



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

January 25, 1999

**DIRK KEMPTHORNE
GOVERNOR**

Dave Sundberg
Watermaster, Water District 43-B
Box 1
Malta, ID 83342

**KARL J. DREHER
DIRECTOR**

Re: Coordination of Monitoring and Delivery of Water on Clear Creek between Idaho and Utah

Dear Dave,

Attached to this letter is a copy of the notes summarizing the procedures for coordinating distribution of Clear Creek between Idaho and Utah that were discussed in the meeting held last year in Malta on June 18th. Note also a copy of a letter from Lee Sim from the Utah Division of Water Rights which confirms that the same summary has been sent to Vern Kempton, Utah River Commissioner for Clear Creek. Sim has instructed Kempton to include this summary in the Commissioners Report.

For the record, Sim's summary agrees with the notes that I took at the same June 18th meeting. Norm Young had reviewed both sets of notes and advised to use those of Sim's to summarize the procedures for coordination between you and Kempton.

I am forwarding a copy of the attached summary to all of the Idaho Clear Creek water right holders, as well as the water district advisory committee. A mailing list of those receiving this correspondence is attached. I apologize for not sending this summary out sooner. I certainly did not intend to overlook distributing it. As you recall, I did ask you about this matter at the January 15 water district meeting and promised to get the summary out as soon as possible. I also briefed the users about this issue at the meeting.

In a related matter, I wish to inform you that the Department will provide a response to your six-page letter dated December 14, 1998. We received this letter on January 19, 1999. It will take us some time to prepare a response given the number of events and allegations contained in your letter. I am surprised that you did not raise some of these issues at the recent water district meeting.

Sincerely,

Tim Luke
Water Distribution Section

cc: Allen Merritt, Southern Region

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State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

RECEIVED

JAN 25 1999

Department of Water Resources

Michael O. Leavitt
Governor
Kathleen Clarke
Executive Director
Robert L. Morgan
State Engineer

1594 West North Temple, Suite 220
PO Box 146300
Salt Lake City, Utah 84114-6300
801-538-7240
801-538-7467 (Fax)

January 21, 1999

Tim Luke
Idaho Department of Water Resources
1301 North Orchard St.
Boise, Idaho 87320

Dear Tim:

In accordance with your request, I am attaching a copy of the procedures for coordinating distribution of Clear Creek between Idaho and Utah that were discussed at our meeting last year on June 18th.

I have sent a copy of the same document to Vern Kempton, Utah River Commissioner for Clear Creek and have instructed him to include it in the Commissioners Report for 1999 which will be distributed to each of the Utah water users on Clear Creek.

Please contact me if any other questions come up concerning this issue.

Sincerely,

A handwritten signature in cursive script that reads "Lee H. Sim".

Lee H. Sim, P.E.
Assistant State Engineer
for Adjudication and Distribution

DISTRIBUTION OF THE FLOWS OF CLEAR CREEK

The following is from notes taken at a meeting held in Malta, Idaho on June 18, 1998. Those in attendance were Norm Young, Tim Luke, and Allen Merrit (State of Idaho); Dave Sundberg (Idaho watermaster); Lee Sim and Bob Fotheringham (State of Utah); Vern Kempton (Utah commissioner); and Mont Campbell (Utah wateruser).

DESCRIPTION OF WATER DISTRIBUTION PRACTICES

The basis of distribution in Utah has been the Christensen Decree, the Johnson Decree, and the Naf Irrigation Company rules (the company shareholders divert directly from Clear Creek rather than from a main company canal, so the Utah commissioner distributes water among shareholders). The distribution of water according to these documents was described as follows:

Depending on the weather, the Utah irrigators will start using water sometime in April or early May - the creek is usually at about 3 cfs at this point. The water continues to be entirely used in Utah until the flow increases to an average of 20 cfs or more for a period of 24 hours. The Johnson decree said this flow was to be determined by adding the measurement made at the USGS gaging station with the measurements made at the diversions above the gaging station. After the gaging station was abandoned, they started determining the flow by adding the measurement taken at the "stage crossing" (Kempton's diversions) and adding it to the measurements of the diversions above the "stage crossing". In 1995, in an effort to more closely follow the decree, they began taking measurements at the "temporary weir" (just below the old USGS gaging station and near the Sundberg and Campbell diversions) and adding the diversions above the "temporary weir" to determine the flow of the creek. There are six measurements that must be made to make this determination: two Scofield diversions, two Sundberg diversions, one Campbell diversion, and the flow over the "temporary weir". It was generally agreed at the meeting that measuring the water at these points would provide an adequate representation of the flow of the creek.

After the flow reaches an average of 20 cfs, it is turned down to the Idaho water users. They use the entire flow of the creek, except the Scofield right to 0.33 cfs and the Naf I.C. right to 0.5 cfs, until they have taken a volume of 560 acre feet. The flow used to determine this volume is measured at the Idaho weir.

