



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

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Gentlemen:

At our meeting on September 19, 1995, I agreed to review our interpretation of the storage rights in Gunnison reservoir with the Attorney General's office and then report to you the results of that discussion. I am sorry that it has taken this long to respond, however the press of other water right concerns has prevented us from meeting on this matter until just recently.

At the September 19, 1995 meeting, we discussed the storage rights in Gunnison Reservoir in the light of a 1929 Supreme Court decision in an appeal of Gunnison Irrigation Co. v. Peterson. The Supreme Court decision commented on a 1920 district court decree and appeared to define and set limits on the administration of the storage rights in Gunnison Reservoir.

However, after our discussion with John Mabey, Assistant Attorney General, it is clear that the Supreme Court decision referred to above does not apply to the Cox decree. It was commenting on a 1920 district court decree that was later superseded by the 1936 Cox Decree. It would have been applicable only if the Cox Decree had incorporated language from the 1920 Decree concerning storage rights in Gunnison Reservoir. Although the Cox Decree does incorporate some parts of the 1920 decree, it does not incorporate anything relating to storage. Therefore we must rely solely on the Cox Decree to determine Gunnison's storage right.

Paragraph (d) of Gunnison's award (Cox Decree p. 176) allows for 20,264.2 acre feet of storage in Gunnison Reservoir. We interpret that to be the total amount of water the company can put



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into storage in any one year. This is the water that causes the storage elevation in the reservoir to increase, not the water that flows into the reservoir and then is released directly to meet irrigation demands. The company has the right to withdraw water from the reservoir and refill it as long as the total amount put into storage in any one year does not exceed 20,264.2 acre feet.

Gunnison can satisfy its direct flow or storage rights from the water that is produced by the sources listed in its award on page 177 of the Cox Decree. There is no flow limitation placed on the water being put into storage, so the company can store the full flow provided by the sources listed until it has reached the 20,264.2 acre feet limit.

If you have any questions concerning this interpretation of the storage rights in Gunnison Reservoir, please contact me or Kirk Forbush in Richfield.

Sincerely,  
Lee H. Sim, P.E.

A handwritten signature in cursive script that reads "Lee H. Sim".

Assistant State Engineer  
for Adjudication and Distribution

cc: Kirk Forbush  
Lowell Anderson