

Smith, Danni

From: Bromley, Chris
Sent: Thursday, March 21, 2013 12:36 PM
To: Fritschle, Carter
Cc: Smith, Danni
Subject: RE: 67-10575

Carter,

I think the safest route would be for the current owner to move the court to set aside one or both of the decrees. I really don't think it's a good idea for IDWR to call out clerical errors when we know there wasn't an error. I think moving to set aside the decree(s) is the best option.

Chris

From: Fritschle, Carter
Sent: Tuesday, March 12, 2013 11:16 AM
To: Bromley, Chris
Cc: Smith, Danni
Subject: 67-10575

Chris,

A potential buyer of the land appurtenant to SRBA decreed 67-10575 right has discovered the point of diversion was decreed in the wrong QQ.

The story behind this is that licensed right 67-2297 described a spring source for domestic and commercial purposes with a diversion rate of 0.02 cfs. However, when the owner of the property filed in the SRBA, they specifically stated they wanted a beneficial use right for 0.04 cfs instead of the licensed right. The beneficial use right, 67-10575, claimed the same priority date as 67-2297, but with a different location for the spring/POD.

The claim was contractor reviewed, and no one noticed the potential overlap with the license.

License 67-2297 was decreed disallowed as an unclaimed right in the SRBA.

Now the potential buyer wants to have the POD corrected to match the licensed POD.

Historically, since the claimant was decreed exactly what was claimed, we were reluctant to call it an error. However, since we know the location of the spring from the license, could we consider this an error that could be corrected with our error correction process? However, if we do go that route, I feel we would definitely also have to correct the error in the diversion rate, and reduce it to 0.02 cfs.

If you need more information before rendering an opinion, the claim has been scanned and profiled. While the claimant never had the correct QQ or QQQ for the POD, the Government Lot for the POD was entered correctly at one time, and subsequently scratched out.

I have attached a map to show how close the property is to the line between Sections 18 and 19. The POD may be within the right of way for Highway 95, or if it is not, then it is on USFS land. The decreed location is definitely on USFS land.

Thanks, Carter