

Miller, Nick

From: Peppersack, Jeff
Sent: Tuesday, August 15, 2017 4:53 PM
To: Miller, Nick
Subject: RE: 79-13962 James Bonato

I agree that a letter would be the best response. If he calls back, you could explain that we are preparing a response and will send it to him.

Jeff

From: Miller, Nick
Sent: Tuesday, August 15, 2017 4:35 PM
To: Peppersack, Jeff <Jeff.Peppersack@idwr.idaho.gov>
Subject: FW: 79-13962 James Bonato

Jeff,

I got another call from this guy today so I thought I would forward last year's emails and document today's call in case things go south.

He told me his priority date is wrong and that I can and should fix it. I told him I cannot and he would have to go through the SRBA Court. He insisted I have everything I need to fix his right, so I should just do it. He told me he was going to call the FBI because "messing with someone's water right is a hanging offense...that is still on the books and it is a Federal offense and they'll hang you."

I told him I would look into it and call him back if there was anything I could do. He said "Call me back because you can fix it, you have what you need to do it, so just do it."

I took his number (208-628-3087), but I am not inclined to call him again since I don't think there is anything more we can do and we have already related that to him. Maybe we should respond with a letter, since his hearing is so bad?

Nick.

From: Peppersack, Jeff
Sent: Wednesday, September 14, 2016 8:58 AM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>
Subject: RE: 79-13962 James Bonato

Nick,
Thanks for the heads up. I forwarded to Gary just in case he gets a call.
Jeff

From: Miller, Nick
Sent: Wednesday, September 14, 2016 8:50 AM
To: Peppersack, Jeff
Subject: FW: 79-13962 James Bonato

Hi Jeff,

Don't know if you want me to let Gary know or you, but this guy James Bonato has had a couple of phone calls with Rachel Sommer that have not gone well. He is older and hard of hearing and believes his priority date was decreed incorrectly. Rachel has corresponded with Carter and Craig and it looks like the guy's right was decreed with the correct priority date, but she had no luck explaining that to him. Rachel says he cannot understand her on the phone, so they haven't had much of a conversation. Yet, he has threatened to sue all of us and is very unhappy with the department. I don't know if he will follow up with a call to Gary or someone else, but I thought I'd pass the name along in case it escalates.

From: Sommer, Rachel
Sent: Wednesday, September 14, 2016 8:28 AM
To: Miller, Nick
Subject: FW: 79-13962 James Bonato

FYI

From: Sommer, Rachel
Sent: Tuesday, September 13, 2016 4:26 PM
To: Fritschle, Carter; Saxton, Craig
Subject: RE: 79-13962

Wow!

Thank you both the extensive review and for the great summary! I will try my best deliver this information to Mr. Bonato.

Thank you again for your help, you guys sure went out of your way and I appreciate it greatly 😊

Rachel

From: Fritschle, Carter
Sent: Tuesday, September 13, 2016 4:20 PM
To: Sommer, Rachel
Cc: Saxton, Craig; Courtney, Andrea
Subject: RE: 79-13962

Rachel,

Craig did a great job of summarizing the situation.

When Mr. Bonato filed his claim he was relying completely on a survey from 1902 that showed a ditch running near his property, but not necessarily to his property. When I visited his property in 2008, there was very little left of the irrigation system, but some water was being diverted. I also met a neighbor (Melvin Gill) on that visit, and he could remember some irrigation as far back as 1948. The 1908 land patent was all we had to go on to recommend a priority date earlier than 1948. This is generally not sufficient evidence for an irrigation right. However, since there was a ditch in the general area of his land, I concluded some irrigation could have taken place in 1907 in order to "prove up" the patent.

Carter

From: Saxton, Craig
Sent: Tuesday, September 13, 2016 4:10 PM
To: Sommer, Rachel
Cc: Fritschle, Carter
Subject: RE: 79-13962

Hey Rachel,

From my quick review, I don't see that there is anything we can do as the 1907 priority date was deliberate and not a mistake (at least from IDWR's point of view). Notes in the recommendation report show that the land patent was issued in 1908 (pg 24 of the "CLAIM FILE" in Docs). Meaning, the recommended priority date was based on available evidence and not a typo or something like that.

The Amended Director's report dated September 25, 2008, lists the June 1, 1907 priority date. Mr. Bonato had the opportunity to file and objection at that time. Then, on January 12, 2009, a Special Master's Report was issued noting that no one had filed objections to the Amended Director's report and Special Master Booth was recommending the right be partially decreed.

If he wants to try to file a motion to open up his case again, he would have to contact the court and find out what they want him to do. At this point, I don't think he will get much traction. But he can always send the court a letter and ask. But we (IDWR) are out of it at this point.

Carter might have more to add.

C

From: Sommer, Rachel
Sent: Tuesday, September 13, 2016 3:12 PM
To: Saxton, Craig; Fritschle, Carter
Subject: 79-13962

Hello!

I just spoke with a James Bonato. James filed a claim in 99 with a priority date of 12/1902. If you through the files it looks like an Amended Director's Report was filed with the incorrect priority date. Mr. Bonato is very upset and wants the priority date corrected. He is very hard on hearing and I was unable to relay an information to him by phone and he is unable to come into the office. Is this something that can be corrected? I will be sending him a change of address form so if there are forms he needs to fill out I will send them along with it.

<http://wenet/apps/appsMisc/docSelection.asp?Basin=79&Sequence=13962&SplitSuffix=>

Thank you in advance for any help!
Rachel