

DATE: July 21, 1997
TO: Norm Young
FROM: Cindy Hodges *chl*
RE: Sherl Chapman Letter of 6-26-97

In the attached letter, Mr. Chapman has raised an interesting and valid point regarding the administration of rights on Sinker Creek. I found plenty of data in the 1995 water district file to support Mr. Hulet's concern over excess appropriations by Nettleton. However, I never feel comfortable recommending a change in the operational status quo on Sinker Creek without first considering the effect on the rest of the system.

Mr. Chapman is asking that we re-evaluate our response to Mr. Hulet's calls for waters which arise in the gaining reach of Sinker Creek just downstream from Hulet Dam. In the past, we have considered these calls futile. In his letter, Mr. Chapman has suggested previous injury to Mr. Hulet's storage right 57-07152 caused by Nettleton's over-appropriations. I do not find records in previous years or in 1995 to support this claim. Nettleton's excess diversions generally occur when inflows to Hulet Reservoir are extremely high (30-60 cfs) and the reservoir is likely spilling or has already filled. The Hulet right which appears to have been injured in 1995 is right no. 57-00181, a decreed natural flow right in the amount of 400 cfs (recommended in the SRBA at 54.4 cfs, the capacity of Murphy Mutual Canal). Excess flows could have been deliverable under this later-in-time right on several occasions in 1995. The issue for the moment and for future seasons is one of natural flow.

Recently, Dave Tuthill and I spoke with Bob Sutter, who told us that excess flows from gaining downstream reaches should be considered deliverable to upstream rightholders, in priority order, if the excess flows may be made available at the upstream point of diversion (in this case, MMC). The key phrase in this concept is "priority order". There are two other downstream rights which are senior to Mr. Hulet's right no. 57-00181. Mr. Hulet could only benefit from the gaining reach of Sinker Creek immediately downstream from Hulet Dam during those times when Nettleton's full 21.07 cfs has been diverted and when downstream rights are satisfied.

The specific example used as a reference for our discussion and Mr. Chapman's request was the record of delivery from July 9, 1995, which shows Nettleton over-diverting by approximately 6 cfs, with one of the two downstream rights satisfied and the other not in use. For that day, if Nettleton had refused reductions at the

Sinker Creek diversions in order to comply with diversion limits, the Watermaster should have considered the excess 6 cfs available at Hulet Dam and changed the Watermaster record by reducing the recorded flow to Nettleton in MMC by 6 cfs and increasing the Hulet natural flow diversion in MMC by the same amount. Total canal discharge would not have been altered. This method satisfies delivery to the Hulet right, brings Nettleton into compliance, and does not compromise downstream availability to the senior right.

If the second downstream rightholder had made a call on the excess flows on the sample day, this would have required physical adjustment to the Sinker Creek diversions, which the Watermaster would have been unable to accomplish immediately due to lack of controlling works at the Nettleton Sinker Creek diversions. Presently, operation of the Nettleton Sinker Creek diversions are on the honor system based on Watermaster request. Whether Nettleton elected to reduce diversions from the creek or at MMC, Nettleton would still have been responsible for making the adjustments to the diversions to satisfy the downstream rights. Mr. Nettleton is generally compliant, but not always timely. I am not sure of the average lag time between the Watermaster request and the actual adjustment to the diversion. Any significant delay would cause potential injury, but I have not received past complaints of injury from the downstream users.

It is not difficult to refine the Watermaster reporting form to more consistently monitor the availability of gaining flows at MMC. The Watermaster is able to account for available flow at any delivery point with the existing reporting form. Delivery of flows at MMC is also within the Watermaster's immediate control. Delivery protocol at the downstream diversions has always been more lenient. Whether or not this has any compelling influence on our present action remains to be tested. My own feeling is that if stricter accountability is called for at MMC, the Watermaster may not feel comfortable without additional controls downstream.

If Mr. Nettleton continues to cooperate with Sinker Creek diversion adjustment, perhaps there is still not a need at this time to require the installation of control structures on all active Sinker Creek diversions downstream from Hulet Dam. If we begin receiving complaints, I do not see any other alternative. The downstream right at the Tyson Ranch has not been regularly diverted for the past two or three years. The ranch has now been sold and I expect that right will be diverted again beginning this year. This will change the demands on the available flows. Depending on the expectations of the new owner, the Watermaster may need additional controls at the Nettleton diversions to ensure timely deliveries.

Mr. Chapman also seems to voice that time is of the essence, although as of this date the Sinker Creek Watermaster has not yet been called. I have prepared and attached an updated recording form and letter of instruction for the Watermaster, and a letter of notice for Mr. Nettleton. If you feel an Order requiring controlling works is indicated instead, please let me know.

