

TO: WATER DISTRICT 13N (MINK CREEK) FILE  
FROM: NORM YOUNG *NY*  
RE: COMPLAINT BY PETE PETERSON THAT WATER HAD BEEN  
IMPROPERLY CURTAILED FOR HIS USE  
DATE: AUGUST 13, 1994

*Low Case*  
*5KIP*  
**RECEIVED**

AUG 17 1994

Department of Water Resources  
Eastern District Office

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In a series of telephone conversations with Pete Peterson, Bob Erickson (district 13N watermaster), and Leon Beckstead (Preston-Mink Creek-Riverdale Canal Co ditchrider), Jim Johnson and I understand the following to be the pertinent points concerning this issue:

Peterson's complaint: Peterson is a shareholder in the canal company taking water from the lower of the company's two main canals diverting from Mink Creek. The company advised him that he has used more than his allotment for this year. Beckstead curtailed deliveries to Peterson on August 12, 1994 and asked Erickson to reduce the flow in the lower canal, allowing more of the Company's right to be diverted through the upper canal. The company has a decreed right allowing use of up to 36 cfs (Right #11-0840). Under Transfer #2071 approved in 1977, the company was allowed to divert 30 cfs at the new (in 1948) upper canal and 6 cfs at the lower canal.

Peterson contends that this transfer should be interpreted as requiring a prorated split between upper and lower canals of the available water whenever the full 36 cfs is not available. He further contends that he has shares in a natural flow right, that this is not subject to an annual volume allotment but allows him to take his proportionate share of the flow at any and all times during the season. Because some water is available under the right (about 20 cfs on August 12, 1994), Peterson contends that he and others on the lower canal should be getting some water delivered. A brief check of Water District 13N delivery records, confirmed that in recent years, the lower canal continued to receive water during periods when total diversions by the company were less than 36 cfs.

Beckstead's response: The company, after years of complaints from users on the upper canal about unequal delivery of water, and upon advice of attorney Steve Fuller, instituted this year an allotment procedure to deliver an equal volume of water to each share regardless of where it is located in the canal company system. Notice of this change was given to all users earlier this year (June 1?). Peterson, and all other shareholders, were given an allocation which was subsequently reduced because of drought conditions. Peterson now has an allocation of about 45 af and has used 86 af since June 1, not counting diversions earlier in the year.

IDWR response: I told both Peterson and Beckstead that IDWR would look to the authorized official of the company holding the water right to make the call for the water. Peterson as a shareholder is not authorized to make a call to IDWR or the watermaster of District 13N under the right held by the company. He may, however, have a right to demand water be delivered by the company in accordance with his shares in the company, its bylaws, laws of the state affecting company operation, and past delivery practice.