  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of May 1998.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:HVW-W-98-1.sw2

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

May 4, 1998