

IN THE DISTRICT COURT OF SEVIER COUNTY, STATE OF UTAH

RICHFIELD IRRIGATION CANAL COMPANY,)
 ANNABELLA IRRIGATION CANAL)
 COMPANY, ELSINORE CANAL COMPANY,)
 BROOKLYN CANAL COMPANY, MONROE)
 IRRIGATION COMPANY, WELLS IRRIGATION)
 COMPANY, JOSEPH IRRIGATION COMPANY,)
 ELSINORE BENCH IRRIGATION COMPANY)
 and SEVIER VALLEY CANAL COMPANY,)

Plaintiffs,

-vs-

DESERET IRRIGATION COMPANY, DELTA)
 CANAL COMPANY, MELVILLE IRRIGATION)
 COMPANY, ABRAHAM IRRIGATION COMPANY,)
 CENTRAL UTAH WATER COMPANY, SEVIER)
 BRIDGE RESERVOIR COMPANY and UTAH)
 STATE ENGINEER,)

Defendants.

STIPULATION

Civil No. 5335

Come now Ken Chamberlain and Edward W. Clyde, Attorneys for the Plaintiffs; Thorpe Waddingham and Sam Cline, Attorneys for Defendants Deseret Irrigation Company, Delta Canal Company, Melville Irrigation Company, Abraham Irrigation Company, Central Utah Water Company, and Sevier Bridge Reservoir Company; and Dallin W. Jensen, Assistant Attorney General, Attorney for the Utah State Engineer, and mutually stipulate and agree as follows:

1. That further proceedings in the above captioned case may be allowed to pend without prejudice to the rights of the Plaintiffs or the Defendants to and including December 31, 1970, subject to the provisions hereinafter set forth.
2. That the "upper zone" of the Sevier River system, insofar as the rights of the parties to this Stipulation are concerned, may and shall be administered in accordance with a proposal made in the form of a Memorandum by Sevier River Commissioners Keith Christensen and W. Roger Walker, a copy of which is hereto annexed, marked Exhibit "A", and incorporated by reference as though set forth fully herein.
3. That administrative practices which may be at variance with Exhibit "A" may be allowed only on the prior approval in writing of all parties to this Stipulation, made after disclosure of all relevant or pertinent facts by the Sevier River Commissioners to all parties hereto.

4. That records kept under administration practices contemplated herein shall be reviewed annually by the parties. At the end of the irrigation season of 1970, or at any time prior to December 31, 1970, either the Plaintiffs or the Defendants may, in writing served in the manner required by the Utah Rules of Civil Procedure upon the other parties, rescind the method of administering the rights of the parties hereto as provided in this Stipulation and Exhibit "A", and no conduct, waiver, or forbearance in the otherwise timely prosecution or assertion of any defense of or in this action shall operate to prejudice any of the Plaintiffs' or Defendants' rights, and further, that in the event any party does so rescind this Stipulation, the rights of the parties hereto shall be administered in accordance with the Cox Decree, as interpreted by the present decisions of the Utah State Engineer which are subject to the pending Court action, until such time as such Court action is finally consummated.

5. That if the Plaintiffs have not, by a written notification provided for in Paragraph 4 hereinabove, withdrawn, repudiated or rescinded the method of administering the "upper zone" adopted by this Stipulation, then the same and the Memorandum hereto attached as Exhibit "A" shall be incorporated into a final decree and the "upper zone" of the Sevier River shall thereafter be administered in the manner and under the procedures specified in the attached Memorandum, Exhibit "A"

DATED this _____ day of June, A.D., 1968.

Ken Chamberlain

Edward W. Clyde
ATTORNEYS FOR PLAINTIFFS

Thorpe Waddingham

Same Cline

ATTORNEYS FOR DEFENDANTS
DESERT IRRIGATION CO., ET AL.

Dallin W. Jensen

ATTORNEY FOR DEFENDANT UTAH STATE
ENGINEER

EXHIBIT "A"

The Sevier River Commissioners were instructed to outline the basis of a regulation stream between Piute Reservoir and Vermillion Dam. The purpose would be to enable the River Commissioners to operate and deliver to the water users the water in the most efficient way possible and to minimize losses in the river distribution system.

