



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

August 13, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

Elmer L. Bacus
295 N. Taylor St.
Eagle, Idaho 83616

COPY

Re: Application for Transfer No. 74507

Dear Mr. Bacus:

The Idaho Department of Water Resources (Department) is currently reviewing the above referenced application for transfer to change your water rights diverted from Hornet Creek. After preliminary review of the application, I was uncertain of your intentions when I compared the application with information indicated on the map attached to the application. Information in the file indicates Craig Saxton, IDWR, helped you complete this transfer application along with various other water right related filings. I spoke with Craig yesterday regarding this transfer application. He recounted to me his understanding of your purpose in filing the application. He indicated you wished to add a point of diversion to your two Hornet Creek water rights (67-4136B and 67-11228). You indicated to him the additional point of diversion is in the location labeled "Proposed Point of Diversion" on the attached map Craig prepared. Consequently, when the map was attached and submitted with the transfer application, this point had been crossed out and an "X" had been drawn on the map and labeled "wastewater diverted here".

Based on the Department's understanding of your intentions, it appears the map now contradicts your intent for the location of the additional point of diversion for the Hornet Creek water rights. I have enclosed a copy of the original map Craig Saxton prepared for you for this transfer application. If the Department's understanding of your intention is correct, that you propose the additional point of diversion for the Hornet Creek rights to be on Hornet Creek as the application indicates, please sign and date this map and return it to me. I will attach it to your transfer application. Once the map is received, application processing will continue. You may seek additional time to provide the information by making a written request to delay processing. Your written response including the requested information, or a request for more time to seek the information, must be received within thirty (30) days of the date of this letter.

IDWR forms and other information are available on the Internet at www.idwr.idaho.gov. If the Department is mistaken about your intentions or you have questions, please contact me directly at (208) 334-2190. Thank you for your attention to this matter. I look forward to your reply.

Sincerely,

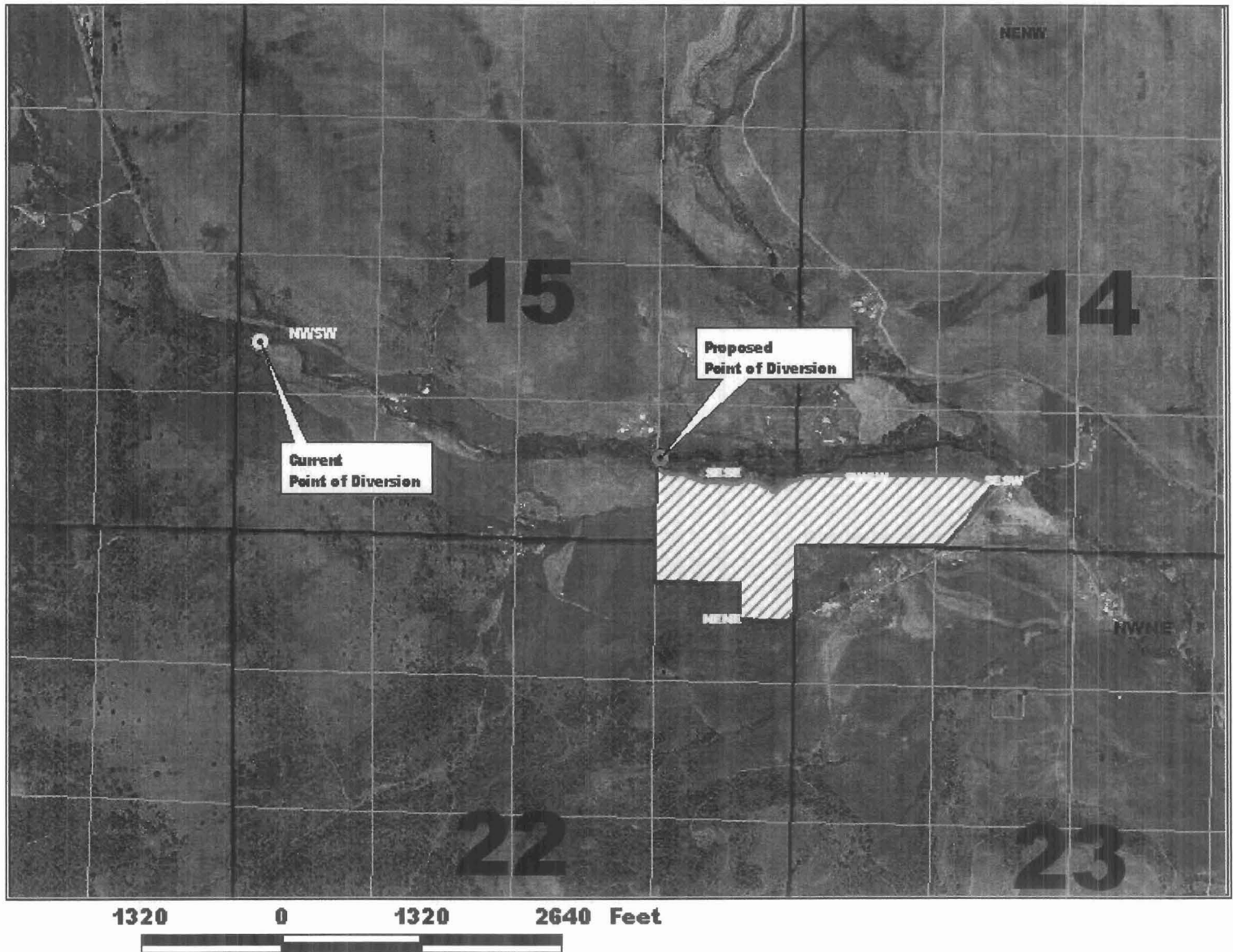
Angela M. Grimm
Water Resource Agent, Sr.