RECEIVED

AUG 12 1997

WATER RESOURCES
WESTERN REGION

DATE: July 21, 1997
TO: Norm Young
FROM: Cindy Hodges *chl*
RE: Sherl Chapman Letter of 6-26-97

In the attached letter, Mr. Chapman has raised an interesting and valid point regarding the administration of rights on Sinker Creek. I found plenty of data in the 1995 water district file to support Mr. Hulet's concern over excess appropriations by Nettleton. However, I never feel comfortable recommending a change in the operational status quo on Sinker Creek without first considering the effect on the rest of the system.

Mr. Chapman is asking that we re-evaluate our response to Mr. Hulet's calls for waters which arise in the gaining reach of Sinker Creek just downstream from Hulet Dam. In the past, we have considered these calls futile. In his letter, Mr. Chapman has suggested previous injury to Mr. Hulet's storage right 57-07152 caused by Nettleton's over-appropriations. I do not find records in previous years or in 1995 to support this claim. Nettleton's excess diversions generally occur when inflows to Hulet Reservoir are extremely high (30-60 cfs) and the reservoir is likely spilling or has already filled. The Hulet right which appears to have been injured in 1995 is right no. 57-00181, a decreed natural flow right in the amount of 400 cfs (recommended in the SRBA at 54.4 cfs, the capacity of Murphy Mutual Canal). Excess flows could have been deliverable under this later-in-time right on several occasions in 1995. The issue for the moment and for future seasons is one of natural flow.

Recently, Dave Tuthill and I spoke with Bob Sutter, who told us that excess flows from gaining downstream reaches should be considered deliverable to upstream rightholders, in priority order, if the excess flows may be made available at the upstream point of diversion (in this case, MMC). The key phrase in this concept is "priority order". There are two other downstream rights which are senior to Mr. Hulet's right no. 57-00181. Mr. Hulet could only benefit from the gaining reach of Sinker Creek immediately downstream from Hulet Dam during those times when Nettleton's full 21.07 cfs has been diverted and when downstream rights are satisfied.

The specific example used as a reference for our discussion and Mr. Chapman's request was the record of delivery from July 9, 1995, which shows Nettleton over-diverting by approximately 6 cfs, with one of the two downstream rights satisfied and the other not in use. For that day, if Nettleton had refused reductions at the

Sinker Creek diversions in order to comply with diversion limits, the Watermaster should have considered the excess 6 cfs available at Hulet Dam and changed the Watermaster record by reducing the recorded flow to Nettleton in MMC by 6 cfs and increasing the Hulet natural flow diversion in MMC by the same amount. Total canal discharge would not have been altered. This method satisfies delivery to the Hulet right, brings Nettleton into compliance, and does not compromise downstream availability to the senior right.

If the second downstream rightholder had made a call on the excess flows on the sample day, this would have required physical adjustment to the Sinker Creek diversions, which the Watermaster would have been unable to accomplish immediately due to lack of controlling works at the Nettleton Sinker Creek diversions. Presently, operation of the Nettleton Sinker Creek diversions are on the honor system based on Watermaster request. Whether Nettleton elected to reduce diversions from the creek or at MMC, Nettleton would still have been responsible for making the adjustments to the diversions to satisfy the downstream rights. Mr. Nettleton is generally compliant, but not always timely. I am not sure of the average lag time between the Watermaster request and the actual adjustment to the diversion. Any significant delay would cause potential injury, but I have not received past complaints of injury from the downstream users.

It is not difficult to refine the Watermaster reporting form to more consistently monitor the availability of gaining flows at MMC. The Watermaster is able to account for available flow at any delivery point with the existing reporting form. Delivery of flows at MMC is also within the Watermaster's immediate control. Delivery protocol at the downstream diversions has always been more lenient. Whether or not this has any compelling influence on our present action remains to be tested. My own feeling is that if stricter accountability is called for at MMC, the Watermaster may not feel comfortable without additional controls downstream.

If Mr. Nettleton continues to cooperate with Sinker Creek diversion adjustment, perhaps there is still not a need at this time to require the installation of control structures on all active Sinker Creek diversions downstream from Hulet Dam. If we begin receiving complaints, I do not see any other alternative. The downstream right at the Tyson Ranch has not been regularly diverted for the past two or three years. The ranch has now been sold and I expect that right will be diverted again beginning this year. This will change the demands on the available flows. Depending on the expectations of the new owner, the Watermaster may need additional controls at the Nettleton diversions to ensure timely deliveries.

Mr. Chapman also seems to voice that time is of the essence, although as of this date the Sinker Creek Watermaster has not yet been called. I have prepared and attached an updated recording form and letter of instruction for the Watermaster, and a letter of notice for Mr. Nettleton. If you feel an Order requiring controlling works is indicated instead, please let me know.