We hereby submit the following for your consideration and suggestions:

REGULATION STREAM

1. A regulating stream would be defined as a stream released from Piute Reservoir in excess of the expected intake at the various diversions for the purpose of making adjustments of time, rate of flow, or compensate for regulating problems. It would be that specified quantity that passes over Vermillion Dam during the irrigation season when no water is due Sevier Bridge Reservoir from the upper zone. A regulating stream would be limited to that period of time between the dates of April 1 to October 1 of each year.
2. A regulatory stream passing over Vermillion Dam up to fifteen percent (15%) of the amount released at Piute would be sufficient. To allow time for adjustment in the rate of flow due to releases and accretions below Piute Reservoir, the regulatory stream would be calculated by averaging the average daily flow of any consecutive seven days. Any excess above the 15% would be allocated to the rights of Piute and Sevier Bridge Reservoirs.
3. That quantity defined as regulating water stored in Sevier Bridge would incur the same river losses as any other waters over Vermillion Dam. At the present time these losses are assessed as follows: Two (2%) percent from Vermillion Dam to Sevier River near Sigurd. Ten percent (10%) of the flow past Sigurd is deducted, giving net acre feet in Sevier Bridge Reservoir. After July 1 to October 1, when conditions warrant, twelve (12%) percent of the flow past Sigurd is deducted to give net acre feet in Sevier Bridge Reservoir.
4. Evaporation loss would be charged for the month which the water was delivered into Sevier Bridge Reservoir. The regulating water would stand its proportionate share of evaporation loss in conjunction with all the waters in Sevier Bridge Reservoir until October 1. From October 1 to April 1 the loss assigned all holdover water in Sevier Bridge is five (5%) percent. The quantity derived after taking river losses, evaporation loss, and holdover loss would then be withheld for the use of the A to L users from any water due Sevier Bridge from the upper zone in the following year or years. The regulating water would be held as long as necessary, and as long as capacity is available, to effect the exchange. The proportionate evaporation loss and holdover loss would be for as long as the water was in Sevier Bridge Reservoir.

EXHIBIT "A" -- REGULATION STREAM

The evaporation loss figures from a water surface now used in computing losses for Sevier Bridge Reservoir are: April - 3.7 inches, May - 6.0 inches, June - 8.5 inches, July - 11.2 inches, August - 10.6 inches, and September - 7.5 inches.

5. The regulating water would be subject to the same provisions as all other holdover water in Sevier Bridge Reservoir. In the event the Sevier Bridge Reservoir fills to its capacity of 236,145 acre feet all water becomes "common" and is re-allocated according to the provisions in the Cox Decree.

/s/ Keith B. Christensen
Keith B. Christensen

/s/ W. Roger Walker
W. Roger Walker

Sevier River Water Commissioners

EXPLANATION OF 1968 REGULATING STREAM

A summary for the year 1968 regarding the A-L Users Agreement with Consolidated Sevier Bridge Reservoir Company is here compiled by the River Commissioners. Included is a table of river and reservoir losses used in transporting and storing the water involved with this agreement.

The water involved in this agreement is calculated on a seven day total beginning with the first of each month. Odd days at the end of the month are grouped using a two or three day total. No days carry over into the next month. This procedure allows the records for each month to be closed at the end of that month.

All water involved in this agreement should be charged reservoir losses to the 1st of April of the next year. The amount charged will depend on which month is involved. If for any reason the water is not transferred on the 1st of April of each year it will be held over until the 1st of April of the following year and charged the yearly total of 17% storage loss.

The net regulating water of 3056 Ac.Ft., if capacity is available in Piute Reservoir, will be credited to the A-L Users out of the water due Sevier Bridge Reservoir that is impounded in Piute Reservoir as of April 1st of the following year. It is our recommendation that whenever possible the commissioners shall estimate the anticipated net regulating quantity of water that will flow into Sevier Bridge Reservoir, and hold back in Piute Reservoir for the A-L Users this water. This procedure would eliminate the mandatory evaporation losses of water held in Sevier Bridge Reservoir and make available for current use by the A-L Users the anticipated regulating water. Once the regulating stream is established there would be no loss of water available for current use to any users excepting the transmission losses of the regulating stream. This water would be deducted from A-L credits now accumulated. We note the following examples as further explanation--

