



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

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February 15, 1996

To the Deep Creek Water Users:

re: Appointment of Water Commissioner for 1996

Section 73.5.1 of the Utah Code Annotated, 1953, as amended, states in part:  
"The State Engineer shall consult with the water users before appointing a commissioner. The form of the consultation and notice to be given shall be determined by the State Engineer so as to best suit local conditions, while providing for full expression of majority opinion. If a majority of the water users, as a result of such conditions agree upon some competent person to be appointed as water commissioner, ... then the State Engineer shall act in accordance with their recommendations. If a majority of water users do not agree as to such matters, then the State Engineer shall make a determination for them."

Several years ago, the Deep Creek water users agreed to the method for determining who they would recommend for commissioner. According to this method, the Mosby Irrigation Company would first make a recommendation at the annual meeting. The water users who own Deep Creek water rights would then vote to determine if they would support the recommendation. If not, they would vote to determine their recommendation for commissioner. The Mosby Irrigation Company would then have the opportunity to accept or reject the recommendation made by the Deep Creek water right owners. This process was supposed to go back and forth until both groups agreed on a recommendation for water commissioner.

At the 1996 annual meeting, the Mosby Irrigation Company recommended that Dean Clerico be the water commissioner for 1996. The Deep Creek water right owners rejected this recommendation and voted that Charmin Justice be the 1996 water commissioner. The Mosby Irrigation Company shareholders were represented at the meeting by their president and he declined to accept or reject the recommendation without a shareholder vote. No irrigation company meetings are planned for the near future, so the matter remained deadlocked at the end of the annual meeting.

In this situation, according to the statute quoted above, it becomes the State Engineer's responsibility to make a determination on who the commissioner should be. Charmin Justice has served as commissioner on Deep Creek for a number of years. Based on our experience, it appears she has a record of regulating the distribution of water fairly and equitably. We see no definite reason to change commissioners at this time. A change in commissioners would be better accomplished if

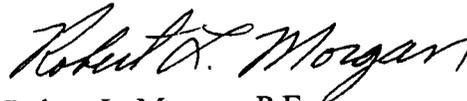


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the majority of the water users were in favor of it. That does not seem to be the case in this situation. She has expressed a willingness to continue as commissioner, therefore **Charmin Justice will be re-appointed as the water commissioner on Deep Creek for 1996.**

If you have any questions concerning this appointment, please contact Lee Sim, Assistant State Engineer for Distribution, at 538-7380 or Bob Leake, Regional Engineer, at 781-5327.

Sincerely,



Robert L. Morgan, P.E.  
State Engineer

cc: Lee Sim  
Bob Leake  
Charmin Justice