



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

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Gentlemen:

There has been some question raised about the storage limit of Gunnison Reservoir as stated in our letter of March 20th.

The March 20th letter stated, "The company (Gunnison Irrigation 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." The concern raised is an interpretation of the Cox Decree that Gunnison Irrigation Company's storage right should only be limited by the water supply available each year and the physical storage capacity of the reservoir.

In our opinion, the Cox Decree is not totally clear concerning this point. It lists a storage quantity of 20,264.2 acre feet, but it also states, "Said storage is supplied from the San Pitch River and Six Mile Creek and the water thus stored may be withdrawn and used and the reservoir refilled, but all such withdrawals to be charged up to the direct flow rights herein provided for." In our opinion, it is not necessary at this time for the State Engineer to issue an official interpretation, however, the following are some of our thoughts on the matter.

Based on the hydrology of the area, it appears it would be difficult to store more than the stated quantity during any given year. During years when the water supply is available to allow filling and then refilling the reservoir, it is unlikely Gunnison Irrigation Company would have cause to drain the reservoir to meet its water needs. During years when Gunnison Irrigation Company needs to drain the reservoir to meet its water requirements, it is unlikely there would be an adequate water supply to allow the reservoir to be refilled.



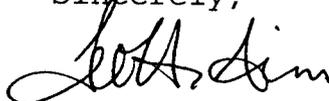
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We realize we do not know the entire history and all the past conduct of the parties concerning the reservoir which would have to be considered in interpreting the decree. Based on the historical practice we are aware of, it appears that San Pitch River water has been available to Gunnison Fayette Irrigation Company only when Gunnison Reservoir has been full and the river flow has exceeded Gunnison Irrigation Company's direct flow right.

Given these circumstances, it appears that although a definite determination of this question might be desirable as a matter of principle, it may not be necessary from a practical standpoint. The expenditure of resources to resolve this question may not be warranted since it appears a decision either way would have no measurable impact on the regulation of storage in Gunnison Reservoir.

If you have any further question concerning this issue, please contact me at 538-7380 or Kirk Forbush at 896-4429.

Sincerely,



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

cc: John Mabey
Kirk Forbush