1. The A-L Users have credits, with storage rights and holdover privileges, of 3056 Ac.Ft. of water in Sevier Bridge Reservoir. This water would otherwise have gone to make new storage water.
2. The computation shows that had the regulating stream been in effect during the high water period below Piute Reservoir, the weekly averaging of the 15% would have compensated for the fluctuating flow to the extent little or no primary water would have been lost to storage in this year.
3. Piute and Sevier Bridge Reservoirs will benefit by moving the storage water due Sevier Bridge earlier with less loss and by not retaining storage water for only regulating purposes.
4. Piute and Sevier Bridge Reservoirs as between themselves will have moved 3056 Ac.Ft. of water without river loss, giving a net gain to storage water when transferred up stream of 1015 Ac.Ft.

5. 3056 Ac.Ft. is added to the "call" system between Vermillion Dam and Sevier Bridge Reservoir.

6. Looking to the possible future additional new water to the Sevier River System the regulating stream can be the vehicle by which this water can be made available to the various users without changing the decreed rights.

STORAGE AND RIVER LOSSES USED IN TRANSPORTING AND STORING THE WATER INVOLVED IN THE A-L AGREEMENT WITH CONSOLIDATED SEVIER BRIDGE RESERVOIR COMPANY

STORAGE LOSSES

Holdover water	17%
Water made in April	15%
Water made in May	13%
Water made in June	11%
Water made in July	9%
Water made in August	7%
Water made in September	5%

Water stored in Sevier Bridge Reservoir shall be transferred on the 1st of April of each year. Water not transferred on the 1st of April of each year will be held over until the 1st of April of the next year and charged a yearly total of 17% storage loss.

RIVER LOSSES

Piute Reservoir to Vermillion Dam	15%
Vermillion Dam to Rocky Ford Dam	2%
Rocky Ford to Sevier Bridge Reservoir	10% to July 1 12% thereafter

Prepared by

BRUCE WHITED
ROGER WALKER

Sevier River Commissioners

MONTHLY TOTALS FOR THE YEAR OF 1968, OF WATER INVOLVED IN THE A-L USERS AGREEMENT WITH THE CONSOLIDATED SEVIER BRIDGE RESERVOIR COMPANY

JULY

Total at Vermillion Dam	2521	Ac.Ft.
Less storage due Sevier Bridge	1073	Ac.Ft.
Balance	<u>1448</u>	Ac.Ft.

A-L REGULATING WATER

Balance at beginning of month	0	
A-L water at Vermillion Dam	1075	Ac.Ft.
Less 2%	<u>-22</u>	
Net Rocky Ford Reservoir	1053	Ac.Ft.
Less 12%	<u>-126</u>	
Net Sevier Bridge Reservoir	927	Ac.Ft.
Less storage to April 1 9%	<u>-83</u>	
Net July Credit	<u>844</u>	Ac.Ft.

WATER GOING TO STORAGE

Over Vermillion Dam	534	Ac.Ft.
Less 2%	<u>-10</u>	
Net Rocky Ford Reservoir	524	Ac.Ft.
Less 12%	<u>-62</u>	
Net Sevier Bridge	462	Ac.Ft.
Less storage loss to April 1 9%	<u>-42</u>	
Net July Credit	<u>420</u>	Ac.Ft.

AUGUST

Total at Vermillion Dam	1890	Ac.Ft.
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A-L REGULATING WATER

Balance at beginning of month	844	Ac.Ft.
A-L water at Vermillion Dam	1154	Ac.Ft.
Less transmission and Reservoir Losses	<u>-229</u>	
Net Sevier Bridge April 1	<u>925</u>	Ac.Ft.

WATER GOING TO STORAGE

Balance	420	Ac.Ft.
Over Vermillion Dam	910	Ac.Ft.
Less transmission and Reservoir Losses	<u>-179</u>	
Net August Credit	<u>731</u>	Ac.Ft.
Balance end of Month	1151	Ac.Ft.

SEPTEMBER

Total at Vermillion Dam	1571	Ac.Ft.
A-L REGULATING WATER		
Balance at beginning of month	1769	Ac.Ft.
A-L water at Vermillion Dam	1571	Ac.Ft.
Less transmission and Reservoir losses	<u>-284</u>	
Net Sevier Bridge April 1	1287	Ac.Ft.
Balance end of month	3056	Ac.Ft.

No water over Vermillion going to storage in September