

M E M O R A N D U M

TO: Hubert C. Lambert

FROM: Dallin W. Jensen

DATE: August 7, 1972

RE: General Adjudication of Water Rights and Distribution of
Water on the Duchesne River System

As you are aware, a Hearing was held before Judge Harding to consider the request of the Uinta Basin Irrigation Company that they be delivered the full amount of the flow called for in their application. This Hearing was attended by all of the parties who had been present at the prior Hearings with the exception of Edward W. Clyde. Leo Brady was the only representative of the Central Utah Water Conservancy District present. The matter was discussed and reviewed for approximately two hours and Don and I pointed out that it seemed impossible to us to resolve the question presented by the Uinta Basin Irrigation Company without resolving the entire range of problems which now exist on the Duchesne River System. This is so because their request for additional water is tied squarely to the concept of beneficial use and cannot be resolved without resolving the duty question. Judge Harding was not unsympathetic to the request of the Company, but when it became apparent that he would have to resolve all of the inequities which exist in the distribution practices in order to resolve this matter, he was reluctant to make this one

change this late in the irrigation season. Therefore, he ruled that the distribution practice for the remainder of the year be maintained under the present Court Order. However, he also felt that an attempt should be made to get the Central Utah Water Conservancy District to make water available to these users again this year at only the O. & M. cost. The Uinta Basin Irrigation Company officials were to contact their local representatives on the District Board and Leo Brady will present the matter to Lynn Ludlow for presentation to the full Board this coming Friday (August 11th). Therefore, if you or someone from your office intends to be present at this meeting, they should be fully apprised of the State's position in this matter. I see nothing wrong with this approach, but I think it should be pursued by the users directly rather than by the State. As you will recall, we made a considerable effort in this regard last year which I am sure resulted in this program being implemented at that time. If contacted, I think we should again support it but I believe the impetus should come from the water users themselves. Judge Harding also indicated that if the Uinta Basin Irrigation Company went ahead and bought the water at this time and then it was determined at a subsequent Hearing that they were entitled to it, he may then be receptive to the idea of requiring those users receiving the natural flow during this period to reimburse the Uinta Basin Irrigation Company to the extent it is determined that the Company was entitled to the natural flow.

Since it is apparent, and has been for some time, that we must have a resolution of a number of the water rights disputes on the Duchesne River before we can fully resolve the existing distribution problems, the following steps were taken at the Hearing.

This matter has been set for a full and complete Pre-Trial Hearing on Saturday, October 14th at 10:00 A.M. in the Governor's Board Room, and set for Trial on December 5th at 10:00 A.M. at a place to be designated by the Judge. Therefore, it becomes imperative that we get in a position to present all of the problems which we know to exist on the Duchesne River System to the Court and that we have the evidence prepared for submission by December 5th. I advised the Court that the canal loss study will not be completed until October 31st, since the irrigation season does not end until that date, but that we would compile the data obtained from that study by November 15th and would submit it to the parties. That would give them about three weeks to review and analyze it before the Trial date on December 5th. I realize this is a fairly tight time frame, but if we are going to get a resolution of the duty question by next Spring, it appears to me that we will have to meet this schedule. It seems to me that another session between you, Don, Harold, and myself would be useful as soon as you can arrange it. While I think we are all aware of the major questions which now exist on the Duchesne River System, there have been a number of

satellite problems surface this year in connection with our analysis and review of the past distribution practices. The Uinta Basin Irrigation Company matter is only one of such items. I think it will be necessary to isolate and pose each of these problems to the Court and, while some of them may only be questions of law, nevertheless they should be framed as part of the Pre-Trial Order because we need a specific answer to each of them prior to the next irrigation season. Therefore, I would like to receive as soon as possible—perhaps it could be done at the Staff meeting—a list of all of the questions which we believe will have to be resolved prior to next year's irrigation season. This may necessitate further contact with the Water Commissioner, unless perhaps Don already has pursued this matter far enough to have a comprehensive idea of the Water Commissioner's problems.

cc: Donald C. Norseth
Harold D. Donaldson