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FYI

FROM: Allen Merritt DATE: May 14, 1996
TO: Norm Young
SUBJECT: Clear Creek Water Dispute

Yesterday I met with Pat Brown, attorney for Ray Jones, and Boyd Baggett, attorney with Roger Ling's office representing Jeff Sessions and Naf Irrigation Company. The purpose of the meeting was to formulate a plan to diffuse the anger between parties in the dispute and come up with a delivery plan for 1996 season. It is my understanding that the parties are in litigation in the SRBA court and the judge is issuing an order directing delivery. (Last Friday Judge Hurlbutt contacted me by phone and asked our agency's cooperation in helping resolve the problem.

Yesterday's meeting was held in southern's conference room and by use of the speaker phone parties from Utah joined in the discussion. The parties from Utah included John Maybe (Utah Attorney General Office), Mike Qualey, Mike Olsen & Bob Farthingham (all from Utah Water Resources).

The dispute seems to revolve around:

- Mistrust of watermaster delivering water.
- Question of location of diversion points in Utah for delivery of Naf Irrigation shares to Ray Jones property in Idaho.

At the meeting the focus was trying to resolve the problem but the Utah officials had reservations about having an Idaho judge issuing an order about diverting water in Utah. They were going to confer about this and review where their proposed findings for the Clear Creek rights are recommended. I have similar reservations about jurisdiction. I do not know how involved IDWR can get in the dispute over diversion of water in Utah and I expressed my reservations to the attorneys. We discussed that ideally the watermaster should be authorized by both states to deliver the Utah decree (Naf Irrig vs Campbell), the Idaho decree (Albion-Idaho vs Jobe Adams) and the decree for turning water between the states (Albion-Idaho vs Naf Irrig). Apparently the waterusers in the area are now polarized between feuding parties and there is no neutral party in the area. We discussed trying to get someone to take on the job of watermaster and we talked about contacting the upper Raft River watermaster (Mr. Hope). (I called him and left a message on his answering machine. To date he has not called back.) The Utah officials gave some suggestions for neutrals to Brown and Baggett to check out. I suggested that maybe the water could be turned by two people, one representing each party but the lawyers didn't think that would work. It was agreed that we would meet with a conference call to the Utah officials again on Thursday at 5:00pm at our office.

I see IDWR's involvement in encouraging delivery by a watermaster jointly authorized by both states and splitting the water according to the Albion-Idaho vs Naf Irrig. decree. (Actually after our offices discussions with watermaster in 1994 and 1995 it seems everyone was in agreement with the manner in which water is delivered between states according to 1937 decree. Particularly, measurement to determine splitting the water is to be measured at or near the old gaging station near mouth of Clear Creek Canyon above much of the irrigation diversions as opposed to measuring the water at the diversions.)

If you have suggestions about something else we should be doing to facilitate resolution please let me know.

Thanks

Allen