Enclosure(s): Map created by Craig Saxton (IDWR) for Transfer Application 74507



State Of Idaho

67-4136B & 67-11228 Bacus Transfer to add a Point of Diversion



● Proposed Point of Diversion

○ Current Point of Diversion

▨ Place of use 67-11228

□ Place of Use 67-4136B

□ Sections

Quarter Quarter



Prepared by: Craig L. Saxton
Date: October 23, 2007

Grimm, Angie

From: Saxton, Craig
Sent: Tuesday, August 12, 2008 9:31 AM
To: Grimm, Angie
Subject: Application for Transfer - Elmer Bacus - 67-4136B & 67-11228

Hey Angie,

Regarding our discussion this morning, I reviewed the transfer application from Elmer Bacus to add a point of diversion to water rights 67-4136B and 67-11228. To recap our discussion, on the transfer application map that I created for Elmer Bacus to illustrate where the new POD was to be located, it appears that the "Proposed POD" was crossed out and a new point of diversion was drawn about 400 feet to the south of where it was located on the map. Next to the newly drawn POD it reads, "Wastewater Diverted here". The question in my head was, is the transfer application intended to add the new POD at the location drawn by hand on the map and labeled "Wastewater Diverted Here."

I called Mr. Bacus but was not able to reach him.

However, it is my understanding that the intent of this transfer was to add the POD identified on the transfer map as "Proposed Point of Diversion".

At the time I was helping Mr. Bacus fill out the transfer application, we were also filing a late claim for waste water (67-14918). I had asked Mr. Bacus to fill out several different forms including an Application for Transfer, a Notice of claim to a Water Right, and a Motion to File a Late Notice of Claim. It would be possible that among all these forms, things might have got crossed.

The point of diversion labeled as waste water, is the POD for 67-14918. Hornet creek water can pass through that point, by being diverted from the POD located in the NWSW of section 15. The POD as hand drawn on the map is not a valid POD for Hornet Creek Water rights because it would not divert water directly from Hornet Creek.

It is my understanding the POD that the transfer is adding to water rights 67-4136B & 67-11228 is that which was identified on the map as "Proposed Point of Diversion" and that the hand drawn point of diversion was added in error or possibly just for informational purposes letting the department know that there was a POD he used there for waste water as well.

