

SMITH | HARTVIGSEN PLLC

ATTORNEYS AT LAW

215 South State Street
Suite 650
Salt Lake City, Utah 84111

T 801.413.1600
F 801.413.1620
www.smithhartvigsen.com

J. Craig Smith
jcsmith@smithlawonline.com

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L. Ward Wagstaff, Esq.
Attorney General's Office
P.O. Box 140855
1594 West North Temple, #300
Salt Lake City, Utah 84114

RECEIVED

JUN 10 2004

ATTORNEY GENERAL
Natural Resource Division

Dear Ward

Re: Green River General Adjudication

Enclosed, please find my letter to Professor William Rahmeyer at Utah State University. As you can see from the enclosed letter, the State Engineer and his staff are invited to participate in the Utah State University study to whatever extent and in any matter he would so choose.

Also, I appreciate your advising me that the State Engineer did not want to abdicate his role in the General Adjudication by binding himself to the results of the USU study. I can appreciate his position and, frankly, had not thought of that concern previously. I was simply trying to find a way to get past the technical issues and to the merits of how much water the Green River Canal Company needs to divert to properly operate its system. Thus, the Canal Company would be amenable to a settlement which would not require the State Engineer to accept the USU study, but only to consider it on its merits. Please contact me if the State Engineer is interested in exploring a settlement to the Supreme Court Appeal under this scenario.

Finally, on May 19, 2004, I faxed to you two Utah Supreme Court opinions, i.e. *Jackson v Spanish Fork West Field Irrigation Co*, 235 P2d 918 (Utah 1951) and *East Bench Irrigation Company v Deseret Irrigation Company*, 217 P2d 449 (Utah 1954) which I read to hold that carrier water may be diverted, returned to the stream and not be counted against the Irrigation duty.

If you read these cases differently, I again ask that you please advise. As you know, the Canal Company system utilizes carrier water on a continuous basis and returns it to the Green River at five locations in the system. While we have respectfully extended the olive branch to Mr. Thayn, (for example please see a copy of my May 5, 2004 letter to his attorney Steve Wuthrich to which I received no response), we believe he will continue to assert that the diversion of the Canal Company should not include carrier water, and seek to have the Canal Company's diversion stopped mid summer. This

would be disastrous to the shareholders of the Company, thus I hope to avoid a showdown over this issue.

Thank you once again for your professional and courteous approach to solving this problem. I await your response.

Yours truly,
SMITH HARTVIGSEN, PLLC.



J. Craig Smith

cc: Timothy Vetere, President
Board of Directors
Judy Ann Scott, Secretary
Jack Barnett, P.E.