



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

LEE SIM

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17 June 1999

John Hafen, President
Pinto Irrigation Company
647 West Diagonal Street
ST GEORGE UT 84770

RE: WATER USE UNDER "HIGBEE DITCH" - CHANGE APPLICATION a21695

Mr. Hafen:

The referenced change application was approved on 27 November 1998 by a Memorandum Decision of that date. As a condition of that approval, it was required that:

"All diversion structures utilized by the applicants shall be equipped with appropriate lockable controlling works and measuring devices as required by statute."

Yesterday, in the company of John Larsen of the State Engineer's Distribution Section and J. Loren Nelson, the new Distribution Commissioner for the area, we visited the three Pinto Creek diversions for which your company has rights. The East Ditch and West Ditch diversions were found to be in compliance with the quoted condition, but there was no measuring device evident on the Higbee Ditch diversion.

You are hereby advised that continued use of this diversion without the installation of a proper measuring device constitutes an unauthorized diversion and use of water and could subject your company to certain legal actions. Such actions may include an order from the State Engineer to cease use of water at this diversion and the filing of civil litigation.

You are advised to take prompt actions to rectify this situation. You should also assure that the necessary permits for access and use from the US Forest Service have been properly acquired. Please respond to this letter within 14 days regarding your company's plans to resolve this matter.

Sincerely,

Kerry Carpenter, P.E.
Regional Engineer

pc: Lee Sim, Assistant State Engineer - Appropriations
J. Loren Nelson, Distribution Commissioner
Kendrick J. Hafen / PO Box 623 / SANTA CLARA UT 84765