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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

June 14, 2010

Rocky Ford Irrigation Company
Attn: Mark Truman, President
PO Box 49
Minersville, UT 84752

Dear Mr. Truman,

I am in receipt of your letter signed March 23, 2010, and received in our office on March 29, 2010. The press of other priorities has prevented me from responding before now. I will address your concerns by the numbered points in your letter (copy attached):

- 1) Most of the water rights on the Beaver River sold for use at Elk Meadows / Mount Holly have evidently not been placed to beneficial use due to the stalled development at the resort area. Until proof is submitted on the changed water rights, they may be used at either location, so we must assume they are still being used on the Beaver River.
- 2) Instructions provided by State Engineer to the Beaver River Water Commissioner are, in summary, to divide and distribute water by priority date and flow, and to monitor and measure the flow and quantity of water diverted. The division and distribution of water are to be guided by the Beaver River Decree dated November 13, 1931, ("BRD") as it has been amended by the court or supplemented by applications subsequently approved or perfected. As I understand it, much of the routine monitoring is being done in the same way as it was under the previous Commissioner, Ron Roberts. These instructions were supplemented by the Interim Distribution Order issued in 2005 regarding regulation of reservoir storage, a copy of which was provided earlier to Rocky Ford Irrigation Company.
- 3) Although a Proposed Determination of Water Rights ("PD") was published in 1969, it has not been decreed, so, in accordance with state law (UCA §73-4-11(3)), distribution of water on the Beaver River is governed by the BRD, subject to amendments by the court and any subsequent approved or perfected applications. The irrigation duty described in the PD is a "field headgate requirement" of 4.00 acre-feet per acre that would need to be determined at each irrigated field. In contrast, the measurements taken by the Water Commissioner are "canal headgate" diversion amounts that are recorded and reported annually. The PD states that allowances for canal transmission losses are not included in the PD. Since distribution is governed by the BRD and not the PD, diversions from the river are based on the decreed flow, not the duty.
- 4) The Division is working with the Patterson Dam water users and the Water Commissioner in pursuit of appropriate remedies. The Division has previously required the installation of a control gate on the ditch at the Patterson Dam to regulate flows, which has been installed. After spring runoff, the available flow at the dam is typically less than that to which the water users are entitled, so a dry dam of the stream is appropriate. The earthen



Page 2

June 10, 2010

Subject: Rocky Ford Letter Response

berm used to divert water into the ditch is purposely intended to wash out during larger surge flows to prevent filling the ditch with sediment.

- 5) You submitted a number of enforcement referrals subsequent to your original letter. The response from the enforcement engineer will be under separate cover.
- 6) Our ongoing work this summer will focus on upgrades to the measuring devices on the Beaver River system. The Division would very much like to see a sustainable measuring system on the Beaver River that is not subject to disruption by yearly flooding. This goal will require working with each water user that has a diversion on the system along with the multiple entities that are informally grouped by ditch system at each diversion.
- 7) The wells in Beaver Valley are not currently regulated as part of the Beaver River Distribution System. It has been the Division's experience that regulation of ground water use is most effectively done by mapping and monitoring irrigated acres rather than the use of water meters. The Division's resources for ground water regulation by mapping are very limited. Those limited resources are currently being focused in Parowan Valley and Cedar Valley. It will be a number of years before this type of effort can be contemplated for Beaver Valley.

We appreciate your interest in the distribution of water on the Beaver River. The Division has been working on a number of Beaver River issues and will continue to address these during the coming field season with the Water Commissioner and the water users.

We welcome any constructive contributions you may wish to make to assist the Water Commissioner in accomplishing a difficult task. If you have any questions regarding this letter please contact me by phone at 801-538-7430 or by e-mail at MikeSilva@utah.gov.

Respectfully,



Mike Silva
Distribution Engineer

Enclosures

cc: Kurt Vest, Regional Engineer
Kerry Carpenter, Enforcement Engineer
Steven Gale, Beaver River Water Commissioner