# MEMORANDUM

TO: Transfer No. 74507 File

FROM: Angela Grimm

DATE: August 20, 2008

RE: Evaluation of Sufficiency of Information Submitted

The transfer proposes to add a point of diversion to water rights 67-4136B (Elmer L. and/or Ruth E. Bacus) and 67-11228 (Elmer L. and/or Ruth E. Bacus) for irrigation purposes.

The site is generally located on Hornet Creek Rd (Council-Cuprum Rd) approximately ½ mile west of the intersection of N Fork Hornet Creek Rd (Nf-125) and Hornet Creek Rd approximately 8 miles north west of Council.

## Summary of Information Submitted

**Authority to File:** Department records indicate the applicant (Elmer L. Bacus), along with Ruth E. Bacus, is the owner of the rights proposed for transfer. The name connector recorded for these rights is "and/or". Therefore, the applicant has authority to change his right.

**Water Right Validity:** Right presumed to be valid because the partial decree was issued on 8/8/08 within the past five year period.

**Injury to Other Water Rights:** No injury should occur from the addition of the proposed P/D. The proposed P/D is downstream of and from the same surface water source as the current P/D. Diversion of water from the proposed P/D is unlikely to decrease the amount of water available to existing and future water rights, because the transfer does not propose an increase in the quantity of water used for irrigation.

**Enlargement of Use:** The applicant does not propose to increase the diversion rate, annual diversion volume or number of acres irrigated. However, the proposed additional P/D is downstream of the current P/D and there is a minor unnamed stream tributary to Hornet Creek as well as another water right P/D between the two P/Ds. To avoid enhancement in water supply, diversion at the additional P/D should be restricted to times when water is available and the water rights are in priority at the original P/D. Standards call for the installation of a measuring device for diversion rate of more than 0.20 cfs within a water district.

**Local Public Interest:** Authorizing use of an additional P/D approximately 0.75 miles downstream from the current P/D within a water district enabling the owner to divert water more efficiently closer to their property for irrigation purposes serves the local public interest.

**Beneficial Use/Conservation of Water Resources:** The application proposes beneficial use(s) consistent with conservation of water resources in Idaho.

**Review of the application finds there is no clear inconsistency with criteria of I. C. § 42-222 preventing processing of the application.**

## Discussion

The water right records proposed for change, 67-4136B and 67-11228, were decreed 8/8/08. The partial decrees were recorded in the database and the records were migrated to water right records.

The transfer application was completed by the applicant during an office visit with Craig Saxton, IDWR. The applicant did not indicate the reason for the proposed change (Appl Part 1 A 2), a description of the diversion works (Appl Part 1 B 6a), if any other water rights are used for the same purposes (Appl Part 2 A 9), or if any portion of the right(s) has undergone a period of five years of non-use (Appl Part 2 A 10) on the application. However, a conversation with Craig Saxton 8/12/08 established the applicant is filing the transfer to add a point of diversion closer to the applicant's property currently being used and the applicant has a ditch that diverts water from Hornet creek for gravity irrigation. Department information indicates the applicant has one additional right for irrigation of the P/U, 67-14918 which is a waste water and unnamed stream source right. The partial decrees for the rights proposed for transfer were issued within the past five year period; therefore forfeiture is not an issue in this instance.

Overlap analysis indicates the current P/D for 67-4136B and 67-11228 is also the P/D for 67-4136A (Jack P. or Wilma M. Watson). Considering the P/U for 67-4136A is different then the rights proposed for transfer it does not need to be included in this transfer. There are no overlapping rights at the proposed additional P/D and P/U overlap analysis is not applicable in this instance as the P/U will not be changed as a result of this transfer.

## Summary

Assuming protests are not filed and/or other information does not contradict the above analysis, the application can be approved as reflected by the draft approval.