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IN THE DISTRICT COURT OF THE EIGHTH JUDICIAL DISTRICT
IN AND FOR DUCHESNE COUNTY, STATE OF UTAH

IN THE MATTER OF THE GENERAL DETER-)	MOTION OF STATE ENGINEER
MINATION OF ALL THE RIGHTS TO THE)	FOR ORDER OF DISTRIBUTION
USE OF WATER, BOTH SURFACE AND UN-)	
DERGROUND, WITHIN THE DRAINAGE AREA)	
OF THE UINTA BASIN IN UTAH.)	Civil No. 560800056CV

During those irrigation seasons when there has been insufficient water to satisfy existing rights, the waters of the Duchesne-Strawberry River System have been distributed pursuant to Orders from this Court. These Orders have been without prejudice to the claims of the parties in any subsequent proceedings in this action, and have been considered an interim distribution practice while the State Engineer and the parties gathered additional data concerning the duty of water and addressed other issues encompassed within this statutory adjudication of water rights. Progress has been made on certain of these matters, but there still remain unresolved issues such as the rights claimed by the Ute Indian Tribe. The State of Utah and the Ute Indian Tribe have attempted

to quantify the Tribe's water rights by Compact. The Compact was ratified by the Utah Legislature in 1980. Approximately nine years ago, intensive negotiations between the State, the Tribe, the Central Utah Water Conservancy District and the United States took place, and a revised Compact was tentatively agreed to. Congress passed legislation ratifying the revised Compact, and the same is awaiting ratification by the Tribe via referendum election. In order to address additional items of concern to both the Tribe and the State, further negotiations are on-going. The revised Compact will then go to the Utah Legislature for re-ratification.

The flows in the Duchesne-Strawberry River System in 1982, 1983, 1984, 1986, 1997 and 1998 were sufficient to satisfy existing demands, and it was not necessary during those years to place the System on a delivery schedule. However, after consultation with the Duchesne River Commissioner and after reviewing snowpack data, the State Engineer believes it will again be necessary to place the System under regulation for the 1999 irrigation season.¹

In past dry years, water has been distributed to all users based on a single distribution schedule prepared by the State Engineer and adopted by this Court in 1980, 1981, 1985, 1987 and

¹ Even though this Court issued a distribution order for the 1995 irrigation season, late spring precipitation and cooler temperatures kept river flows up, and it was not necessary for the River Commissioner to impose the delivery schedules in 1995.

1988. In 1989, 1990, 1991, 1995 and 1996, based on additional data and information and pursuant to input received by the State Engineer from the water users of the Duchesne-Strawberry Distribution System, the State Engineer slightly modified the distribution schedule, providing for the division of the River into three "zones" for more efficient distribution. The State Engineer proposes to continue with that modification for this year. The water users heretofore have not objected to such modifications.

Based on the Court's ruling on the 1990 interim distribution Order, and since the State Engineer is of the opinion that a four (4) acre-foot duty is both reasonable and proper, the State Engineer recommends a four (4) acre-foot duty for the 1999 irrigation season. This is the same duty the Court has adopted since at least 1980.

A copy of the proposed interim distribution schedule for the 1996 irrigation season is attached hereto as Exhibit "A", and the State Engineer believes that water should be distributed in accordance with this schedule.

In 1990 and 1991, the State Engineer had discussions with representatives of the United States Bureau of Reclamation and the Central Utah Water Conservancy District regarding the use of Starvation Reservoir as a regulating device to allow direct flow water users (upon making appropriate arrangements with the

District) to use their water more efficiently by retaining water in Starvation Reservoir on a short-term basis when such users are cutting hay or harvesting crops. This process has been implemented--to a limited extent--since 1992, and has worked fairly smoothly. The State Engineer requests that the Court allow for such practice--to be administered by the River Commissioner--so long as other rights are not impaired, and so long as such users have in place adequate measuring devices approved by the State Engineer.

The distribution Order proposed herein was presented to and discussed with representatives of water users of the Strawberry-Duchesne River System at a meeting held on February 3, 1999, in Duchesne, Utah. The representatives of the water users were in agreement with and expressed support for the distribution schedule as herein proposed.

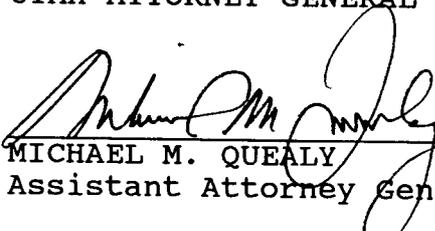
In meetings with the Uintah Basin Irrigation Company, they expressed concern that even though the distribution schedule proposed is without prejudice to any claims, the continued entry of such Orders may operate as some sort of estoppel to their claim for a higher duty of water. The State Engineer wishes to emphasize that such is not the case, and that nothing in this or past Orders is intended to prejudice the ultimate claims of any party.

