

COMMUNICATION DOCUMENTATION

From: Vikie Hancock

May 8, 2002

Regarding:

Customer:

Claims of Big Wood Canal Co.

Lynn Harmon, Mgr

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Mr. Harmon came into the office and met with Allen Merritt, Doug Jones and myself on May 6th. He was concerned about there being no storage right for Magic Reservoir filed in the SRBA. A cursory review of the Adjudication claims and of the water rights confirmed that there were no existing claims or water rights for irrigation storage at Magic, with the exception of decreed right 37-895 for 18 cfs that was not claimed in the Adjudication. Allen Merritt pointed out that the licensing field exam for 37-2116, which was the partial basis of decreed right 37-870, specifically mentions the reservoir and that there probably should have been some storage right associated with the first license issued, 37-2033 priority 1905.

The history of the reservoir was discussed briefly. According to Mr. Harmon, the reservoir originally had a capacity of 172,000 AF and was modified several years later to increase the capacity to it's current 191,500 AF. He thought that he heard 1910 as the year it was modified. It was decided by the claimant that an amendment to claim 37-867 (original basis 37-2033 priority 1905) to include irrigation storage and irrigation from storage in the amount of 172,000 would be appropriate. Options for claiming the balance of 19,500 AF were addressed. They included the filing of a new beneficial use claim with a 1910 priority date, or amending claim 37-870 (priority 1920) to add irrigation storage and irrigation from storage. It was pointed out to Mr. Harmon that he should probably discuss the options with the BWCC board and possibly their legal counsel, and that in his discussion with the BWCC board, he should point out that the claimed priority date of 1908 for claim 37-870 would most probably be modified to 1920 in the SRBA to agree with the 1925 decree findings in BWCC v Chapman. It was suggested that he find some records to confirm the year the capacity of the reservoir was increased.

Mr. Harmon also inquired as to whether they had stock water use covered in the SRBA. There was some inconclusive discussion as to whether the remarks about non-irrigation use for stock water included in the claim were adequate, whether the decree language would allow the inclusion of stock water as a purpose of use on the existing claims, or whether a separate beneficial use claim would need to be filed. A more detailed review of the decrees pertaining to the BWCC water rights needs to be undertaken as a step in resolving this issue.

In regard to the Big Wood's right to water from American Falls Reservoir, research conducted by Allen found that neither the BOR nor BWCC had filed

claims on the storage right associated with their diversion right from that source. Mr. Harmon was going to contact the BOR to get more information on which to base a decision of whether an additional SRBA claim needed to be filed.

A quick review of the SRBA claims filed by BWCC with Mr. Harmon showed some indiscrepancies and elements confusing to him as well as to us. Most had already been uncovered earlier and mentioned in a memo found in claim 37-13116. I advised Mr. Harmon that when he eventually sat down with an AJ agent that had had time to really delve into our records and compare them with BWCC records he might expect that there would be some changes needed in the claims as they were currently configured, and possibly some additional claims filed.