



United States Department of the Interior

BUREAU OF RECLAMATION

Upper Colorado Region
Provo Area Office
302 East 1860 South
Provo, Utah 84606-7317

IN REPLY REFER TO:

PRO-751
WTR-4.10

DEC 17 2009

Mr. Kent L. Jones
State Engineer
Division of Water Rights
1594 West North Temple, Suite 220
Salt Lake City, UT 84116-3154

Subject: Revised Proposed Rule R655-16 (Administrative Procedures for Defining Beneficial Use for Supplemental Water Rights)

Dear Mr. Jones:

Thank you for holding the November 17, 2009, public meeting to discuss the revised proposed rule R655-16 "Administrative Procedures for Declaring Beneficial Use Limitations for Supplemental Water Rights" and providing this opportunity to provide feedback.

Reclamation still has the same concerns about defining sole supply use for Project water rights that were expressed in our May 2009 letter on the original Sole Supply Rule (enclosed for your reference). In general, preparing "Declarations of Individual Beneficial Use Amounts" (DIBUA) for Reclamation Project water rights as currently defined in the Division of Water Rights Database will create an untenable administrative burden and will severely limit the flexibility of these water rights to meet our project purposes.

As stated in our May Letter, Reclamation projects and their associated water rights are unique from other water projects within the State of Utah and cannot be adapted to fit a sole supply rule. One unique characteristic of project water rights is their broad definitions that cover all Congressionally-authorized project lands and project purposes. These broad definitions allow water deliveries within Reclamation's project boundaries to change over time without the delays and expense of filing numerous change applications. Consequently, Reclamation cannot prepare a DIBUA for a given irrigated field because the project water being applied on the field can be moved to another field or another use at any time and thereby invalidate the declaration. For this, and other reasons stated in our May Letter, Reclamation requests the following:

- That the Proposed Rule R655-16 be modified to explicitly exempt Reclamation project water rights.

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- That the water use groups listed for Reclamation project water rights be updated so that they are only linked to other Reclamation water rights tied to the same project.
- That the place of use and nature of use of the water use groups listed for Reclamation project water rights be changed to match to broad definitions of the projects.
- That the necessary changes to the water use groups listed for Reclamation project water rights be made before implementing the proposed sole supply rule.

Reclamation strongly prefers that that the above items be implemented before the adoption of Rule 655-16 to ensure the protection of Reclamation's project water rights. Although, we recognize that there are provisions in the current version of Sole Supply Rule that may allow it to be implemented without adversely impacting our project water rights, we remain concerned with how these provisions would be interpreted and applied. We would like to meet with you to discuss the revised Sole Supply Rule and to start the process of correcting the water use groups listed on Reclamation's project water rights. Improving these water use groups will greatly assist in the future management of our project water rights, whether or not the revised Sole Supply Rule is adopted.

Should you have any questions regarding this letter or Reclamation project water rights, please contact Justin Record at 801-379-1072.

Sincerely,



Bruce C. Barrett
Manager, Area Office

Enclosure

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