



OLENE S. WALKER  
*Governor*  
GAYLE F. McKEACHNIE  
*Lieutenant Governor*

State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
Division of Water Rights

ROBERT L. MORGAN  
*Executive Director*

JERRY D. OLDS  
*State Engineer/Division Director*

RECEIVED

JUL - 1 2004

WATER RIGHTS  
SALT LAKE

June 24, 2004

Jarvis Sorensen  
P.O. Box 835  
Gunnison, Utah 84634

RE: Water Right No. (63-3179)

Dear Mr. Sorensen,

This letter is regarding our meeting on June 23, 2004 concerning the historic West View Canals flush diversion. As observed it appears that the new ditch along the toe of your canal will not handle the debris and flow that the old channel has carried. Enclosed is a copy of Section (73-1-6) Utah Code Annotated, which describes Eminent Domain for ditches. The State Engineers office does not have the authority to resolve this dispute. If it continues to be a problem I suggest you obtain legal counsel.

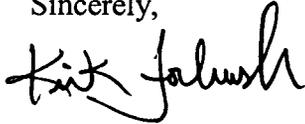
As we looked at the above reference concern I observed that a new pivot system was being installed and that land that didn't appear to have been heretofore irrigated would be included under the pivot. I researched the record for West View Canal Company and found that in Section 36, T19S, R1W SLBM the irrigation company has a right to irrigate 28.7 acres of land as shown on the enclosed quad map. It appears that the pivot will far exceed this limit. If in fact the additional acres are irrigated West View Canal Company will be in violation of Section (73-3-3) which states that "No permanent change shall be made except on the approval of an application therefore by the state engineer".

Also, you inquired about an underground water right in Section 10, T19S, R1W, SLBM that was Charlie Annoys well. Upon review of the record I was able to find Water Right Number 63-147, which is in the name of Roberta C. Arnold. Enclosed is a copy of the certificate that describes the water right and defines it as to the limit of flow rate, place and nature of use.

Page 2  
June 24, 2004  
Subject:

Hopefully, this information will be useful to you. If you have questions please contact me at your convenience (435-8896-4429).

Sincerely,

A handwritten signature in black ink that reads "Kirk Forbush". The signature is written in a cursive style with a large, stylized "K" and "F".

Kirk Forbush, P.E.  
Regional Engineer

~~Cor. Lee Sim~~

vided in this section, otherwise such water right shall cease and thereupon the water shall revert to the public.

**73-1-5. Use of Water a Public Use.**

The use of water for beneficial purposes, as provided in this title, is hereby declared to be a public use.

**73-1-6. Eminent Domain — For Ditches, Reservoirs.**

Any person shall have a right-of-way across and upon public, private and corporate lands, or other rights-of-way, for the construction, maintenance, repair and use of all necessary reservoirs, dams, water gates, canals, ditches, flumes, tunnels, pipe lines and areas for setting up pumps and pumping machinery or other means of securing, storing, replacing and conveying water for domestic, culinary, industrial and irrigation purposes or for any necessary public use, or for drainage, upon payment of just compensation therefor, but such right-of-way shall in all cases be exercised in a manner not unnecessarily to impair the practical use of any other right-of-way, highway or public or private road, or to injure any public or private property.

**73-1-7. Enlargement for Joint Use of Ditch.**

When any person desires to convey water for irrigation or any other beneficial purpose and there is a canal or ditch already constructed that can be used or enlarged to convey the required quantity of water, such person shall have the right to use or enlarge such canal or ditch already constructed, by compensating the owner of the canal or ditch to be used or enlarged for the damage caused by such use or enlargement, and by paying an equitable proportion of the maintenance of the canal or ditch jointly used or enlarged; provided, that such enlargement shall be made between the 1st day of October and the 1st day of March, or at any other time that may be agreed upon with the owner of such canal or ditch. The additional water turned in shall bear its proportion of loss by evaporation and seepage.