The State Engineer respectfully moves this Court for an Order adopting the attached distribution schedule to govern distribution of water on the Duchesne-Strawberry River System, and directing the Duchesne River Commissioner to distribute the waters of said System as necessary in accordance with the attached schedule as proposed by the State Engineer.

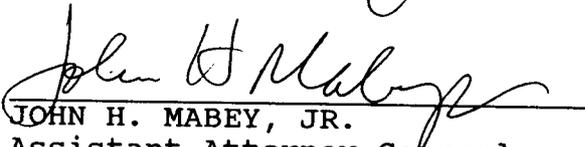
Copies of this Motion are being served on all interested parties in order to allow them to comment on or object to the distribution order prior to its taking effect.

DATED this 9th day of June, 1999.

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EXHIBIT "A"

Proposed Delivery Schedule for Zone I Duchesne River

May 1 - October 15, 4.0 Acre-Feet per Acre.

<u>PERIOD</u>		<u>DUTY</u>		<u>DELIVERY</u>	
Date	No. Days	CFS/Acres	Ac. Ft. Day	Ac. Ft. Period	Accum. Ac. Ft.
(1)	(2)	(3)	(4)	(5)	(6)
May 1-15	15	1/100	0.01983	0.298	0.30
May 16-31	16	1/60	0.03306	0.529	0.83
June 1-15	15	1/60	0.03306	0.496	1.32
June 16-30	15	1/65	0.03051	0.458	1.78
July 1-15	15	1/70	0.02834	0.425	2.21
July 16-31	16	1/80	0.02479	0.397	2.60
Aug. 1-15	15	1/80	0.02479	0.372	2.98
Aug. 16-31	16	1/85	0.02333	0.373	3.35
Sept. 1-15	15	1/100	0.01983	0.298	3.65
Sept. 16-30	15	1/150	0.01322	0.198	3.84
Oct. 1-15	15	1/200	0.00991	0.149	3.99

*Zone I includes the lands irrigated between the headwaters of the Duchesne River and the bridge (locally known as Williams Bridge) on State Route 35 just above the confluence of Rock Creek with the Duchesne River.

EXHIBIT "A"

Proposed Delivery Schedule for Zone II* Duchesne River

April 20 - October 15, 4.0 Acre-Feet per Acre.

<u>PERIOD</u>		<u>DUTY</u>		<u>DELIVERY</u>	
Date	No. Days	CFS/Acres	Ac. Ft. Day	Ac. Ft. Period	Accum. Ac. Ft.
(1)	(2)	(3)	(4)	(5)	(6)
Apr. 20-30	11	1/145	0.01368	0.150	0.15
May 1-15	15	1/100	0.01983	0.298	0.45
May 16-31	16	1/85	0.02333	0.373	0.82
June 1-15	15	1/60	0.03306	0.496	1.32
June 16-30	15	1/65	0.03051	0.458	1.78
July 1-15	15	1/70	0.02834	0.425	2.21
July 16-31	16	1/80	0.02479	0.397	2.61
Aug. 1-15	15	1/80	0.02479	0.373	2.98
Aug. 16-31	16	1/85	0.02333	0.373	3.35
Sept. 1-15	15	1/100	0.01983	0.298	3.65
Sept. 16-30	15	1/150	0.01322	0.198	3.85
Oct. 1-15	15	1/200	0.00991	0.149	4.00

*Zone II includes the lands irrigated between the bridge (locally known as Williams Bridge) on State Route 35 just above the confluence of Rock Creek and the Duchesne River and down to the confluence of the Strawberry River with the Duchesne River.

Proposed Delivery Schedule for Zone III* Duchesne River

April 1 - October 15, 4.0 Acre-Feet per Acre.

<u>PERIOD</u>		<u>DUTY</u>		<u>DELIVERY</u>	
Date	No. Days	CFS/Acres	Ac. Ft. Day	Ac. Ft. Period	Accum. Ac. Ft.
(1)	(2)	(3)	(4)	(5)	(6)
Apr. 1-15	15	1/160	0.01240	0.186	0.186
Apr. 16-30	15	1/160	0.01240	0.186	0.372
May 1-10	10	1/125	0.01587	0.159	0.531
May 11-20	10	1/90	0.02204	0.220	0.751
May 21-31	11	1/80	0.02479	0.273	1.024
June 1-10	10	1/70	0.02834	0.283	1.307
June 11-20	10	1/70	0.02834	0.283	1.590
June 21-30	10	1/75	0.02645	0.265	1.855
July 1-10	10	1/75	0.02645	0.265	2.120
July 11-20	10	1/80	0.02479	0.248	2.368
July 21-31	11	1/80	0.02479	0.273	2.641
Aug. 1-15	15	1/80	0.02479	0.372	3.013
Aug. 16-31	16	1/85	0.02333	0.373	3.386
Sept. 1-15	15	1/100	0.01983	0.297	3.683
Sept. 16-30	15	1/150	0.01322	0.198	3.881
Oct. 1-15	15	1/250	0.00793	0.119	4.000

*Zone III includes all the lands irrigated below the confluence of the Strawberry River with the Duchesne River.