

Prehearing Conference Notes:

Application for Permit #63-32238 Stout

From: J. Westra
Date: 09/25/08

Location : Western Reg.
Attending: See Roster Attached.

-The conference began with the applicant presenting the project proposal. Mr. Stout already has a permit for 5 cfs wildlife & recreation year round #63-31350. The application is for 30 more cfs with the same P/D and P/U Mr. Scanlan estimated the ditch capacity at 32 cfs at the culvert. Mr. Stout feels the bird wildlife needs a place in the winter freeze periods.

-The protestant, Mr. Bilboa discussed Mr. Stout does not permission to access the ditch and P/D thru his property during the off season for either the application or approved permit. He firmly does not want any individuals on his property. The protestant has a problem with diverting water thru the ditch year round. He has installed and taken out the diversion dam in the river for years with no compensation. Mr. Stout has not contributed to repair/maintenance of the ditch and diversion. Mr. Johnston added historically the ditch maintenance cost distribution was 50% Kotter last on the ditch, 25% Stout, and 25% Bilbao. There is no formal entity management on the ditch.

The diversion dam during the off season would require Corp and IDWR approvals for installation/removal as it is now not associated with exempt irrigation. Who bears the liability during off season operations? Mr. Gibson discussed past flooding problems thru the ditch toward Parma.

-Mr. Johnston discussed the raising of the water table exposing alkaline-salts along the ditch since the additional Stout diversion. This has reduced crop production in fields adjacent to the ditch. This year bean and alfalfa yields have been affected. An aerial map clearly showed alkaline areas in the Bilbao fields.

-The applicant is not proposing enlarging or improving the ditch conveyance capacity.

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-After a lengthy discussion, Mr. Smith requested he would be conferring with his client and would let me know their decision/next action relating to the application within 30 days.

-The Barnes hearing decision was past out for review to participants.

On August 25, 2008, the Department Director received a letter from Mr. Bilbao protesting permit # 63-31350—Stout. The letter was passed out to participants. Mr. Gibson discussed that Proof of Beneficial Use had been filed, but it appeared that the lockable measurement/gate device condition had not been met. The issues dovetail the same as the application.

The original application lists Dan Bilao as the property owner at the P/D under 11a. If the property is owned by a person other than the applicant, describe the arrangement under 11c---*answer: existing agreement for diversion of water right 63-00152B.*

I told Mr. Bilbao, he would receive a response to the letter from the Dept.