

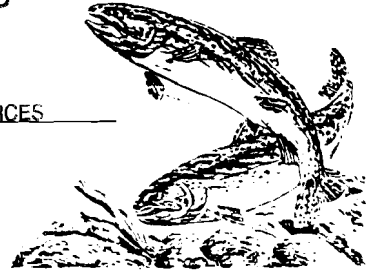
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MAY 22 2008

DEPT. OF WATER RESOURCES  
SOUTHERN REGION

## *Fisher & Associates*

**Aquatic Resource Management & Enhancement**  
6640 Highway 200 East • Missoula, MT 59802  
(406) 258-6800 • Fax (406) 258-6814



May 22, 2008

Mr. Allen Merritt, P.E., Southern Region Manager  
Idaho Department of Water Resources  
1341 Fillmore Street, Suite 200  
Twin Falls, ID 83301-3380

Re: Application for Transfer #73444

Dear Mr. Merritt:

Mr. Walter Lachewitz, Jr. has asked me to contact you regarding Mr. Mick Halverson's protest of Lachewitz's Application for Transfer a Water Right #73444. To date, I have sent two letters to his attorney, Mr. Al Barker, and we have yet to hear from either of them. Repeated phone calls to Mr. Barker's office resulted in messages to Mr. Barker's "voicemail" which have gone unanswered.

Mr. Lachewitz feels that we have given Mr. Halverson and Mr. Barker ample time to respond to our answers to their concerns. I have enclosed copies of the two letters we sent describing our management strategy and its benign effect on downstream water users.

In light of their lack of meaningful negotiation in this matter, can your office proceed with the processing of the transfer?

Please either call me at (406) 360-9893 or respond via US mail so that we can re-activate this process. We need to do the work this summer.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Fisher". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steve Fisher, Aquatic Biologist  
Fisher & Associates

cc. Mr. Walter Lachewitz, Jr.

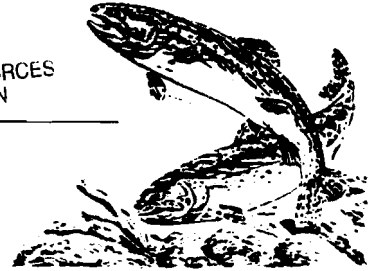
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May 22, 2008

Albert P. Barker, Esq.  
Barker, Rosholt, & Simpson  
P.O. Box 2139  
Boise, ID 83701-2139

Dear Mr. Barker:

Mr. Walter Lachewitz, Jr. has asked me to contact you regarding Mr. Mick Halverson's protest of Lachewitz's Application for Transfer a Water Right #73444. To date, I have sent two letters to you and you have yet to respond.

In those letters I describe our proposed project and explained why repair and management of the existing beaver induced wetland and pond is essential. Presently, Mr. Lachewitz's grazing ground and the fields on the property immediately upstream are inundated with water from the growing beaver colony and something must be done.

I have copied the IDWR (Idaho Department of Water Resources) with this letter and the two sent to you previously. Because we have received no response from you in this matter, we are asking IDWR to resume the transfer process so that we can proceed with the work this summer.

Thank you for your understanding.

Sincerely,

Steve Fisher  
Aquatic Biologist  
Fisher & Associates

cc. Walter Lachewitz, Jr.  
Allen Merritt, P.E., IDWR

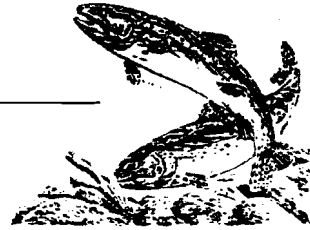
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March 19, 2008

Albert P. Barker, Esq.  
Barker, Rosholt, & Simpson  
P.O. Box 2139  
Boise, ID 83701-2139

Dear Mr. Barker:

Mr. Walter Lachewitz, Jr. has asked me to continue discussing Mr. Mick Halverson's protest of Application of Transfer of a Water Right #73444 with you. Mr. Lachewitz and I feel that the transfer we propose will result in no impact to the quantity of water available to downstream users.

