May 21, 1937

Mr. W. A. Wilson, Secretary
Boulder Irrigation and Water Development Co.
Boulder, Utah

Dear Sir: REL: GENERAL

I have been unable to find a copy of the Boulder Creek Decree in the files in this office. However, the question as to whether the State Engineer may appoint a water commissioner to succeed a water commissioner appointed by a Court in general adjudication cases has arisen before in Utah.

At one time a water commissioner appointed by a decree of the Court and a commissioner who had subsequently been appointed by the State Engineer both claimed the right to distribute the waters of the Sevier River. The case went to the Supreme Court of the State of Utah and the Court held that regardless of the provisions in the decree, the commissioner appointed by the State Engineer had the exclusive right to distribute the waters of the river.

From the case of Caldwell, State Engineer v. Erickson, District Judge, et al, 61 Utah 265, the following is quoted, which sums up the decision in this case: "The provisions of sections 62 and 64, when considered in connection with the reasons hereinbefore urged in favor of a construction giving the state engineer jurisdiction over waters formerly decreed as well as of the public waters of the state, irresistibly lead to the conclusion that the Legislature must have deliberately intended that the state engineer should be given such control, and that the appointment of a commissioner by him, when lawfully made, should supersede any appointment made by the court, under a former decree."

Mr. Ormand's jurisdiction as water commissioner ceased when in the past other commissioners were appointed by the State Engineer to disbribute the waters of Boulder Creek and he now has no authority by virtue of the provisions of the decree. I suggest that you show this letter to Mr. Ormand, and if he is not then convinced, I will write him direct.

Yours very truly,

T. H. Humpherys
STATE ENGINEER

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