

AUG 09 2002

WATER RESOURCES
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August 8, 2002

Ms. Lori A. Graves
Senior Water Resource Agent
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

Re: Eagle River LLC—Application for Amendment of Permit
Our File No. 3906-101

Dear Lori:

As we discussed on the phone earlier this week, I am enclosing an original and one copy of an Application for Amendment of Permit and a check in the amount of \$50.00 which is being filed on behalf of Eagle River LLC. Please conform the copy and return it to me in the enclosed self-addressed, stamped envelope. As the narrative to the Application explains, the intent of the Amendment is to add a point of diversion in the form of an additional pond that will overlap two quarter-quarter sections that are currently authorized as points of diversion under the Permit. The Amendment will not increase the total volume applied for or authorized by the permit. For that reason, I would suggest that the Amendment need not be re-advertised.

As I mentioned in my letter to Steve Lester dated July 8, 2002, the permit currently contains the following condition:

As mitigation for this approval, the right holder shall retain ownership of 50.91 shares of water in the New Union Ditch Co. Ltd and 24 shares of water in the Ballentyne Ditch Co. Ltd. Use of water represented by the shares on lands other than lands owned by the water right holder in the NW1/4 of Section 16, T4N, R1E, is prohibited, or sale of any portion of the shares is cause for the Director of the Department of Water Resources to cancel this right.

Although I filed the Application for Permit on behalf of Eagle River, a copy of the Permit was never forwarded to me when it was issued in January 2001, and I therefore was unaware of this condition. I wish to reiterate here that, as stated in the original application for permit, Eagle River intends to use a portion of its Ballentyne and New Union water rights to mitigate the

Ms. Lori A. Graves
August 8, 2002
Page 2

depletive effect of the ground water appropriation. Eagle River's entire water right holdings are neither intended to be, nor necessary for, such mitigation.

As you and I have discussed, Eagle River has filed an Application for Transfer in cooperation with Ballentyne Ditch Company affecting 7 shares of Eagle River's Ballentyne stock to provide mitigation for the ponds situated in Ballentyne's service area, and intends to obtain the necessary signatures from New Union Ditch Company in the next week to file a similar application for transfer affecting 1.5 shares of New Union stock to mitigate the 1.3 acre pond situated in the New Union service area. I expect that the Permit Amendment and the Transfers could be considered generally together as each provides the rationale for the others.

Eagle River currently has no intentions with respect to the rest of its shares in the two canal companies other than to maintain their beneficial use on the lands to which they currently are appurtenant. However, a condition that arbitrarily restricts their future use impinges on Eagle River's property rights.

Therefore, Eagle River requests that its permit be amended to authorize the additional point of diversion as described in the application for amendment, and that condition 1 of the permit be amended accordingly.

Thank you for your careful consideration of these matters. If you have any questions, please call me.

Sincerely,



Michael C. Creamer

Enclosures

cc: Chuck Carlise
Bill Clark
Tim Mokwa

MCC:kdtd S:\CLIENTS\3906\101\Corr\2002-08-08 MCC Ltr to Lori Graves re Amendment.DOC