

## Young, Norm

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**From:** Jones, Doug  
**Sent:** Monday, February 08, 1999 2:57 PM  
**To:** Young, Norm; Merritt, Allen  
**Subject:** Clear Creek

### MEMO

Sequence of events:

5/11/98 1. Day 1 of hearing on Interim Administration

5/22/98 1. Day 2 of hearing

2. Presiding Judge's Ruling from Bench and subsequent debate and obfuscation of original content.

5/26/98 1. Call from Jeff Sessions stating:

- a. 3.1 cfs rotation not occurring
- b. 3.1 cfs should go to Sessions for 6 add'l hrs in 3 day rotation (?)
- c. Holmgren may not get water without headgate and measuring device.
- d. Wants schedule for rotation written down.
- e. Has gone 4 days without water after short 2 day rotation.
- f. If creek is up to 100 cfs then all rights should be delivered.

2. Called Dave Sundberg - no answer

3. Called Jay Harper, 43-A Advisory Board Member, Apprised him of situation and he would try to find Sundberg.

4. Called Tim Luke.

5/27/98 1. Call from Sundberg

- a. Talked about irregularities in rotation
- b. Drafted concept of prorated rotation based on different recommended flow rates.
- c. Indicated that he should deliver Settlers Right to Sessions if it didn't interfere with delivery of ALL of Joneses rights up to capacity of "East Ditch".
- d. Sundberg wanted this in writing. I thought that was a good idea, but wanted to talk to

Sessions and Brown.

e. Called Jeff Sessions - no one home

5/28/98 1. Called Jeff Sessions:

- a. Rotation proposal ok.
- b. Limitation that pivot couldn't be used if Settlers wasn't delivered.
- c. Flow level of Clear Creek not real high yet.
- d. Problems with his weir, flume would work better.

2. Called Dave Sundberg

a. Confirmed rotation schedule

b. Flow level of Clear Cr and delivery of Settlers. Hoskins and Jones only & not enough for those two without fudging Stewart's right (which he did).

3. Called Pat Brown - left message asking after draft order.

4. Called J. Miciak at Ct. about draft order filing - left mssg, did not call back.

6/1/98 1. Call from Pat Brown - he left voice mail message.

6/3/98 1. Received copy of "Draft" Order modifying Interim Administration, Nasty cover letter, partial transcript.

2. Faxed same to you, Dave Tuthill, Nick Spencer and Tim Luke with my cover memo tirade.

6/5/98 1. Received Ling's Objection to proposed Order on Interim Admin. and Nasty cover Letter.

2. Faxed same to you.

7/9/98 1. Received signed, dated (6/3/98(!)), Order from SRBA CT by fax.

I did not write a letter outlining delivery of the Settlers right (11/23/1911) since Pat Brown's draft Order was signed without input from participants obviated its validity. The order, as drafted and signed, unequivocally prevents delivery of Settlers to Sessions (Merle Jones) in 1998. Sessions was recommended a flow rate under Settlers in the Preliminary Director's Report and this right remains valid, regardless of Interim Administration (i.e. direction for delivery of rights). In the absense of written Order it was my impression that as long as Jones could take all his rights to the north place, and not interfere with the rotation, then Sessions could divert his Settlers up to the capacity of the ditch.

There were more than the three issues outlined by Sundberg which were addressed in the hearings on 5/11 & 5/22. One of the results is NOT that "Sessions does not have Settlers Right".

The rotational schedule is based on prorated time per recommended flow rates. My impression was that the 1996 or 97 preliminary order was no longer effective and that the Preliminary Director's report provided sufficient information to give Direction to the Watermaster/Harold Jones representative. During discussion on the rotation Sundberg did not refer the matter to Harold Jones, nor did he refer to the preliminary delivery order. I recall bringing up rotational agreements between users as being between users and that IDWR does not require them. I do not recall Dave asking for written specification of the schedule we merely discussed the workable parameters. With regard to the Settlers right Sundberg rightly wished to have written confirmation that IDWR was directing him to deliver the Settlers right.

If Dave is implying that there are "favors" in this business then he doesn't know me, the Department, or civilized water delivery. End, period!

Since the matter of the draft order was referred to Mr Brown perhaps Dave could ask him why it took 11 days to generate it. Dave's controversy accusations are founded in the vacuum of the delayed order.