

Keen, Shelley

From: Spencer, Nick
Sent: Wednesday, June 25, 2008 5:48 PM
To: Keen, Shelley; Skinner, Corey
Cc: Kelly, Vicki; Homan, John
Subject: Permit nos. 37-7426 and 37-8165 (Erkins/Panagiotou)

Gentlemen:

This e-mail is to give you the heads up that the SRBA Court is getting impatient with IDWR's failure to resolve what to do about these permits. At a hearing today SM Bilyeu recused herself because she had previously represented a creditor of the Erkins in a previous lawsuit. She has requested SM Booth to take over the case, and stated today that she would recommend to him that he issue a "strongly worded" order requesting IDWR to inform the court what it intends to do with these permits at the time of the next court status conference on them, scheduled for October 7th at 10:30 a.m. SM Booth is going to take over because the BLM, which has had objections pending for over two years, has decided not to wait any longer, and wishes to argue its objections, seeking to have them granted on the grounds that the claimants to the permits have failed to appear and defend. If the objections are granted, POU acres overlapping onto BLM ground will be deleted. The BLM may be taking a risk in pressing its objections because there is information suggesting that all proceedings are stayed due to a bankruptcy action by the Erkins pending in Florida. See November 14, 2006 memo by John Homan in the permit files. However, the BLM has tracked down the Erkins' attorney, and believes it has given the Erkins plenty of notice of the proceedings pending in the SRBA. Therefore it is willing to move ahead.

However, this action by the BLM will not resolve all of the concerns of the SRBA Court, because once the objections are resolved the court will wish to move the rights forward to partial decree, but it will not decree permits. It therefore is pressing IDWR to either issue licenses or cancel the permits. In the meantime the reputed bankruptcy stay has not prevented George Panagiotou, who purchased the property in 2003, from occupying it. As explained in your March 6, 2008, e-mail, Corey, you were able to meet with Mr. Panagiotou on the property last January to do the field exam for permit number 37-8165, but due to the lack of information you could collect it is not clear now how to proceed with that permit. Also, no determination has yet been made whether to cancel permit no. 37-7426. My recollection, Corey, is that there is a memo from you in the file indicating that this permit ought to be cancelled because the field examiner found that the use claimed in it duplicated pre-existing beneficial use rights.

I recognize this situation is complicated, and made more so by the uncertainty of the bankruptcy proceeding. However, in light of the SRBA Court's concerns I would ask you to address what can be done with regard to these permits, perhaps even consulting John Homan further about whether we can find out more about the current status of the bankruptcy, and considering sending a letter to Mr. Panagiotou requesting him to make every effort to search for the information you need to go forward with licensing 37-8165. If we could make a decision I know the SRBA Court would very much appreciate it.

Thank you.
NBS