



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

October 24, 2007

ELMER L BACUS
295 N TAYLOR ST
EAGLE ID 83616

RE: Late claim 67-14918 and Application for Transfer to add a point of diversion to 67-4136B and 67-11228

Dear Mr. Bacus,

Per our conversation with Nick Van Dyke on October 19th, I have prepared some paper work for your review.

When you left the office, my understanding was that I was going to prepare two late claims for you, one for the waste and drain water, and the other for the seepage used in a ditch you cut. However, after closer inspection of your other water rights and the historical documentation, I have prepared the documents a little different.

Late Notice of Claim:

I have enclosed a partially completed late claim, 67-14918, for the waste water that drains off of Walling's property as well as natural drain water that is caught in the ditch. Note that I left the diversion rate claimed blank. I wasn't sure how much waste water/drain water is collected in that ditch. You will need to fill in a diversion rate before you send the claim to the court.

Please write in the diversion rate you wish to claim and then review the claim initialing any changes you wish to make. When satisfied, sign the claim in front of a notary and send the claim and \$200 filing fee to the SRBA court along with the completed **Motion to File a Late Notice of Claim** form (\$100.00 claim fee + \$100.00 late fee).

Application for Transfer of a Water Right:

I am sending you a partially completed transfer application. If I remember correctly, originally, you and Nick were talking about adding a point of diversion to your existing water rights but after discussing it further, we thought we could accomplish the same thing by filing a second late claim.

You can still file a late claim for that sub water but it appears that the sub water is close enough to Hornet Creek that it could be considered Hornet Creek water. And since you already have two water rights from Hornet Creek that both sum to one inch per acre, I do not really see any advantage to another claim for the same source.

If you decide not to file another late claim then you have two other options:

- 1) file a late objection to water rights 67-4136B and 67-11228 requesting that a second point of diversion should be added to those recommendations.
- 2) file a transfer with IDWR to add a second POD to your existing water rights

If you want to file a late objection to the court, you will have to file a motion with the SRBA court asking them if you can file a late objection. This would require a hearing (like when you file a late claim). Then if the motion is approved by the judge, any changes made would need to be advertised to the public and open for objection. We can talk more about this process if you are interested.

The transfer process seemed to be the most direct process and what I think you were originally looking to do. I have enclosed a partially completed transfer. I have placed a yellow highlight mark next to the areas that you need to complete. If you choose to file the transfer application, you will need to submit the application along with the filing fee of \$290.00 (see attached fee schedule) to our Western Region office:

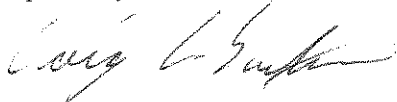
IDWR- Western Region
2735 Airport Way
Boise ID 83705-5082

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In summary, I have enclosed the necessary paperwork to submit a **Motion to File a Late Claim** to the SRBA court, and the necessary paperwork to submit an **Application for Transfer of Water Right** to the Western Region office of IDWR.

I realize that when you left our office, we had decided not to file the transfer. I do not want you to feel like you have to file a Transfer. You can file what ever you want to. So if you have questions please feel free to contact me and we can talk it over or we can schedule an appointment for an office meeting.

Respectfully submitted,



Craig L. Saxton
Water Right Supervisor
Adjudication Bureau

Enclosure(s): Partially completed Late Notice of claim 67-14918
Motion to File a Late Notice of Claim
Partially completed Application for Transfer of a Water Right
Instructions for Transfer Application
*Paperwork you left in the office on October 19th