



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

August 25, 1994

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Robert L. Morgan
State Engineer

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Mr. Elliot Christensen, President
North Point Consolidated Irrigation Co.
P.O. Box 2993
Salt Lake City, Utah 84110

Dear Mr. Christensen:

This letter is to follow up on our telephone conversation today.

This is an unusual year. The flows in the Jordan River have dropped to the point that the commissioner cannot fill all the water rights on the Surplus Canal. As I explained over the telephone, the priority doctrine is one of the basic tenets of water rights administration in the state of Utah. According to that principle, when water is in short supply, those rights with later priority dates are shut off to fill the requirements of the rights with earlier priority dates.

The rights on the Surplus Canal vary in priority from 1862 to 1915. Coincidentally, these are the priority dates of the North Point Consolidated Irrigation Company rights. The 1862 right allows a flow of 90 cfs and the 1915 right allows a flow of 35 cfs. The flow situation on the canal indicates that your company's 1915 right should be shut off. Therefore, we are requesting that the flow from the Surplus Canal into the North Point Irrigation Company Canal be reduced to 90 cfs as soon as possible.

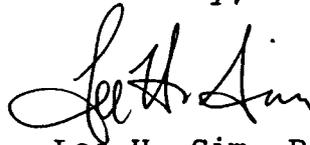
We discussed whether the flow should be reduced at the diversion from the canal or whether flow should instead be returned to the Surplus Canal at the Cone Flume. I have given this some additional thought and believe the flow should be reduced at the diversion. In these situations it is important to have an accurate measurement and record of the water that is diverted and I believe that can be better handled at the diversion.

We discussed the right that North Point has leased from the old Sharon Steel Corp. One of the criteria set by our office in moving that water was that it was the company's responsibility to "shepherd" the water from the old diversion to the North Point diversion. Therefore, we will allow the flow associated with this leased right (17 cfs) to be diverted when the company can show that the water is being delivered to the company's diversion.

North Point Consolidated Irr Co
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This is the first time in this area that there has been a need to regulate water rights by priority. That is the reason for my phone call and this follow up letter. In most cases, we would simply instruct the commissioner to shut of the rights which were out of priority. We appreciate your willingness to cooperate with this administrative action on the Surplus Canal. If you have any questions concerning this action, please contact me at 538-7380 or Jim Riley at 538-7400.

Sincerely,



Lee H. Sim, P.E.
Assistant State Engineer
for Distribution

cc: Jim Riley
John Moesser