



THE STATE

OF WYOMING

JIM GERINGER  
GOVERNOR

PATRICK T. TYRRELL  
STATE ENGINEER

RICHARD G. STOCKDALE  
DEPUTY STATE ENGINEER

## Board of Control

ALLAN CUNNINGHAM  
ADJUDICATION OFFICER

Town Hall Rm 2, PO BOX 277  
COKEVILLE, WY 83114  
(307)279-3441  
FAX (307)279-3217  
jhende@allwest.net

RANDY TULLIS, SUPERINTENDENT  
Water Division I  
MICHAEL WHITAKER, SUPERINTENDENT  
Water Division II  
CRAIG COOPER, SUPERINTENDENT  
Water Division III  
JADE HENDERSON, SUPERINTENDENT  
Water Division IV

31 July 2001

Clyde Hanks  
Hanks Family Ranch  
HCR 65 Box 768  
McKinnon, WY 82938



Dear Clyde:

The questions you raised in your July 1<sup>st</sup> letter have required specific responses from my field staff who have the 2-state authority in the Henry's Fork basin. Hence my delay in answering your five items.

1) Any turnout on Nielson Ditch that serves Stewart Ditch or Cedar Basin Ditch lands should indeed be permanently removed. Storage delivery to these lands should be through the same Means of Conveyance as their Direct Flow, which can be by flume across Nielson Ditch. Farren indicates concurrence from the Wadsworth's on this issue, and will see that the turnout removal is accomplished this fall.

2&5) When Farren accepted Earl's signed request for regulation on June 11<sup>th</sup> (the earlier regulation had apparently been lifted during one of the surplus peaks Beaver Creek had experienced), it was with the mutual understanding that he would respond first to Burnt Fork's request. While total flow in Beaver Creek was not yet short, Farren acknowledges that Gregory Canal had boarded-up its bypass culvert to take more than their Utah entitlement despite its gate being locked at the set level. Other headgates on Beaver Creek should also be lockable (Waterman-type, not sliding-tin). Farren will see that unlockable sliding-tin headgates are replaced by the owners this fall, and agrees he should have locked some headgates sooner.

3&4) If the facts (including our Nielson recorder data) verify where Hoop Lake storage delivery was taken, the Water Commissioner is willing to accommodate that accounting for the Hoop Lake Reservoir & Irrigation Company.

From my perspective, it appears that several improvements need to be made (in addition to the removal of any Nielson turnouts for Stewart Ditch or Cedar Basin Ditch lands):

- a) The 2-state regulation presence needs to be more continuous and attentive during the summertime, including regulation of double duty.
- b) Tampered headgates need to be immediately locked (which means the requirement for lockable headgates needs to be enforced).
- c) The bypass culvert at the Gregory Canal diversion needs to be re-constructed with a lockable headgate control instead of boards.
- d) Your 6:30AM readings at the Nielson (Parshall) flume must take into consideration the daily diurnal fluctuations of the stream, reflecting the fact that you are reading at a different time of day than Farren is.
- e) There seems to be a slight difference between our tabulations for the amounts of appropriation for Nielson Ditch, which my records show as follows (remembering that when you're getting the Lamb Creek supply to some of these lands, you are under law not also entitle to Beaver Creek for those same lands):

Permit 2619E	03/24/1906	1.09cfs	1.09 cumulative	2.18 double
1851E	03/16/1908	1.02	2.11	4.22
	03/16/1908	0.52	2.63	5.26
	03/16/1908	1.90	4.53	9.06
	03/16/1908	1.25	5.78	11.56
5159E	03/21/1939	2.81	8.59	17.18
5386E	03/05/1945	SS (177ac)	SS	SS

f) In my understanding of Utah rights in Gregory Canal, yes it only has 2.66cfs (or 5.32 double) that is senior to any Nielson Ditch right. But it also has an additional 2.07cfs (or 4.14 double) of 1920 ahead of your 1939; meaning whether Nielson had 11.56 or 17.18, Gregory should have had its 9.46cfs. Its latest 18.30cfs of 1995, which has no double, is supposed to be restricted to the amount commensurate with the acreage named by Mr. Foianini to the Utah State Engineer before each season begins. If the Water Commissioner has not been informed of that amount by the Utah State Engineer, it seems to me that none of that late 18.30cfs should be diverted.

Should further clarification be needed, please let us or my Utah counterpart know. Thank you for writing to express your concerns. It is my hope that this exchange will help us all improve our understanding and regulation.

Best regards,



Jade Henderson  
WY Water Superintendent

copy: Bob Leake, Utah Regional Engineer  
John Yarbrough, Lead Hydrographer  
Farren Johnson, Water Commissioner