



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Kathleen Clarke
Executive Director

Robert L. Morgan
State Engineer

1594 West North Temple, Suite 220
PO Box 146300
Salt Lake City, Utah 84114-6300
801-538-7240
801-538-7467 (Fax)

April 20, 2001

Milton Beck
HC 65 Box 764
McKinnon, Wyoming 82938

Dear Mr. Beck:

Thank you for your letter of April 2, 2001. I am sorry to learn that you are frustrated with the distribution of water on Burnt Fork and with our efforts to supervise the work of the water commissioner. I spoke to commissioner Farren Johnson about your concerns. I believe he is doing the best job he can and that he is acting in good faith to serve the Utah water users and treat them fairly. However, there are several constraints that he must work within as he distributes water on Burnt Fork.

The distribution of water in your area is regulated by priority date just as it is in every other area of the state. However, in your area, the water rights which are considered in that distribution include the Wyoming water rights on Burnt Fork. Article XII of the Colorado River Compact (see Section 73-13-10 of the Utah Code) states in part, "Waters diverted from Henry's Fork Beaver Creek, Burnt Fork, Birch Creek and their tributaries, shall be administered without regard to the state line ..." Therefore the commissioner must take into account the priorities of the Wyoming water rights even when distributing water to Utah water users.

The "doubling up" of water diversions in the spring when flows are very high is an opportunity which is available to all water users regardless of whether they live in Utah or Wyoming. However, if a ditch company cannot take additional water during the spring because of the capacity of the ditch, they are not entitled to take more water (above their water rights) later on in the season to make up for what they couldn't take in the spring.

Last year was a dry year and I think everyone was surprised at how quickly the surface stream flows dropped off. Experiences similar to yours, of being out of water very quickly even before the middle of the irrigation season, have been related to me by water users throughout the state. We hope that the current forecasts will turn out to be far short of the actual supply, but right now it appears that the water supply will be much less than normal again during the coming irrigation season.

We are concerned that Utah water rights be distributed equitably, however, in years of short water supply priority dates must be observed. Unfortunately, in these situations some users must be shut off and it may appear that water is not being distributed fairly.

Again let me say that I think Farren is trying to do an honest job as water commissioner and that he is very determined that water be distributed equitably, but he probably will have a difficult job this

Page Two
Beck

summer because of the projected short water supply. I would encourage you to talk with Farren if you have any questions at all about the distribution of water during this coming irrigation season. If you still have concerns after you have talked to Farren, please contact Bob Leake in Vernal or me and we would be glad to discuss the situation with you and look into it. It is our job to help resolve problems, however, we cannot provide much help until water users contact us and explain to us the problems or concerns they have. One of the purposes of the annual meetings is to provide a forum where concerns can be discussed. However, there cannot be much discussion or resolution of problems unless the water users are willing to bring up their concerns in the meeting.

I hope this explanation is somewhat helpful to you. If you have any further questions please contact me at (801)538-7380 or Bob Leake at (435)781-5327.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee H. Sim". The signature is fluid and cursive, with a large initial "L" and "S".

Lee H. Sim, P.E.

Assistant State Engineer for Distribution

cc: Bob Leake, Regional Engineer
Farren Johnson, Water Commissioner