



STATE OF UTAH
NATURAL RESOURCES
Water Rights

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Robert L. Morgan, State Engineer

Southwestern Area • 585 N. Main Street • P.O. Box 506 • Cedar City, UT 84720-0506 • 801-586-4231

March 28, 1989

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WATER RIGHTS
SALT LAKE

Norman Bradshaw
P. O. Box
Beaver, UT 84713

Re: Distribution Problem, Indian Creek/Spring Area (Section 28)

Dear Mr. Bradshaw:

We have reviewed all of the available information concerning the water rights in dispute between you and Keith Beaumont in Section 28, T28S, R7W SLBM with regards to the natural flow from a spring area located on the west half of the NE1/4 of the NW1/4 of said section. The allegations made by you on an earlier visit have been considered as well as those made by Mr. Beaumont at a later date.

A decree issued by Judge Will L. Hoyt on June 11, 1957 has also been studied in connection with the Beaver River Decree and the determination of water rights prepared by the Division of Water Rights. There are some questions concerning past practices and the lack of specifics in said decrees but based on the information we have it is concluded that both parties to this dispute may be in error.

First, Keith Beaumont prepared, planted and irrigated land that was not described in the decrees or determination of water rights. He has been instructed that this should not have taken place until he had retired an equal amount of land from his allowed acreage. The new acres are well within 40-acre tracts presently described in the determination but the total acres would have exceeded his limitation. The Division of Water Rights is not adverse to this type of transfer if there is no change in the legal place of use and the total acres irrigated do not exceed the limitation. In other words we support "crop rotation" as long as it is handled on an irrigation season basis and the land dropped off is not irrigated during that season.

Mr. Beaumont has been instructed that he can retain the new acreage if he is will retire, permanently or temporarily, acres to equal the new irrigation. However, this does not get to the root of the real problem and that is the decree issued by Judge Hoyt. It is specific that the natural flow from the subject springs cannot be interfered with and must flow past your diversion in the established ditch which cut through the SW corner of the NE1/4 of the NW1/4 of Section 28 and along the west line of that quarter/quarter subdivision.

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Apparently, there has been some earth work completed that is presently blocking the water from flowing into or through that ditch and into the "Beaumont" irrigation system. That work is in violation to the instructions of the decree and there would be some liability on that person who diverts or causes a change to the natural flow from the spring area.

After review of this matter it appears that there is cause for concern with both parties involved but the problem could be worked out with mutual communication and cooperation between said parties. The decree is clear enough in this matter and can be regulated through local law enforcement agencies. If there are violations to the decree or if other action causes damages then the aggrieved parties should seek judgement and compensation through the legal court system. If either of you believe that there have been legal infringements and/or damages then we would advise you to contact legal counsel for information on how to proceed in making your claims.

If you have any questions concerning this response to your problem we invite you to contact our office in Cedar City or discuss the matter with the State Engineer or his representative in Salt Lake City.

Yours truly,


Gerald W. Stoker, P.E.
Area Engineer/Manager

cc: Robert L. Morgan, State Engineer
C. Lee Strong, Water Commissioner
Ken Yardley, Beaver County Sheriff
Keith Beaumont

ing certain terms and provisions of said sub-lease and option, or by virtue of the subsequent stipulation modifying certain terms and provisions of said sub-lease and option, which said stipulation is referred to in the complaint heretofore filed herein, dated May 5th, 1956, and made and entered in the case of Rambec Exploration Corporation, plaintiff, vs. Ralph E. Hamilton, defendant, then pending in the District Court of Beaver County, Utah.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the said defendant and all persons claiming under it, be, and they are hereby barred and forever foreclosed from any claim of right, title, interest or equity in and to the said mining claim, by virtue of the said sub-lease and option and the subsequent modification thereof.

Dated this 12 day of June, 1957.

Will L. Hoyt
Judge of the District Court

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IN THE DISTRICT COURT OF BEAVER COUNTY, STATE OF UTAH

LEONARD BEAUMONT, DELVIN SMITH, and
CLIFTON BEAUMONT,)
)
) Plaintiffs,
 vs.)
)
) LAFE BRADSHAW, DON BALDWIN, ROBERT BROWN,
) VERNILE BRADSHAW, JOHN DOE, SECOND DOE, And
) THIRD DOE,)
) Defendants.)

Civil No. _____
D E C R E E.

This matter having come on regularly for trial before the above entitled court, commencing April 4, 1957, and the parties having appeared personally and through their respective attorneys of record, and the court having entered its findings of fact and conclusions of law.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. That the right decreed to the plaintiffs and their predecessors in interest under Award No. 123 of the Beaver River Decree, which provides:

(a) Priority: 1890, Claim No. 160. Acreage: 630.0, irrigation. Amount: 0.97 c.f.s.
Period of Use: From April 1st to September 30th, incl. of every year.
Point of Diversion: Said water to be diverted from Indian Creek at either or both of the following described points:
No. 1 - 1790' East 2280' S. of NE cor. Sec. 35, T.27S. R.7W.
No. 2 - 1960' N. and 650' E. of SW cor. Sec. 28, T.28S., R.7W.
No. 3 - 1900 S. and 1370' E. of NW cor. Sec. 28, T.28S., R.7W.
Place of Use: Into claimants' ditches and conveyed thereby to and upon and used to irrigate 63.0 acres of land in the following legal subdivisions; W. 1/2 SW 1/4, SE 1/4 SW 1/4, Sec. 28; E. 1/2 SE 1/4, Sec. 29, T.28S. R7W.

(b) Priority: 1890. Acreage: 64.5, irrigation. Amount 1.0 c.f.s.
Period of Use: From April 1st to September 30, inclusive of each year.
Point of Diversion: Said water to be diverted from an unnamed spring area in NE 1/4 NW 1/4, Sec. 28, T.28S., R.7W., and conveyed and emptied into Indian Creek, and allowed to flow therein to either or both of the two last named points of diversion described in paragraph (a) above, and there re-diverted into claimants' ditch system, and conveyed thereby to and upon and used to irrigate 64.5 acres of land embraced in the subdivisions described in paragraph (a) above.

entitles the plaintiffs to receive the water issuing from the spring area in the Northeast quarter of the Northwest quarter of Section 28, Township 28 South, Range 7 West, and the extension of said spring area northerly from the north boundary of said Section 28 for one-fourth to one-half of a mile along the toe of the ridge or bench bordering Indian Creek, along the northerly side thereof, and from a small spring located to the South and East of said quarter section in the field of Lafe Bradshaw, and the plaintiffs are adjudged and decreed to own the right to divert waters accumulating in Indian Creek from all of said sources to the extent necessary to fill the rights awarded to plaintiffs and their predecessors under said award No. 123.

2. That the defendants, and each of them, should be, and they are hereby, enjoined from in any way intercepting any of said waters, and from interfering with the flow thereof in any way which will interfere with the natural flow of the water from each and every one of said sources into Indian Creek, and thence down Indian Creek to plaintiffs' points of diversion No. 2 and No. 3, and defendants are specifically enjoined from placing dams in any channel to block the flow of said water to Indian Creek, or from building or maintaining ditches which will intercept the flow or in any way spread the water from said sources onto their lands.

3. That neither party should recover damages against the other party hereto.

3 1/2. This decree shall not be construed so as to forbid defendants to use other waters belonging to them to irrigate their lands in said Section 28 provided no interference results to the natural flow of waters which plaintiffs are herein found to be entitled to use.

4. That plaintiffs should recover their costs incurred herein.

Dated this 11 day of June, 1957.

