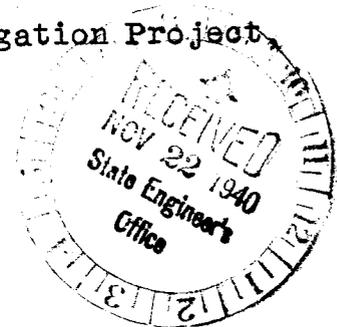


UNITED STATES  
DEPARTMENT OF THE INTERIOR

Suggestions regard-  
ing report of con-  
ference.

INDIAN FIELD SERVICE

Uintah Irrigation Project  
Myton, Utah



The Commissioner of Indian Affairs,  
Washington, D. C.

Sir:

Please be advised that, after some preliminary negotiation, a conference was held in Salt Lake City on September 28, 1940, to discuss with the State Engineer of Utah matters over which there have been differences of opinion, including the one relating to the distribution of irrigation water on the Uintah Irrigation Project.

The conference was attended by the following State officials: T. H. Humpherys, Esq., State Engineer, E. J. Skeen, Esq., Special Assistant to the Attorney General of Utah, and by Indian Service employees as follows: Superintendent C. C. Wright, Chief Field Counsel Geraint Humpherys, E. W. Kronquist and W. R. Preece.

At the outset it was agreed by the parties that the primary purpose of the conference was to discuss the various problems in which each agency is interested with the view of effecting the fullest possible cooperation and eliminating, as far as possible, unnecessary disputes.

The State Engineer informed us that, so far as he was able to tell, all other federal agencies recognized the State Engineer as having full jurisdiction over the right to the use of waters and expressed a desire that the Indian Service acknowledge the theory of state jurisdiction over the use of water, even as to the rights for the Indians on the Uintah and Ouray Indian Reservations. As we understood him, he felt that to be more advisable in the case of the Uintah basin by reason of

the fact that non-Indian users, even though a large part of them are parties to the Federal Court decrees on the Uintah and Lakefork Rivers, had late in 1939 requested him to assume jurisdiction over all of the streams in the Uintah basin.

He also thought the present arrangement whereby the Water Commissioner is appointed under an agreement between the Government on the one hand and the non-Indian water users on the other is not as well suited to handle the problems involved as the machinery established by state law, but at the same time he agreed with us that we should treat the matter of distribution of water on the three principal rivers as having been settled for the time being.

He suggested the possibility of a friendly suit respecting the rights on the Duchesne River which would directly present two fundamental issues, to-wit: (1) Whether the State engineer does have jurisdiction over the distribution of water under existing decrees as well as to rights for which no such decrees exist, and (2) Whether the Indians are subject to the Utah law regarding the forfeiture of a water right for failure to use it for a specified number of years.

Mr. Geraint Humpherys explained that the U. S. Attorney General had charge of all Government litigation and that we could not speak for him either as to the character or the time that suits may be instituted, and that in fact we were not authorized to speak for our own Department on such matters.

We also explained to these representatives of the state that the Government in representing the Indians' rights is acting in its capacity as a sovereign as well as guardian for the Indians and their property. We discussed with them rather fully the theories of the Winters Case and the recent Walker River Case, and although Mr. Skeen expressed the view that the law upon which those cases are predicated is unsound, yet he agreed with the State Engineer's summary of the result of the conference which was about as follows:

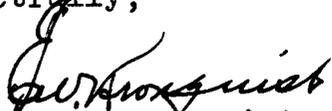
That we understood each other's viewpoint better than heretofore and that in any event it would result in eliminating some points of dispute which have been troublesome in the past.

During the course of the conference the State Engineer informed us that one of the principal problems in the Uintah situation about which he is concerned is the availability of water from the Duchesne River and its tributaries for delivery to the Deer Creek reservoir through the proposed transmountain diversion. He informed us that the Secretary of the Interior has asked him for a report on the matter, including an abstract of all existing water filings. We gathered that he was more troubled about that feature than any of the others primarily because he felt that if he could make a report on the basis of Utah law as distinguished from the theories which have been advanced by the Indian Service and upheld by the Federal courts regarding the Indians' rights he would be able to report the availability of a larger amount of Duchesne water for the transmountain diversion project.

From the above it will be observed that there were clear-cut differences of opinion remaining as to the fundamental principles upon which the Indians' water rights rest, but we all felt that, without waiving or attempting to waive any rights, the conference had resulted in disposing of some existing sources of trouble, primarily those resulting from a lack of understanding that the actions of each agency necessarily spring from different basic principles of law, and that the groundwork had been laid for a more satisfactory relationship between the State Engineer's office and the Indian Service in the future.

It seems that many details of administration, now somewhat in conflict, might also be disposed of at future conferences without waiver of rights.

Respectfully,

  
E. W. Kronquist,  
Irrigation Manager.

APPROVED:

  
C. C. Wright, Superintendent

Date: Nov. 26 1940