Let me know if you have any questions.

Thanks,

Craig

Lester, Steve

From: Saxton, Craig
Sent: Monday, March 03, 2008 9:02 AM
To: Lester, Steve
Subject: RE: AJ status 67-11228

*check 4/1/08 to see if
Any AJ objection
Bacus ok, proceed
w/ it from*

Hey Steve,

Why are you working on Saturday? I hope you are getting hours so you can go on a long vacation or something.

Short Story: I would wait till after 3-28-08 to proceed.

Long Story:

Let's start with 67-11228: "objection to **adr** due: 3-28-08" **adr** is "amended directors report" The same time that Bacus came in to file the transfer, he also informed me that 67-11228 and 67-4136B both irrigate the same acres and the land list for 67-11228 should be the same as that shown on 67-4136B. So Bacus amended his claim so I could submit an amended directors report that listed the updated POU for 67-11228. Because of this change, the court had to open 67-11228 up for objection again. So, to be safe, you should probably wait till after 3-28-08 to proceed with processing the transfer. However, the reality is that the odds of someone objecting are really slim.

67-4136B is much done and ready to go. The only thing that could cause a problem was that 67-4136B does have limiting conditions with 67-11228. So there is a chance that if someone objects to 67-11228, 67-4136B could be altered in some sort of objection resolution settlement or whatever. Basically, 67-4136B and 67-11228 are tied together so you should probably wait on both.

I know I get wordy so let me know if that doesn't make sense.

Take it easy,

Craig

From: Lester, Steve
Sent: Saturday, March 01, 2008 12:21 PM
To: Saxton, Craig
Subject: AJ status 67-11228

Hi Craig:

Trying to get some traction of transfers appls pending at Western.

Bacus filed transfer appl for 67-4136B & 67-11228, looks like you lent a hand.

IWATRS shows:

67-4136B referred unobjected w/ note about uncontested overlap - I assume that means all ok

67-11228 shows same but also says "objection to adr due: 3/28/08" - what does that mean? need to wait until 3/28 to see if objection filed even though objection period generally closed for bs 67??

Please let me know if transfer needs to wait for some unusual SRBA resolution or if ok to proceed with transfer on basis that objection period over & no objections filed.

Thanks for the help.

Steve

SRBA

SUBCASE SUMMARY REPORT 67-04136B

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SRBA
04-01-2008

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 67-04136B FILE#: 00000
CLAIMANT: BACUS, RUTH E
 295 N TAYLOR ST

EAGLE ID 83616
STATUS: REFERRED UNOBTAINED SPECIAL MASTER: BOOTH, THEODORE R.
WATER SOURCE: HORNET CREEK TRIBUTARY: WELSER RIVER

****** PARTIES INVOLVED ******

RUTH E BACUS	C PRO SE
ELMER L BACUS	C PRO SE

****** ROA ENTRIES ******

02-28-2008 UNCONTESTED OVERLAPPING WATER RIGHT
 OVERLAPS WITH 67-383B

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SUBCASE SUMMARY REPORT 67-11228

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04-01-2008

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 67-11228 FILE#: 00526
CLAIMANT: BACUS, RUTH E
 295 N TAYLOR ST

EAGLE ID 83616
STATUS: REFERRED UNOBJECTED SPECIAL MASTER: BOOTH, THEODORE R.
WATER SOURCE: HORNET CREEK TRIBUTARY: WEISER RIVER

****** PARTIES INVOLVED ******

RUTH E BACUS	C PRO SE
ELMER L BACUS	C PRO SE

****** ROA ENTRIES ******

<u>02-25-2008</u>	AMENDED DIRECTOR'S REPORT	
	CHANGE: PLU	
02-25-2008	OBJECTION TO ADR DUE: 3/28/08	8B 03-28-2008 0500
02-28-2008	UNCONTESTED OVERLAPPING WATER RIGHT	
	OVERLAPS WITH 67-383B	

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