During the development of the Transfer Application, we worked extensively and closely with Mr. Cory Skinner and Mr. Jeff Peppersack at IDWR (Idaho Department of Water Resources). The application was finalized and submitted for notice only after all of us agreed that it met all of the conditions stipulated in Idaho Code Sections 42-203A(5), 42-222(1) and all other pertinent sections relating to water transfers.

We notice that your protest, dated September 4, 2007, does state that you may set forth "other and further reasons...at the hearing on this matter". However, IDWR has asked, in a letter to us dated September 7, 2007, that we "contact the protestant directly to determine the nature of the protest and, if possible, to resolve the matter without action by the Department".

In that vein I would ask that you, Mr. Halverson, and any other concerned parties consider the following factors that we feel mitigate the proposed transfer's potential impacts:

- 1) The area where we propose to build the pond is already covered with water. Beaver are maintaining a dam and pond on the site. They have not secured a water right and their impoundment is illegal.
- 2) Diversion of water under Right #37-7215 has occurred via a pump located in the existing pond for many years. Also, Right #37-562 can be diverted to the pond (it is delivered to the property via the Cove Canal) and distributed via the same pump.
- 3) The proposed pond will cover less area than the present impoundment. It will therefore use less water and lose less water through seepage. The beaver activity

has spread water over about 10 acres of ground as it makes its way back to the river. Evaporative and seepage losses are, no doubt, many times greater than they will be under our proposed plan.

- 4) The pond outlet can be built to resist beaver and, therefore, we expect the pond elevation to remain constant. Presently, the beaver are raising the pond so high that it is also flooding pastures in our upstream neighbor's property.

Please review the points I have raised with you client and contact me as soon as possible. I would like to report to IDWR that the two parties in this matter have, at the minimum, discussed the reasons for the protest and agree that there is potential for reaching a mutual agreement.

Please contact me at your earliest convenience.

Sincerely,

Steve Fisher  
Aquatic Biologist  
Fisher & Associates

cc. Walter Lachewitz, Jr.

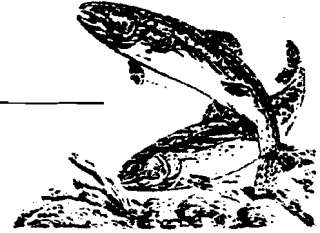
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September 27, 2007

Albert P. Barker, Esq.  
Barker, Rosholt, & Simpson  
P.O. Box 2139  
Boise, ID 83701-2139

Dear Mr. Barker:

Mr. Walter Lachewitz, Jr. has asked me to contact you to discuss Mr. Mick Halverson's protest of Application of Transfer of a Water Right #73444. I tried a number of times to reach you during the week of September 17<sup>th</sup> to the 21<sup>st</sup>, 2007. I called again this morning and have left a phone message with my cellular number (406-360-9893) that will reach me at anytime.

During the development of the Transfer Application, we worked extensively and closely with Mr. Cory Skinner and Mr. Jeff Peppersack at IDWR (Idaho Department of Water Resources). The application was finalized and submitted for notice only after all of us agreed that it met all of the conditions stipulated in Idaho Code Sections 42-203A(5), 42-222(1), all other pertinent sections relating to water transfers.

We notice that your protest, dated September 4, 2007, does state that you may set forth "other and further reasons...at the hearing on this matter". However, IDWR has asked, in a letter to us dated September 7, 2007, that we "contact the protestant directly to determine the nature of the protest and, if possible, to resolve the matter without action by the Department". As I said above, I have tried to speak with you but have received no response.

I do not want to set any arbitrary dates, but I must ask that you contact me as soon as possible. I feel that we need to respond to the Department's September 7<sup>th</sup> letter soon. Hopefully, we can

report to them that the two parties have, at the minimum, discussed the reasons for the protest and understand the potential for reaching a mutual agreement.

Please contact me at your earliest convenience.

Sincerely,

Steve Fisher  
Aquatic Biologist  
Fisher & Associates

cc. Walter Lachewitz, Jr.