Once the 560 acre feet has been delivered to the Idaho water users, the flow of the creek is then split between the water users - 57% to the Idaho water users and 43% to the Utah water users. The Idaho water is measured at the Idaho weir and the Utah water is the sum of the measurements taken at each of the diversions in Utah. The sum of the Idaho weir and the Utah diversions is taken to be the total flow of the creek. The water continues to be distributed on this basis until a total of 720 acre feet has been delivered under the 57%- 43% split.

After 720 acre feet has been delivered, if the flow of the creek is still above 36 cfs the water continues to be distributed according to the 57% - 43% split. If the flow drops below 36 cfs, then the entire flow goes to Idaho for 12 days (the "12 day run") except the Scofield right to 0.33 cfs and the Naf I.C. right to 0.5 cfs. After 12 days, the water is again split between the water users in the two states according to the 57% - 43% split until the flow of the creek drops to 17 cfs.

Once the flow of the creek drops to an average of 17 cfs for 24 hours, the entire flow is kept for use in Utah. This usually occurs in the end of July or August, however, any time the creek drops to an average of 17 cfs or below for 24 hours during the distribution season, the entire flow of the stream is kept for use in Utah.

PROCEDURES FOR COORDINATING THE DISTRIBUTION EFFORTS OF THE UTAH COMMISSIONER AND THE IDAHO WATERMASTER

DETERMINING WHEN THE FLOW SHOULD BE RELEASED TO IDAHO IN THE SPRING

The Utah commissioner will take measurements at the "Temporary Weir" and at the diversions above between 7:00 a.m. and 10:00 a.m. When the flow of the creek reaches 10 cfs, the Utah commissioner will begin posting each of these measurements plus the total creek flow at the Naf store by noon each day. When the creek flow reaches 12 cfs, the Utah commissioner will notify the Idaho watermaster. When the average of the current day's total creek flow and the previous day's total creek flow (based on the measurements posted at the Naf store) is equal to or greater than 20 cfs, the water will be released to Idaho. The Utah commissioner will contact the Idaho watermaster when he believes it is likely that the water will be released to Idaho the next day. Once the determination has been made that water should be released to Idaho, the Utah commissioner will immediately begin to open the control structures on the Utah diversions to release the flow downstream. He will begin at the lowest diversion on the Utah system and continue up the system until all control structures have been opened. Creek flow measurements will not be posted at the Naf store after the water has been released to Idaho.

DETERMINING WHEN THE 57% - 43% SPLIT SHOULD BEGIN

After the water has been turned to Idaho, the Utah commissioner will monitor the flow of the creek at the Idaho weir. When it appears that delivery of the 560 acre feet will be completed in the next day or so, the Idaho watermaster and the Utah commissioner will coordinate with each other about the start the 57% - 43% split. The Idaho watermaster will determine when the 560 acre feet has been delivered and the split should begin.

REVIEW OF WATER MEASUREMENT PRACTICES IN UTAH

At any time during the season, if the Idaho watermaster desires to accompany the Utah commissioner on his rounds, he should make arrangements with him the night before. It is anticipated that this will occur three times a season, however, more times a season will not create a problem as long as arrangements are made the night before.

There was a general consensus that because of the time of year the first and second of the procedures listed above would be implemented starting in 1999 and the third would be implemented immediately. These procedures are subject to review and may be modified from year to year as the need arises and as the Utah commissioner, Idaho watermaster, and the Utah and Idaho state officials can agree.

Certificate of Mailing

I hereby certify that I mailed a true and correct copy, postage prepaid, of the foregoing letter addressed to Dave Sunberg, January 25, 1999, and a copy of a letter addressed to Tim Luke, January 21, 1999, with attachments to the following persons:

Arimo Corporation
C/O Christopher F Robinson
139 East South Temple
Salt Lake City UT 84111

Douglas G Freestone Sr
Arimo Corporation
C-Bar Cattle Company
HC 72 Box 2256
Malta ID 83342

Boyd I Hoskins
C/O NAF Store
Strevell Rd Box 2350
Naf ID 83345

James Holmgren, Secretary
Holmgren Land & Livestock
785 North 350 East
Tremonton UT 84337

Steven Holmgren, Vice President
Holmgren Land & Livestock
785 North 350 East
Tremonton UT 84337

Harold A Jones
Sublett Route
Malta ID 83342

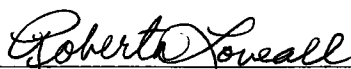
Ray Jones
Sublett Route
Malta ID 83342

Merle Jones
HC 72 Box 2346
Malta ID 83342

Jeff Sessions
Round Mtn Ranch
HC 72 Box 2346
Malta ID 83342

Reid Stewart
1655 Sunset Drive
Logan UT 84321

Dated this 26th day of January, 1999



Roberta Loveall, Sec.
Water Distribution Section

*Copies also sent to
Jay HARPER, Doug
Freestone & Roscoe
WARD, all Advisory
committee members.
T Luke
1-27-99*