

MALOUF LAW OFFICES

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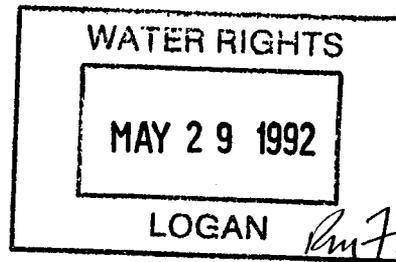
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RECEIVED

JUN 01 1992

WATER RIGHTS May 28, 1992
CULT 123



Nard Allen
1064 East 200 North
North Brigham City, Utah 84302

RE: Spring Creek water appropriation priorities, near Cove,
Cache County, Utah.

Dear Sir:

We represent Boyd Larsen who farms land watered by Spring Creek under the priority claim of his father A. T. Larsen. On January 31, 1967 the State Water Engineer issued a Memorandum Decision allowing Nard Allen to file on 0.76 cfs. This claim was allowed subject to two prior claims, first 0.75 cfs for A. T. Larsen and second, two claims of 2.00 cfs each, or 4 cfs, for D. Roy Geddes.

As you see from the foregoing, Boyd Larsen claims the first 0.75 cfs of water from Spring Creek. As you also know, all subsequent claims are subject to the A. T. Larsen claim. This is measured at his point of diversion.

Structures have been built which do not necessarily allow Boyd Larsen to obtain the benefit of the first 0.75 cfs water. Demand is made for immediate modification of those structures and arrangements so that if the total water in that creek only amounts to 0.75 cfs, all of it will go to the A. T. Larsen allocation. This may require immediate modification of structures to allow the first appropriator of water to take his water from under your structures, rather than over the top of the dam, and to make other arrangements so that water will be there for Mr. Larsen. The dams need to be rebuilt and/or removed. Boyd Larsen has crops which he will hold you directly responsible for in the event water is not supplied.

In 1985 the Office of the State Water Engineer reminded all parties that the Larsen claim had the prior right and that it must be satisfied before any other diversions could be taken. The rights subsequent to the Larsen claim were approved, but subject to the Larsen's prior rights. So far as we know, that is why the January 11, 1985 letter was written. The summary of the priorities listed thereon, was not contested.

We remind you that §73-5-7 of Utah Code provides:

The State Engineer shall have authority to examine and inspect any ditch or other diverting work, and at the time of such inspection he may order the owner thereof to make any addition or alteration which he considers necessary for the security of such work, the safety of persons, or the protection of property. If any person, firm, copartnership, association or corporation refuses or neglects to comply with such requirements of the State Engineer, he may bring action in the name of the state in the district court to enforce his order.

Mr. Larsen requests that you immediately, and within five days, make all necessary arrangements and modifications to your diversion process to provide for the demands of this letter, and confirm in writing what you have done and are planning to do. Failure of your immediate response as requested will cause Mr. Larsen to contact the State Engineer's Office and demand its involvement. He will ask it to bring actions necessary to enforce the State Engineer's prior Order and the Larsen priority rights to property. Any failure to provide the water as demanded, and all damages flowing therefrom, will be considered a willful act in your part, and subject to Mr. Larsen's claims for damages.

We trust you will agree to these demands. They are legal under the water law. Mr. Larsen's priorities are ahead of all other priorities on Spring Creek. You should acknowledge your willingness to comply with the law. If there are facts having to do with this matter which should be considered other than those addressed here, please bring these to my immediate attention.

Sincerely Yours,

A handwritten signature in dark ink, appearing to read "Raymond N. Malouf", written over a horizontal line. The signature is fluid and cursive.

Raymond N. Malouf

c:spcrk.rtl

cc: Boyd Larsen
State Water Engineer, Northern Division
D. Roy Geddes