

(202)

Statement of Position and Request for the Appointment of
a Water Commissioner by the Utah State Engineer for the
Lake Fork and Uintah Rivers and Recommendation as to the
Duties of such Water Commissioner therefor.

TO THE STATE ENGINEER OF UTAH:

Comes now the undersigned, being the executive committee duly elected at a joint meeting of the defendant companies in the cases of the United States of America, and Hubert Work, Secretary of the Interior, as Trustee of the Indians of the former Uintah and Ouray Reservation -vs- Dry Gulch Irrigation Company, Farmers Irrigation Company, Farnsworth Canal and Reservoir Company, Lake Fork Western Irrigation Company, Good Luck Irrigation Company, Lake Fork Irrigation Company, and Uteland Ditch Company, each and all of the foregoing being corporations; New Hope Irrigation District, a quasi-municipal corporation; Lafayette Brotherson, William Brotherson, Hayden Calvert, Seth B. Clark, James Crystal, Paul Curry, Leandrew J. Gilbert, Ray J. Gill, Henry Hamilton, James Hartsell, James E. Hartsell, Hendricks H. Harvey, Robert Hyatt, Andrew Johnsen, William A. Johnston, Mikkell Knudsen, Eva E. Lewis, Peter O. Madsen, Charles Milne, James H. Moore, Thomas Murdock, David Orr, George Parson, Nels Parson, Elisha K. Purdy, Robert F. Rose, George T. Smith, James R. Smith, James C. Solomonson, Brigham Timothy, Jed Timothy, and R. Ernest Waugh; Cedarview Irrigation Company, Colorado Park Irrigation Company, Dry Gulch Irrigation Company, T. N. Dodd Irrigation Company, Ouray Valley Irrigation Company, Uintah Independent Ditch Company, Uintah River Irrigation Company and Whiterocks Irrigation Company, each and all of the foregoing being corporations; George Q. Allred, George Averitt, Erastus S. Bastian, John Bennett, Raymond T. Bonnin, John Burgess, William Chichas, Vernon Collins, Hugh Coltharp, W. Horace Coltharp, John W. Cook, Thomas Durigan, Charles Elmer, David Elmer, Mary A. Elmer, Russell Forsythe, Lou Fraughton, Thomas S. Gunn, Hyrum Gurr, John Hall, Harold F. Hall, Joseph H. Hardy, Bertha E. Hughel, Charles Hutcheon, William Keel, Daniel Larsen, Henry B. Lloyd, Ralph Marimon, Robert L. Marimon, John J. Nielson, Edward L. Oaks, Hyrum E. Oaks, Charles R. Oakey, John H. O'Driscol, Leslie O'Driscoll, Henry P. Olsen, John A.

Olsen, Culbert L. Olsen, George S. Pace, Frank Peterson, Samuel H. Pullen, Albert Rasmussen, Adolphus Sessions, Newton Shelton, Edward C. Sims, Barbria E. Smithson, George Thomas and Isaac N. Workman.

The said undersigned further represent that they were duly elected by representatives of said companies and individuals assembled at said meeting and that at such meeting, in excess of 90% of the lands represented by the filings of said defendant companies was present and participated in said meeting and voted for the election of said executive committee and then conferred upon them the right to bind the said defendant companies in the appointment of a water commissioner.

We do further represent that heretofore, the judge of the District Court of the United States in and for the District of Utah, in said cases and each of them, duly issued his citation to the plaintiff and defendants, requiring them to appear and show cause why the said Federal Court should not discontinue the administration of the distribution of the water represented by the decrees in said cases;

And that upon such hearing and against the request of plaintiff and defendants, the said Court did modify the decrees in said cases, striking therefrom, those paragraphs referring to the appointment of a water commissioner for the administration of the distribution of such water.

That thereupon this executive committee, there and on behalf of said defendant companies and individuals, requested said officers and agents of the plaintiff to agree upon the appointment of a commissioner under the laws of the State of Utah for the distribution of said water.

NOW THEREFORE, the undersigned hereby request the State Engineer of the State of Utah to appoint a water commissioner for the distribution of said water from the Lakefork and Uintah

Rivers and for the other water users of said river system and do hereby recommend B. O. Colton, Jr. to the State Engineer for appointment as a water commissioner for the said Lakefork and Uintah River system at a salary of \$2,500 per year and \$800.00 per year for expenses and subsistence, and that he shall have such deputies as shall be necessary at an aggregate salary of not to exceed \$2,800 for the time actually and necessarily spent as such deputies during the irrigation season, and whose expenses and subsistence are included in the above aggregate sum of \$2,800. Said commissioner shall be allowed such additional amounts as may be necessary, but not to exceed \$300 for office rent, fuel and stationery; \$500 for construction of cabin and telephone; \$300 for stenographic hire; and \$300 for contingencies.

That we do recommend the duties of such water commissioner when appointed shall be as follows:

That he shall distribute the waters of the Uintah and Lakefork Rivers in Utah in conformity with the decrees made and entered by the United States District Court for Utah in the cases of the United States of America and Albert B. Fall, Secretary of the Interior, as Trustee of the Indians of the former Uintah and Ouray Indian Reservation, plaintiff, versus Dry Gulch Irrigation Company, et al, defendants, and the United States of America, and Albert B. Fall, Secretary of the Interior as trustee for the Indians of the former Uintah and Ouray Indian Reservation, plaintiffs, versus Cedarview Irrigation Company, et al, defendants:

First - To the Uintah Indian Irrigation Project, the quantities of water fixed in said decrees or such less amounts as may be adequate for their needs in case the use of the full amounts decreed are not needed, provided, however, that such quantities

4

of water shall be distributed by said commissioner as needed and as their rights may exist.

