



JON M. HUNTSMAN, JR.
Governor
GARY R. HERBERT
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

MICHAEL R. STYLER JERRY D. OLDS
Executive Director *State Engineer/Division Director*

April 28, 2005

Gino Foianini
1248 CR 238
Lyman, WY 82937

Dear Mr. Foianini:

Your letter of March 18, 2005, to Jerry Olds, has been referred to me for response. After reviewing our records, the following is a compilation of my findings.

During the 1950's and early 1960's, the water rights within the drainage area of the Green River above the confluence of, but including Pot Creek 41 in Utah, were adjudicated. The water rights for the Gregory Basin were adjudicated at that time. During the adjudication process hydrographic surveys were conducted, the irrigated lands were mapped, water user's claims were prepared, Proposed Determinations were prepared, and an interlocutory decree was signed in 1964. It is the understanding of this office that you now own the water rights in the Gregory Basin Canal, which were owned by Francis L. Gregory, Pearl L. Bullock, and Norma S. Carlisle. However, our records still reflect the ownership as listed in the Proposed Determination. According to the proposed determination, it appears that there are 286.47 acres irrigated under those rights. The earliest priority is 1900 and the maximum diversion rate associated with that priority is 2.0 cfs. The second priority is May 10, 1910, and the maximum diversion rate associated with that priority is 7.0 cfs

In February 1994, a ballot was sent to each Utah water user on the Beaver Creek system regarding distribution of water. The water users voted unanimously to adopt a Wyoming like duty of 1 cfs per 50 acres (1/50), as proposed by Wyoming, rather than be limited to the adjudicated 3.0 acre-feet per acre duty. A delivery schedule based on the duty of 1/50 was included with the ballot. It was brought to our attention during that irrigation season that there was an error regarding your 1900 priority water rights as listed in the delivery schedule. The error was corrected August 15, 1994, by revising the delivery schedule to reflect your 1900 priority water rights as 2.0 cfs for 100 acres and your 1910 priority water rights as 3.69 cfs for 185.19 acres. A new commissioner was appointed the following year. Early this winter, you talked to me and expressed your concern that you have not been receiving enough water for your 1900 priority. After researching the matter it was found that the water commissioner, Todd Covolo, did not have a copy of the revised delivery schedule and was unaware that it had been revised. Copies of the revised schedule were hand-delivered to you, the water commissioner and John Yarbrough following the 2005 annual distribution meeting.

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However, another discrepancy has been found regarding your water rights listed in the revised delivery schedule. The delivery schedule should reflect your 1910 water rights as 1.73 cfs for 186.47 acres. Attached is a new delivery schedule (revised April 22, 2005), reflecting the above change and the water commissioner will be directed to deliver water according to the new schedule.

Hopefully, this corrected schedule will alleviate any further problems in the delivery of your water. If you have any questions, or if we can be of further assistance, please feel free to call our office at (435) 781-5327.

Sincerely,



Robert W. Leake, P.E.
Regional Engineer

RWL:bmw

Attachment

PC/w attach:

Lee Sim
Todd Covolo
John Yarbrough