

August 27, 2002

Mr. Lee Sim
State of Utah
Department of Natural Resources
Division of Water Rights

RECEIVED

AUG 30 2002
WATER RIGHTS
SALT LAKE

RE: Letter written on August 13, 2002 regarding Stream Alteration Permit #86-25-10SA

Mr. Sim,

Please be advised that upon receipt of your letter dated August 13, 2002, I went directly to my head gate structure and immediately turned off one of the intake pipes. The following day I called your office and discussed the concerns written in your letter with you. I then asked if I might have a few days to try and salvage some of the trout that were present. I should remind you that there has been water flowing over this former river channel in excess of ten years.

In times past, when representatives from the Canal Company have asked me to turn down the volume of water being diverted, I have always been completely cooperative. I realize that my access to the water has been and always will be secondary to the rights of the Canal Companies. I admit to exercising poor judgment, in not anticipating the critical needs for agricultural purposes in this, our fourth consecutive year of drought. I recognize and respect the proprietary rights of the shareholders in the Canal Companies, which includes my own shares in the Millville /Providence Canal.

However, in turn I would like the same respect given to me and the permit, which has been issued to me by the State of Utah. This diversion project has cost me in excess of \$10,000.00. In your letter referenced above, you characterize my use of the diversion as being seasonal and limited to use "during the off-irrigation season and during times of high flows." I take exception to the fact that these conditions were specified prior to the construction of the diversion. Will Atkin advised me to use discretion when drought conditions existed, but at no time during the application process or the subsequent ten years of conversations I had with the Logan office while attempting to obtain a letter of compliance, were these restrictions made. Again, in years past, I have been cooperative when approached by Canal Company representatives. As a reminder, my letter of compliance is dated January 26, 1999, not July 29th, 1988 as stated in your letter.

As for the statement that I am "diverting water for use", this is completely untrue. As the group of individuals that inspected my project (in my absence) could attest to, I do not use water at all for irrigation purposes. There is not even the slightest bit of lawn, garden or cash crop surrounding my home. You would find the soil here as dry as dust. Where the accusation of my diverting water for use comes from is a complete mystery to

me. What water that does not immediately run back into the Blacksmith Fork on the surface, simply subs into the river.

As for the recurring interpretation of what constitutes "ponding the water", I can only assume that this references the fact that the flow of the current is lessened over the length of the project. I will remind the Division of Water Rights that I was required to submit as a portion of my paperwork for approval of the stream alteration, a drawing prepared by a Professional Engineer (Rod Blossom), detailing the appearance of the completed project. I built exactly what was on the drawing that I was required to submit (at a cost of over \$400 for the drawing). At this stage, to decide that my design is not acceptable is completely unfair. I was never asked or required to modify the drawing, therefore, I naturally assumed it was acceptable.

In summary, I reiterate that I will continue to cooperate. The intakes are closed and they will remain closed during the remainder of this irrigation season. I believe that all parties involved can agree that the root cause of this problem is the continuing drought conditions we are experiencing. I wish to retain my permit, and hope and pray that the drought will be broken and there will be water enough for everyone. Thank you for your consideration of the points I have made.

Sincerely,

A handwritten signature in cursive script that reads "David Keiser".

David Keiser

CC: Bob Fotheringham

Will Atkin

Todd N. Hallock, Attorney



Deve Keiser
5454 Hollow Rd
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MR. LEE Sim, P.E.
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DEPT. OF NATURAL RESOURCES
Division of WATER RIGHTS

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