**73-1-8. Duties of Owners of Ditches — Safe Condition — Bridges.**

The owner of any ditch, canal, flume or other water course shall maintain the same in repair so as to prevent waste of water or damage to the property of others, and is required, by bridge or otherwise, to keep such ditch, canal, flume or other water course in good repair

3652 III NW  
35 CANYON

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY

Proposed Section  
Plat 502

COX DECREE  
ACRES

111° 52' 30"

425000m E

26 R I W R I E

427

50'

MANTI 17 MI  
GUNNISON 2 MI

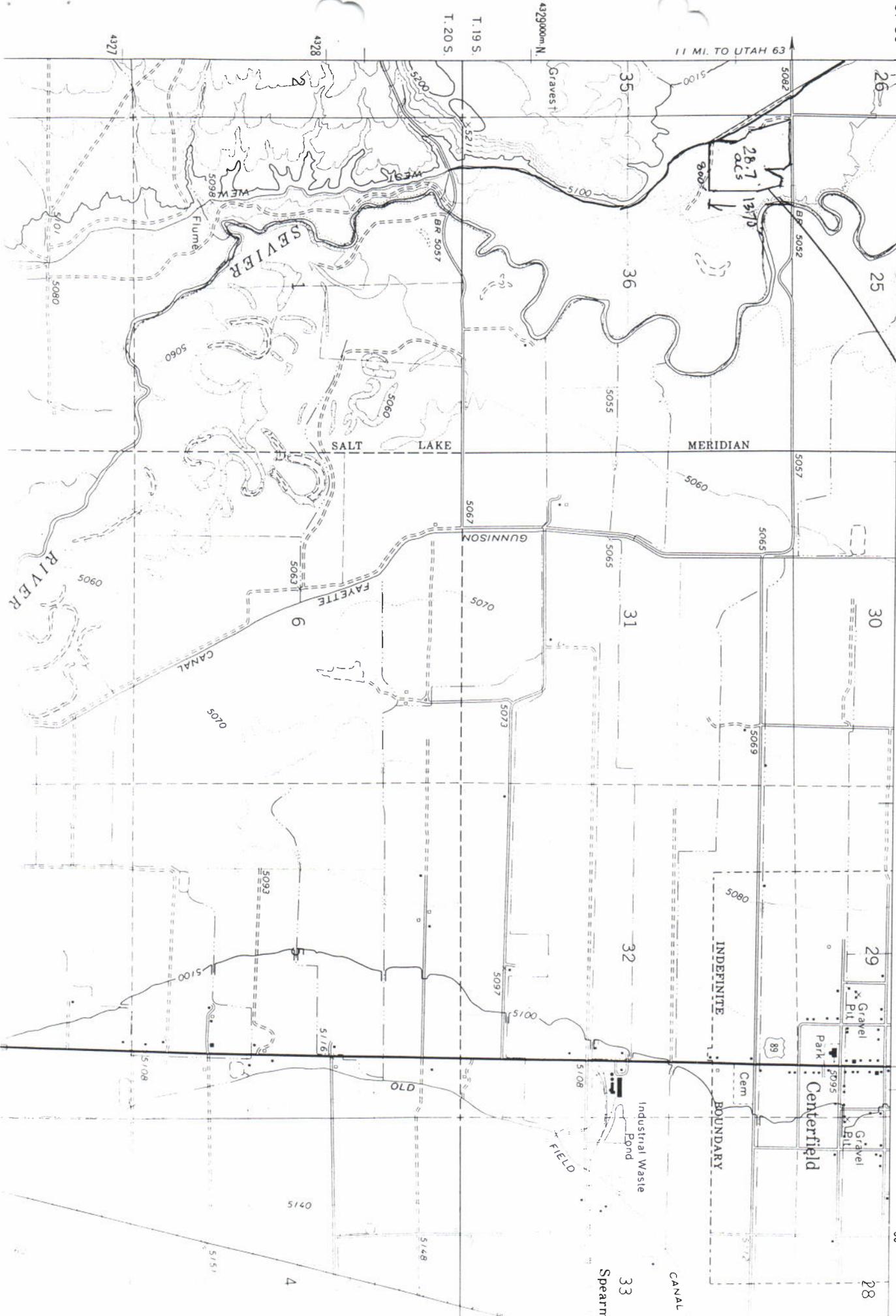
3652 III NE  
(GUNNISON)

