



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

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RECEIVED

JUN 23 1995

WATER RIGHTS
CEDAR CITY

June 22, 1995

Larry Maycock
50 S 300 W
Minersville, Ut 84752

Re: Rocky Ford Irrigation Company

Dear Larry:

I am sorry it has taken me so long to respond to you. After our telephone conversation on June 1, I reviewed the copy of the 1953 agreement that you sent me by facsimile. As far as I can tell, we do not have a copy of it on our distribution files. Also, we cannot find any evidence that the agreement was ever decreed by the court. It appears to be a stipulation among water users describing their agreement about how water should be distributed between their respective rights.

It is difficult to say whether the agreement was signed, the printing in both signature blocks appears to have been written by the same hand. However, assuming it is valid, the agreement would have the same authority as any other stipulation among water users. The state engineer would rely on it in distributing water between the parties as long as both parties continued to agree to live by its conditions. There is no penalty if either party decides not to abide by the agreement. Before we would be willing to instruct the commissioner to distribute water according to the agreement, both parties would need to send a written statement to the state engineer re-confirming their acceptance of the terms of the agreement and we would need to assure ourselves that other earlier or equal priority water rights would not be impaired.

We are concerned, however, that the terms of the agreement seem to be considerably different than directions given in the Beaver River Decree. Page 54 of the decree states:

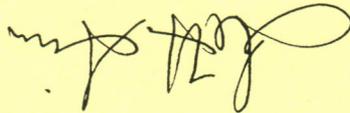
"That the users from the Beaver River below the Patterson Dam shall not be entitled to demand any water from above said dam during the irrigation season from April 1st to October 31st until the rights herein decreed to the users from said river at and above said dam have first been satisfied in the amount of 161.35 c.f.s. and until the storage rights of the Kents Lake Reservoir Company and Beaver City in the Kents Lake Reservoir and the South Bench Reservoir and Irrigation Company's storage right in Twin Lake Reservoir as herein decreed have first been satisfied; ... " (bold and underline added)



This paragraph appears to dictate that both direct flow rights up to 161.35 cfs and the storage rights are to be filled before water is to be bypassed for storage in Minersville Reservoir.

I hope this clarifies the State Engineer's position on this issue. If you have any other questions concerning it, please contact me at 538-7380.

Sincerely,



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

cc: Kerry Carpenter
Ron Roberts