June 20, 1940

Mr. N. J. Bates
Attorney and Counselor at Law
Richfield, Utah

Dear Mr. Bates:

This will acknowledge receipt of your letter of June 14, relating distribution of water on East Boulder Creek.

In reply, let m e advise that there has been, as you suspect, some correspondence relating this matter, but no request has been made for a determination by the State Engineer. I have been advised that the users are in disagreement of the distribution of the waters of the Boulder and Deer Creek System, and only recently the garden users of Boulder have made an application for a Temporary Change of a limited amount of water from both Forks to save their gardens. This Application was not in proper form and was returned for correction, and I see no reason why it should not be approved.

As you know, the law for State Engineer determination was amended by the last Legislature, and its constitutionality is now under determination by the Supreme Court in connection with the suit filed by the Spanish Fork Water Users vs. Salt Lake City and the Associated Canals having to do with the waters of Utah Lake and Jordan River. This opinion has been expected daily for two months, and it is my thought that no action, whether by State Engineer determination or otherwise, should be taken until we know the Supreme Court's Decision with respect to this case. It is rather far reaching and almost anything can happen.

In your concluding sentence you ask me what my attitude is with respect to adjudication of water rights. In answer let me be very frank and say to you I am very much in favor of a State Engineer determination which provides for a study of the rights involved following which they are filed with the court, and available for study by the water users and their attorneys, proceeding any law suit. This affords opportunity for a discussion of the facts found by the State Engineer with the attorneys and their clients. It may be that he is in error. If he is, there is every reason for him receding from his position and correcting his error, and no good reason of taking the opposite view. Finally, when all the rights will have been determined, most of which can be without a suit, a temporary decree can be rendered for trial, after which, corrections where necessary, can be made and the final decree rendered. This was the plan adopted on the

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Weber river. The cost was not great, and I have never seen a cleaner and more satisfactory working with respect to a decree in my 40 years of experience with water. There appears to be no good reason why the same sort of job can't be done on all streams without injury to water users or their attorneys.

Yours very truly,

T. H. Humpherys
STATE ENGINEER

l/jm