



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

June 11, 2008

SCOTT L CAMPBELL
MOFFATT THOMAS BARRETT ROCK & FIELDS
PO BOX 829
BOISE ID 83701-0829

Re: Objection to Snake River Basin Adjudication (SRBA) claims 67-460 and 67-461
(Wallach IX, LLC)

Dear Mr. Campbell,

Initial hearings for objections filed in Basin 67 are tentatively scheduled for August 2008. I have been reviewing objections filed for SRBA recommendations in Basin 67. After reviewing the objections filed on behalf of your client to recommendations made for 67-460 and 67-461, it appears there are some initial steps that could be taken to save time at the initial hearings, if not reach an agreement that would result in resolving the objection through an SF5.

67-460:

The objection filed for 67-460 pointed out 4 main issues:

1) Name and address:

Should be: Wallach IX, LLC, Attn: Bob Elias, P.O. Box 5667, Incline Village, NV 89450

A completed change of ownership form was received on June 22, 2007 requesting the ownership to be changed to:

Wallach IX, LLC
P.O. Box 5667
Incline Village, NV 89450

IDWR processed the change and submitted an NCAP to the court. Substitution of party was processed on 8-13-2007.

2) Point(s) of Diversion:

Should be: T14N, R1W, S4, SWNESW

The recommended POD reflected a different 10 acre tract than was claimed: T14N, R1W, S4, SENESW

The point of diversion location recommended for 67-460 was recorded using a GPS on 6/11/05. This put the location of the point of diversion in the SENESW.

IDWR could remove the 10 acre designation on the recommended POD.

3) Place of Use:

Should be: *T15N, R1W, Section 32, SWSE – 18 acres*
 T15N, R1W, Section 32, SESE – 16 acres

67-460 was originally described in the Muir v. Allison decree. The Muir v. Allison decree described the duty of water to be 5/8 inch per acre.

67-460 was decreed for 0.30 cfs: 0.30 cfs @ 5/8 in per acre = 24 acres

Since this water is used in conjunction with water supplied by the Little Weiser Irrigation District, the recommended place of use could be changed to reflect the POU described in the objection, with the addition of a remark limiting the use of this right to the original 24 acres that was decreed.

4) **Explanatory language** on the director's report inaccurately refer to the Weiser Irrigation District. It should refer to the Little Weiser Irrigation District.

Agreed – This change can be made.

67-461:

The objection filed for 67-461 pointed out 4 main issues:

1) Name and address:

Should be: Wallach IX, LLC, Attn: Bob Elias, P.O. Box 5667, Incline Village, NV 89450

A completed change of ownership form was received on June 22, 2007 requesting the ownership to be changed to:

Wallach IX, LLC
P.O. Box 5667

Incline Village, NV 89450

IDWR processed the change and submitted an NCAP to the court. Substitution of party was processed on 8-13-2007.

2) Point(s) of Diversion:

Should be: T14N, R1W, S4, SWNWSE

IDWR records indicate that the recommended POD location is the same as requested in the objection and therefore there is no discrepancy and no need to make changes to the recommended POD.

3) Place of Use:

Should be: T15N, R1W, Section 32, SESE – 20 acres
T15N, R1W, Section 32, NESE – 20 acres
T15N, R1W, Section 33, SWSW – 20 acres

67-461 was originally described in the Muir v. Allison decree. The Muir v. Allison decree described the duty of water to be 5/8 inch per acre.

67-461 was decreed for 0.46 cfs: 0.46 cfs @ 5/8 in per acre = 36.8 acres

I reviewed the 1987 aerial photography and according to the photography I found what appears to be 53 irrigated acres within the claimed POU:

T15N, R1W, Section 32, SESE – 14 acres
T15N, R1W, Section 32, NESE – 17 acres
T15N, R1W, Section 33, SWSW – 21 acres

Without further evidence supporting additional irrigated ground, I could support amending the recommended POU to reflect 52 acres of irrigation as described above, and limiting the irrigation under this right to the 36.8 acres originally decreed to this right.

4) Explanatory language on the director's report inaccurately refer to the Weiser Irrigation District. It should refer to the Little Weiser Irrigation District.

Agreed – This change can be made.

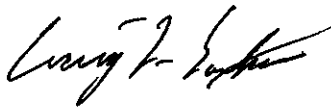
For your convenience I am enclosing draft copies of what the recommendations would look like if they were to reflect the changes discussed above.

If these changes are acceptable to your client and you are interested in pursuing settlement prior to the upcoming initial hearings, please contact me and I will prepare an SF5 for your review.

Or if there is additional information you would like me to review prior to initial hearings in August, I would be more than happy to look over anything submitted.

Please feel free to contact me with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Craig L. Saxton", written in a cursive style.

Craig L. Saxton
Water Right Supervisor
Adjudication Bureau
craig.saxton@idwr.idaho.gov

Enclosure(s)