

Bird, Cindy

From: Carlsen, Ernie
Sent: Monday, October 28, 2002 11:23 AM
To: Bird, Cindy
Cc: McHugh, Candice; Music, Vicky
Subject: RE: Lin Whitworth claims

Cindy,

My guidance at this stage is to keep the Candice informed so we ensure everybody is looking at the same information and reaching the same conclusion.. Her concurrence is important. I prefer to have your efforts directed at producing recommendations. A letter to explain why the claims are disallowed may result in more of your time being directed at assisting him with these questionable claims. Mr. Whitworth will get notice with the PDR and then this issue can be addressed during the notice of error process.

Ernie

-----Original Message-----

From: Bird, Cindy
Sent: Monday, October 28, 2002 10:08 AM
To: Carlsen, Ernie
Subject: Lin Whitworth claims

Good Morning Ernie,

Should we have Candice write Mr. Whitworth a letter explaining that his claims are being recommended as disallowed to the court because sub-irrigation is not putting the water to b.u.?

Cindy

Bird, Cindy

From: Bird, Cindy
Sent: Thursday, October 24, 2002 9:59 AM
To: Carlsen, Ernie
Cc: McHugh, Candice
Subject: RE: Lin Whitworth

I wrote a letter to Lin Whitworth asking him about the "dam" that backs the water up for him and allows for sub-irrigation of his property. In his reply he said that dam is approximately .25 miles below his property and was put in by Grady Staley and Dee Mar Gilbert. The sub-irrigation was in place before he bought the property. I called Grady this morning and he said the concrete structure was put in 1970-71 to allow them to divert water into their ditch. Grady didn't realize that the structure was backing water up and sub-irrigating Whitworth's property. If you look at the 1987/88 NAPP photography the only irrigated part of Lin's property is that land east of Marsh Creek. From that I'm not convinced that Lin Whitworth has diverted the water for the purpose of irrigation. As you stated sub-irrigation is not putting the water to beneficial use for irrigation. I'm going to disallow both claims and let Lin defend it in court.

Would either one of you like me to fax the letter or the reply to you?

Any other thoughts.
Cindy

-----Original Message-----

From: Carlsen, Ernie
Sent: Thursday, October 24, 2002 8:15 AM
To: Bird, Cindy
Subject: RE: Lin Whitworth

Cindy there is a P03 Remark and a P03 Condition. Use both of them. Then under the quick look tab and a comment explaining the situation with the two claims and the reason for denying the one originally from Walker Creek.
Ernie

-----Original Message-----

From: Bird, Cindy
Sent: Wednesday, October 23, 2002 12:29 PM
To: Carlsen, Ernie
Subject: RE: Lin Whitworth

Would the comment to the disallowed claim be just that a comment and not a remark or condition?

-----Original Message-----

From: Carlsen, Ernie
Sent: Wednesday, October 23, 2002 12:12 PM
To: Bird, Cindy
Cc: McHugh, Candice
Subject: RE: Lin Whitworth

Cindy,

I consulted with Candice about this matter and her suggestion was to use P03, No beneficial use found. The logic is that if he already has a right for 0.02 cfs/acre from the same source diversion of water under a second right is not recognized as a beneficial use. Be sure and add a comment to the disallowed claim explaining that the other right from the same source already allows diversion of 0.02 cfs/ac.

I believe Candice is going to email you for the claim numbers. I could not figure out what they were.
Ernie

-----Original Message-----

From: Bird, Cindy

Sent: Monday, October 21, 2002 3:10 PM
To: Carlsen, Ernie
Subject: Lin Whitworth

Ernie,
Friday we were talking about Lin Whitworth's claims. One that he amended the source to Marsh Creek and on he claimed Marsh Creek. You said to disallow the Amended Claim and recommend the Marsh Creek Claim because it's at an inch/acre. What Remark/Condition Codes do I put on the disallowed claim? That it's being recommended as right number ____-____ because it's the same source? It wouldn't be P01, NO LAWFUL APPROPRIATION FOUND.

There have been several trains today.
Cindy