

25-92

POU's ON BOR

-IRRIGATION OF PUBLIC LAND IS NOT AUTHORIZED.

MIXED OWNERSHIP

-CLARIFY THE POU's SUCH THAT IT IS CLEAR THAT ONLY PRIVATE LAND IS INTENDED.

UNAUTHORIZED POU's ON BOR:

<u>Legal Description</u>	<u>BOR acres</u>	<u>Mixed Ownership</u>
T03N R38E S19 SENE	4	Yes
T03N R38E S20	15-16 along outlet channel	Yes
T03N R38E S20 SWNE	20	Yes
T03N R38E S21	15-16 along outlet channel	Yes
T03N R39E S19	15-16 along outlet channel	Yes
T03N R39E S20 NESW	12	Yes

✓ make sure BOR and Progressive don't overlap
add 442 to ↑ claims/sec.

remove canal from Progressives pou

Carlsen, Ernie

From: Larry.Brown@usdoj.gov
Sent: Friday, September 16, 2005 10:16 AM
To: Chris.Bromley@idwr.idaho.gov; ecarlson@idwr.idaho.gov
Cc: David.Gehlert@usdoj.gov; Scott_Beazer@blm.gov; dwalton@pn.usbr.gov; Fred_Price@blm.gov; rharris@holdenlegal.com
Subject: FW: Progressive Irrigation protest resolution

Chris and Ernie: Please draft SF-5s that resolve BLM & BOR objections. Let Fred or Scott know when they are done. Fred/Scott will pick them up from you, then send them to Mr. Harris for his signature, along with a postage paid return envelope. Mr. Harris can sign, then return the documents to Fred/Scott. Fred/Scott will then obtain IDWR concurrence, unless the documents have already been signed by IDWR, then they will send the documents to me for signature. I will file and serve. Hopefully, we will have time to complete all of the above before the Initial Hearing in Idaho Falls. If not, I will see you and Mr. Harris in Idaho Falls, where we can sign the documents and get them filed or ask the Special Master for more time. Thanks,

Larry

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

From: rharris@holdenlegal.com [mailto:rharris@holdenlegal.com]
Sent: Friday, September 16, 2005 10:53 AM
To: Brown, Larry (ENRD)
Subject: Progressive Irrigation protest resolution

Larry,

I received word yesterday from Progressive Irrigation District concerning the BLM and BOR protests and your proposed resolution to those protests. The Board stated the following:

"With regards to the objections of the BOR and BLM to including federal lands within the district, we concur that these lands should not be included as a place of use for irrigation water. We would like to authorize you to so inform BLM and BOR and make the necessary steps to bring this to conclusion"

I have reviewed the materials you emailed and maps showing federal ownership and agree that the place of use as it currently stands includes federal land that should not be authorized for irrigation. Please take the necessary steps to see that the provisions you have proposed are undertaken, including informing IDWR of the resolution so they can modify the current digital boundary and preparing the necessary stipulations with the SRBA court (I believe it is SF-5) so that we do not have to show up at the September 28th hearings.

Please call me if you have any questions. Also, could you please inform the BOR of the protest resolution.

Robert L. Harris
Holden, Kidwell, Hahn & Crapo, PLLC

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

From: Larry.Brown@usdoj.gov [mailto:Larry.Brown@usdoj.gov]
Sent: Wednesday, August 31, 2005 11:31 AM
To: rharris@holdenlegal.com (Receipt Notification Requested) (IPM Return Requested)
Subject: Progressive Irrigation

Since your call to me on August 18, I found that the Bureau of Reclamation also objection to all but one of the Progressive Irrigation claims at issue under BLM's objections. Please call me to discuss settlement of the objections at 202-305-0435. I am informed that Special Master Bilyeu will be setting Initial Hearings on September 27 and 28. The BOR and BLM would like to settle their objections to Progressive Irrigations claims as follows:

OBJECTION RESOLUTION:

BLM Objections:

- Modify the digital boundary to entirely exclude the legal land descriptions listed below.
- Remove from IDWR's place of use data the legal land descriptions listed below.
- Evaluate whether there is an effect on total acres and quantity.

T01N, R38E, S13, SESE
T02N, R39E, S06, Lot 1 (NENE)
T02N, R39E, S29, SESW
T03N, R39E, S31, SESE
T03N, R39E, S32, SWSE
T03N, R39E, S32, SESW
T03N, R39E, S32, SWSW

*remove all
from legal*

BOR objections:

- Modify the digital boundary to entirely exclude the BOR land

within
the boundary. I can e-mail maps and GIS data from BOR to you if you
wish.

-All of the legal land descriptions containing BOR land is mixed
ownership, therefore some portion of all these POUs will remain within
the
digital boundary and within IDWR's POU data. Since all of the POUs
containing BOR land represent a mixed ownership situation, a clarifying
remark place under the POU element would complete the resolution of
BOR's
objection, such as the following: "The use of water under this right
does
not include a use on federal public land."

-Evaluate whether there is an effect on total acres and quantity.