Second - To the other water users of said river system other than the Uintah Indian Irrigation Project, said commissioner shall distribute their water in accordance with their established rights and priorities, the quantities of water decreed or as otherwise established by law or such less amounts as may be adequate for their purposes in case the use of the full per acre amounts permitted be not needed; provided however, that said water shall be distributed on demand, of any of said other water users to the said commissioner, between the first day of March and the first day of November, provided, however, that there is in the river at the time of such demand sufficient water to make delivery thereof as demanded without interfering with any of the prior rights in said waters.

Third - The said commissioner shall have discretion to give to all or any user, including the Uintah Indian Irrigation Project, more than one second foot of water for seventy acres at times when said greater amounts may be used to advantage, provided, however, that there is in the streams at that time water in excess of that required to supply all needs at the rate of one second foot to seventy acres, and provided further that when there is such excess of water that the commissioner shall on demand of any water user, including the said Indian Irrigation Project, deliver to such water user such a quantity of water as may be beneficially used and not charge the same against the amount decreed or otherwise determined.

Fourth - That said commissioner is authorized to require the water users under said system to install proper measuring devices, both in the main canals and in the laterals in which the Uintah Indian Irrigation Project or the other water users, or any of them, jointly carry water, as may be necessary to properly measure and divide such water, and in any case where said water users have stored water in natural or artificial reservoirs to be

used for irrigation through any of the canals of the Uintah Indian Irrigation Project or the other water users, said water users shall install gages and measuring devices both on the said reservoirs and on the streams tributary thereto and issuing therefrom satisfactory to the commissioner, and shall provide suitable means, by telephone or otherwise to communicate the gage height observations to the said commissioner promptly during the irrigation season. Said measuring devices and means of communication shall be installed in good working order before said water is released from storage. The commissioner shall indicate to the water users prior to November 1, 1931, such necessary maintenance, repairs and improvements that shall be made before the beginning of the 1932 irrigation season.

Fifth - The salary and expense of said water commissioner and other chargeable expense shall be paid one-half by the plaintiff in said actions and one-half by the defendants or other water users, and that said salary and expense shall be paid in accordance with the order of the State Engineer and at such times as he may specify, except that as to the United States Indian Irrigation Project, it shall not be required to pay more often than once each thirty days and after the service has been performed and then only upon the voucher of the State Engineer, and provided further that the salary and expense of the commissioner may at the discretion of the State Engineer be divided into eight equal payments, and the expense for deputies shall be paid on vouchers submitted by the State Engineer each thirty days after the service has actually been performed.

Sixth - The basis for the proper distribution of said waters for the irrigation season of 1931 up to June 1 shall be the same as for 1930, and after June 1 it shall be the acreage which shall be submitted to the commissioner not later than June 1, 1931 under affidavit; provided further, that in said affidavit there shall be set forth; The number of acres of land actually under irrigation and entitled to water from said rivers; the acreage,

by canals, by water rights, and acres, within each forty-acre legal subdivision. That for the irrigation season of 1932 the basis shall be the same acreage as for 1931, effective from and after June 1, except as modified by proper affidavits of increase or decrease in acreage presented to the Commissioner not later than June 1, 1932.

Seventh - The said commissioner is hereby instructed and directed to distribute said water in the most economical way to prevent unnecessary waste, by reducing the quantity of water flowing in the canal or lateral from which water is being unnecessarily wasted, or by refusing to permit water to be diverted into said canal until such waste is eliminated.

Said commissioner at no time shall turn to any user water for use upon lands which do not require irrigation, either for the crops growing thereon, or in order to prepare the land for cultivation, and as crops are harvested upon the lands to diminish the quantity of water distributed to such lands to the actual necessities thereof.

During 1931 and 1932, said commissioner shall, insofar as he may do so by consent or without encroaching upon the priorities fixed in said decrees, or the priorities of the defendants, or any of them, give due regard to all reasonable claims for water to be used for culinary and domestic purposes as is distinguished from irrigation purposes; and all water users who desire to have water for culinary and domestic purposes must provide cisterns, wells or tanks upon their lands to contain such culinary and domestic water.

Eighth - That the State Engineer shall appoint B. O. Colton, Jr., and the Project Engineer for the Uintah Indian Irrigation Project, and Austin G. Burton, as a board to determine, under and subordinate to said decrees, and state permits issued to the other water users, the duty of water for the seasons of 1931 and 1932. That said board shall have full power to modify the schedule of duty through the irrigation season as conditions may

require. That said board shall meet on April 25 of each year, or as soon thereafter as practicable.

Provided, however, that the said Austin G. Burton shall receive \$15.00 per diem for both services and travelling fees when summoned to an official meeting by the commissioner, which sum should be paid out of the general fund of the commissioner.

Ninth - Said commissioner is authorized to have tabulated and analyzed daily sheets showing the quantity of water distributed to the respective users, and at the close of the irrigation season the said commissioner is authorized and directed to prepare a report showing the daily quantity of water distributed to the respective users, the conditions under which said water was used, the flow of the various streams from which said water was diverted, and to tabulate and analyze the various hydrometric data heretofore collected relating to this system, said report to be filed with the State Engineer together with 30 copies thereof, three of which shall be delivered to the United States and 27 copies to the Executive Committee for the other water users.

This instrument dated and signed at Roosevelt, Utah this 14th day of April, A.D., 1931.



H. L. Allred
James L. Hacking
Lott Powell
Wm. H. Dye
Austin G. Burton