

Buffington, Denise

From: fwprice@blm.gov
Sent: Friday, March 11, 2011 10:09 AM
To: Buffington, Denise
Subject: Re: Comment Letter for Applications 51-13068, 51-13069, 57-10727 & 67-12077

Denise,

Thank you so much for sending these notices to me for review! None of the notices describe a POD or POU on BLM land, so BLM won't be filing a petition.

I'm curious. Has anyone challenged the constitutionality of I.C. 42-113(3) yet due to the defective notice procedures and the waiver of I.C. 42-222 to benefit one class of claims? It is one thing to apply the notice to an existing water right that is on the books, but it seems improper to use the notice to also create the underlying claim being altered (as is being done in 51-13068 and 51-13069)? I'm just curious, as I don't plan taking on that issue.

Fred
Water Rights Specialist
BLM, Idaho State Office