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Mount Carmel, Utah.  
Sept. 15, 1956.

Mr. Joseph M. Tracy, State Engineer,  
State Capitol Building,  
Salt Lake City, Utah.

RE: EAST FORK VIRGIN  
RIVER DISTRIBUTION

Dear Mr. Tracy,

On Aug. 27-56 I had a short telephone conversation with you about your letter to Mr. Val C. Tait (Water Commissioner) dated Aug. 17-56,, in which you stated that a complaint had been made to your office about the method of distributing the water of the Long Valley Creek, and giving Mr Tait orders to distribute the water giving full quotas to those rights having the earliest priority dates on the decree whether there is enough water to go arround or not.

Since this order would change the entire concept of what has been considered to be right and wrong in the method of water distribution in this valley for the past sixty years we were very much disturbed, and felt that even though you had acted in good faith believing that this was right you had been influenced by a distortion of the facts. I must state here that so far as I can find out the point of view which I tried to express in the telephone conversation is the point of view of the great majority of the water users here including many, if not most, of the stockholders of the Glendale Irrigation Co. I have information that the board of directors of the Glendale Irrigation Co. voted three against two not to send this sort of complaint to your office.

In the telephone conversation you asked me to send you a copy of the "McCarty Water Decree" of 1900 to which I had refered, and to state in writing the point of view I had expressed giving the reasons on which it was based. This I will try to do.

I am inclosing herewith a copy of the said decree certified by the Clerk of Court. This represents the first attempt made in this valley to settle the question of water rights by legal action and is still important because it defined the rights of the various water users and set up the principal of equality among them. A share has the same rights whether it belongs to Glendale, Orderville, or Mt. Carmel. This decree brought Law and Order to replace confusion and uncertainty.

You will probably note first of all that this water decree is extremely brief and lacks detail, but it was considered to be all that was necessary at the time and laid the foundation on which the later decrees were based.

The "Burton Decree" of 1927, which is probably the one you have been refering to, gives much greater detail and mentions



several springs and small tributaries not listed in the older decree. While honoring all of the rights established by the McCarty Decree and giving them the 1st Class ratings, it limited them to an acreage basis with one share to the acre and 1 c.f.s. for each 60 acres. Also it gives 2nd class ratings to some later applications and to some claims that were denied by the McCarty Decree.

In the Burton decree all water rights that were established between 1865 and 1890 were given 1st class ratings and according to the interpretation that has always been applied to this decree the 1st class water rights that were entitled to draw from the main creek were still on equal basis one with another the same as before. Water rights established in 1900 or later were given 2nd class ratings to come in after 1st class rights were satisfied. The priority dates were presumed to be the dates on of about when the various rights began to be established, but have not been used in the distribution of the water except to establish the class to which the right belonged.

If the wording of the Burton Decree does not support the method of distribution that has been established by earlier court decree and long established usage we will have to try to do whatever is necessary to correct the wording of the Burton Decree.

In a dry year like this one the available supply of water sometimes falls to a point where there is only about 70% of the amount needed to satisfy the 1st class water rights. If your order to distribute the water first to the rights claiming the earliest priority dates were to be strictly enforced it would dry up No. 5-7-8-10-11-12-14 completely and still provide only 25% to 30% for the town of Orderville which is the largest of the three towns in Long Valley. Mt. Carmel would fare well enough under this plan, if it could be enforced, but it would be a hollow victory at best, and since the ruling could hardly be enforced without armed patrols we would probably suffer more than anyone since we are farthest down the stream.

The Water commissioner (Mr. Tait) tells me that he has been inactive since this order came out. If he tries to do his job the old way he will be going against your orders. If he tries to enforce your ~~order~~ he will have the whole countryside onto his neck. Mr. James Esplin, Pres of Glendale Irrigation Co., Mr. Mark Chamberlain Pres. of Orderville Irrigation Co., and Mr. LaDru C. Sorensen, Pres. of Mt. Carmel Irrigation Co., have asked me to send a request that you come down, at your earliest convenience, and hold a public hearing on this and other water problems. The big stir has brought many problems to light that we never thought much about before.

Very respectfully yours,

*Bert Gardner* Sec'y,  
Long Valley Water Users Cent. Committee.