



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

April 25, 1994

Michael O. Leavitt  
Governor

Ted Stewart  
Executive Director

Robert L. Morgan  
State Engineer

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Mr. Keith Mortensen, President  
Associated Water Users of the  
Uinta and Lake Fork Rivers  
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Roosevelt, UT 84066

Mr. Lynn Hansen  
Bureau of Indian Affairs  
Irrigation Department  
Fort Duchesne, UT 84026

Gentlemen:

Last Friday I met with Lee Sim and Bob Leake, who met with you on March 29, and with Mike Quealy and John Mabey, Asst. Attorneys General, to discuss your request that I appoint a river commissioner for the Uinta and Lakefork Rivers. Lee and Bob described to us the distribution challenges facing the water users in the area and the concerns expressed by you at the March 29 meeting.

After some discussion, it was concluded that a state water commissioner should not be appointed for this area at this time. There are several reasons why we cannot get involved right now.

As you know, the U.S. Supreme Court decision in the Hagen case regarding the reservation boundary has created very strong feelings on the part of the Indians. In an effort to ease tensions, the Governor has expressed a general state policy to move very slowly with any state administrative changes in this area.

Second, the Division of Water Rights may be bound by the provisions of Judge Jenkin's injunction issued in U. S. District Court. In essence, this injunction prohibits the state from exercising jurisdiction within the reservation. This injunction may be lifted soon, however, we feel we must abide by it until it is lifted. If it is lifted, the Tribe will probably appeal that decision.

Third, but perhaps most fundamentally, it appears there are a number of water right controversies on the Uinta River. It would be difficult for me to give the commissioner meaningful direction in distributing the water on the river until these disagreements are resolved. The Division of Water Rights is not adverse to getting involved in resolving controversy, however, I do not wish to involve this office in unnecessary litigation. Also, in this situation, the State may not have clear jurisdiction over some of



Letter to Mortensen & Hansen  
Continued -Page 2-

the parties involved; this makes it difficult to come to a meaningful resolution. There are efforts in process, such as the pending Ute Indian Compact, which hopefully will help to bring some order to this situation.

I am sensitive to the need in your area for authoritative distribution of water, however, I am hesitant to appoint a commissioner until tensions are eased in the area and at least some foundation has been created for resolving disagreements. On the other hand, if the Ute Indian Tribe also requests the appointment of a commissioner, I will certainly reconsider this position unless I am prevented by the federal injunction.

In the meantime, the Division will lend what support it can and the water users have the civil remedies available under state law. If you have any questions concerning our position in this matter, please contact Bob Leake, Regional Engineer, at 781-5327, or Lee Sim, Assistant State Engineer, at 538-7380, or me at 538-7241.

Sincerely,



Robert L. Morgan, P.E.  
State Engineer

cc: } Bill Christensen  
      } Mike Quealy  
      } Lee Sim  
      } Bob Leake