

Roosevelt, Utah.
June 14, 1936.



Refer to State Engineer

Governor Henry H. Blood:
Capitol Building, Salt Lake City.

~~Dear Governor Blood:~~

At risk of your displeasure I write you on a local matter of public concern, assuring you I shall not trouble you often by writing letters, *as recently done.*

About 1916 the the Indian bureau filed suit in behalf of the Ute tribes here, asking federal court to grant them water on filings made as superior to any other water filings on streams involved, and defendants numbered more than thirty. This Dry Gulch Irri. Co., owned most by Utah-reared people, free of debt, is by far the largest user of water among the defendants in that suit; and because of this it was expected to, and it did, serve as the "big brother".

Indian department got all it asked, and thereby hangs the burden of this letter owing to proceedings which followed and still follow, - NOT involving the court decree, viz:

The next season, either in early 1917 or 1918, the Dry Gulch Co. and the Myton Indian Irri. office had a meeting and agreed to go before Judge Tilman D. Johnson and ask him to appoint a "water commissioner", as he has been called since first appointment. Have never objected to this procedure in a public manner, although such men as Atty. Ray E. Dillman, and Pres. Byron O. Colton, et al, know I disfavor it. My attitude has injured me quite a lot, because it opposed big men. Now, for causes hereinafter noted, I write the Governor of Utah, one who I am convinced is not afraid when he knows he is right and on solid ground.

no has

Judge Johnson advised the litigants, before making the first appointment, that such was the legal right, the prerogative, of the state engineer, but on assurance that no objection would arise the appointment was made for ONE year and has been made annually in similiar manner since. This appointee has been and IS known as United States water commissioner, although in reality he, thus far, no standing in law as a water commissioner. BUT THERE IS DANGER AHEAD, viz:

In common law estoppel, or limitation, is important, and, I feel certain in this instance 20-years of this practice will make it "by rule and practice" the same as law for parties in this case. Have watched the time drag along, resolved to raise my voice against it before the 20-yr. period elapsed, and believe I am in time, because have placed decree, and first appointment as safely not earlier than 1917, and believe it was 1919. In any case, however, time is very limited.

Possibly five years ago I wrote state engineer to find his attitude, and he frankly advised he really felt all right about it and did not intend to assert the state's right, because matter involved U.S. government. No Indian Dept. agent would risk an an Indian water right other than filing on, making proof of, and following state law, as they KNOW, thus far, the STATE has ownership, power of distribution, and grants USE, not final title to water. I ask you as our Governor to manifest UTAH'S right in this instance, for ample, very good reasons, among which are:

As this federal court appointee, or appointment, has been made, the Indian office at Myton, the head man, and a man or two from the Dry Gulch Co., meet and agree (yes they must AGREE or Judge Johnson would drop them on it) and they go before the court in such agreement, as his orders of appointment will show.

The man appointed, usually a civil engineer, and as a rule a man who needs the good salary, expenses, and benefits, must ALWAYS be ACCEPTABLE to the Myton office. Sometimes the Dry Gulch Co., as with B.O. Colton, has had some "say", too, yet even with him, a good man, he KNOWS he MUST please the Indian office or he may not have it another year. He needs it, especially during the last five years, and, for six months work it is equal to a \$6,000. per year job, or better.

It is not pleasant for me, one "down" and supposedly "out", to now in this manner formally file or send you a protest. Having been a republican leader here, county chairman and state committeeman etc., it is really unpleasant to oppose procedure which will likely bring down upon me rebuke and ill feeling from former associates, such as Messrs. Dillman, Colton et al. But in such a matter surely DUTY comes first?

Our ^{state} law permits maximum "beneficial use" of three acre ft. of water in a season. Judge Johnson's decree refers to this, and Indian office wants the white man (who really farms all the Indian lands, despite efforts to get publicity indicating otherwise) to use ALL the three ft., independently of whether or not he can BENEFICIALLY USE that amount. Lessees may be found who have been advised that they "had to use it", and I believe the lease mentions this obligation, but I am not certain. In October, 1935, I talked confidentially with a man of character, one who has found this leasing cheaper than owning land, and he laughingly told me of threats to cancel the lease if he did not USE the water. He said he told them to turn it in, but that he shunted it around into a waste ditch, and that it went down into a draw, onto a gravel bar area of waste and, on the Lakefork river right when the white men needed water so very much. BUT it is only a sample.

I'll take my chances with a state engineer, with state politics in all its weakness. May I respectfully ask that UTAH, and no other agent, distribute this water? And before elapse of time shall make this "U.S. commissioner" habit actually the law?

Surely state officials, other than you, if you pass this to them, will be kind enough to note that I write this as duty, not as personal dislike, or because of peague or wounded feelings, but knowing that I alone must bear the displeasure of those who favor that which is from nearly every angle bad practice and not for our ultimate good, as today fully illustrates.

Very respectfully

J. P. May

Roosevelt, Utah.

