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WATER RIGHTS
SALT LAKE

*Latest draft
for Bob F.
to send out
John*

May 1, 1991

Merlin G. Calver, P.C.
2485 Grant Avenue
Creston Plaza, Suite 105
Ogden, UT 84401

Dear Mr. Calver:

This letter is in response to your recent letter requesting the State Engineer's office to distribute the water in Portage Canyon. As you are aware, all of the water rights in Portage Canyon are not fully defined. Until they are defined, this office has a very limited role in distributing water. Hopefully, this letter adequately explains the situation.

The State Engineer's office is currently investigating water rights in Portage and Middle Canyon as part of the Bear River general adjudication. Most of the water rights have been identified, and the parties claiming water rights have signed Water Users Claims to be entered into a Proposed Determination of Water Rights. This Determination for Portage and Middle Canyons will be published, served on the water users and presented to the District Court as quickly as possible pursuant to Chapter 4, Title 73 of the Utah Code.

The State Engineer's office assists water claimants in filing claims as part of the general adjudication. However, the State Engineer's office does not have a water commissioner to distribute water and regulate users in Portage Canyon. Therefore, until the proposed determination is decreed and a water commissioner is appointed, the water users in Portage Canyon will need to distribute the water themselves by becoming aware of all claims to the use of water, senior and junior to theirs, in Portage Canyon, and by doing everything possible to follow the statutes as well as court orders to not interfere with other water users.

In the meantime, the State Engineer's office would be willing to offer recommendations to help resolve water distribution problems between water users in Portage Canyon on an interim basis if all users agree they want our assistance. If such is the case, please inform the office of your meetings in advance so that we can schedule to attend.

Sincerely,

Robert M. Fotheringham, P.E.
Northern Area Engineer

RMF/gf

cc: John H. Mabey, Jr., Assistant Attorney General
Dean H. Christensen