430

11 MI. TO UTAH 63

T. 19 S.  
T. 20 S.

4329000m N



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4328

5080

5060

5060

5060

0905

0705

5092

5100

5116

5108

5140

5151

5148

5108

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0405

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5057

5055

5082

5100

35

36

31

32

33

25

30

29

28

28.7  
acs

1370

BR 5052

Flume

SEVIER

SALT LAKE

MERIDIAN

GUNNISON

FAYETTE

CANAL

RIVER

INDEFINITE

BOUNDARY

CANAL

Sparmi

FIELD

Industrial Waste Pond

Centerfield

Gravel Pit

Gravel Fill

Park

89

Cem.

INDUSTRIAL WASTE POND

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DUPLICATE

# CERTIFICATE OF APPROPRIATION OF WATER STATE OF UTAH.

APPLICATION NO. 13102

CERTIFICATE NO. 5092

NAME AND ADDRESS OF APPROPRIATOR ROBERTA C. ARNOLD, CUMISON, UTAH

SOURCE OF SUPPLY UNDERGROUND WATER IN SANPETE COUNTY, UTAH: SEVIER RIVER DRAINAGE AREA

QUANTITY OF WATER ONE AND FORTY-FIVE/HUNDRETHS (1.45) SECOND-FOOT PRIORITY OF RIGHT SEPTEMBER 12, 1946

PERIOD AND NATURE OF USE FROM APRIL 1 TO OCTOBER 15 INCLUSIVE OF EACH YEAR FOR IRRIGATION PURPOSES

*Therefore, It has been made to appear to the satisfaction of the undersigned that the appropriation of water has been perfected in accordance with the Laws of Utah; therefore, Be it known that I, JOSEPH H. TRACY the duly appointed, qualified and acting State Engineer, by authority of the Laws of Utah, do hereby certify that said appropriator is entitled to the use of water as herein set out, subject to prior rights, if any, for diversion and use as follows, to wit:*

The water appropriated is yielded by a pump well driven to a depth of 112 ft. below ground surface, cased with 12-in. diameter pipe to a depth of 106 ft., the remaining depth being uncased, situated N 1140.0 ft., and E 483.0 ft. from S<sub>1</sub> Cor. Sec. 10 T19S R1W S13E<sub>1</sub>. The water is diverted by means of a diesel engine operated pump, discharging through 6-in. diameter pipe directly into an irrigation ditch from which it is, during the period from April 1 to October 15 inclusive of each year, distributed and intermittently used, as a supplemental supply with water rights under the Dover Canal Company and Westview Canal Company, to irrigate land embraced within SE<sub>1</sub> NE<sub>1</sub>, NE<sub>1</sub> SE<sub>1</sub>, S<sub>1</sub> SE<sub>1</sub>, said Sec. 10, more definitely described as follows: 1.6 acres in SE<sub>1</sub> NE<sub>1</sub>, 24.3 acres designated Parcel No. 1, 11.3 acres designated Parcel No. 2 in NE<sub>1</sub> SE<sub>1</sub>, 22.8 acres in SE<sub>1</sub> NE<sub>1</sub>, 12.6 acres designated Parcel No. 1, 25.4 acres designated Parcel No. 2 in SE<sub>1</sub> SE<sub>1</sub>, said Sec. 10. Total area irrigated is 98.0 acres.

This certificate entitles the holder to use only sufficient water from all rights combined to constitute an economic duty without waste.

The works employed in this appropriation are to be operated and maintained in such manner and condition as will prevent waste of water.

In witness whereof, I have herewith set my hand and affixed the seal of my office this 6th day of June, 19 56.

*Joseph H. Tracy*  
JOSEPH H. TRACY,  
STATE ENGINEER

