

DOUGLAS A. DUCEY

Governor



THOMAS BUSCHATZKE

Director

**ARIZONA DEPARTMENT of WATER RESOURCES**

1110 W. Washington Street, Suite 310

Phoenix, Arizona 85007

602.771.8500

[new.azwater.gov](http://new.azwater.gov)

August 23, 2022

Bonita Creek Water Company  
Attn: Bryan Staley, President  
652 N. Myrtle Point Trail  
Payson, AZ 85541

*RE: Application to Partially Sever and Transfer (ST Application) Certificate of Water Right No. 3696.0002 (Application No. A-3906.0003).*

Dear Mr. Staley:

The Arizona Department of Water Resources ("Department") is in receipt of your e-mail dated July 29, 2022, ("E-mail") describing a matter related to the above referenced application ("Application") by Bonita Creek Water Company<sup>1</sup> ("BCWC") regarding the current surface water diversion intake. Based on the information provided in your E-mail, the Department requests additional information or clarification regarding the point(s) of diversion, as referenced in BCWC's amended sever and transfer application dated May 9, 2022 ("Amended Application"). The Department's request for additional information during the substantive review period is authorized pursuant to Arizona Revised Statute § 41-1075 (A) and follows receipt of the Mutual Agreement Form signed by BCWC's authorized agent on July 10, 2021.

The Department requests the following additional information and/or clarifications (the numbers reference back to the Application received on March 11, 2020, and the Amended Application received on May 9, 2022).

**AMENDED APPLICATION**

1. **Item 14** – Location of Point of Water Diversion (see Attachment 3 – Information Regarding Proposed Transfer) states: "The BCWC will divert appropriable water at a point along Bonita Creek located in the NW1/4 SW1/4 Section 32, T12N, R11E." Additionally, the application describes "BCWC diverting appropriable water of Bonita Creek and/or withdrawing water from wells adjacent to Bonita Creek to deliver to its water customers." Your E-mail indicates that the current diversion structure is either damaged or non-operational.

(a) *Please confirm if the current diversion structure is intended to be the point of diversion as indicated on the Amended Application. If there will be a change or addition to the*

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<sup>1</sup> Bonita Creek Water Company, identified as the applicant on the Application as amended, was formally known as Bonita Creek Land and Homeowner's Association, LLC, as referenced in the original Application. For the purposes of this letter, the entity will be referred to as "BCWC."

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*proposed diversion(s) and the location(s) of the point(s) of diversion, please provide the respective locations and nature of the diversion(s). If you plan to modify the current diversion, please detail the nature and extent of that modification with relevant documentation (if possible).*

- (b) *Please provide a timeline for when the point(s) of diversion will be operational and any documentation (if possible) supporting that timeline.*
- (c) *Please note: The Department's review of your application pursuant to A.R.S. § 45-172 cannot proceed until the Department receives sufficient information regarding the proposed point(s) of diversion.*

2. **Item 18** – Describe Diversion Works (see Attachment 3 – Information Regarding Proposed Transfer) states: “The BCWC water diversion and distribution system includes a pump that is installed at a point along Bonita Creek (Latitude 34.382222, Longitude -111.220533 WGS84), a water treatment plant (Latitude 34.382521, Longitude -111.219785 WGS84), and two water storage tanks (Latitude 34.382525, Longitude -111.217921 WGS84) located in Section 32, T12N, R11E.”

- (a) *Please confirm if there will be a change to the diversion works currently described in the Amended Application.*
- (b) *For any new proposed/future surface water diversion and/or well construction the Department requests an explanation of changes and the proposed timeline for the diversion works to become operational.*
- (c) *Please note: The Department's review of your application pursuant to A.R.S. § 45-172 cannot proceed until the Department receives sufficient information regarding the proposed diversion works.*

**WATER TRANSFER AGREEMENT**

It is the Department's understanding that BCWC's partial sever and transfer would be subject to the terms and conditions of the "Water Rights Transfer, Water Exchange, and Water Delivery and Use Agreement for the Bonita Creek Water System" ("Water Transfer Agreement") executed on October 14, 2015, among the Salt River Project Agricultural Improvement and Power District, the Salt River Valley Water Users' Association (collectively "SRP"), and BCWC. Under the Water Transfer Agreement, SRP would accept delivery of stored water from C.C. Cragin Reservoir into the East Verde River in exchange for BCWC diverting appropriable water of Bonita Creek and/or withdrawing water from wells adjacent to Bonita Creek by means of an exempt water exchange.

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The Department recognizes that the Water Transfer Agreement already has been executed. The Department requests:

1. If applicable, an explanation as to how any proposed change in the point(s) of diversion and diversion work(s) might affect the Water Transfer Agreement (Attachment 5) and Resident Agency Agreement(s) (Exhibit 16.1.7 to the Water Transfer Agreement). Please also indicate if any amendments are intended and, if so, please provide copies of such amendments.
2. Please note: As recognized by SRP and BCWC, "the quantity of water authorized to be severed and transferred by [the Department] cannot lawfully be exceeded." Application, at 30.

The Department requests that you please return the additional information request within sixty (60) days from the date of this letter. If the Department does not receive the additional information request within sixty (60) days from the date of this letter, the Department will make a decision on whether to grant or deny the Application based on the information you have already provided.

Please do not hesitate to contact me at (602) 771-8406 or toll free (within Arizona only) at 1-800-352-8488 if you require further information or assistance.

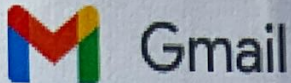
Sincerely,

A handwritten signature in black ink, appearing to read "D. Keadle", written over a horizontal line.

David Keadle  
Surface Water Permitting Unit  
Water Planning and Permitting Division

ENCLOSURE

CC: Rodney Held, SRP



David Keadle &lt;dakeadle@azwater.gov&gt;

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**Bonita Creek Water Intake**

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**Bryan Staley** <contact@bonitacreekwatercompany.org>  
To: David Keadle <dakeadle@azwater.gov>

Fri, Jul 29, 2022 at 9:29 AM

Hello David,

Hope you had a great week. I'm really not sure who to speak with on this ongoing matter. We have another issue in Bonita Creek regarding the water company.

Our intake from the stream is becoming more and more jammed up by these recent storms, fires, etc. It has been an ongoing issue for decades and seems to be getting worse. Our intake is archaic at best and was installed in the 60's with no real modifications to it since. We are a volunteer community, including myself in this position, and always have been. Unfortunately fewer and fewer residents are willing to step up to make sure we have running water. As a resident and president I don't want to have to count on volunteers for an issue such as this. Frankly, that's why we are working so diligently to have our 60+ year old galvanized lines replaced but if we can't pump water what's the point.

I would greatly appreciate any assistance as to how I go about speaking with the organizations and individuals that can assist us in finally creating an intake that will provide us longevity and hopefully, to a greater extent, maintenance free.

Thank you for your time. I look forward to hearing from you. .

Bryan  
BCWC Board

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