

To: File 1-10021
From: Michael Holliday
Date: December 15, 2006
Re: Meeting with claimant to discuss NOE

I met with Byron and Teresa Blakely this morning to discuss the NOE reply form that was received in this office on 12/14/2006. At issue was 5.81 acres of land located on the river side of the levee. The claimant wanted to have this land included within the irrigated place of use of claim no. 1-10021. The claimant thought that the land had historically been irrigated. Because he owned the land he insisted that he had a water right. While the claimant did own 2.24 acres of the land located in Lot 1 at the time claim no. 1-10021 was filed, the remainder was owned by the BLM and was located outside of Lot 1. Only recently has the claimant come into possession of the entire 5.81 acres.

The claimant said that he bought the 2.24 acres in about 1981. He began to irrigate the land on the river side of the levee in 1991 after installing a pump in a pond located on the south side of the levee on his property. The pond fills with sub-water and is also filled with water carried by the Mattson-Craig Canal.

I explained to the claimant that based on the evidence contained in the file, I had no intention of altering my recommendation, but that he was welcome to file an objection if he disagreed with my recommendation.

I decided against changing the preliminary recommendation for the following reasons:

1. Mr. Blakely claimed the 28 acres that he owned on the south side of the levee. This is evident based on the 2 maps that accompanied the original claim. I recommended the 26 acres that I could confirm to be irrigated. The remaining 2 acres in the parcel represents the pond mentioned above.
2. Irrigation of the land on the river side of the levee could not be confirmed after the construction of the levee in the 1950's, until the pump was installed in 1991. There were at least 10 years (1981 to 1991), based on the testimony of the claimant, that the land on the river side of the levee was not irrigated. There seems therefore to be an issue of forfeiture that needs resolution.
3. At least part of the land on the river side of the levee was owned by the BLM at the time the claim was filed. Therefore legal issues related to the establishment of a water right in trespass may be a factor in this case.